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**OSAGE NATION CONGRESS**

16<sup>th</sup> Special Session of the 1<sup>st</sup> Congress

**BILL NUMBER ONCA 09-02**

ENROLLED

**December 10, 2008**

SPONSOR: Debra Atterberry

CO-SPONSOR: Mark Freeman

**An Act**

To provide an appropriation to the Executive Branch for the purpose of litigating *Osage Nation v. Thomas E. Kemp, Jr, Chairman of the Oklahoma Tax Commission; Jerry Johnson, Vice-Chairman of the Oklahoma Tax Commission; and Constance Irby, Secretary-Member of the Oklahoma Tax Commission*; to declare an emergency and establish an effective date.

*Be it enacted by the Congress of the Osage Nation:*

**SECTION 1. SHORT TITLE**

This Act may be cited as the “Special Litigation Appropriation Bill.”

**SECTION 2. FINDINGS; PURPOSE**

A. The Osage Nation Congress finds that:

1. The Osage Nation filed suit against the State of Oklahoma in federal court in 2001, seeking declaratory judgment that the Osage Reservation is the Indian Country of the Osage Nation and an injunction against Oklahoma Tax Commissioners from imposing and collecting tax from the income of Osage members who both reside and earn income from sources within the Osage Reservation;
2. “Indian Country” is statutorily defined as: (a) all land located within an Indian reservation, including land held in fee and not limited to land owned by the tribe or tribal members; (b) all dependent Indian communities; (c) Indian allotments; and (d) land held in trust by the federal government for the benefit of the tribe or tribal members. 18 U.S.C.A. §1151 (2000);

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3. Following a lengthy procedural battle, the United States Supreme Court denied the State of Oklahoma's petition for certiorari on October 6, 2008;
4. The case is currently scheduled for trial on the merits of the argument in March of 2009, thus requiring additional funds to prepare for trial;
5. Due to the acceleration of this case, monthly Congressional briefings by the Nation's attorneys and/or the Executive Branch are necessary to track the progress of the lawsuit, which is brought on behalf of the Osage Nation.

B. The purpose of this Act is to provide an appropriation to the Executive Branch for the express purpose of litigation, to-wit, *Osage Nation v. Thomas E. Kemp, Jr., Chairman of the Oklahoma Tax Commission; Jerry Johnson, Vice-Chairman of the Oklahoma Tax Commission; and Constance Irby, Secretary-Member of the Oklahoma Tax Commission.*

**SECTION 3. EXECUTIVE BRANCH APPROPRIATION**

For the purpose of litigating *Osage Nation v. Thomas E. Kemp, Jr., Chairman of the Oklahoma Tax Commission; Jerry Johnson, Vice-Chairman of the Oklahoma Tax Commission; and Constance Irby, Secretary-Member of the Oklahoma Tax Commission*, 4:01-cv-00516-JHP-FHM there is hereby appropriated a sum of one million dollars (\$1,000,000) to the Executive Branch from the General Treasury fund from the sources listed below. Four hundred ninety-eight thousand dollars (\$498,000) shall be available to the Executive Branch for the fiscal year 2009. Reserve funds shall be released only upon Congressional Resolution.

Line Items		
Revenue:		
Federal		
State		
Tribal		\$ 1,000,000.00
Other		
Total Revenue:		\$ 1,000,000.00
Litigation Expenses: 4:01-cv-00516-JHP-FHM	498,000.00	
Reserve Litigation Expenses: 4:01-cv-00516-JHP-FHM	502,000.00	
Total Litigation Expenses:		\$ 1,000,000.00
Total Budget Cost:		\$ 1,000,000.00

92 **SECTION 4. LITIGATION REPORTING REQUIREMENT**

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94 The Executive Branch, or its designee, shall update the Osage Nation Congress  
95 monthly by confidential written report on the status of *Osage Nation v. Thomas E. Kemp,*  
96 *Jr, Chairman of the Oklahoma Tax Commission; Jerry Johnson, Vice-Chairman of the*  
97 *Oklahoma Tax Commission; and Constance Irby, Secretary-Member of the Oklahoma*  
98 *Tax Commission,* which is the subject of this appropriation.  
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100 **SECTION 5. LINE ITEM RESTRICTIONS**

