

1                                   **UTAH SCENIC BYWAY DESIGNATION**

2   **AMENDMENTS**

3   2009 GENERAL SESSION

4   STATE OF UTAH

5   **Chief Sponsor: Christopher N. Herrod**

6   Senate Sponsor: John L. Valentine

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8                   **LONG TITLE**

9                   **General Description:**

10                   This bill modifies the Designation of State Highways Act by amending scenic byway  
11 designation provisions.

12                   **Highlighted Provisions:**

13                   This bill:

- 14                   ▶ provides definitions;
- 15                   ▶ changes the membership of the Utah State Scenic Byway Committee;
- 16                   ▶ provides that the governor shall appoint certain members to the Utah State Scenic  
17 Byway Committee;
- 18                   ▶ provides that the term of office for Utah State Scenic Byway Committee members  
19 is four years, except that the governor shall stagger certain terms;
- 20                   ▶ provides that the Legislature shall approve highway and state scenic byway  
21 nominations for National Scenic Byway or All-American Road designation;
- 22                   ▶ provides that a highway located within a county, city, or town within this state may  
23 not be included as part of a designation or nomination as a state scenic byway,  
24 National Scenic Byway, or All-American Road unless the nomination or  
25 designation is sanctioned in writing by an official action of the legislative body of  
26 each county, city, or town in which the highway passes;
- 27                   ▶ provides that if a county does not give approval, then the portion of the highway  
28 located within the boundaries of the county, city, or town may not be included as  
29 part of any state scenic byway designation or nomination as a National Scenic

- 30 Byway or All-American Road;
- 31       ▶ establishes a procedure for segmenting a scenic byway;
- 32       ▶ exempts Legacy Parkway from:
- 33           • the legislative approval requirement for nomination as a National Scenic Byway
- 34 or All-American Road; and
- 35           • segmentation;
- 36       ▶ exempts a highway nominated for National Scenic Byway or All-American Road
- 37 designation prior to January 1, 2009 from the legislative approval requirement; and
- 38       ▶ makes technical changes.

**39 Monies Appropriated in this Bill:**

40       None

**41 Other Special Clauses:**

42       None

**43 Utah Code Sections Affected:**

44 AMENDS:

- 45       **72-4-301**, as enacted by Laws of Utah 2004, Chapter 172
- 46       **72-4-302**, as last amended by Laws of Utah 2005, Chapter 148
- 47       **72-4-303**, as last amended by Laws of Utah 2008, Chapter 382

48 ENACTS:

- 49       **72-4-301.5**, Utah Code Annotated 1953
- 50       **72-4-304**, Utah Code Annotated 1953



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

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

54       **72-4-301. Definitions.**

55       As used in this part[,"committee"]:

56       (1) "Committee" means the Utah State Scenic Byway Committee created in Section  
57 72-4-302.

58           (2) "Non-scenic area" means:

59           (a) any property that is unzoned or zoned for commercial or industrial use adjoining a  
60 highway that does not contain at least one of the intrinsic qualities described in Subsection  
61 72-4-303(1)(b) immediately upon the property; or

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

65           (3) "Segmentation" means:

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

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

70           Section 2. Section **72-4-301.5** is enacted to read:

71           **72-4-301.5. Designation of highways as a National Scenic Byway or All-American**  
72 **Road.**

73           Except as provided in Section 72-4-304, a highway or state scenic byway may not be  
74 nominated for designation as a National Scenic Byway or All-American Road unless the  
75 nomination is approved by the Legislature.

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

77           **72-4-302. Utah State Scenic Byway Committee -- Creation -- Membership --**  
78 **Meetings -- Expenses.**

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

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

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

83           ~~[(i)]~~ (A) the Governor's Office of Economic Development;

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

85           ~~[(iii)]~~ ~~the Utah Association of Governments;]~~

86 (C) the Department of Community and Culture;  
87 ~~[(iv)] (D) the Division of State Parks and Recreation;~~  
88 ~~[(v)] (E) the Federal Highway Administration;~~  
89 ~~[(vi)] (F) the National Park Service;~~  
90 ~~[(vii)] (G) the National Forest Service; and~~  
91 ~~[(viii)] (H) the Bureau of Land Management; [and]~~  
92 ~~[(ix) the Utah Travel Regions Association;]~~  
93 ~~[(b) two local government tourism representatives selected by the state entities~~  
94 ~~identified in Subsection (2)(a); and]~~  
95 (ii) one local government tourism representative appointed by the governor;  
96 ~~[(c)] (iii) a representative from the [private sector selected by the state entities~~  
97 ~~identified in Subsection (2)(a);] private business sector appointed by the governor;~~  
98 (iv) three local elected officials from a county, city, or town within the state appointed  
99 by the governor;  
100 (v) a member from the House of Representatives appointed by the speaker of the  
101 House of Representatives; and  
102 (vi) a member from the Senate appointed by the president of the Senate.  
103 (b) Except as provided in Subsection (2)(c), the members appointed in this Subsection  
104 (2) shall be appointed for a four-year term of office.  
105 (c) The governor shall, at the time of appointment or reappointment for appointments  
106 made under Subsection (2)(a)(i), (ii), (iii), or (iv) adjust the length of terms to ensure that the  
107 terms of committee members are staggered so that approximately half of the committee is  
108 appointed every two years.  
109 (d) (i) The appointments made under Subsection (2)(a)(v) and (2)(a)(vi) by the speaker  
110 of the House and the president of the Senate may not be from the same political party.  
111 (ii) The speaker of the House and the president of the Senate shall alternate the  
112 appointments made under Subsections (2)(a)(v) and (2)(a)(vi) as follows:  
113 (A) if the speaker appoints a member under Subsection (2)(a)(v), the next appointment

