



## Legislative Summary

# BILL C-29: AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A NATIONAL COUNCIL FOR RECONCILIATION

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Revised by Sara Fryer and Olivier Leblanc-Laurendeau

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## AUTHORSHIP

2 December 2022	Sara Fryer	Legal and Social Affairs Division
	Olivier Leblanc-Laurendeau	Legal and Social Affairs Division
22 August 2022	Sara Fryer	Legal and Social Affairs Division
	Olivier Leblanc-Laurendeau	Legal and Social Affairs Division

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For clarity of exposition, the legislative proposals set out in the bill described in this Legislative Summary are stated as if they had already been adopted or were in force. It is important to note, however, that bills may be amended during their consideration by the House of Commons and Senate, and have no force or effect unless and until they are passed by both houses of Parliament, receive Royal Assent, and come into force.

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*Legislative Summary of Bill C-29*  
(Legislative Summary)

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# LEGISLATIVE SUMMARY OF BILL C-29: AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A NATIONAL COUNCIL FOR RECONCILIATION

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## 1 BACKGROUND

Bill C-29, An Act to provide for the establishment of a national council for reconciliation (short title: National Council for Reconciliation Act)<sup>1</sup> was introduced in the House of Commons on 22 June 2022 by the minister of Crown-Indigenous Relations.

The National Council for Reconciliation Act establishes an Indigenous led not-for-profit organization (the Council) to monitor, evaluate and report on the progress being made toward reconciliation in Canada, among other responsibilities. A total of \$126.5 million was announced in Budget 2019 to establish the Council along with a commitment to endow the Council with initial operating capital.<sup>2</sup>

The bill responds to Call to Action no. 53 made by the Truth and Reconciliation Commission of Canada (TRC).<sup>3</sup> The final report of the TRC concluded that “all levels of government must make a new commitment to reconciliation and accountability.”<sup>4</sup> The TRC further noted that Indigenous peoples and Canadians will benefit from the establishment of an oversight body to evaluate and report on progress made toward fulfilling commitments and to ensure that the necessary educational resources to advance reconciliation are available to all Canadians.<sup>5</sup>

In 2018, an interim board was established to make recommendations to the minister of Crown-Indigenous Relations and Northern Affairs for establishing the Council. Since 1973, over 30 truth and reconciliation commissions have been established in several countries, and a few entities have been created to follow up on the recommendations of the commissions. The interim board reviewed the structures of these bodies and found very few had “established permanent independent, national oversight bodies dedicated to either implementing or reporting on recommendations or the broader progress made on reconciliation.”<sup>6</sup>

The interim board recommended that the future organization be non-political and independent of government, comprised of members appointed to its board based on merit. It further recommended the establishment of a National Reconciliation Endowment Fund as a source of continuous, sustainable funding through which the new organization would fund its operations, using the net interest earned on the principal amount.<sup>7</sup>

The interim board recommended that the new organization's mandate be to:

- monitor the progress of reconciliation;
- oversee government programs, policies and laws related to Indigenous peoples;
- report to Parliament and all Canadians on existing and future possibilities for progress on reconciliation across governments and Canadian society;
- advocate for and educate about reconciliation;
- initiate dialogue; and
- recommend approaches to promote, prioritize and coordinate reconciliation efforts.<sup>8</sup>

The interim board further recommended that the new organization report annually on the state of reconciliation in Canada and that the prime minister of Canada respond to this annual report by “issuing a State of Indigenous peoples report”<sup>9</sup> which sets out the Government of Canada's priorities and describes progress made toward reconciliation.

Bill C-29 sets out the purpose and functions of the Council, which are similar to those recommended by the interim board. The bill establishes the Council's board of directors which will incorporate the Council as a legal entity so that it can commence its work.

**On 17 November 2022, after hearing from 38 witnesses over the course of a month and a half, the House of Commons Standing Committee on Indigenous and Northern Affairs (INAN) amended the bill.<sup>10</sup> Among other things, INAN's amendments modified the bill to:**

- **broaden the functions of the Council;**
- **add new criteria with respect to the composition of its board of directors;**
- **request that the minister of Crown-Indigenous Relations proactively report certain information to the Council;**
- **alter the timelines for annual reporting; and**
- **request that the prime minister be made responsible for responding to the Council's annual report rather than the minister of Crown-Indigenous Relations.**

**On 29 November 2022, the bill was further amended at third reading in the House of Commons. The most significant change made at that time reversed an amendment made by INAN, which would have given the Congress of Aboriginal Peoples the opportunity to nominate one of the Council's board members.**

**The bill was adopted by unanimous decision following its third reading on 1 December 2022.<sup>11</sup>**

## 2 DESCRIPTION AND ANALYSIS

Bill C-29 contains a preamble and 20 clauses.