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102 No line item shifting shall be allowed into or out of the "Litigation Expenses" line  
103 item.  
104

105 **SECTION 6. FISCAL YEAR LIMITATIONS; EXCEPTIONS**

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107 The appropriation made by this Act shall be subject to fiscal year limitations.  
108 Unexpended funds will revert to the General Treasury.  
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110 **SECTION 7. DECLARATION OF EMERGENCY; EFFECTIVE DATE**

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112 An emergency exists. This bill is effective upon signature of the Principal Chief  
113 or upon signature of the Speaker of the Osage Nation Congress following legislative  
114 override.  
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118 ENACTED by the Osage Nation Congress on this 10<sup>th</sup> day of December, 2008.  
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121 IN WITNESS WHEREOF, the Speaker of the Osage Nation Congress has  
122 hereto attached his signature.  
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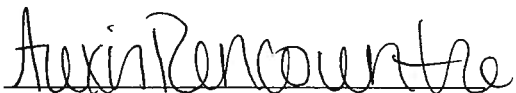
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125 Archie Mason, Speaker  
126 Osage Nation Congress  
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130 I, THE UNDERSIGNED, CERTIFY THAT THE FOREGOING IS A TRUE  
131 EXTRACT FROM THE MINUTES OF THE Osage Nation Congress comprised of  
132 twelve members and one ex-officio member with 12 members attending this meeting on  
133 the 10<sup>th</sup> day of December, 2008, and that the above is in conformity with the provisions  
134 therein adopted by a vote of 9 in favor, 2 against, and 1 absent.  
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136 Faren Revard Anderson no  
137 Jerri Jean Branstetter yes

138	Shannon Edwards	absent
139	Mark Freeman	yes
140	Debra Atterberry	yes
141	Archie Mason	yes
142	Raymond Red Corn	yes
143	Eddy Red Eagle, Jr.	yes
144	Doug Revard	yes
145	Anthony Shackelford	yes
146	Mark Simms	yes
147	William Supernaw	no

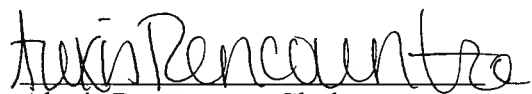
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149 Said Bill has not been rescinded or amended in any way and the above is the  
150 signature of the Speaker of the Osage Nation Congress.

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153 Alexis Rencountre, Clerk  
154 Osage Nation Congress  
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159 **EFFECTIVE DATE CERTIFICATION**

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161 I, THE UNDERSIGNED, CERTIFY THAT THE FOREGOING EFFECTIVE DATE  
162 was approved by a two-thirds vote of the Osage Nation Congress in accordance with the  
163 Constitution of the Osage Nation Article VI, Section 13. This provision was adopted by  
164 a vote of 10 in favor, 1 against, and 1 absent.

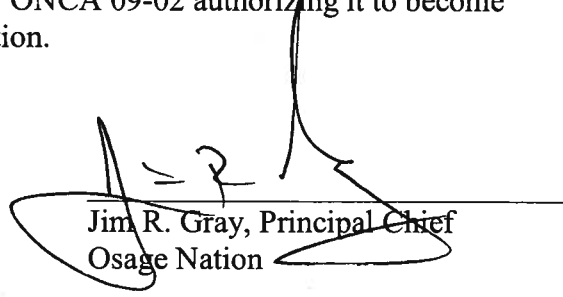
165		
166	Faren Revard Anderson	no
167	Jerri Jean Branstetter	yes
168	Shannon Edwards	absent
169	Mark Freeman	yes
170	Debra Atterberry	yes
171	Archie Mason	yes
172	Raymond Red Corn	yes
173	Eddy Red Eagle, Jr.	yes
174	Doug Revard	yes
175	Anthony Shackelford	yes
176	Mark Simms	yes
177	William Supernaw	yes

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180 Alexis Rencountre, Clerk  
181 Osage Nation Congress  
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**APPROVAL**

I, the Principal Chief of the Osage Nation, hereby affix my signature this 11 day of December, 2008, to the above Bill No. ONCA 09-02 authorizing it to become a law under the Constitution of the Osage Nation.



Jim R. Gray, Principal Chief  
Osage Nation