

SCENIC BYWAY PROGRAM AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill restructures the administration of the Utah State Scenic Byway Program.

Highlighted Provisions:

This bill:

- ▶ restructures how a highway is designated as a state scenic byway and how a state scenic byway designation is removed;
- ▶ restructures how a highway or state scenic byway is nominated as a National Scenic Byway or an All-American Road;
- ▶ repeals the Utah State Scenic Byway Committee and assigns certain responsibilities of the former Utah State Scenic Byway Committee to a temporary committee and the Transportation Commission;
- ▶ requires the Department of Transportation and the Utah Office of Tourism to coordinate to prioritize projects for federal grants related to scenic byways and make recommendations to the Transportation Commission for final approval; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-272, as last amended by Laws of Utah 2022, Chapter 259

63N-7-102, as repealed and reenacted by Laws of Utah 2022, Chapter 362

72-1-201, as last amended by Laws of Utah 2023, Chapter 432

72-1-303, as last amended by Laws of Utah 2023, Chapter 219

72-4-301, as last amended by Laws of Utah 2010, Chapter 195

72-4-301.5, as last amended by Laws of Utah 2010, Chapter 195

33 **72-4-302**, as last amended by Laws of Utah 2021, Chapters 184, 280 and 282

34 **72-4-303**, as last amended by Laws of Utah 2016, Chapter 152

35

36 *Be it enacted by the Legislature of the state of Utah:*

37 Section 1. Section **63I-1-272** is amended to read:

38 **63I-1-272. Repeal dates: Title 72.**

39 ~~[(1)]~~ Subsection 72-2-121(9), which creates transportation advisory committees, is
40 repealed July 1, 2022.

41 ~~[(2)] Title 72, Chapter 4, Part 3, Utah State Scenic Byway Program, is repealed January~~
42 ~~2, 2025.]~~

43 Section 2. Section **63N-7-102** is amended to read:

44 **63N-7-102. Utah Office of Tourism created -- Appointment of managing director**
45 **-- Responsibilities of tourism office.**

46 (1) There is created within the GO Utah office the Utah Office of Tourism.

47 (2) (a) The executive director shall appoint a managing director of the tourism office.

48 (b) The managing director may, with the approval of the executive director, appoint
49 staff.

50 (3) The tourism office shall:

51 (a) be the tourism development authority of the state;

52 (b) develop a tourism advertising, marketing, branding, destination development, and
53 destination management program for the state;

54 (c) receive approval from the board under Subsection 63N-7-202(1)(a) before
55 implementing the program described in Subsection (3)(b);

56 (d) develop a plan to increase the economic contribution by tourists visiting the state;

57 (e) plan and conduct a program of information, advertising, and publicity relating to the
58 recreational, scenic, historic, cultural, and culinary tourist attractions, amenities, and
59 advantages of the state at large;

60 (f) encourage and assist in the coordination of the activities of persons, firms,
61 associations, corporations, travel regions, counties, and governmental agencies engaged in
62 publicizing, developing, and promoting the tourist attractions, amenities, and advantages of the
63 state;

(g) conduct a regular and ongoing research program to identify statewide economic trends and conditions in the tourism sector of the economy; [~~and~~]

(h) ensure that any plan or program developed under this Subsection (3) addresses, but not be limited to, the following policies:

(i) enhancing the state's image;

(ii) promoting the state as a year-round destination;

(iii) encouraging expenditures by visitors to the state; and

(iv) expanding the markets where the state is promoted[:]; and

(i) perform the responsibilities described in Sections 72-4-302 and 72-4-303 related to the scenic byway program.

Section 3. Section **72-1-201** is amended to read:

72-1-201. Creation of Department of Transportation -- Functions, powers, duties, rights, and responsibilities.

