

**FEDERAL GOVERNMENT ACQUISITION OF  
REAL PROPERTY IN THE STATE**

2002 GENERAL SESSION

STATE OF UTAH

**Sponsor: Bradley T. Johnson**

**This act modifies the Real Estate Code to prohibit federal government acquisition of land in the state for any purpose other than enumerated purposes without consent of the Legislature.**

This act affects sections of Utah Code Annotated 1953 as follows:

ENACTS:

**57-24-101**, Utah Code Annotated 1953

**REPEALS:**

**63-34b-101**, as enacted by Chapter 287, Laws of Utah 2001

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

Section 1. Section **57-24-101** is enacted to read:

**CHAPTER 24. FEDERAL GOVERNMENT ACQUISITION OF REAL PROPERTY**

**57-24-101. Federal government acquisition of real property in the state -- Consent given only for enumerated purposes.**

(1) The consent of the Legislature is given in accordance with United States Constitution Article I, Section 8, Clause 17, to the acquisition by the United States of title to any real property in this state acquired for the erection of:

(a) forts;

(b) magazines;

(c) arsenals;

(d) dock-yards; and

(e) other needful buildings.

(2) Except as provided in Subsection (3), the United States shall not acquire title to **h** OR **INTEREST IN h** real property in this state for any purpose other than those enumerated in Subsection (1) without the consent of the Legislature.



28           ~~h [(3) A sale or exchange for property of equal value of less than 2,500 acres of any real~~  
 29 ~~property in this state is exempt from the requirements of Subsection (2).] h~~  
 29a           ~~h [h (3) A SALE OR EXCHANGE OF REAL PROPERTY IN THIS STATE IS EXEMPT FROM THE~~  
 29b ~~REQUIREMENTS OF SUBSECTION (2) IF IT IS AN EXCHANGE OF REAL PROPERTY FOR REAL~~  
 29c ~~PROPERTY OF EQUAL VALUE. h]~~  
 29d           (3) THE REQUIREMENTS OF SUBSECTION (2) DO NOT APPLY TO:  
 29e           (a) AN EXCHANGE OF REAL PROPERTY FOR REAL PROPERTY OF EQUAL VALUE;  
 29f           (b) LEASES OF REAL PROPERTY; AND  
 29g           (c) RIGHTS-OF -WAY AND EASEMENTS FOR TRANSPORTATION OR UTILITY PURPOSES.  
 29h           Section 2. Repealer.  
 29i           This act repeals:  
 29j           Section 63-34b-101, Federal government acquisition of real property in the state. h

### Legislative Review Note as of 12-14-01 10:32 AM

This legislation raises the following constitutional or statutory concerns:  
 Subsection (2) of this bill raises federal constitutional issues under the United States Supreme Court's interpretation of Article I, Section 8, Clause 17 of the United States Constitution. The United States Supreme Court has consistently held that under the power of eminent domain, the United States can acquire real property within the borders of states for any legitimate purpose including those not specifically enumerated in Article I, Section 8, Clause 17 of the Constitution, even without the consent of the state legislature. See, *Collins v. Yosemite Park*, 304 U.S. 518 (1938), *Kleppe v. New Mexico*, 426 U.S. 529 (1976).

Office of Legislative Research and General Counsel