

Utah Proposition 2, Medical Marijuana Initiative (2018)

Elections in Utah, 2018

- General election: Nov. 6
- Voter registration deadline: Oct. 9 (mail), or Oct. 30 (online or in-person)
- Early voting: Oct. 23 - Nov. 2
- Absentee voting deadline: Nov. 6
- Online registration: Yes [↗](#)
- Same-day registration: Yes
- Voter ID: Non-photo ID required
- Poll times: 7:00 a.m. to 8:00 p.m.

On the ballot: U.S. Senate • U.S. House • State executive offices • State Senate • State House • Supreme court • Appellate courts • Local judges • State ballot measures • School boards • Democratic primaries • Republican primaries

Utah Proposition 2, the Medical Marijuana Initiative was on the ballot in Utah as an initiated state statute on November 6, 2018. It was **approved** and then altered by the legislature.

A **"yes"** vote supported legalizing the medical use of marijuana for individuals with qualifying medical illnesses.

A **"no"** vote opposed legalizing the medical use of marijuana for individuals with qualifying medical illnesses.

Utah Proposition 2



Election date

November 6, 2018

Topic

Marijuana

Status



Approved/Altered

Type

State statute

Origin

Citizens

Election results

Utah Proposition 2		
Result	Votes	Percentage
Yes	562,072	52.75%
No	503,558	47.25%

Precincts reporting: 100%

Source [↗](#)

Aftermath

On November 6, 2018, Utah voters passed Proposition 2 by 53% to 47%. On November 30, 2018, Governor Gary Herbert formally called for a special session for legislators to make changes to Proposition 2.^[1] On December 3, 2018, the legislature passed and the governor signed House Bill 3001, the Utah Medical Cannabis Act, into law. Two lawsuits were filed — one brought by **The People's Right** and one brought by **TRUCE** and the **EAU**—concerning the legislature's move to replace Proposition 2 with HB 3001.

The People's Right v. state officials:

- **August 6, 2019:** The Utah Supreme Court unanimously rejected the legal challenge brought by **The People's Right**, writing "We deny on the merits petitioners' arguments that the Governor effectively vetoed Proposition 2 and therefore exceeded his authority and that the two-thirds provisions of the Utah Constitution and Utah Code do not apply to legislation that amends an initiative."^[2]
- **March 25, 2019:** **The People's Right** argued their case in the Utah Supreme Court seeking to overturn House Bill 3001.^[3]
- **December 10, 2018:** **The People's Right** filed a lawsuit against the legislature's alteration of Proposition 2.^[4] The Governor, state executives, and lawmakers argued that they acted within their authority and asked the court to reject the lawsuit.^[5]

TRUCE and EAU v. state officials:

- **June 15, 2019:** *Fox 13 Now* reported that the case would likely go to trial in late 2020 or early 2021.^[6]
- **May 3, 2019:** *The Associated Press* reported that plaintiffs would drop their claim surrounding the LDS church's involvement and would instead focus on their claim that the legislature's immediate alteration of the ballot measure was unconstitutional.^[7]
- **April 22, 2019:** The Utah Attorney General, Sean D. Reyes (R) filed a motion seeking to dismiss the lawsuit. In the filing, he argues that the plaintiffs failed to show that the LDS Church directly influenced the legislature's action to amend Proposition 2 and that the legislature is constitutionally allowed to alter ballot measures approved by voters.^[8]
- **December 5, 2018:** Former Salt Lake City mayor and attorney Rocky Anderson filed a lawsuit on behalf of TRUCE and the EAU regarding the legislature's move to replace Proposition 2 with the Utah Medical Cannabis Act.

Legislative alteration

See also: Legislative alteration

The legislation designed to replace Proposition 2, known as the Utah Medical Cannabis Act or House Bill 3001 (HB 3001), can be found here [🔗](#). The legislature passed and the governor signed the bill on December 3, 2018.^{[9][10]}

The bill passed in the House 60-13 with two not voting. Of the 13 Democrats in the Utah House of Representatives, 12 voted no and one (Elizabeth Weight) was absent or did not vote. All yes votes came from Republicans, except one, Marc Roberts, who was absent or did not vote. One Republican, Mike Kennedy, joined Democrats in voting no. The bill passed in the Senate 22-4 with 3 Republicans absent or not voting. All four no votes came from Democrats, excluding one Democrat, Gene Davis, who joined 21 Republicans in voting yes. To see the vote in the Legislature as a table, click [show] below:

House Bill 3001 vote totals[show]

Negotiations between Utah legislators and Proposition 2 supporters (including the Utah Patients Coalition and Libertas Institute) and opponents (including Drug Safe Utah and The Church of Jesus Christ of Latter-day Saints) resulted in an agreement concerning legislative alterations to Proposition 2 to be addressed by the legislature after the November election if the measure was approved, which it was. The alterations were initially presented and referred to as a "compromise deal."^[11]

Utah Governor Gary Herbert (R) called for a special session of the Utah Legislature to convene after the November election to create a medical marijuana policy for Utah regardless of whether or not Proposition 2 was approved by voters. Herbert said, "Whether it passes or fails, we're going to arrive at the same point and conclusion, which is going to be (of) benefit to the people of Utah."^[12]

Utah is one of 11 states that have no restrictions on legislative alterations, which means the legislature can amend or repeal initiated state statutes with a simple majority vote at any time. To read more about legislative alterations to ballot measures, click here.

Changes made by the bill

House Bill 3001 made a number of changes to the original measure passed by voters. Among others, HB 3001:

- Removed the provision allowing patients to grow their own marijuana;
- Reduced the number of privately-run dispensaries allowed; and
- Required dispensaries to employ pharmacists to recommend dosages

HB 3001 kept many of the same qualifying conditions provided for under Proposition 2, but also made some changes, including limiting the list of qualifying conditions to specific illnesses. The bill allows for medical marijuana treatment for HIV or AIDs but not other autoimmune disorders. The bill allows for medical marijuana treatment for cachexia, but not other conditions manifest by physical wasting. It allows marijuana treatment for Crohn's disease, but not similar gastrointestinal disorders.

HB 3001 **added conditions** that qualify for medical marijuana treatment, including:

- Terminal illness for those projected to have less than six months left to live; and
- A condition resulting in a patient receiving hospice care.