### 2.1 PREAMBLE

The preamble affirms the importance of reconciliation between the Government of Canada and First Nations, Inuit and the Métis. It also recognizes the need for an independent, non-political, permanent and Indigenous-led organization to monitor, evaluate, conduct research and report on the progress being made toward reconciliation, as recommended by the TRC in Call to Action no. 53. It further recognizes the need for this organization to have access to information that is relevant to its purpose, including information referred to in Call to Action no. 55.<sup>12</sup>

**The preamble emphasizes that Indigenous peoples thrived on, managed and governed their lands before the arrival of settlers and that it is necessary to address, through reconciliation, the assimilationist policies that Indigenous peoples have experienced since the arrival of settlers and colonization.**

### 2.2 INTERPRETATION (CLAUSE 2)

Clause 2(1) defines terms used in the bill. Notably, “governments” refers to all levels of governments in Canada (local, provincial, Indigenous and federal governments). The “transitional committee” means the National Council for Reconciliation Transitional Committee established in 2021 to advise and make recommendations to the minister of Crown-Indigenous Relations (the minister) regarding the establishment of the Council.<sup>13</sup> The transitional committee includes three former members of the interim board.<sup>14</sup>

### 2.3 ESTABLISHMENT (CLAUSES 3 TO 5 AND 8)

Although Bill C-29 envisions the Council being incorporated as a legal entity under the *Canada Not-for-Profit Corporations Act*<sup>15</sup> by the board of directors established in the bill (clauses 3 and 8), clause 2(2) states that the provisions of the National Council for Reconciliation Act prevail over the *Canada Not-for-profit Corporations Act* in the event of any inconsistency between the two, and to the extent of that inconsistency.

Once established, the Council will be independent from the Government of Canada; it will not be an agent of the Crown,<sup>16</sup> nor will it be governed by the *Financial Administration Act*<sup>17</sup> (clause 4). An agent of the Crown “enjoys the constitutional immunities, privileges and prerogatives that are enjoyed by the Crown and can bind the Crown by its acts.”<sup>18</sup> Conversely, the government is not liable for the actions of a non-agent; therefore, the Council is responsible for its actions and decisions.

The Council will be deemed to be a qualified donee under the *Income Tax Act*<sup>19</sup> (clause 5). Qualified donees are organizations that can issue official donation receipts for gifts they receive from individuals and corporations.

## 2.4 PURPOSE AND FUNCTIONS (CLAUSES 6 AND 7)

The Council’s goal is to “advance efforts for reconciliation with Indigenous peoples” (clause 6). The Council’s mandate in the bill is wider than originally contemplated by the interim board. Specifically, the Council is to:

- develop and implement a multi-year national action plan for reconciliation (clause 7(a));<sup>20</sup>
- monitor and conduct research on the progress made toward reconciliation in all sectors of society and by all governments in Canada (clause 7(b));
- **ensure that reconciliation promotes the rights of Indigenous peoples, including by advancing a rights-based approach to self-determination (clause 7(b.1));**
- conduct research on practices in Canada and abroad to advance reconciliation (clause 7(c));
- monitor federal policies, programs and laws that affect Indigenous peoples (clause 7(d));
- recommend measures to promote, prioritize and coordinate **reconciliation** (clause 7(e));
- educate the public about Indigenous peoples’ realities and histories, and advocate for reconciliation (clause 7(f));
- stimulate innovative dialogue, thought and action on reconciliation (clause 7(g));
- **monitor and report on the progress made on measurable outcomes (clause 7(h)); and**
- **protect Indigenous language rights (clause 7(i)).**

## 2.5 BOARD OF DIRECTORS (CLAUSES 9 TO 15)

The Council's board of directors has between nine and 13 members (clause 9), at least two thirds of whom are Indigenous persons (clause 11(1)). Further, **at least two board members must be residents of Yukon, the Northwest Territories or Nunavut (clause 11(2))**. The members have the required knowledge and experience with matters related to Indigenous peoples and **other issues related to the Council's mission (clause 13(1))**.

