

**SCENIC BYWAY MODIFICATIONS**

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jacob L. Anderegg**

House Sponsor: \_\_\_\_\_

**LONG TITLE**

**General Description:**

This bill amends provisions related to the designation of scenic byways.

**Highlighted Provisions:**

This bill:

- ▶ amends provisions related to the designation of state scenic byways, National Scenic Byways, and All-American Roads;
- ▶ amends provisions related to the nomination of members to the Utah State Scenic Byway Committee (committee);
- ▶ removes the requirement of bipartisan representation on the committee;
- ▶ amends the duties of the committee, including nomination or recommendation of a highway to the Legislature for designation as a state scenic byway, National Scenic Byway, or All-American Road;
- ▶ amends provisions related to segmentation of a nonscenic area of scenic byway; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:



- 28 [72-4-301](#), as last amended by Laws of Utah 2010, Chapter 195
- 29 [72-4-301.5](#), as last amended by Laws of Utah 2010, Chapter 195
- 30 [72-4-302](#), as last amended by Laws of Utah 2015, Chapter 258
- 31 [72-4-303](#), as last amended by Laws of Utah 2016, Chapter 152

32 

---

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

34 Section 1. Section **72-4-301** is amended to read:

35 **72-4-301. Definitions.**

36 As used in this part:

37 (1) "Committee" means the Utah State Scenic Byway Committee created in Section  
38 [72-4-302](#).

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

40 (a) required to be submitted for a highway to be nominated as a state scenic byway,  
41 National Scenic Byway<sub>2</sub> or All-American Road that specifies the actions, procedures, controls,  
42 operational practices, and administrative strategies to maintain the scenic, historic, recreational,  
43 cultural, archeological, and natural qualities of a scenic byway; and

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

45 (3) "Non-scenic area" means:

46 (a) any property that is unzoned or zoned for commercial or industrial use adjoining a  
47 highway that does not contain at least one of the intrinsic qualities described in Subsection  
48 [72-4-303](#)(1)(b) immediately upon the property; or

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

52 (4) "Segmentation" means:

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

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

57 Section 2. Section **72-4-301.5** is amended to read:

58 **72-4-301.5. Designation of highways as a state scenic byway, National Scenic**

59 **Byway, or All-American Road -- Legislative approval.**

60 (1) [~~Except as provided in Section 72-4-304, a~~] A highway or state scenic byway may  
 61 not be nominated for designation as a state scenic byway, National Scenic Byway<sub>2</sub> or  
 62 All-American Road unless the corridor management plan that will be submitted with the  
 63 application for the highway or state scenic byway to be nominated for designation as a state  
 64 scenic byway, National Scenic Byway<sub>2</sub> or All-American Road is approved by the Legislature.

65 (2) (a) In accordance with Subsection (1), the Legislature may:

66 (i) approve the corridor management plan;

67 (ii) approve the corridor management plan with conditions specified by the Legislature;

68 or

69 (iii) deny the corridor management plan.

70 (b) Upon a decision by the Legislature under Subsection (2)(a), the nominating entity is  
 71 not required to move forward with the nomination [~~for the National Scenic Byway or~~  
 72 ~~All-American Road designation~~].

73 Section 3. Section **72-4-302** is amended to read:

74 **72-4-302. Utah State Scenic Byway Committee -- Creation -- Membership --**  
 75 **Meetings -- Expenses.**

76 (1) There is created the Utah State Scenic Byway Committee.

77 (2) (a) The committee shall consist of the following 15 members:

78 (i) a representative from each of the following entities appointed by the governor:

79 (A) the Governor's Office of Economic Development;

80 (B) the Utah Department of Transportation;

81 (C) the Department of Heritage and Arts;

82 (D) the Division of Parks and Recreation;

83 (E) the Federal Highway Administration;

84 (F) the National Park Service;

85 (G) the National Forest Service; and

86 (H) the Bureau of Land Management;

87 (ii) one local government tourism representative appointed by the governor;

88 (iii) a representative from the [~~private business sector~~] outdoor advertising industry

89 appointed by the governor;

90 (iv) three local elected officials from a county, city, or town within the state appointed  
91 by the governor;

92 (v) a member from the House of Representatives appointed by the speaker of the  
93 House of Representatives; and

94 (vi) a member from the Senate appointed by the president of the Senate.

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

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

101 ~~[(d)(i) The appointments made under Subsections (2)(a)(v) and (vi) by the speaker of  
102 the House and the president of the Senate may not be from the same political party.]~~

103 ~~[(ii) The speaker of the House and the president of the Senate shall alternate the  
104 appointments made under Subsections (2)(a)(v) and (vi) as follows:]~~

105 ~~[(A) if the speaker appoints a member under Subsection (2)(a)(v), the next appointment  
106 made by the speaker following the expiration of the existing member's four-year term of office  
107 shall be from a different political party; and]~~

108 ~~[(B) if the president appoints a member under Subsection (2)(a)(vi), the next  
109 appointment made by the president following the expiration of the existing member's four-year  
110 term of office shall be from a different political party.]~~

111 (3) (a) The representative from the Governor's Office of Economic Development shall  
112 chair the committee.