Responses to the replacement bill

Poll

A poll of 604 registered Utah voters conducted by the Hinckley Institute of Politics from January 15-24, 2019, found that 51 percent of respondents supported the legislative alterations to Proposition 2, 41 percent opposed it, and seven percent didn't know.^[13]

Support

- Utah Governor Gary Herbert (R) wrote in a prepared statement, "This is a historic day. With the passage of the Utah Medical Cannabis Act, Utah now has the best-designed medical cannabis program in the country. Working with trained medical professionals, qualified patients in Utah will be

able to receive quality-controlled cannabis products from a licensed pharmacist in medical dosage form. And this will be done in a way that prevents diversion of product into a black market."^[14]

- Rep. Merrill Nelson (R) said, "We have the right to override what the people do by initiative, we don't do that willy-nilly."^[15]
- House Speaker Gregory Hughes (R), who sponsored the legislation, said, "I believe this agreement was a landmark day for our state, and we are helping people."^[15]
- The Deputy Director of the Marijuana Policy Project, which supported Proposition 2, said, "This bill is undoubtedly inferior to the law enacted by voters in November. However, Proposition 2 would very likely have been defeated without the compromise deal, which prevented an onslaught of opposition spending. Advocates made the responsible decision to negotiate with opponents and ensure that patients were not left without any access to medical cannabis."^[16]

Opposition

- Utah Sen. Jim Dabakis (D) said, "The Republicans replaced the voter's verdict on Prop 2 with their own nightmare version of Medical Cannabis. The GOP 'compromise' plan will make it much harder, if not impossible, for patients to get the help they need."^[14]
- Utah Sen. Luz Escamilla (D) said, "We're rushing this. It's bad public policy and it's sad."^[15]

Lawsuits over legislative alteration of Proposition 2

TRUCE and EAU vs. state officials

Former Salt Lake City mayor and attorney Rocky Anderson filed a lawsuit on December 5, 2018, on behalf of Together for Responsible Use and Cannabis Education (TRUCE) and the Epilepsy Association of Utah (EAU) regarding the legislature's move to replace Proposition 2 with the Utah Medical Cannabis Act. Anderson wrote, "Although initiative statutes may be amended or repealed by the Legislature, the almost immediate extreme undermining of numerous provisions of Proposition 2 at the behest of The Church of Jesus Christ is anti-democratic and contemptuous of the ... recognition in the Utah Constitution that the people are to have the power to enact legislative changes."^[17] Regarding his lawsuit, Anderson said, "Anything that defeats the right of the people to pass their own legislation under our constitution should be declared unconstitutional. Otherwise, it's totally illusory."

TRUCE founder and lawsuit plaintiff Christine Stenquist said, "What I think about the process? It's a sham. It's an absolute sham. When you sit there and you make the citizens of Utah jump through the hoops you jump through to pass an initiative and the first business day you undermine and remove our voice? That's a problem."^[10]

The Utah Attorney General's Office said the lawsuit "raises important constitutional questions," but also stated that the legislature has the authority to repeal or amend all laws, including laws created through ballot initiatives.^[18]

On May 3, 2019, the *Associated Press* reported that plaintiffs would drop their claim surrounding the LDS church's involvement and would instead focus on their claim that the legislature's immediate alteration of the ballot measure was unconstitutional.^[19]

The People's Right vs. state officials

A second legal challenge was brought by Steve Maxfield, Bart Grant, and Daniel Newby, who filed an emergency petition with the Utah Supreme Court asking the court to overturn the law passed by the Legislature and reinstate Proposition 2 in its original form as approved by voters. Maxfield, leader of a group called The People's Right, said, "We either do have the right [to change the government through the initiative or referendum process] or we don't. I want them to clarify it. If this court fails to act and correct this aberration... the initiative

and referendum power of the people is dead, and should be given a proper and honorable burial by this court as an antiquated and outdated relic of an earlier time." Maxfield filed a petition to begin collecting signatures for a veto referendum on the bill, but the petition was rejected.^[20]

Attorneys for the governor wrote that "voters have no right to referendum on a law like H.B. 3001 that was passed by at least two-thirds of the House and Senate" and that at least one of the referendum application sponsors failed to meet the statutory requirement of voting in a general election in Utah in the last three years.^[5] Assistant Utah Attorney General Stanford Purser wrote, "In short, initiatives are not amendment-proof, and legislatively amended initiatives are not an exception to the constitutional limits on referenda."^[5]

The Utah Supreme Court unanimously rejected the legal challenge brought by **The People's Right**, writing "We deny on the merits petitioners' arguments that the Governor effectively vetoed Proposition 2 and therefore exceeded his authority and that the two-thirds provisions of the Utah Constitution and Utah Code do not apply to legislation that amends an initiative ... HB 3001 was passed by the legislature and both houses voted for the bill by a two-thirds supermajority. Accordingly, the Lieutenant Governor's decision that it was exempt from a referendum was correct."^[21]

Petitioner Daniel Newby said, "The charade is over. Utah's supreme court has confirmed that the initiative process, the last resort citizens thought they could use to resist the network of corruption infesting every branch of government, was an illusory fraud all along ... So-called initiatives are nothing more than non-binding resolutions conspiring politicians use for toilet paper."^[21]

Legislative alteration context

See also: Legislative alterations of ballot initiatives and Legislative alteration rules

From 2010 through 2018, 97 initiated state statutes and two initiated ordinances in D.C. were approved by voters. Of these 99 total initiatives from 2010 through 2018, 28 were repealed or amended as of April 2019. The states with the most total cases of legislative alterations of initiatives approved since 2010 were Maine—with four initiatives altered out of eight approved—and Colorado and Oregon—each with three initiatives altered out of five approved. Among initiatives approved from 2010 through 2018, marijuana was the topic that drew the most legislative alterations, with eight initiatives. Other topics addressed by legislatively altered initiatives included elections and campaigns, term limits, education, business regulation, law enforcement, minimum wage, taxes, and gambling.

The rate of legislative alteration was 13 percentage points higher for initiatives approved in 2016 and 2018 than initiatives approved from 2010 through 2015.

Legislative alteration rates			
Year span	# approved	# altered	Alteration rate
2010 - 2018	99	28	28.28%
2016 - 2018	56	19	33.9%
2010 - 2015	43	9	20.9%

[Click here for information about all legislative alterations of initiatives approved since 2010.](#)

Overview

What was Proposition 2 designed to do?