Notably, under clause 10(1), the board must include:

- one member who may only be elected after having been nominated by the Assembly of First Nations;
- one member who may only be elected after having been nominated by Inuit Tapiriit Kanatami;
- one member who may only be elected after having been nominated by the Métis National Council; and
- **one member who may only be elected after having been nominated by the Native Women's Association of Canada.**

The other members are elected following an application process (clause 10(3)). A member's term is for a maximum of four years, renewable once (clause 14) and assigned through a special resolution passed by a majority of no less than two-thirds of the votes cast on that resolution (clause 15).

After five years, and to the extent possible, the board must include representation from:

- First Nations, Inuit and the Métis;
- **Indigenous elders;**
- **Indigenous survivors of residential schools and of other discriminatory and assimilationist policies of the Government of Canada and their descendants;**
- other peoples in Canada;
- Indigenous organizations;<sup>21</sup>
- youth, women, men and gender-diverse persons;
- the various regions of Canada; **and**
- **Indigenous persons whose first or second language learned is French (clause 12).**

Under clause 8, the minister, in collaboration with the transitional committee, chooses the first board of directors.



**The composition of the board must, to the extent possible, reflect gender diversity (clause 12(2)).**

**The board of directors consults people with relevant knowledge, expertise or experience, which includes Indigenous elders and survivors of the Government of Canada's discriminatory and assimilationist policies (clause 13(2)).**

2.6 DISCLOSURE OF INFORMATION, ANNUAL REPORTS  
AND FINANCIAL REPORT  
(CLAUSES 16 TO 18)

The Council and the minister must develop a protocol for the federal government's disclosure of relevant information to the Council **within six months of the Council's incorporation (clause 16(1)). To the extent possible, the protocol must allow the Council to receive the information it judges relevant to fulfilling its mission (clause 16(2)).**

**Within six months after the end of each financial year, the minister must submit to the Council an annual report which sets out:**

- **comparative data on Indigenous and non-Indigenous children in care, along with reasons for their apprehension, and spending on preventive and care services by child-welfare agencies;**
- **comparative data on Indigenous education on and off reserve;**
- **comparative data on Indigenous and non-Indigenous persons' educational and income attainments;**
- **advances made toward closing health gaps between Indigenous and non-Indigenous communities, with details of the progress made on a number of health indicators, including infant mortality, life expectancy and chronic diseases, among others;**
- **progress made toward ending overrepresentation of Indigenous children in youth custody;**
- **progress made toward reducing the rate of criminal victimization of Indigenous persons; and**
- **progress made toward reducing overrepresentation of Indigenous persons in the justice and correctional systems (clause 16.1).**

Moreover, **within three months after the end of each financial year, the Council must report annually to the minister on:**

- **the state of reconciliation (clause 17(1)(a)); and**

- its recommended measures to promote, prioritize and coordinate **reconciliation** (clause 17(1)(b)).

This annual report must be tabled in Parliament within 15 sitting days after it is received (clause 17(2)).

The **prime minister** must respond to the report within **60** days of its tabling in Parliament by outlining the government's plans for advancing reconciliation (clause 17(3)).

Under clause 18, the Council must also publish a financial report annually containing:

- audited comparative financial statements;
- the report of the public accountant, if any;
- any further information about the financial position of the Council; and
- a detailed statement of the Council's investment activities in the previous financial year.

## 2.7 DISSOLUTION (CLAUSE 19)

The Council could be dissolved in the future under the applicable provisions of the *Canada Not-for-profit Corporations Act*. In that case, following liquidation, its remaining properties would be distributed to one or more qualified donees, specified by the minister, whose purpose is similar to the Council's (clause 19).

## 2.8 COMING INTO FORCE (CLAUSE 20)

The National Council for Reconciliation Act will come into force on a date fixed by order of the Governor in Council (clause 20).

## 3 COMMENTARY

Some organizations and individuals have expressed their support for establishing the National Council for Reconciliation, including the National Centre for Truth and Reconciliation (NCTR).<sup>22</sup> **Ry Moran, former director of the NCTR, also spoke in favour of the bill, noting that “[the Council is] going to hold the government to account, it’s also going to establish multi-year plans for further achievements and problem-solving.”**<sup>23</sup> According to former TRC Commissioner Wilton Littlechild who is a member of the transitional council, establishing the Council represents an important step in making advancements toward reconciliation.

