

Are Alaskans Misinterpreting Alaska's Constitution?

Elected leaders engaged in the great energy debates of 2012 often quote from Alaska's Constitution and we examine here why that rhetoric may be misleading.

Commentary By

Dave Harbour

Maybe Alaska is turning into a high oil and gas taxing, entitlement state because that is what Alaskans want. Is it really? Let's explore what we really want -- and what the Constitution says -- as the Alaska Legislature journeys toward adjournment and makes many life-changing decisions.

There should be little question that we are, in fact, one of America's most lucrative entitlement states for those who seek entitlements. While recent studies ranking states by entitlement generosity are sparse, a [2004 study](#) for the federal government by the Lewin Group and the Nelson A. Rockefeller Institute of Government put Alaska in the top quartile of not only per capita personal income but also per capita spending on welfare and non welfare functions.

Since then, we've had the national economic meltdown. That's resulted in a tightening of many other state budgets -- but a growth of our own state budget which the Department of Labor notes is [almost 90% dependent](#) on the Trans Alaska Oil Pipeline's throughput, declining by 7% annually. This phenomenon, however unsustainable, must mean migration to Alaska by both job and entitlement-seekers is more attractive than ever.

Meanwhile, oil and gas taxes are the hot issue *du jour*. The [dramatic oil tax increase in 2007](#) is what is fueling the avalanche of dollars into Alaska's coffers even as oil production declines. It also fuels the continuation and growth of Alaska's entitlement culture and solidifies the base of constituencies depending upon and demanding high taxes on industry to feed their own special interests.

It is difficult for those taxed to argue taxes are too high when the multitude of beneficiaries receiving taxpayer largess outnumber the givers. Recently the President of the Alaska State Chamber of Commerce, Rachael Petro, wrote an Op-Ed piece for the [Juneau Empire](#). In it, she noted that, "Alaska ranks near the bottom in two recent surveys of places to do business," naming the annual CNBC survey of "America's Top States for Business", and another report issued by Canada's

Fraser Institute noting Alaska's low scores when compared with competitive oil and gas provinces around the world."

Yet, in the Empire's comment section a reader criticized Petro's observations, ignoring that Alaskans pay no personal income tax while petroleum pays 90% of the freight for the rest of us – all as production declines. "RV in Alaska" said, "How come many of those lower 48 states that are such good business climates are going broke? Is it because they are giving business too many tax breaks and not requiring that they pay their way along with the rest of the population?" Obviously the business community is fighting an uphill battle with many citizens who believe they are entitled to pay nothing for state government while someone else does.

The 19th Century French tourist, [Alexis de Tocqueville](#) was rumored to have said, "A democracy cannot exist as a permanent form of government. It can only exist until the majority discovers it can vote itself largess out of the public treasury. After that, the majority always votes for the candidate promising the most benefits with the result the democracy collapses because of the loose fiscal policy ensuing...." While there is evidence the quote came from an editor in 1951 and not de Tocqueville, the principle rings real to current-day students of American and Alaskan government. The difference is that our national government can print money to satisfy constituent demands...even if it debases monetary value for the next generation. Our state government leaders can vote to satisfy their demanding masses too. They can't print money but the majority seems to have become expert at overtaxing investors, in avoiding responsibility for unfunded liabilities and in debasing the value of Alaska's investment climate for young people that will populate the next generations.

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A few weeks ago the [Alaska Dispatch](#) ran a series entitled, "Myth-busting claims in Alaska's oil tax debate." In it, the authors suggested that, 1) oil companies are untrustworthy business partners, 2) that Alaska oil taxes are not as bad as some critics claim, and 3) that North Dakota's tax/regulatory burden is not that much better than Alaska's. While the authors worked hard on the series and made some valid points they failed to keep their eyes on the ball for readers: **1) Alaska is a much more expensive place to operate than North Dakota; 2) North Dakota does not have a reputation as being hostile to the industry (i.e. including retroactive taxation accompanied by huge increases after investments have been made); and 3) the most important point: for a**

variety of reasons industry production is massively increasing in North Dakota and massively declining in Alaska.

In carefully calculating a way forward, therefore, one is drawn to the logic of simplifying this very complex social and economic challenge: let's just focus on the Trans Alaska Pipeline System (TAPS) declining throughput. Declining throughput is reflective of declining production and declining investment in production. Let's also consider that declining throughput produces two major risks: that low throughput could endanger the life of the 35-year-old TAPS for many technical reasons we won't repeat here, and that as throughput decreases a world oil price decrease could plunge the 90% TAPS-dependent government budget into chaos.

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We conclude that Alaska has evolved into a state so blinded by its own greed and constrained by entitlement constituencies that rational, political decision-making is nearly impossible. However, rational outcomes are still within grasp if enough citizens can more objectively set a sustainable course for Alaska's long term best interests.

Here are some ways we might approach that challenge:

First, let's begin to think a little more positively about the oil industry. Why? It is [capital intensive](#), as opposed to [labor intensive](#). The oil companies produce about 90% of our state government's operating budget and fire over a third of Alaska's economy, with relatively few, highly paid, year-around employees. Isn't that what we want, an industry that produces a lot of money but impacts our state services minimally? On the other hand consider the tourism and commercial fishing industries: while I'm not about to argue these seasonal, labor intensive industries are not good, I will observe that they bring hundreds of thousands of people to Alaska, do not pay for most of the state services they receive and would be attacked by state government vampires overnight if the oil industry were not here to pay the bills.

Second, let's look at what Alaska's Constitution¹ really intended:

- The Congress and the founders believed Alaska's economic prosperity was based on natural resource development and that resources should be developed for the "...maximum benefit of its people." No rational person would interpret that phrase as benefitting *only* the "people" of this generation. Surely, all reasonable adults would support author Cindy

Roberts' viewⁱⁱ that the "maximum benefit" of natural resource extraction should apply to... "current and future Alaskans". No adult could therefore conclude that Alaska's constitution advocates taxing every cent possible from extractive industries for the selfish benefit of today's citizens when a more competitive policy could incentivize continuing investment for our children's generation.

- Lastly, we might begin placing more focus on our attitude and our competitiveness as an oil industry state. We could stubbornly continue to proclaim that, "our taxes are not too high and you can't trust industry" as production continues to decline. Or, we could amend or repeal the ill-considered 2007 ACES tax legislation in a way that reverses Alaska's production decline.

If readers agree that these factors merit further thought, they might want to act fast and talk right away with their elected officials. The Alaska legislature this year is considering oil and gas tax modification in response to declining oil production. The State Senate Majority has dug in its heels and issued a list of "[must have](#)" demands to include 'fair sharing' of oil profits; government dictates as to how private companies spend any tax savings that could result from tax legislation; and co-opting private companies to assure they make employee hiring decisions as government officials wish.

We should question whether our government's attitude is the best way to both attract investors for the long haul and provide "...maximum benefit" to this *and* future generations of Alaskans.

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ⁱ [Alaska's Constitution, Article 8](#)

ⁱⁱ Cindy Roberts, [Cracking the Code](#)