Proposition 2 was designed to legalize medical marijuana for individuals with qualifying conditions. Individuals can receive a medical marijuana card with a recommendation from a physician under Proposition 2. Under the measure, a medical marijuana cardholder can not smoke marijuana or use a device to facilitate the smoking of marijuana. During any one 14-day period, an individual is allowed to buy either two ounces of unprocessed marijuana or an amount of marijuana product with no more than 10 grams of tetrahydrocannabinol (THC) or cannabidiol.

Proposition 2 was designed to exempt marijuana from local and state sales taxes. It directed the state legislature to enact business license fees for a marijuana business to fund the ongoing costs of the initiative's implementation.^[22]

Going into the election, already-existing Utah law required the Utah Department of Agriculture and Food to ensure by January 1, 2019, that marijuana (cannabis) was grown in the state of Utah and could be sold to research institutions or terminally ill patients with less than six months left to live.^{[23][24]}

What was the legal status of marijuana in Utah?

Going into the election, Utah had not legalized recreational marijuana. In 2014, Governor Gary Herbert (R), who opposed Proposition 2, signed a bill which legalized possession and use of low-THC CBD oil, one of the non-psychoactive ingredients found in marijuana, by registered patients suffering from intractable epilepsy with a physician's recommendation. However, the bill included no provision for patients to legally acquire the oil within the state. In the 2018 legislative session, the state legislature passed and the governor signed a bill, called the *Right to try* bill, to allow terminally ill patients to use medical marijuana—which was set to be cultivated and distributed by the Utah Department of Agriculture and Food. A bill was also enacted which expanded the state's program for cannabis oil. The 2018 law, House Bill 197, authorized and regulated the sale of CBD within the state. HB 197 required the Utah Department of Agriculture and Food to ensure by January 1, 2019, that marijuana (cannabis) was grown in the state of Utah and could be sold to research institutions or terminally ill patients with less than six months left to live.

What was the legal status of marijuana at the federal level?

As of 2018, both medical and recreational marijuana were illegal under federal law. However, the Department of Justice (DOJ) under Presidents Trump (R) and Obama (D) had not prosecuted most individuals and businesses following state and local marijuana laws. On January 4, 2018, Attorney General Jeff Sessions (R) rescinded guidelines, known as the Cole Memo, that deprioritized the enforcement of federal marijuana laws in states where marijuana had been legalized. The DOJ issued the Cole Memo in 2013, following the legalization of marijuana in Colorado and Washington. Sessions' DOJ authorized U.S. Attorneys to decide which marijuana crimes to prosecute and directed them to consider "federal law enforcement priorities, the seriousness of the crime, the deterrent effect of criminal prosecution, and the cumulative impact of particular crimes on [communities]."^{[25][26]} In April 2018, Colorado Sen. Cory Gardner (R) said President Trump told him that "the Department of Justice's rescission of the Cole memo will not impact Colorado's legal marijuana industry." Gardner also said, "Furthermore, President Trump has assured me that he will support a federalism-based legislative solution to fix this states' rights issue once and for all."^{[27][28][29]}

Who supported and opposed Proposition 2?

Ballotpedia identified one committee registered in support of Proposition 2: **Utah Patients Coalition**. The committee reported \$950,124 in contributions—\$892,355 in cash contributions and \$57,768 in in-kind services.^[30] The top five donors provided 76.58 percent of the contributions to Utah Patients Coalition. The largest donor was the Marijuana Policy Project, which contributed \$318,111 in cash contributions and in-kind services.^[30]

Ballotpedia identified two committees registered to oppose Proposition 2: **Drug Safe Utah** and **Truth About Proposition 2**. Together, they had raised \$1.087 million and had spent \$1.14 million. The largest donor was Walter J. Plumb III, who gave \$228,649.

Looking for more information about marijuana on the ballot in 2018? Explore other Ballotpedia articles on the subject below.

Marijuana laws in the U.S.

Drug Policy Alliance • Marijuana Policy Project • NORML • SAM Action

Recreational marijuana on the ballot:

Michigan Proposal 1 • North Dakota Measure 3

Medical marijuana on the ballot:

Missouri Amendment 2 • Missouri Amendment 3 • Missouri Proposition C • Oklahoma State Question 788 • Utah Proposition 2

Measure design

Click on the arrows (▼) below for details about the provisions of Proposition 2.

- ▶ **Medical marijuana legalization:** Qualifying conditions, rules on use, and taxes and fees
- ▶ **Acquiring medical marijuana:** Provisions related to cultivation facilities, dispensaries, marijuana cards, and more
- ▶ **Compassionate Use Board:** Provisions related to the establishment of a board within the Department of Health
- ▶ **Affirmative defense:** Provisions related to criminal charges and defenses under the measure

Text of measure

Ballot title

The ballot title for Proposition 2 was as follows:^[33]

- “ Shall a law be enacted to:
- establish a state-controlled process that allows persons with certain illnesses to acquire and use medical cannabis and, in certain limited circumstances, to grow up to six cannabis plants for personal medical use;
 - authorize the establishment of facilities that grow, process, test, or sell medical cannabis and require those facilities to be licensed by the state; and
 - establish state controls on those licensed facilities, including:
 - electronic systems that track cannabis inventory and purchases; and
 - requirements and limitations on the packaging and advertising of cannabis and on the types of products allowed?
- ”

[34]

Impartial analysis

The impartial analysis for Proposition 2 was as follows:^[35]

“ Proposition Number 2 adds to current Utah law related to medical cannabis, also known as medical marijuana, in two main ways. First, it authorizes the establishment of private facilities that grow, process, test, and sell medical cannabis and requires the state to regulate those facilities. Second, the Proposition establishes a state-controlled process for people with certain conditions to receive approval to acquire, use, and, in certain limited circumstances, grow medical cannabis. ”

Current Law

Current Utah law requires the state, by January 1, 2019, to ensure that cannabis is grown in the state and can be processed into medicinal form and to establish a state facility to sell the cannabis that has been processed into a medicinal form.

Under current Utah law, cannabis can be grown, processed, or sold only by the state. The state may sell cannabis only to a qualified research institution or a person who is terminally ill with less

Fiscal impact

The fiscal impact statement for Proposition 2 was as follows:^[35]

“ Proposition 2 exempts medical cannabis sales from state and local sales tax and requires the state to impose fees, including licensing and registration fees paid by cannabis facilities, to cover the ongoing costs of implementing the Proposition. In the first year, Proposition 2 may cost the state \$3.6 million, an amount that includes one-time setup costs. Some of the first year’s initial setup costs will have to be paid before the state begins collecting fees, requiring the state to pay \$1.3 million from state tax revenue. After the first year, the annual revenue from fees is expected to cover the Proposition’s estimated annual cost of \$2.1 million. ^[34] ”

The Utah Office of Management and Budget prepared a fiscal estimate for the Proposition 2 petition sheets [\[show\]](#)

Full text

The full text is available here [↗](#).

