

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 53rd Legislature (2012)

4 HOUSE JOINT  
5 RESOLUTION 1089

By: Steele of the House

and

Mazzei of the Senate

6  
7  
8  
9 AS INTRODUCED

10 A Joint Resolution directing the Secretary of State  
11 to refer to the people for their approval or  
12 rejection a proposed amendment to the Constitution of  
13 the State of Oklahoma by adding a new Section 5A to  
14 Article X; defining term; requiring measures to  
15 contain provisions allowing identification of certain  
16 persons; prohibiting measures allowing transfer of  
17 tax credits; providing exception; requiring creation  
18 or retention of jobs; requiring tax credit to contain  
19 limitations with respect to revenue loss; requiring  
20 tax credits to contain certain termination date;  
21 requiring prior approval of certain activity related  
22 to tax credits; requiring audits by the State Auditor  
23 and Inspector; requiring fiscal impact statement;  
24 requiring impact statement to be available within  
certain period of time prior to vote on final  
passage; prohibiting consideration of measures  
containing tax credits during certain period of time  
related to legislative sessions; providing statement  
ballot title; and directing filing.

1 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE  
2 2ND SESSION OF THE 53RD OKLAHOMA LEGISLATURE:

3 SECTION 1. The Secretary of State shall refer to the people for  
4 their approval or rejection, as and in the manner provided by law,  
5 the following proposed amendment to the Constitution of the State of  
6 Oklahoma by adding a new Section 5A to Article X thereof, to read as  
7 follows:

8 Section 5A. A. As used in this section, "tax credit" means a  
9 method by which a person or entity may reduce any state tax  
10 liability pursuant to a statutory authorization allowing the tax to  
11 be reduced either by a percentage or a specific dollar amount after  
12 the applicable tax rate amount has been multiplied by the applicable  
13 tax base amount and which results in a net tax liability after the  
14 tax credit amount has been subtracted from a gross tax liability  
15 amount.

16 B. Any measure providing for a tax credit shall contain  
17 provisions pursuant to which any member of the public can determine  
18 the identity of any person or entity that benefits from the tax  
19 credit after it has been claimed upon a tax return.

20 C. The Legislature shall not pass any measure that creates or  
21 allows to be created a tax credit that may be transferred to any  
22 person or entity. The provisions of this subsection shall not  
23 prohibit the allocation of a tax credit to a person or entity

1 authorized or required to use a tax credit or portion of a tax  
2 credit as a result of the provisions of the federal Internal Revenue  
3 Code relating to the taxation of partnerships or entities treated as  
4 partnerships for those purposes.

5 D. Any tax credit shall provide for the creation of new jobs or  
6 the retention of existing jobs within the State of Oklahoma.

7 E. With respect to each fiscal year of the state, any tax  
8 credit shall be limited based upon the total amount of credits that  
9 may be claimed by one taxpaying entity or based upon the total  
10 amount of credits that may be claimed by all taxpaying entities or  
11 both such limitations.

12 F. Any tax credit passed by the Legislature shall contain a  
13 date certain for the termination of the provisions authorizing the  
14 credit.

15 G. No economic activity that qualifies for a tax credit may  
16 occur without the project costs receiving prior approval by a state  
17 governmental entity to be designated pursuant to law enacted by the  
18 Legislature.

19 H. Transactions for which a tax credit has been authorized and  
20 which result in a reduction or potential reduction of state revenue  
21 shall be audited by the State Auditor and Inspector.

22 I. No measure containing a tax credit shall receive final  
23 passage by either chamber of the Legislature unless a detailed  
24

1 fiscal impact statement analyzing the effect of the tax credit on  
2 state revenue and upon the economy of the state is prepared. Such  
3 impact statement shall be made available to each member of the  
4 applicable chamber at least twenty-four (24) hours prior to the  
5 occurrence of the vote upon final passage of the measure.

6 J. No measure containing a tax credit shall be considered  
7 during the last five (5) days of a regular or extraordinary session  
8 of the Legislature.

9 SECTION 2. The Ballot Title for the proposed Constitutional  
10 amendment as set forth in SECTION 1 of this resolution shall be in  
11 the following form:

12 BALLOT TITLE  
13 Legislative Referendum No. \_\_\_\_\_ State Question No. \_\_\_\_\_

14 THE GIST OF THE PROPOSITION IS AS FOLLOWS:

15 This measure amends the Oklahoma Constitution. It would add a  
16 new Section 5A to Article 10. This section relates to laws  
17 which create tax credits. "Tax credit" is defined. Any person  
18 could find out the identity of any person or entity that claimed  
19 a tax credit. Tax credits could not be sold. Tax credits would  
20 have to create new jobs or retain existing jobs. Tax credits  
21 would be limited. The limit could be based on the amount one  
22 taxpayer could claim or the amount all taxpayers could claim or  
23 both. Tax credits would have to be enacted with a date after

1 which the credits would end. A state government entity would  
2 review economic projects before tax credits could be claimed on  
3 a tax return. The State Auditor and Inspector would audit  
4 transactions that benefitted from tax credits. Before final  
5 passage of a bill creating a tax credit, a fiscal and economic  
6 impact statement would be provided to all lawmakers. No tax  
7 credit legislation could be considered during the last five (5)  
8 days of any legislative session.

9 SHALL THE PROPOSAL BE APPROVED?

10 FOR THE PROPOSAL - YES \_\_\_\_\_

11 AGAINST THE PROPOSAL - NO \_\_\_\_\_

12 SECTION 3. The Chief Clerk of the House of Representatives,  
13 immediately after the passage of this resolution, shall prepare and  
14 file one copy thereof, including the Ballot Title set forth in  
15 SECTION 2 hereof, with the Secretary of State and one copy with the  
16 Attorney General.

17  
18 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 02/09/2012 - DO PASS,  
19 As Coauthored.  
20  
21  
22  
23  
24