(1) There is created the Department of Transportation which shall:

(a) have the general responsibility for planning, research, design, construction, maintenance, security, and safety of state transportation systems;

(b) provide administration for state transportation systems and programs;

(c) implement the transportation policies of the state;

(d) plan, develop, construct, and maintain state transportation systems that are safe, reliable, environmentally sensitive, and serve the needs of the traveling public, commerce, and industry;

(e) establish standards and procedures regarding the technical details of administration of the state transportation systems as established by statute and administrative rule;

(f) advise the governor and the Legislature about state transportation systems needs;

(g) coordinate with utility companies for the reasonable, efficient, and cost-effective installation, maintenance, operation, relocation, and upgrade of utilities within state highway rights-of-way;

(h) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules for the administration of the department, state transportation systems, and programs;

(i) jointly with the commission annually report to the Transportation Interim

Committee, by November 30 of each year, as to the operation, maintenance, condition, mobility, safety needs, and wildlife and livestock mitigation for state transportation systems;

(j) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department;

(k) study and make recommendations to the Legislature on potential managed lane use and implementation on selected transportation systems within the state; ~~[and]~~

(l) before July 1 of each year, coordinate with the Utah Highway Patrol Division created in Section 53-8-103 regarding:

(i) future highway projects that will add additional capacity to the state transportation system;

(ii) potential changes in law enforcement responsibilities due to future highway projects; and

(iii) incident management services on state highways~~[-];~~ and

(m) perform the responsibilities described in Section 72-4-303 related to the scenic byway program.

(2) (a) The department shall exercise reasonable care in designing, constructing, and maintaining a state highway in a reasonably safe condition for travel.

(b) Nothing in this section shall be construed as:

(i) creating a private right of action; or

(ii) expanding or changing the department's common law duty as described in

Subsection (2)(a) for liability purposes.

Section 4. Section **72-1-303** is amended to read:

72-1-303. Duties of commission.

(1) The commission has the following duties:

(a) determining priorities and funding levels of projects and programs in the state transportation systems and the capital development of new public transit facilities for each fiscal year based on project lists compiled by the department and taking into consideration the

- 126 strategic initiatives described in Section 72-1-211;
- 127 (b) determining additions and deletions to state highways under Chapter 4, Designation
128 of State Highways Act;
- 129 (c) holding public meetings and otherwise providing for public input in transportation
130 matters;
- 131 (d) making policies and rules in accordance with Title 63G, Chapter 3, Utah
132 Administrative Rulemaking Act, necessary to perform the commission's duties described under
133 this section;
- 134 (e) in accordance with Section 63G-4-301, reviewing orders issued by the executive
135 director in adjudicative proceedings held in accordance with Title 63G, Chapter 4,
136 Administrative Procedures Act;
- 137 (f) advising the department on state transportation systems policy;
- 138 (g) approving settlement agreements of condemnation cases subject to Section
139 63G-10-401;
- 140 (h) in accordance with Section 17B-2a-807, appointing a commissioner to serve as a
141 nonvoting member or a voting member on the board of trustees of a public transit district;
- 142 (i) in accordance with Section 17B-2a-808, reviewing, at least annually, the short-term
143 and long-range public transit plans; ~~and~~
- 144 (j) reviewing administrative rules made, substantively amended, or repealed by the
145 department[-]; and
- 146 (k) perform the responsibilities described in Section 72-4-303 related to the scenic
147 byway program.
- 148 (2) (a) For projects prioritized with funding provided under Sections 72-2-124 and
149 72-2-125, the commission shall annually report to a committee designated by the Legislative
150 Management Committee:
- 151 (i) a prioritized list of the new transportation capacity projects in the state
152 transportation system and the funding levels available for those projects; and
- 153 (ii) the unfunded highway construction and maintenance needs within the state.
- 154 (b) The committee designated by the Legislative Management Committee under
155 Subsection (2)(a) shall:
- 156 (i) review the list reported by the Transportation Commission; and

(ii) make a recommendation to the Legislature on:

(A) the amount of additional funding to allocate to transportation; and

(B) the source of revenue for the additional funding allocation under Subsection

(2)(b)(ii)(A).

(3) The commission shall review and may approve plans for the construction of a highway facility over sovereign lakebed lands in accordance with Chapter 6, Part 3, Approval of Highway Facilities on Sovereign Lands Act.

(4) One or more associations representing airport operators or pilots in the state shall annually report to the commission recommended airport improvement projects and any other information related to the associations' expertise and relevant to the commission's duties.

Section 5. Section **72-4-301** is amended to read:

72-4-301. Definitions.

As used in this part:

(1) "Committee" means the [~~Utah State~~] Scenic Byway Committee created in Section 72-4-302.

(2) "Corridor management plan" means a written document:

(a) required to be submitted for a highway to be nominated as a National Scenic Byway or All-American Road that specifies the actions, procedures, controls, operational practices, and administrative strategies to maintain the scenic, historic, recreational, cultural, archeological, and natural qualities of a scenic byway; and

(b) adopted by each municipality or county affected by the corridor management plan.

