

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

3                                   2002 GENERAL SESSION

4                                   STATE OF UTAH

5                                   **Sponsor: Bradley T. Johnson**

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

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

10 ENACTS:

11           **57-24-101**, Utah Code Annotated 1953

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

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

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

15           **57-24-101. Federal government acquisition of real property in the state -- Consent**  
16 **given only for enumerated purposes.**

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

20           (a) forts;

21           (b) magazines;

22           (c) arsenals;

23           (d) dock-yards; and

24           (e) other needful buildings.

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



28           (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).

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**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**