Readability score

See also: *Ballot measure readability scores, 2018*

Using the Flesch-Kincaid Grade Level (FKGL) and Flesch Reading Ease (FRE) formulas, Ballotpedia scored the readability of the ballot title and summary for this measure. Readability scores are designed to indicate the reading difficulty of text. The Flesch-Kincaid formulas account for the number of words, syllables, and sentences in a text; they do not account for the difficulty of the ideas in the text. The Office of Legislative Research and General Counsel wrote the ballot language for this measure.

The FKGL for the ballot title is grade level 12, and the FRE is 36. The word count for the ballot title is 97, and the estimated reading time is 25 seconds. The FKGL for the ballot summary is grade level 14, and the FRE is 29. The word count for the ballot summary is 873, and the estimated reading time is 3 minutes and 52 seconds.

In 2018, for the 167 statewide measures on the ballot, the average ballot title or question was written at a level appropriate for those with between 19 and 20 years of U.S. formal education (graduate school-level of education), according to the FKGL formula. Read Ballotpedia's entire 2018 ballot language readability report [here](#).

| Support

The **Utah Patients Coalition** led the campaign in support of the initiative.^[37]

Supporters

- Marijuana Policy Project^[37]
- Together for Responsible Use and Cannabis Education (TRUCE) Utah^[37]
- Libertas Institute^[37]
- Salt Lake County Sheriff Rosie Rivera^[38]
- Our Revolution^[39]
- Sen. Jim Dabakis (D-Salt Lake)^[40]



Arguments

- **The Utah Patients Coalition** said, "Right now, Utah patients battling cancer, seizures, and other life-threatening conditions must break the law in order to relieve their pain and suffering. By passing the medical cannabis ballot initiative next year, Utah can end this cruel and unjust policy."^[37]
- **Dr. Dan Cottam** stated that the Utah Medical Association's opposition to the initiative was not representative of all doctors or even all members of the association. Speaking of the association's opposition, Cottam said, "Far from being based on research or science, let alone the consensus of the doctors they purport to represent, it is a position that does not speak for many doctors like myself who are prepared to provide this medicine for our patients. The initiative will relieve the suffering of hundreds of patients each year."^[41]
- **Salt Lake County District Attorney, Sim Gill**, said "I will be voting in favor of this initiative in November. This is not about recreational marijuana, that is not what I support, but I will advocate for not criminalizing the conduct of parents, patients, and family members for an act of compassion. As a public prosecutor, the last thing I want to be doing is be in the middle of a conversation between a patient and their physician. They should not have to worry about the specter of criminal prosecution for an act of compassion."^[42]
- **The Libertas Institute** commented on the legal analysis released by the Church of Jesus Christ of Latter-day Saints, saying "We welcome reasonable, good faith discussion on the merits of the initiative but find little substance in this analysis." **DJ Schanz**, campaign director of the **Utah Patients Coalition** said, "The Libertas Institute has done a magnificent job of giving a point by point rebuttal of Kirton McConkie's slanted and biased analysis of the Utah Medical Cannabis Act." The Mormon Church noted that patients could "deceptively" acquire a medical marijuana card by telling their doctors they have chronic pain when they don't. The Libertas Institute responded, "This will of course happen. It does currently, with opiates."^[43]
- **Salt Lake County Sheriff Rosie Rivera** said, "I've had personal friends who have had cancer and died. I really feel medical marijuana could have helped with their pain. I support that."^[38]

Official argument

The following official argument was submitted by the Utah Patients Coalition in favor of Proposition 2.^[44]

“ The Utah Medical Cannabis Act would allow sick and suffering Utahns to legally access cannabis if their doctors feel it can help them.

Passing this law would make Utah the 30th state to approve medical cannabis as a treatment for sick and ailing patients with a limited set of approved conditions. Polls in Utah have repeatedly shown over 75% of voters support this proposal.

Despite such strong support, the Legislature has not been willing to pass an effective law that stops treating patients as criminals. As a result, the Utah Patients Coalition collected nearly 200,000 signatures to give you the opportunity to decide this important issue.

The Utah Medical Cannabis Act is a cautiously crafted bill, written with Utah values in mind. It includes responsible regulations to ensure only patients can obtain legal access. It also gives law enforcement significant oversight and applies numerous restrictions to minimize abuse. Recreational use of cannabis would remain strictly prohibited and will continue to be prosecuted according to the law.

Click [show] to see the rebuttal to the official opposition argument[show]

Opposition

Drug Safe Utah and **Truth About Proposition 2** led the campaign in opposition to the measure.^[45]

Opponents

- Utah Representative Brad Wilson (R-15)
- Utah Senator Stuart Adams (R-22)
- Utah Senator Lyle Hillyard (R-25)
- Utah Senator David Hinkins (R-27)
- Utah Senator Don Ipson (R-29)
- Utah Senator Wayne Niederhauser (R-9)
- Utah Senator Kevin Van Tassell (R-26)
- Utah Senator Evan Vickers (R-28)
- St. George Mayor Jon Pike
- Weber County Sheriff Terry Thompson^[38]



Arguments

- **The Utah Medical Association** said in a statement: "This initiative is not about medicine. Supporters have used images and stories of suffering patients to disguise their true aim, opening another market for their products and paving the way for recreational use of cannabis in Utah."^[46]
- **Utah governor Gary Herbert** said in a statement that he believes the proposal has major flaws and lacks safeguards for the growing and distribution of marijuana that “would potentially open the door to recreational use.”^[49] On August 30, 2018, during his monthly news conference, Herbert said the following about medical marijuana in Utah: "I'd like to see the federal government get out of the way. We ought to call upon our congressional delegation [to] take it off the Schedule I list. Let's do the studies, let's do the clinical trials. It's time to find out the truth scientifically so that this can be prescribed by a doctor, distributed by a pharmacist, so people can know what they're getting in their compounds. If [Proposition 2] doesn't pass, we'll start new. We'll create, in this upcoming legislative

session, a bill that everybody can support. One way or the other, we're going to get a law on the books that makes some sense for the people of Utah."^[50]

