

# Federal lands bill ill-considered: State House ignores legal advice in passing provocative, unconstitutional bill

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**News-Miner opinion:** Suspicion of the federal government and its motives is commonplace among Alaskans. There's a reason for that: The U.S. has never been keen to give over control of resources, hunting and fishing rights and even land promised to the state. The attitude of the federal government has led many to question its attitude toward Alaska — whether presidential administrations and members of other states' congressional delegations view the Last Frontier as equal to others in the Lower 48 or as a far-flung colony still subject to greater federal control.

But while suspicion of the federal government is likely a healthy impulse and one that helps ensure the state's rights aren't trampled by Outsiders, there is such a thing as going overboard.

The most recent instance of the impulse to push back against federal control being taken too far comes by way of House Speaker Mike Chenault, R-Nikiski, and his House Bill 115, which would require the federal government to give more than 100 million acres of its land in Alaska to the state. The bill, were it passed and the U.S. government complied, would leave only military bases and national parks under federal control.

It goes without saying that even if HB 115 passes, the federal government will pay it almost no mind. Except for about 5 million acres of land promised to the state that has yet to be conveyed under the Alaska National Interest Land Claims Act, Alaska has no claim to federal lands.

What's more, this is a gambit that has been tried before and failed. The "Tundra Rebellion" of 1982 led to an Alaska voter initiative insisting the federal government had

no right to land in Alaska and directing the state to begin managing all lands under federal control. Though the initiative passed, the state's attorney general found it to be unconstitutional and directed state agencies not to enforce it.

This time around, the advice given to members of the House was the same: "The bill is unconstitutional," legislative legal staff reported. The House passed it anyway.

Rep. Steve Thompson, R-Fairbanks, suggested that his real motivation for supporting the bill isn't that he believes it to be constitutional but rather that it may prompt the federal government to relay the final lands due to the state in a manner more favorable to Alaska's interests. That would be a more sensible — and less provocative — outcome. But if the goal really is the hand-over of those lands, why not target them specifically? If your next-door neighbor owes you an appliance he borrowed, you are not legally entitled to seize his entire house when it takes him longer to give the appliance back than it should. Trying to take away the vast majority of federal lands in Alaska can only serve to widen the gulf in perspective between the state and the federal government, and not in a way that makes the state's position seem reasonable.

HB 115 would be inflammatory and ill-advised at any time, but it is especially so given the extent of the budget situation facing Alaska. Legislators are foolish to spend time debating such a bill in the face of a \$3.5 billion deficit, especially as it could worsen that gap if it leads to legal action between the state and federal government. The only potential benefit the bill has for its supporters is as a piece of red meat with which to satisfy constituents upset over the conduct of the U.S. government on largely unrelated issues. To waste valuable time discussing it as the legislative session winds to a close would be a betrayal of constituents counting on legislators to do their job addressing the deficit.

It's too late to recoup the time squandered addressing a bill that the state's own legal professionals have flat-out declared unconstitutional. The best that can be done about HB 115 at this point is for the Senate to not waste further time by considering it.

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