

**SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION**

S.F. No. 3089

(SENATE AUTHORS: KUNESH)

DATE
03/22/2023

D-PG
2209

OFFICIAL STATUS
Introduction and first reading
Referred to State and Local Government and Veterans

1.1 A bill for an act
1.2 relating to state government; creating a fund for Native recovery; creating a council
1.3 on Native programs; imposing new taxes; requiring an audit by the legislative
1.4 auditor; requiring reports; appropriating money; amending Minnesota Statutes
1.5 2022, sections 287.21, by adding a subdivision; 287.29; proposing coding for new
1.6 law in Minnesota Statutes, chapter 3.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 **ARTICLE 1**
1.9 **COUNCIL ON NATIVE PROGRAMS**

1.10 Section 1. **[3.9980] SHORT TITLE.**

1.11 This act may be known and cited as the Indian Recovery Act.

1.12 Sec. 2. **[3.9981] NATIVE RECOVERY FUND; COUNCIL ON NATIVE PROGRAMS.**

1.13 Subdivision 1. **Native recovery fund.** A Native recovery fund is established as an
1.14 account in the state treasury. All money earned by the taxes imposed under section 287.21,
1.15 subdivision 1a, must be credited to the fund. At least 98.5 percent of the money appropriated
1.16 from the fund must be expended to fund programs and purposes to better the lives of Native
1.17 people living in Minnesota.

1.18 Subd. 2. **Definitions.** For the purpose of appropriations from the Native recovery fund,
1.19 the following terms have the meanings given:

1.20 (1) "recipient" means the entity responsible for deliverables financed by the Native
1.21 programs fund; and

1.22 (2) "fund" means the Native recovery fund.

2.1 Subd. 3. Council on Native programs. (a) The council on Native programs is established
2.2 with 16 members consisting of:

2.3 (1) one member from each of the 11 federally recognized Tribes in Minnesota appointed
2.4 by the governor;

2.5 (2) two members appointed by the governor who are Native people who reside in an
2.6 urban area;

2.7 (3) one member of the senate appointed by the senate majority leader;

2.8 (4) one member of the house of representatives appointed by the speaker of the house
2.9 of representatives; and

2.10 (5) one nonvoting member appointed by the Indian Land Tenure Foundation.

2.11 (b) The governor must appoint one substitute member from each of the 11 federally
2.12 recognized Tribes who may vote when the appointed member from the same Tribe is
2.13 unavailable to vote.

2.14 (c) Members appointed under paragraph (a) or (b) must not be registered lobbyists.

2.15 (d) Public members appointed under paragraphs (a) and (b) must have practical experience
2.16 or expertise or demonstrated knowledge of issues relating to Native people.

2.17 (e) A public member serves a four-year term. A member may be appointed to a second
2.18 term. Appointed legislative members serve at the pleasure of the appointing authority up
2.19 to a maximum of four years. Public and legislative members continue to serve until their
2.20 successors are appointed.

2.21 (f) Expense reimbursement and removal of public members under paragraph (a) are as
2.22 provided in section 15.0575. A vacancy on the council may be filled by the appointing
2.23 authority for the remainder of the unexpired term.

2.24 (g) Members must elect a chair and other officers as determined by the council. The
2.25 chair may convene meetings as necessary to conduct the duties prescribed by this section.
2.26 The chair shall not vote except to break a tie.

2.27 (h) The Indian Land Tenure Foundation or its successor may appoint nonpartisan staff,
2.28 including an executive director for the council, and contract with consultants as necessary
2.29 to support the functions of the council. Up to two percent of the money appropriated from
2.30 the fund may be used to pay for administrative expenses incurred by the Indian Land Tenure
2.31 Foundation and for expense reimbursement of council members.

3.1 Subd. 4. **Appropriation; grant to the Indian Land Tenure Foundation.** Money in
3.2 the Native recovery fund is appropriated annually to the commissioner of human rights for
3.3 a grant of the full amount of the appropriation to the council on Native programs to be used
3.4 for public purposes for the benefit of Native people, including making grants to other
3.5 organizations for the same purposes.

3.6 Subd. 5. **Reports on use of funds.** The council shall report to the legislature on the
3.7 grants made and the uses of money granted to the council from the Native recovery fund.
3.8 The council's reports shall be submitted by February 15 in odd-numbered years and within
3.9 the first four weeks of the legislative session in even-numbered years to the chairs and
3.10 ranking minority members of the Finance Committee in the senate and the Ways and Means
3.11 Committee in the house of representatives.

3.12 Subd. 6. **Conflict of interest.** (a) A council member may not be an advocate for or
3.13 against a council action or vote on any action that may be a conflict of interest. A conflict
3.14 of interest must be disclosed as soon as it is discovered. The council shall follow the policies
3.15 and requirements related to conflicts of interest developed by the Office of Grants
3.16 Management under section 16B.98.

3.17 (b) For the purposes of this section, a conflict of interest exists when a person has an
3.18 organizational conflict of interest or direct financial interest and those interests present the
3.19 appearance that it is difficult for the person to impartially fulfill the person's duty. An
3.20 organizational conflict of interest exists when a person has an affiliation with an organization
3.21 that is subject to council activities, which presents the appearance of a conflict between
3.22 organizational interests and council member duties. An organizational conflict of interest
3.23 does not exist if the person's only affiliation with an organization is being a member of the
3.24 organization.