114 made by the speaker following the expiration of the existing member's four-year term of office  
115 shall be from a different political party; and

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

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

121 (b) The members appointed under Subsections (2)(a)[~~(v), (vi), (vii), and (viii)~~](i)(E)  
122 through (H) serve as nonvoting, ex officio members of the committee.

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

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

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

128 (c) Action by a majority vote of a quorum of the committee constitutes action by the  
129 committee.

130 (6) (a) (i) Members who are not state government employees shall receive no  
131 compensation or benefits for their services, but may receive per diem and expenses incurred in  
132 the performance of the member's official duties at the rates established by the Division of  
133 Finance under Sections 63A-3-106 and 63A-3-107.

134 (ii) Members may decline to receive per diem and expenses for their service.

135 (b) (i) State government officer and employee members who do not receive salary, per  
136 diem, or expenses from their agency for their service may receive per diem and expenses  
137 incurred in the performance of their official duties at the rates established by the Division of  
138 Finance under Sections 63A-3-106 and 63A-3-107.

139 (ii) State government officer and employee members may decline to receive per diem  
140 and expenses for their service.

141 (c) (i) Local government members who do not receive salary, per diem, or expenses

142 from the entity that they represent for their service may receive per diem and expenses  
143 incurred in the performance of their official duties at the rates established by the Division of  
144 Finance under Sections 63A-3-106 and 63A-3-107.

145 (ii) Local government members may decline to receive per diem and expenses for their  
146 service.

147 (d) Legislators on the committee receive compensation and expenses as provided by  
148 law and legislative rule.

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

150 **72-4-303. Powers and duties of the Utah State Scenic Byway Committee --**  
151 **Requirements for designation -- Segmentation -- Rulemaking authority -- Designation on**  
152 **state maps -- Outdoor advertising.**

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

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

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

157 (ii) enhances recreation; and

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

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

161 (i) scenic quality;

162 (ii) natural quality;

163 (iii) historic quality;

164 (iv) cultural quality;

165 (v) archaeological quality; or

166 (vi) recreational quality;

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

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

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

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

181 (3) (a) A state scenic byway, National Scenic Byway, or All-American Road may be  
182 segmented by the legislative body of the county, city, or town where the segmentation is to  
183 occur if:

184 (i) a person or another entity, with the consent of any landowners affected by the  
185 segmentation, has requested the segmentation of a portion of a road or highway; and

186 (ii) the legislative body of the county, city, or town reviews the segmentation proposed  
187 under Subsection (3)(a)(i).

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

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

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

197 (iii) If the committee does not render a decision on an appeal in accordance with

198 Subsection (3)(c)(ii), the segmentation request shall be granted if the property is a non-scenic  
199 area.

200 [~~2~~] (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
201 Act, the department shall make rules in consultation with the committee:

- 202 (a) for the administration of a scenic byway program;
- 203 (b) establishing the criteria that a highway shall possess to be designated as a scenic  
204 byway, including the criteria described in Subsection (1)(b);
- 205 (c) establishing the process for nominating a highway to be designated as a state  
206 scenic byway;
- 207 (d) specifying the process for hearings to be conducted in the area of proposed  
208 designation prior to the highway being designated as a scenic byway;
- 209 (e) identifying the highways within the state designated as scenic byways; and
- 210 (f) establishing the process and criteria for removing the designation of a highway as a  
211 scenic byway.

212 [~~3~~] (5) The department shall designate scenic byway routes on future state highway  
213 maps.

214 [~~4~~] (6) A highway within the state designated as a scenic byway is subject to federal  
215 outdoor advertising regulations in accordance with 23 U.S.C. Sec. 131.

216 Section 5. Section **72-4-304** is enacted to read:

217 **72-4-304. Exceptions to approval and segmentation requirements.**

218 (1) Legacy Parkway, from the junction of I-215 in Davis County northerly to the  
219 junction with US 89 and I-15:

- 220 (a) is exempt from the legislative approval requirement in Section 72-4-301.5; and
- 221 (b) may not be segmented.

222 (2) A highway nominated for National Scenic Byway or All-American Road  
223 designation prior to January 1, 2009 is exempt from the legislative approval requirement in  
224 Section 72-4-301.5.