- **The Church of Jesus Christ of Latter-day Saints** said in a statement, "We commend the Utah Medical Association for its statement cautioning that the proposed Utah marijuana initiative would compromise the health and safety of Utah communities."^[41] The Church of Jesus Christ of Latter-day Saints commissioned a legal analysis [by](#) a Salt Lake City law firm, Kirton McConkie. The Church released the analysis on May 11, 2018. In a statement, the Church said, "The proposed Utah Medical Marijuana Initiative is a matter of great controversy in this state. The negative effects and consequences of marijuana use on individuals, families and society at large are well-known. There are also those who claim that it has medicinal benefits for those in some circumstances. Accordingly, the church asked a Salt Lake City law firm for a legal analysis of the proposed initiative to be submitted to the voters next fall. We wanted to know what the initiative would actually do, if adopted. ... That memorandum raises grave concerns about this initiative and the serious adverse consequences that could follow if it were adopted. We invite all to read the attached memorandum and to make their own judgment."^[51]
- **Elder Jack N. Gerard, a General Authority Seventy with the LDS church**, said, "The church does not object to the medicinal use of marijuana, if doctor-prescribed, in dosage form from a licensed pharmacy," although the church is formally opposed to Proposition 2. Gerard said the measure "goes too far."^[52]
- **Paul Mero**, President and CEO of the Next Generation Freedom Fund, said in his opinion column that "The Utah Medical Marijuana Initiative is neither needed as a practical matter nor good public policy generally. The truth is the Utah Medical Marijuana Initiative is a ruse being perpetrated by Utah libertarians and radicalized potheads across the country – regardless of the good people these deceivers front as medically needy. The D.C. lobbyists at the Marijuana Policy Project, old hippies at NORML and our own liberty-loving kooks at Libertas Institute feign a non-existent morality – some pot-induced moral code that only consuming marijuana will appease. Let me be as blunt as I can: You must be high to think this initiative is a good idea."^[53]
- **Drug Safe Utah** says on its website that "the marijuana initiative is not the answer. Explore why the marijuana ballot initiative is bad for Utah. It does little for real patients, but will harm Utah citizens, especially children."^[45] Drug Safe Utah posted a job posting [on](#) Indeed that said, "Drug Safe Utah is hiring field staff to canvass voters who've recently signed the marijuana ballot initiative. We need help spreading the word about what the bill actually means for our communities and Utah as a whole, and we need it fast! Make \$25/hr(\$200/day) with flexible employee scheduling, allowing team members to work 20-40 hours a week, depending on their availability."^[54]
- **Weber County Sheriff Terry Thompson** wrote, "Medical marijuana's impact will touch all aspects of life in Utah including health and safety. Think about how that could affect our youth, schools, economy, and workforce. Do you want these negative influences in our community?"^[38]

Official argument

The following official argument was submitted by Sen. Evan Vickers (R-28) and Rep. Brad Daw (R-60 in opposition to Proposition 2:^[44]

Marijuana Will Be Sold by Untrained “Budtenders”

Real medicine requires a prescription filled at a pharmacy. In sharp contrast, the initiative allows virtually anyone to obtain a healthcare provider’s “recommendation.” People with no legitimate medical training (“budtenders”) will then sell marijuana products with names such as Green Crack, AK-47, Gorilla Glue and Girl Scout Cookies. People will be able to buy the equivalent of 100 joints every two weeks. This is one reason Utah Medical Association opposes this initiative.

Traffic Fatalities and Crime Will Increase

States that have legalized marijuana have seen dramatic increases in marijuana-related traffic accidents and deaths. These states have also seen an increase in criminal marijuana activity. This is one reason the Utah law enforcement community opposes this initiative.

Cities Will Have No Control Over Marijuana Operations

Click [show] to see the rebuttal to the official support argument[show]

Campaign advertisements

The following videos were released by Drug Safe Utah:[55]



Title: "Say No To Prop 2"



Title: "Say No To Prop 2 - Digital 1"

Media editorials

See also: *2018 ballot measure media endorsements*

Support

- **The Salt Lake Tribune** said: "The agreement on medical cannabis announced [on October 4, 2018] is a welcome compromise in a political climate that too often can't find middle ground. It's a good first step in a state that has resisted the first step. The next step is for voters to pass Proposition 2."^[56]

Opposition

- **The Deseret News** said: "Getting to good legislation by passing a bad proposition rarely turns out well. The best path is for Utahns to vote against Proposition 2 and then show the nation how real compromise and commonsense solutions can be achieved. We continue to affirm being for medical

marijuana and against Proposition 2 is a congruent and compassionate position. Voting no on Proposition 2, while holding the Legislature and governor accountable for passing the compromise legislation, will be Utah at its best."^[57]

Campaign finance

See also: *Campaign finance requirements for Utah ballot measures*

Ballotpedia identified one committee registered in support of Proposition 2: **Utah Patients Coalition**. The committee reported \$950,124 in contributions—\$892,355 in cash contributions and \$57,768 in in-kind services.^[30] The top five donors provided 76.58 percent of the contributions to Utah Patients Coalition. The largest donor was the Marijuana Policy Project, which contributed \$318,111 in cash contributions and in-kind services.^[30]

Total campaign contributions:	
Support:	\$950,123.58
Opposition:	\$1,086,963.67

Ballotpedia identified two committees registered to oppose Proposition 2: **Drug Safe Utah** and **Truth About Proposition 2**. Together, they had raised \$1.087 million and had spent \$1.14 million. The largest donor was Walter J. Plumb III, who gave \$228,649.