(3) "Non-scenic area" means:

(a) any property that is unzoned or zoned for commercial or industrial use adjoining a highway that does not contain at least one of the intrinsic qualities described in Subsection 72-4-303(1)(b) immediately upon the property; or

(b) any property that is unzoned or zoned for commercial or industrial use that contains an intrinsic quality described in Subsection 72-4-303(1)(b) immediately upon the property but the intrinsic quality does not represent the primary use of the property.

(4) "Office of Tourism" means the Utah Office of Tourism created in Section 63N-7-102.

~~[(4)]~~ (5) "Segmentation" means:

(a) removing the scenic byway designation from a portion of an existing scenic byway that adjoins a non-scenic area; or

(b) excluding a portion of a highway from a scenic byway designation where the highway adjoins a non-scenic area.

Section 6. Section **72-4-301.5** is amended to read:

72-4-301.5. Designation of highways as a National Scenic Byway or All-American Road -- Legislative approval.

(1) Except as provided in Section 72-4-304, a highway or state scenic byway may not be nominated for designation as a National Scenic Byway or All-American Road unless:

(a) in accordance with Section 72-4-303, the committee endorses the proposal for the highway or state scenic byway to be nominated for designation as a National Scenic Byway or an All-American Road; and

(b) the corridor management plan that will be submitted with the application for the highway or state scenic byway to be nominated for designation as a National Scenic Byway or All-American Road is approved by joint resolution of the Legislature.

(2) (a) ~~[In accordance with]~~ When approving a corridor management plan under Subsection (1), the Legislature may:

(i) approve the corridor management plan; or

(ii) approve the corridor management plan with conditions specified ~~[by the Legislature; or]~~ in the joint resolution.

~~[(iii) deny the corridor management plan.]~~

(b) Upon ~~[a decision by the Legislature]~~ passage of the joint resolution by the Legislature under Subsection (2)(a), the nominating entity ~~[is not required]~~ may:

(i) submit the application with the approved corridor management plan, subject to any conditions specified in the joint resolution; or

(ii) choose not to move forward with the nomination ~~[for the National Scenic Byway or All-American Road designation].~~

Section 7. Section **72-4-302** is amended to read:

72-4-302. Utah Scenic Byway Committee -- Creation -- Membership -- Meetings -- Expenses.

(1) There is created the ~~[Utah State]~~ Scenic Byway Committee.

(2) ~~[(a)]~~ The committee shall be temporary, meet as needed by call of the chair, and
consist of the following ~~[13]~~ members:

~~[(i) a representative from each of the following entities appointed by the governor:]~~

(a) one representative appointed by the managing director of the Office of Tourism;

(b) one representative appointed by the executive director of the department;

(c) one representative from each county where the proposed or current scenic byway
exists, appointed by the legislative body of that respective county;

(d) one representative appointed by the executive director of the Utah League of Cities
and Towns; and

(e) one representative from the outdoor advertising industry appointed by the executive
director of the Governor's Office of Economic Opportunity.

~~[(A) the Governor's Office of Economic Opportunity;]~~

~~[(B) the Utah Department of Transportation;]~~

~~[(C) the Department of Cultural and Community Engagement;]~~

~~[(D) the Division of State Parks;]~~

~~[(E) the Federal Highway Administration;]~~

~~[(F) the National Park Service;]~~

~~[(G) the National Forest Service; and]~~

~~[(H) the Bureau of Land Management;]~~

~~[(ii) one local government tourism representative appointed by the governor;]~~

~~[(iii) a representative from the private business sector appointed by the governor; and]~~

~~[(iv) three local elected officials from a county, city, or town within the state appointed~~
~~by the governor.]~~

~~[(b) Except as provided in Subsection (2)(c), the members appointed in this Subsection~~
~~(2) shall be appointed for a four-year term of office.]~~

~~[(c) The governor shall, at the time of appointment or reappointment for appointments~~
~~made under Subsection (2)(a)(i), (ii), (iii), or (iv) adjust the length of terms to ensure that the~~
~~terms of committee members are staggered so that approximately half of the committee is~~
~~appointed every two years.]~~

(3) ~~[(a)]~~ The representative from the ~~[Governor's Office of Economic Opportunity]~~
Office of Tourism shall chair the committee.

