

Roth: Oklahoma, Caveat Emptor?

By [Jim Roth](#), Director and Chair of the Firm's Clean Energy Practice Group. This column was [originally published in The Journal Record](#) on April 3, 2017.



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Oklahoma, Caveat Emptor?

As travelers enter into Oklahoma on one of 11 major highways from other states, they are greeted by a beautiful red granite monument featuring the Oklahoma state seal and the word Oklahoma.

However, to be fair, and based upon recurring actions from our state leaders, truth in advertising may require we amend the signs to read "Oklahoma, Caveat Emptor."

"Caveat emptor" is a Latin phrase meaning "let the buyer

beware.” Similar to the phrase “sold as is,” this phrase suggests that the buyer assumes the risk that a product may fail to meet expectations or be defective. The phrase is actually shortened from a longer legal concept, which is: Caveat emptor, quia ignorare non debuit quod jus alienum emit, meaning “Let the purchaser beware, for he out not be ignorant of the nature of the property which he is buying from another party.”

Now we Oklahomans surely pride ourselves on being good people who will look you in the eye and bind ourselves through our word and a handshake. Moreover, we should not need Latin phrases to prove our trustworthiness, or more accurately excuse our lack thereof. But times they are changing if the actions around our floundering state budget continue to erode the confidence of our own citizens and those precious investment dollars we invite in to help grow our state. Simply put, our erratic debtor’s behavior is making us a risky place to do business, and whether our welcome signs declare it or not, our legislative actions are spreading the word beyond our borders.

Last year, numerous bills were introduced targeting existing tax credits and other incentives, causing investors and companies in energy and aerospace to purportedly remove Oklahoma as a place to grow, expand or invest. Then near the end of the session, and without much warning, quick action immediately eliminated a tax subsidy for oil and gas wells that had become unprofitable due to the massive and sudden downturn in energy prices. Yes, an argument can be made that the budget hole necessitated drastic action, but to that operator that kept employing Oklahomans it probably felt like being kicked while you were already down.

Now this year, similar sudden action has been taken by both the House and the Senate to rip an existing tax incentive away from projects that are actually under construction in Oklahoma with the wind energy industry. Oklahoma invited billions of

dollars in and now claims we cannot keep our word even though changing our word has zero effect on this coming year's budget.

Standard & Poor's global ratings announced in March it has lowered our bond rating a notch stating: "The downgrade reflects our view that persistently weak revenue collections – leading to a declared revenues failure for the remainder of the fiscal year (2017) – have further compounded the state's challenge to achieve structural balance in fiscal 2018."

These are desperate times and as is said, desperate times call for desperate measures. Our failed funding of public education is a crisis, which reverberates through our lives and economy in multiple ways beyond dropout rates and low test scores. It means higher incarceration rates and socialized expenses. It means greater poverty rates, hunger and divorce. It is a crisis and must be solved. We need steady, structural change to create revenue for our state's needs.

However, to be erratic toward investment dollars, which we desperately need to grow our state towards more stable times, is a risk that can forever impair our state's fullest potential. If we have become a credit risk, lenders will deploy their capital in more reliable states and the downward spiral continues here through less financing, fewer company expansions, and higher costs of debt, fewer energy projects and fewer jobs.

While desperate times may in fact exist, we Oklahomans should not ever trade in our good name. Not for an annual budget hole, not for political pressure, not for anything.

Others are watching our words and actions and they may rewrite our welcome sign for us.

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