Support

Committees in support of Proposition 2				Totals in support	
Supporting committees	Cash contributions	In-kind services	Cash expenditures	Total raised:	\$950,123.58
Utah Patients Coalition	\$892,355.15	\$57,768.43	\$896,281.65		
Total	\$892,355.15	\$57,768.43	\$896,281.65	Total spent:	\$954,050.08

Top donors

The top five donors to the support campaign are listed below:

Donor	Cash	In-kind	Total
Marijuana Policy Project	\$263,000.00	\$55,111.32	\$318,111.32
Libertas Institute	\$135,000.00	\$0.00	\$135,000.00
Our Story	\$124,000.00	\$0.00	\$124,000.00
Dr. Bronners Magic Soaps	\$112,000.00	\$0.00	\$112,000.00
Pass the Balanced Budget Amendment	\$49,000.00	\$0.00	\$49,000.00

Opposition

Committees in opposition to Proposition 2				Totals in opposition	
Opposing committees	Cash contributions	In-kind services	Cash expenditures	Total raised:	\$1,086,963
Drug Safe Utah	\$817,618.17	\$91,680.00	\$870,319.50		
Truth About Proposition 2	\$87,546.87	\$90,118.63	\$84,263.45	Total spent:	\$1,136,381
Total	\$905,165.04	\$181,798.63	\$954,582.95		

Top donors

Below are the top donors to the opposition campaign that provided \$100,000 or more to the opposition campaign:

Donor	Cash	In-kind	Total
Walter Plumb	\$130,750.00	\$97,898.79	\$228,648.79
Coloney Partners	\$100,000.00	\$0.00	\$100,000.00
John R. Miller	\$100,000.00	\$0.00	\$100,000.00
Keller Investments	\$100,000.00	\$0.00	\$100,000.00
Kem Gardner	\$100,000.00	\$0.00	\$100,000.00
Kem Gardner Family Partnership	\$100,000.00	\$0.00	\$100,000.00
Miller Family Philanthropy	\$100,000.00	\$0.00	\$100,000.00
Roger Boyer	\$100,000.00	\$0.00	\$100,000.00


Methodology

To read Ballotpedia's methodology for covering ballot measure campaign finance information, click [here](#).

Polls

See also: *Ballotpedia's approach to covering polls*

Utah Proposition 2, Medical Marijuana Initiative (2018) [hide]					
Poll	Support	Oppose	Undecided	Margin of error	Sample size
<i>Tribune/Hinckley</i> poll ↗ 10/3/2018 - 10/9/2018, 10/11/2018 - 10/12/2018	51.0%	46.0%	3.0%	+/-3.4	822
Scott Rasmussen/HarrisX poll ↗ 9/30/2018 - 10/7/2018	64.0%	33.0%	2.0%	+/-2.97	1,087
Dan Jones & Associates ↗ 8/22/2018 - 8/31/2018	64.0%	33.0%	2.0%	+/-3.4	809
<i>Tribune-Hinckley</i> poll ↗ 6/11/2018 - 6/18/2018	66.0%	30.0%	4.0%	+/-3.8	651
Dan Jones & Associates 5/15/2018 - 5/25/2018	72.0%	25.0%	2.0%	+/-4	615
Dan Jones & Associates ↗ 2/9/2018 - 2/16/2018	77.0%	21.0%	3.0%	+/-4	609
Dan Jones & Associates 8/30/2017 - 9/5/2017	74.0%	22.0%	4.0%	+/-3.97	608

Dan Jones & Associates 7/18/2017 - 7/20/2017	78.0%	20.0%	2.0%	+/-3.95	605
Fairbank, Maslin, Maullin, Metz & Associates  2/17/2017 - 2/19/2017	69.0%	18.0%	13.0%	+/-4.9	402
AVERAGES	68.33%	27.56%	3.89%	+/-3.82	689.78

Note: A "0%" finding means the candidate was not a part of the poll. The polls above may not reflect all polls that have been conducted in this race. Those displayed are a random sampling chosen by Ballotpedia staff. If you would like to nominate another poll for inclusion in the table, send an email to editor@ballotpedia.org.

Poll details can be expanded here [\[show\]](#)

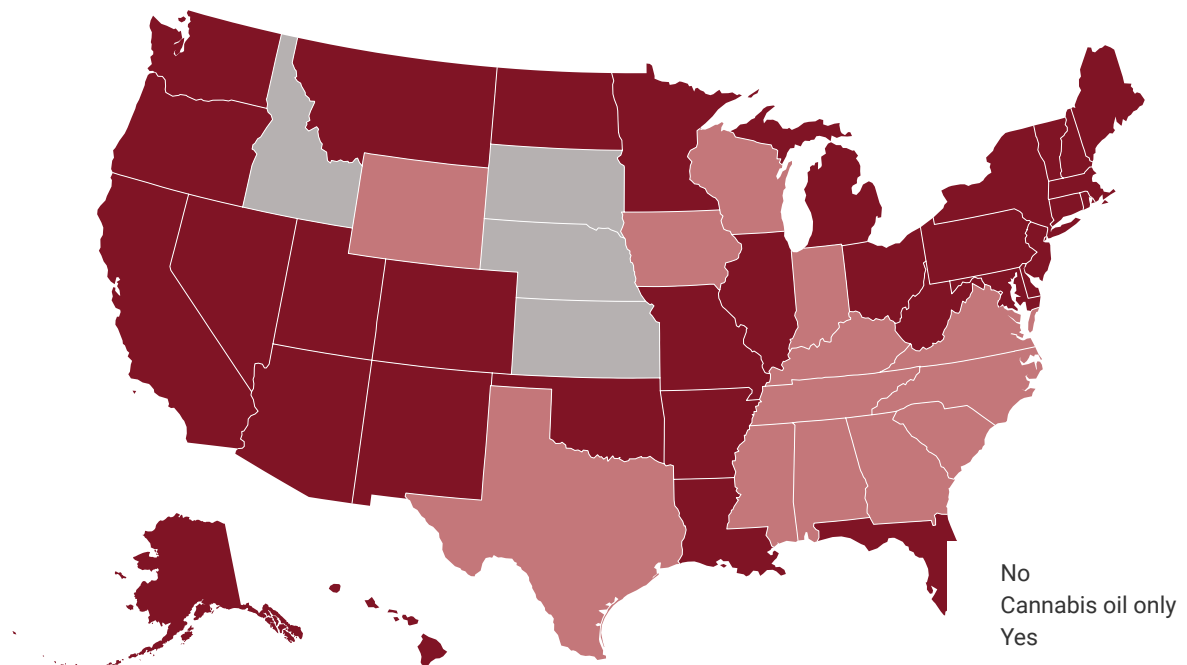
Background

Medical marijuana in the United States

See also: *Medical marijuana and Marijuana laws in the United States*

As of March 2019, 33 states and Washington, D.C., had passed laws legalizing or decriminalizing **medical marijuana**. Additionally, 13 states had legalized the use of cannabis oil, or cannabidiol (CBD)—one of the non-psychoactive ingredients found in marijuana—for medical purposes.^[67] On the map below, states shaded in dark red had passed laws permitting the use of medical marijuana, while the states shaded in gray had not. The states in pink allowed for the use of CBD in some circumstances but did not allow medical marijuana.^{[68][69]}