250 ~~[(b) The members appointed under Subsections (2)(a)(i)(E) through (H) serve as~~
251 ~~nonvoting, ex officio members of the committee.]~~

252 (4) The ~~[Governor's Office of Economic Opportunity]~~ Office of Tourism and the
253 department shall provide staff support to the committee.

254 (5) (a) ~~[The chair may call a meeting of the committee only with the concurrence of the~~
255 ~~department.]~~ The chair shall, within 90 days from the day on which the Office of Tourism
256 received a proposal, call a meeting of the committee to review the proposal for a designation,
257 removal, or nomination as described in Subsection 72-4-303(2).

258 (b) A majority of the voting members of the committee constitute a quorum.

259 (c) Action by a majority vote of a quorum of the committee constitutes action by the
260 committee.

261 (d) In the event of a tie vote on a committee action, the vote of the chair of the
262 committee is the deciding vote.

263 (6) A member may not receive compensation or benefits for the member's service, but
264 may receive per diem and travel expenses as allowed in:

265 (a) Section 63A-3-106;

266 (b) Section 63A-3-107; and

267 (c) rules made by the Division of Finance according to Sections 63A-3-106 and
268 63A-3-107.

269 Section 8. Section **72-4-303** is amended to read:

270 **72-4-303. Scenic byway program administration -- Requirements for designation**
271 **-- Segmentation -- Rulemaking authority -- Designation on state maps -- Outdoor**
272 **advertising.**

273 (1) ~~[The committee shall have the]~~ As provided in this section, the department, Office
274 of Tourism, committee, and commission have the collective responsibility to:

275 (a) administer a coordinated scenic byway program within the state that:

276 (i) preserves and protects the intrinsic qualities described in Subsection (1)(b) unique
277 to scenic byways;

278 (ii) enhances recreation; and

279 (iii) promotes economic development through tourism and education; and

280 (b) ensure that ~~[a highway nominated for a scenic byway designation possesses]~~ each

highway designated as a state scenic byway and each highway or state scenic byway nominated for designation as a National Scenic Byway or an All-American Road has at least one of the following six intrinsic qualities:

- (i) scenic quality;
- (ii) natural quality;
- (iii) historic quality;
- (iv) cultural quality;
- (v) archaeological quality; or
- (vi) recreational quality[;].

~~[(c) designate highways as state scenic byways from nominated highways within the state if the committee determines that the highway possesses the criteria for a state scenic byway; and]~~

~~[(d) remove the designation of a highway as a scenic byway if the committee determines that the highway no longer meets the criteria under which it was designated.]~~

(2) (a) Subject to the other provisions of this section, a local legislative body may submit a designation, removal, or nomination proposal to the Office of Tourism for the:

- (i) designation of a state scenic byway;
- (ii) removal of a state scenic byway designation; or
- (iii) nomination of a highway or state scenic byway as a National Scenic Byway or

All-American Road.

(b) Upon receiving a designation, removal, or nomination proposal, the Office of Tourism shall, before the committee meeting, provide the proposal received to each committee member.

(c) The committee shall:

- (i) review the proposal in a public hearing; and
- (ii) endorse or reject the proposal.

(d) (i) If the committee endorses a proposal to designate a state scenic byway or remove a state scenic byway designation:

(A) the committee shall submit the proposal to the Transportation Interim Committee on or before October 31 of the year in which the committee endorses the proposal to designate or remove a designation as a state scenic byway; and

312 (B) the Transportation Interim Committee may propose a joint resolution to approve
313 the proposal.

314 (ii) A proposed designation or removal does not take effect until passage of a joint
315 resolution by the Legislature.

316 (e) If the committee endorses a proposal to nominate a highway or state scenic byway
317 as a National Scenic Byway or All-American Road, the proposal does not take effect until the
318 Legislature completes the legislative approval process described in Section 72-4-301.5.

319 (3) (a) A highway located within a county, city, or town within this state may not be
320 included as part of a designation or nomination as a state scenic byway, National Scenic
321 Byway, or All-American Road unless the nomination or designation is sanctioned in writing by
322 an official action of the legislative body of each county, city, or town through which the
323 proposed state scenic byway, National Scenic Byway, or All-American Road passes.

324 (b) If a county, city, or town does not give approval as required under Subsection
325 [~~(2)(a)~~] (3)(a), then the portion of the highway located within the boundaries of the county,
326 city, or town may not be included as part of any state scenic byway designation or nomination
327 as a National Scenic Byway or All-American Road.