3.25 Subd. 7. **Open meetings.** (a) Meetings of the council and other groups the council may
3.26 establish are subject to chapter 13D.

3.27 (b) For legislative members of the council, enforcement of this subdivision is governed
3.28 by section 3.055, subdivision 2. For nonlegislative members of the council, enforcement of
3.29 this subdivision is governed by section 13D.06, subdivisions 1 and 2.

3.30 (c) Meetings of the council must be made available on a website for live video streaming
3.31 and be archived on a website for playback at a later time.

3.32 Subd. 8. **Audit.** The legislative auditor shall initially review the past three annual audits
3.33 of the Indian Land Tenure Foundation by July 1, 2024. Thereafter, the legislative auditor
3.34 must audit the Indian Land Tenure Foundation annually. The audit must review expenditures

4.1 from the grant of money from the council on Native programs, including administrative
 4.2 and staffing expenditures, to ensure that the money is spent in compliance with all applicable
 4.3 law.

4.4 **EFFECTIVE DATE.** This section is effective the day following final enactment, with
 4.5 the first report to the legislature due within the first four weeks of the legislative session
 4.6 beginning in January 2025.

4.7 **Sec. 3. INITIAL APPOINTMENTS AND TERMS FOR THE COUNCIL ON NATIVE**
 4.8 **PROGRAMS.**

4.9 Appointing authorities must appoint public members to the council on Native programs
 4.10 under Minnesota Statutes, section 3.9981, by October 1, 2023. Notwithstanding Minnesota
 4.11 Statutes, section 3.9981, subdivision 3, the first public members appointed to the council
 4.12 shall be appointed to terms ending as follows:

4.13 (1) the term for five members appointed by the governor under Minnesota Statutes,
 4.14 section 3.9981, subdivision 3, paragraph (a), clause (1), and designated by the governor to
 4.15 be subject to the term specified in this clause, ends the first Monday in October 2026;

4.16 (2) the term for one member appointed by the governor under Minnesota Statutes, section
 4.17 3.9981, subdivision 3, paragraph (a), clause (2), and designated by the governor to be subject
 4.18 to the term specified in this clause, ends the first Monday in October 2026;

4.19 (3) the term for the senate member appointed under Minnesota Statutes, section 3.9981,
 4.20 subdivision 3, paragraph (a), clause (3), ends the first Monday in October 2026;

4.21 (4) the term for the member from the house of representatives, ends the first Monday in
 4.22 October 2025; and

4.23 (5) the term for the member appointed by the governor under Minnesota Statutes, section
 4.24 3.9981, subdivision 3, paragraph (a), clause (5), ends the first Monday in October 2026.

4.25 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.26 **ARTICLE 2**

4.27 **TAXATION**

4.28 Section 1. Minnesota Statutes 2022, section 287.21, is amended by adding a subdivision
 4.29 to read:

4.30 Subd. 1a. **Surtax.** (a) A surtax is imposed on each deed or instrument by which any real
 4.31 property in this state is granted, assigned, transferred, or otherwise conveyed in the same

5.1 manner as the tax imposed under subdivision 1, paragraph (a). The surtax must be applied
5.2 separately from the tax imposed under subdivision 1.

5.3 (b) The surtax is determined in the following manner:

5.4 (1) when transfers are made by instruments pursuant to (i) consolidations or mergers,
5.5 or (ii) designated transfers, the tax is; and

5.6 (2) when transfers are made for real property for which a certificate of value is required
5.7 to be filed under section 272.115, subdivision 1, the tax is one-half of one percent of the
5.8 net consideration.

5.9 (c) The provisions of subdivision 1, paragraphs (c) and (d), apply to the surtax imposed
5.10 under this subdivision.

5.11 **EFFECTIVE DATE.** This section is effective for deeds that are both executed and
5.12 recorded after December 31, 2023.

5.13 Sec. 2. Minnesota Statutes 2022, section 287.29, is amended to read:

5.14 **287.29 PAYMENT OF RECEIPTS TO STATE GENERAL FUND; REPORTS.**

5.15 Subdivision 1. **Appointment and payment of tax proceeds.** (a) The proceeds of the
5.16 taxes levied and collected under sections 287.21 to 287.385 must be apportioned as follows:

5.17 (1) of the tax imposed under section 287.21, subdivision 1, 97 percent to the general
5.18 fund of the state, and three percent to the county revenue fund; and

5.19 (2) of the surtax imposed under section 287.21, subdivision 1a, 100 percent to the Native
5.20 recovery fund established under section 3.9981.

5.21 (b) On or before the 20th day of each month, the county treasurer shall determine and
5.22 pay to the commissioner of revenue for deposit in the state treasury and credit to the general
5.23 fund the state's portion of the receipts for deed tax from the preceding month subject to the
5.24 electronic transfer requirements of section 270C.42. The county treasurer shall provide any
5.25 related reports requested by the commissioner of revenue.

5.26 (c) Counties must remit the state's portion of the June receipts collected through June
5.27 25 and the estimated state's portion of the receipts to be collected during the remainder of
5.28 the month to the commissioner of revenue two business days before June 30 of each year.
5.29 The remaining amount of the June receipts is due on August 20.

5.30 **EFFECTIVE DATE.** This section is effective for deeds that are both executed and
5.31 recorded after December 31, 2023.