Medical marijuana by state



Source: [National Conference of State Legislatures](#)

BALLOTPEDIA

Federal policy on marijuana

See also: *Federal policy on marijuana, 2017-2020*

Although the Department of Justice under Presidents Trump (R) and Obama (D) has not prosecuted most individuals and businesses following state and local marijuana laws as of January 2018, both medical and recreational marijuana are illegal under federal law. In November 2017, Attorney General Jeff Sessions (R)—a Trump nominee—told Congress that the policy of his office would stay fundamentally the same as that of the previous two attorneys general, Eric Holder and Loretta Lynch. **On January 4, 2018, however, Sessions rescinded the Cole Memo, a 2013 directive that deprioritized the enforcement of federal marijuana laws in states where marijuana had been legalized.** This allows federal prosecutors to decide whether or not to enforce federal law regarding marijuana.^{[70][71]}

Click here to read more about developments in federal policy on marijuana under the Trump administration.

Medical marijuana in Utah

2018 *Right to try* bill (House Bills 195 and 197)

House Bill 197 required the Utah Department of Agriculture and Food to ensure by January 1, 2019, that marijuana (cannabis) is grown in the state of Utah and can be sold to research institutions or terminally ill patients with less than six months left to live.^{[24][72]}

Senate Bill 73 of 2016

In 2016, Sen. Mark Madsen (R-13) introduced Senate Bill 73 (SB 73), which would have legalized the medical use of marijuana in Utah. The Utah State Senate approved the bill in a 17-12 vote. The chamber's six Democrats and 11 Republicans voted to approve SB 73, while 12 Republicans voted to reject SB 73.^[73] The bill stalled in the Utah House of Representatives, where the Health and Human Services Committee voted 8-4 to reject SB 73.^[74]

CBD legalization bill of 2014

Governor Gary Herbert (R), who opposes Proposition 2, signed House Bill 105 in 2014 which legalized possession and use of low-THC CBD oil by registered patients suffering from intractable epilepsy with a physician's recommendation. However, the bill included no provision for patients to legally acquire the oil.^[75]

Comparison to other medical marijuana measures

The following table details some of the differences between the Oklahoma initiative passed by voters in June 2018.

Issue [show]	Oklahoma State Question 788	Utah Proposition 2
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Path to the ballot

See also: *Laws governing the initiative process in Utah*

The state process

In Utah, the number of signatures required to qualify an initiated state statute for the ballot is equal to 10 percent of the votes cast in the state for presidential candidates in the previous presidential election. Petition circulation must be distributed so that signatures equal to 10 percent of votes cast for President are collected from each of at least 26 of the 29 Utah State Senate districts. Signatures must be submitted 315 days from the application date or by April 15, whichever is earliest.

The requirements to get an initiated state statute certified for the 2018 ballot:

- **Signatures:** 113,143 valid signatures were required.
- **Deadline:** The deadline to submit signatures was April 15, 2018. Each initiative also has an initiative-specific deadline 315 days following the initial application.

Each signature is verified by the county clerks in the county where the signature was collected. After verification, the petition forms are delivered to the lieutenant governor, who counts the total number of certified signatures and declares the petition as either sufficient or insufficient.

Cost of signature collection:

Sponsors of the measure hired Gathering, Inc. and various individuals to collect signatures for the petition to qualify this measure for the ballot. A total of \$473,798.75 was spent to collect the 113,143 valid signatures required to put this measure before voters, resulting in a total cost per required signature (CPRS) of \$4.19.

Details about this initiative

The initiative petition was filed with the lieutenant governor on June 26, 2017.^[76] Sponsors were required to hold seven public hearings on the initiative but ended up holding 10 hearings throughout Utah. After the public hearings and receiving comments from the lieutenant governor, sponsors decided to amend the initiative. According to the Utah Patients Coalition, the changes eliminated "a short tax deduction provision that would have required federal tax law to be interpreted and implemented by state tax authorities" and established "a limit on the amount of medical cannabis that a patient or caregiver can transport."^[77] An amended initiative petition was submitted on August 3, 2017.^[22] Lt. Gov. Spencer Cox (R) approved the amended form of the initiative for signature gathering on August 10, 2017.^[78]

On May 29, 2018, the lieutenant governor certified the measure for the ballot. Proponents submitted 153,894 valid signatures in 27 of 29 state Senate districts. To qualify for the ballot, the initiative needed at least 113,143 valid signatures statewide and needed to meet signature thresholds in at least 26 of 29 state Senate districts.^{[79][80]}

Lawsuits

Complaint filed by Utah Patients Coalition against Drug Safe Utah

On September 4, 2018, the Utah Patients Coalition filed a formal complaint against Drug Safe Utah with the Utah Lieutenant Governor's office. The Patients Coalition alleged that Drug Safe Utah misled the public by spreading false information about the initiative. Drug Safe Utah, in an advertisement, said that Proposition 2 "is actually about recreational use, not medical," and that "medical marijuana is already legal in Utah."^[81] Jim Jardine with Drug Safe Utah said, "The initiative is so loose that it really creates the environment of recreational marijuana. There's none of the kinds of safeguards which one would normally expect from physicians." Utah Patients Coalition Director DJ Schanz said, "That's not only fictitious but an outright lie that it has anything to do with recreational. The dosages are regulated, the dispensaries are regulated, even the medical conditions are regulated."^[82]

Drug Safe Utah and Walter J. Plumb III v. Lieutenant Governor Spencer J. Cox

Lawsuit overview

Issue: Whether the ballot measure violates the constitutional principles of property rights, due process, and equal protection

Court: Filed in State Court of Utah, Third Judicial District in Salt Lake County; moved to the federal court system

Ruling:

Plaintiff(s): Drug Safe Utah, Walter J. Plumb III of Truth About Prop 2

Defendant(s): Lieutenant Governor Spencer J. Cox, Utah Patients Coalition

Plaintiff argument:

The ballot initiative violates constitutional principles of property rights, due process, and equal protection and should be removed from the ballot

Defendant argument:

The measure is not unconstitutional, Cox has the authority to place the measure on the ballot

Source: Court filings [↗](#)