113 (b) The members appointed under Subsections (2)(a)(i)(E) through (H) serve as  
114 nonvoting, ex officio members of the committee.

115 (4) The Governor's Office of Economic Development and the department shall provide  
116 staff support to the committee.

117 (5) (a) The chair may call a meeting of the committee only with the concurrence of the  
118 department.

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

120 (c) Action by a majority vote of a quorum of the committee constitutes action by the

121 committee.

122 (6) (a) A member who is not a legislator may not receive compensation or benefits for  
123 the member's service, but may receive per diem and travel expenses as allowed in:

124 (i) Section 63A-3-106;

125 (ii) Section 63A-3-107; and

126 (iii) rules made by the Division of Finance according to Sections 63A-3-106 and  
127 63A-3-107.

128 (b) Compensation and expenses of a member who is a legislator are governed by  
129 Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

130 Section 4. Section 72-4-303 is amended to read:

131 **72-4-303. Powers and duties of the Utah State Scenic Byway Committee --**  
132 **Requirements for designation -- Segmentation -- Rulemaking authority -- Designation on**  
133 **state maps -- Outdoor advertising.**

134 (1) The committee shall have the responsibility to:

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

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

138 (ii) enhances recreation; and

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

140 (b) ensure that a highway nominated for a scenic byway designation possesses at least  
141 one of the following six intrinsic qualities:

142 (i) scenic quality;

143 (ii) natural quality;

144 (iii) historic quality;

145 (iv) cultural quality;

146 (v) archaeological quality; or

147 (vi) recreational quality;

148 (c) [~~designate~~] nominate highways as state scenic byways from [~~nominated~~] highways  
149 within the state to the Legislature for designation, if the committee determines that the highway  
150 possesses the criteria for a state scenic byway; and

151 (d) recommend that the Legislature remove the designation of a highway as a scenic

152 byway if the committee determines that the highway no longer meets the criteria under which it  
153 was designated.

154 (2) (a) A highway located within a county, city, or town within this state may not be  
155 included as part of a designation or nomination as a state scenic byway, National Scenic  
156 Byway, or All-American Road unless:

157 (i) the highway final design has been approved, the highway has been completely built,  
158 and designated by the Legislature; or

159 (ii) the nomination or designation is sanctioned in writing by an official action of the  
160 legislative body of each county, city, or town through which the proposed state scenic byway,  
161 National Scenic Byway, or All-American Road passes.

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

166 (3) (a) Except as provided in Subsection (3)(d), a [~~non-scenic segment~~] nonscenic area  
167 of a state scenic byway, National Scenic Byway, or All-American Road shall be segmented  
168 from the byway or road:

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

171 (A) a person or another entity, with the consent of any [~~landowners affected by the~~  
172 ~~segmentation,~~] landowner of the proposed nonscenic area adjacent to a state scenic byway,  
173 National Scenic Byway, or All-American Road has requested the segmentation of a portion of a  
174 road or highway; and

175 (B) the legislative body of the county, city, or town reviews the segmentation proposed  
176 under this Subsection (3)(a)(i); or

177 (ii) by the committee at the written request of the owner of real property that is a  
178 non-scenic area adjacent to a state scenic byway, National Scenic Byway, or All-American  
179 Road.

180 (b) The legislative body of a county, city, or town shall render a decision on a  
181 segmentation request under Subsection (3)(a)(i) within 60 days and may grant segmentation to  
182 the person or entity if the property is a non-scenic area.

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

187 (ii) The committee shall hear and answer an appeal of the denial of a segmentation  
188 request within 60 days of a request submitted in accordance with Subsection (3)(c)(i).

189 (iii) If the committee does not render a decision on an appeal in accordance with  
190 Subsection (3)(c)(ii), the segmentation request shall be granted if the property is a non-scenic  
191 area.

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

197 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
198 department shall make rules in consultation with the committee:

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

200 (b) establishing the criteria that a highway shall possess to be designated as a scenic  
201 byway, including the criteria described in Subsection (1)(b);

202 (c) establishing the process for nominating a highway to be designated as a state scenic  
203 byway;

204 (d) specifying the process for hearings to be conducted in the area of proposed  
205 designation prior to the highway being designated as a scenic byway;

206 (e) identifying the highways within the state designated as scenic byways; and

207 (f) establishing the process and criteria for removing the designation of a highway as a  
208 scenic byway.

209 (5) The department shall designate scenic byway routes on future state highway maps.

210 (6) A highway within the state designated as a scenic byway is subject to federal  
211 outdoor advertising regulations in accordance with 23 U.S.C. Sec. 131.