Roth: Time for a long-overdue legislative break

By Jim Roth, Director and Chair of the Firm's Clean Energy Practice Group. This column was originally published in The Journal Record on May 14, 2018.

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Oklahoma's Senate, and later, state House, adjourned sine die May 4, earlier than planned, and not without objection up to the bitter end.

This legislative session was one for the record books, though, to many, not in a positive way. Elected leaders began with a $425 million budget deficit, following multiple years of shrinking revenue and deficits.

But what felt different this year, besides the two special sessions that seemingly went off without a break after last May’s sine die, was the level of engagement by droves of individual constituents and even groups of newly formed advocates. That said, the greatest difference this session has to be that most state agencies received budget increases for the first time in more than a decade, to address many core services.

Our state’s energy industry was among those that had a tempestuous session, which featured a roller coaster of potential tax increases and threats of eliminated incentives, the details of which changed not by the day, but the hour.

Talk of incentives will likely always be a mood killer at a social engagement, as you either believe them to be an effective tool or despise them. My experience places me in the former camp most of the time. Incentives are economic development tools that, if used properly, can boost a nascent industry and provide real benefit to targeted area of industry or even a boost to a particular area of the state.

Grass-roots efforts like the teacher walkout, the Step Up initiative(s) and Restore Oklahoma’s ballot initiative petition to restore the state’s gross production tax to its historic 7-percent rate made hot topics of energy taxes and incentives among those Oklahomans who did not previously have reason to pay them much attention. Now, these issues are part of everyday conversation across the state and an informed electorate is always a good thing.

So how did it all close? The GPT incentive rate for the first 36 months of most wells’ production increased from 2 to 5 percent, then it moves to its typical rate of 7 percent.

These changes garnered mixed reaction from industry leaders, many of whom had previously supported an increase to 4 percent last October. Leaders in the wind industry had worked with lawmakers in past sessions to eliminate incentives in 2016 and 2017, although much debate in 2018 centered around the legacy cost of past tax credits.

One measure that failed to get enough votes was an effort to eliminate the refundability of those projects already in place, costing each wind project millions of dollars. The passage of this measure would have harmed investors, landowners and rural schools that all rely on royalties and local property taxes, as well as potentially send projects into default with lenders. The Senate saw this as ruinous to Oklahoma's business reputation and rejected the House's efforts here.

As I've said countless times, Oklahoma should be eagerly but shrewdly investing in all our state's energy offerings, new and old, rather than attacking one or more forms of energy or industry. Oklahoma's wind, oil, and natural gas are abundant, and so is our solar potential. Let's hope the roller coaster that was this session does not permanently damage our state's business reputation. We still need to attract out-of-state investment to lift all boats here in Oklahoma.

We should all find ways to work together for the benefit of our entire state throughout the year. Energy wars make the whole state look risky, whether in session or not. But for now Oklahomans, let's enjoy a long-overdue break.

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