The original lawsuit concerned whether the ballot measure violates religious freedom and freedom of speech, specifically that of those in the Church of Jesus Christ of Latter-day Saints, by forcing members of the LDS church to lease their rental property to people using and possessing marijuana for medical use which is against their religious beliefs. Plaintiffs wrote in the court filing that the measure would "prohibit the free exercise of religion by Utah's LDS population by in effect mandating that they lease their real property to people using and possessing cannabis, the use and possession of which is morally repugnant to members of the LDS faith."^[83] At issue is section 26-60b-110(2) of the initiative, which states:^[22]

“ No landlord may refuse to lease to and may not otherwise penalize a person solely for the person's status as a medical cannabis card holder, unless failing to do so would cause the landlord to lose a monetary or licensing-related benefit under federal law.”^[34]

An amended version of the lawsuit was filed that removed references to the Latter-day Saints church and rather asserts that the measure should be removed from the ballot because it violates constitutional principles of property rights, due process, and equal protection.^[84]

Utah Attorney General Andrew Dymek, serving as Lieutenant Governor Cox's defense, wrote, "The challenged provisions of UMCA (Utah Medical Cannabis Act) are not patently unconstitutional and could become law if passed. Plaintiffs do not have a private right of action to challenge the Lt. Governor's approval of the UMCA for signature gathering or his declaration that the UMCA initiative is sufficient to be submitted to Utah voters for approval or rejection."^[85]

Drug Safe Utah v. Lieutenant Governor Spencer J. Cox

Lawsuit overview

Issue: Whether the lieutenant governor can approve a statewide measure that would be in violation of the U.S. Constitution's Supremacy Clause

Court: United States District Court, District of Utah

Ruling: *Plaintiffs dropped the lawsuit*^[86]

Plaintiff(s): Drug Safe Utah

Defendant(s): Lieutenant Governor Spencer J. Cox

Plaintiff argument:

The initiative would violate the Supremacy Clause of the U.S. Constitution which makes federal law the law of the land, since marijuana is a Schedule I controlled substance under federal law.

Defendant argument:

The lieutenant governor is within his authority to certify the initiative for the ballot, the lawsuit should be dismissed because plaintiffs "lack standing because they have not been injured by the mere presence of the Initiative on the ballot. Plaintiffs' claims are not ripe because the voters may reject the Initiative"

Source: Fox 13 Salt Lake City

The motion for emergency injunction filed by **Drug Safe Utah** stated:^[87]

“ The individual Plaintiffs are Utah citizens, parents, and grandparents, bringing this suit to prevent the harm to Utah’s safety as well as the health of their children and grandchildren from legalization of marijuana in violation of federal law and the federal and Utah Constitutions. Even more importantly, the Plaintiffs claim the constitutional protections of the United States and Utah Constitutions as well as of the rights conferred on them as taxpayers and voters who will be affected by the adverse effects of the Marijuana Initiative, which will increase abuse, dependency, and prevent the orderly administration of criminal drug laws and increase the number of car accidents and costs arising from adverse effects of using marijuana.^[34] ”

The Utah Patients Coalition filed a motion stating, "neither named party can adequately protect [the campaign's] interest because both plaintiffs and defendants are publicly opposed to the initiative. The initiative's survival is at stake in this case and as a practical matter [Utah Patients Coalition] cannot protect its interest without intervention."^[88]

On June 20, 2018, the Lieutenant Governor filed a motion to dismiss the lawsuit, arguing that the plaintiffs lack standing because "they have not been injured by the mere presence of the Initiative on the ballot. Plaintiffs' claims are not ripe because the voters may reject the Initiative." The lawsuit alleges that the initiative is unconstitutional because marijuana is still illegal under federal law as of 2018, though the lieutenant governor argued that "a significant number of courts have concluded that other states' medical marijuana initiatives are not preempted by federal law."^[89]

A hearing on the matter was scheduled for July 23, 2018, in U.S. District Court for the District of Utah.^[90] As of July 2, 2018, the plaintiffs dropped the lawsuit, allowing voters to decide the issue at the ballot box in November. Blake Ostler, an attorney for Drug Safe Utah said, "This is not a surrender. This is not putting the tail between our legs and running. This is informing the voters of the state of Utah that there are serious constitutional issues yet to be addressed. But trusting the voters of the state of Utah to make the appropriate decision."^[86]

How to cast a vote

See also: [Voting in Utah](#)

Poll times

In Utah, all polling places are open from 7 a.m. to 8 p.m. An individual who is in line at the time polls close must be allowed to vote.^[91]

Registration requirements

To vote in Utah, one must be at least 18 years of age, a citizen of the United States, and a resident of Utah for at least 30 days prior to the election.^[92]

Registration can be completed online, by mail, or in person at a county clerk's office. If completed by mail, a registration form must be postmarked at least 30 days prior to the election. If registering online or in person, registration must be completed at least seven days prior to the election. In 2018, Utah enacted a same-day registration bill.^{[92][93]}

Online registration

See also: Online voter registration

Utah has implemented an online voter registration system. Residents can register to vote by visiting this website [↗](#).

Voter ID requirements

At the polling place, a Utah voter can either present a form of identification that bears his or her name and photograph or two forms of identification that bear his or her name and address.^[94]

See also

2018 measures



- 2018 ballot measures
- Marijuana on the ballot
- 2018 legislative sessions

Utah



- Utah ballot measures
- Utah ballot measure laws

News and analysis



- Ballot measure lawsuits
- Ballot measure readability
- Ballot measure polls

External links

- Proposition 2 full text [↗](#)

Support

- Utah Patients Coalition campaign website [↗](#)
- Utah Patients Coalition Facebook page [↗](#)
- Utah Patients Coalition Twitter page [↗](#)
- Legal resources from Intermountain Legal [↗](#)

Opposition

- Drug Safe Utah campaign website
- Drug Safe Utah Facebook page [↗](#)
- Drug Safe Utah Twitter page [↗](#)
- Truth About Proposition 2 campaign website [↗](#)
- Truth About Proposition 2 Facebook page [↗](#)

Footnotes

1. *KUTV*, "Lawmakers to meet Monday to alter marijuana ballot measure," accessed December 18, 2018 [↗](#)
2. *Fox 13 Now*, "Utah Supreme Court rejects petition challenging replacement of medical cannabis ballot initiative," accessed August 6, 2019 [↗](#)
3. *Fox 13 Now*, "Utah Supreme Court hears challenge to the medical cannabis replacement bill," accessed March 25, 2019 [↗](#)
4. *Salt Lake Tribune*, "Group of voters asks Utah Supreme Court to strike down new medical cannabis act,"
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