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OSAGE NATION CONGRESS

16th Special Session of the 1st Congress

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LEGISLATIVE SERVICES
OSAGE NATION CONGRESS

SPONSOR: Debra Atterberry

SPONSOR SIGNATURE:

Debra Atterberry

[Signature]

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);

- 48 3. Following a lengthy procedural battle, the United States Supreme
 49 Court denied the State of Oklahoma’s petition for certiorari on
 50 October 6, 2008;
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 52 4. The case is currently scheduled for trial on the merits of the
 53 argument in March of 2009, thus requiring additional funds to
 54 prepare for trial; and
 55
 56 5. Due to the acceleration of this case, monthly Congressional
 57 briefings by the Nation’s attorneys and/or the Executive Branch
 58 are necessary to track the progress of the lawsuit, which is brought
 59 on behalf of the Osage Nation.
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 61 B. The purpose of this Act is to provide a multi-year appropriation to the
 62 Executive Branch for the express purpose of litigation, to-wit, *Osage*
 63 *Nation v. Thomas E. Kemp, Jr., Chairman of the Oklahoma Tax*
 64 *Commission; Jerry Johnson, Vice-Chairman of the Oklahoma Tax*
 65 *Commission; and Constance Irby, Secretary-Member of the Oklahoma*
 66 *Tax Commission.*
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68 **SECTION 3. EXECUTIVE BRANCH APPROPRIATION**
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70 For the purpose of litigating *Osage Nation v. Thomas E. Kemp, Jr., Chairman of*
 71 *the Oklahoma Tax Commission; Jerry Johnson, Vice-Chairman of the Oklahoma Tax*
 72 *Commission; and Constance Irby, Secretary-Member of the Oklahoma Tax Commission,*
 73 there is hereby appropriated a sum of one million dollars (\$1,000,000) to the Executive
 74 Branch from the General Treasury fund from the sources listed below. Five hundred
 75 thousand dollars (\$500,000) shall be immediately available to the Executive Branch for
 76 the remainder of fiscal year 2009. Five hundred thousand dollars (\$500,000) shall be
 77 held in reserve for litigation expenses beyond fiscal year 2009. These funds are
 78 appropriated to carry out the responsibilities and duties of the Executive Branch in
 79 accordance with all authorizing legislation as follows:
 80

Line items	
Revenue:	
Federal	
State	
Tribal	1,000,000.00
Other	
Total Revenue:	1,000,000.00
Litigation expenses:	1,000,000.00
Total litigation expenses:	1,000,000.00
Total Budget Cost:	1,000,000.00

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SECTION 4. LITIGATION REPORTING REQUIREMENT

The Executive Branch, or its designee, shall update the Osage Nation Congress monthly by confidential written report on the status of *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*, which is the subject of this appropriation.

SECTION 5. LINE ITEM RESTRICTIONS

No line item shifting shall be allowed into or out of the “Litigation expenses” line item.

SECTION 6. FISCAL YEAR LIMITATIONS; EXCEPTIONS

The appropriations made by this Act shall not be subject to fiscal year limitations. The funds are considered encumbered until the litigation is resolved. Five hundred thousand dollars (\$500,000) is immediately available for the remainder of fiscal year 2009. Unexpended funds will revert to the reserved appropriation on October 1, 2009. Unexpended funds will not revert to the General Treasury.

SECTION 7. DECLARATION OF EMERGENCY; EFFECTIVE DATE

An emergency exists. This bill is effective upon signature of the Principal Chief or upon signature of the Speaker of the Osage Nation Congress following legislative override.