328 [~~(3)~~] (4) (a) [~~Except as provided in Subsection (3)(d), a~~] A non-scenic segment of a
329 state scenic byway, National Scenic Byway, or All-American Road shall be segmented from
330 the byway or road:

331 (i) by the legislative body of the county, city, or town where the segmentation is to
332 occur if:

333 (A) a person or another entity, with the consent of any landowners affected by the
334 segmentation, [~~has~~] requested the segmentation of a portion of a road or highway; and

335 (B) the legislative body of the county, city, or town reviews and approves the
336 segmentation proposed under this Subsection [~~(3)(a)(i)~~] (4)(a)(i); or

337 (ii) by the [~~committee~~] commission at the written request of the owner of real property
338 that is a non-scenic area adjacent to a state scenic byway, National Scenic Byway, or
339 All-American Road.

340 (b) The legislative body of a county, city, or town [~~shall render a decision on~~] or the
341 commission shall approve or deny a segmentation request [~~under Subsection (3)(a)(i) within 60~~
342 days] within 120 days after the day on which the person or entity submits the request and may

grant segmentation to the person or entity [~~if the property is a non-scenic area~~].

(c) (i) If the legislative body of a county, city, or town denies the request to segment the state scenic byway, National Scenic Byway, or All-American Road [~~under Subsection (3)(a)(i)~~] upon the request of a person or another entity, with the consent of any landowners affected by the segmentation, that person or entity may appeal the denial of the request to the [~~committee~~] commission.

(ii) The [~~committee shall hear and answer an appeal of~~] commission shall hear and uphold or reverse the denial of a segmentation request within [~~60 days of a request submitted in accordance with Subsection (3)(c)(i):~~] 120 days after the day on which the person or entity requests the appeal.

(iii) If the [~~committee~~] commission does not render a decision on an appeal in accordance with Subsection [~~(3)(c)(ii);~~] (4)(c)(ii), the denial is reversed and the segmentation request [~~shall be~~] is granted if the property is a non-scenic area.

(d) The commission's decision, as described in Subsection (4)(b) or (4)(c)(ii), is final and binding on the requesting person or entity.

~~[(d) A state scenic byway, National Scenic Byway, or All-American Road is not required to be segmented under Subsection (3)(a)(ii) if, within 60 days after the day on which the request is received, the committee demonstrates to an administrative law judge selected by agreement of the owner of real property and the committee where the non-scenic area is located, that the property to be segmented is not a non-scenic area.]~~

(5) (a) If the federal government provides an opportunity for the program described in this part to receive funding, the department and Office of Tourism shall:

(i) create and review a list of projects on scenic byways in the state that need funding;

(ii) seek input from local stakeholders on prioritizing the projects; and

(iii) create a prioritized list of projects.

(b) For a federal funding opportunity, the governmental entity permitted to submit the federal grant application shall complete and submit the federal grant application and, if required, include the prioritization list described in Subsection (5)(a).

~~[(4)]~~ (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules in consultation with the [~~committee~~] Office of Tourism:

(a) for the administration of a scenic byway program;

374 ~~[(b) establishing the criteria that a highway shall possess to be designated as a scenic~~
375 ~~byway, including the criteria described in Subsection (1)(b);]~~

376 ~~[(c) establishing the process for nominating a highway to be designated as a state~~
377 ~~scenic byway;]~~

378 ~~[(d)]~~ (b) specifying the process for hearings to be conducted in the area of proposed
379 designation prior to the highway being designated as a scenic byway; and

380 ~~[(e)]~~ (c) identifying the highways within the state designated as scenic byways~~[-and]~~.

381 ~~[(f) establishing the process and criteria for removing the designation of a highway as a~~
382 ~~scenic byway.]~~

383 ~~[(5)]~~ (7) The department shall:

384 (a) designate scenic byway routes on future state highway maps~~[-];~~ and

385 (b) coordinate with the Office of Tourism and the governmental entity described in
386 Subsection (5) to apply for federal grants to implement the scenic byway program described in
387 this part.

388 ~~[(6)]~~ (8) A highway within the state designated as a scenic byway is subject to federal
389 outdoor advertising regulations in accordance with 23 U.S.C. Sec. 131.

390 Section 9. **Effective date.**

391 This bill takes effect on May 1, 2024.