He noted, however, that the wording of the bill could be stronger. He also criticized the fact that the bill was not co-drafted with Indigenous peoples.<sup>24</sup>

The leadership of the Congress of Aboriginal Peoples which represents non-status and off-reserve First Nations people, the Manitoba Métis Federation which is no longer part of the Métis National Council, **and the Native Women’s Association of Canada** deplored the fact that the **three** organizations were not mentioned in clause 10(1).<sup>25</sup> **In the House of Commons, the parliamentary secretary for the minister of Indigenous Services noted that at the committee stage,**

**[a]ll parties submitted amendments to have the Native Women’s Association of Canada nominate a director to the board in recognition of the need to respect women’s voices, contributions to policy and research, and, more broadly, to respect reconciliation.**<sup>26</sup>

**On 1 December 2022, Inuit Tapiriit Kanatami (ITK) announced it would no longer support the bill, stating that the Council “could undermine ongoing Inuit work to build a direct relationship with the federal government and advance Inuit rights and interests.”<sup>27</sup> Natan Obed, President of ITK, said his organization “worries the bill will be used by the federal government to avoid creating an Indigenous human rights tribunal, long called for by the Inuit, which would have more enforcement teeth.” He also said that the bill “would force Inuit – who have constitutionally protected Indigenous rights – to sit with organizations that are not ‘rights-holders.’”<sup>28</sup>**

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#### NOTES

1. [Bill C-29, An Act to provide for the establishment of a national council for reconciliation](#), 44<sup>th</sup> Parliament, 1<sup>st</sup> Session.
2. Government of Canada, “[Chapter 3: Advancing Reconciliation](#),” *Investing in the Middle Class*, Budget 2019.

3. Truth and Reconciliation Commission of Canada (TRC) made several calls to action with respect to establishing a national council for reconciliation, funding this council and reporting on the state of reconciliation in Canada, specifically:

53. We call upon the Parliament of Canada, in consultation and collaboration with Aboriginal peoples, to enact legislation to establish a National Council for Reconciliation. The legislation would establish the council as an independent, national, oversight body with membership jointly appointed by the Government of Canada and national Aboriginal organizations, and consisting of Aboriginal and non-Aboriginal members. Its mandate would include, but not be limited to, the following:

- i. Monitor, evaluate, and report annually to Parliament and the people of Canada on the Government of Canada's post-apology progress on reconciliation to ensure that government accountability for reconciling the relationship between Aboriginal peoples and the Crown is maintained in the coming years.
- ii. Monitor, evaluate, and report to Parliament and the people of Canada on reconciliation progress across all levels and sectors of Canadian society, including the implementation of the Truth and Reconciliation Commission of Canada's Calls to Action.
- iii. Develop and implement a multi-year National Action Plan for Reconciliation, which includes research and policy development, public education programs, and resources.
- iv. Promote public dialogue, public/private partnerships, and public initiatives for reconciliation.

See TRC, [Truth and Reconciliation Commission of Canada: Calls to Action](#), 2015, p. 6.

4. TRC, [Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada](#), 2015, p. 217.
5. Ibid.
6. See Interim Board for the National Council for Reconciliation, [Final Report](#), 12 June 2018, pp. 2–3.
7. The Interim Board identified the way the former Aboriginal Healing Foundation operated as a best practice. It received a \$350-million healing fund and used the interest earned on the fund to operate, ensuring that all of the endowed funds were spent directly on community-based healing projects. See Interim Board for the National Council for Reconciliation, [Final Report](#), 12 June 2018, pp. 8–9.

For reference, Call to Action no. 54 of the TRC makes the following recommendation:

We call upon the Government of Canada to provide multi-year funding for the National Council for Reconciliation to ensure that it has the financial, human, and technical resources required to conduct its work, including the endowment of a National Reconciliation Trust to advance the cause of reconciliation.

See TRC, [Truth and Reconciliation Commission of Canada: Calls to Action](#), 2015, p. 6.

8. Interim Board for the National Council for Reconciliation, [Final Report](#), 12 June 2018, p. 5.
9. Ibid., p. 10
10. House of Commons, Standing Committee on Indigenous and Northern Affairs, [Bill C-29, An Act to provide for the establishment of a national council for reconciliation](#), Fourth report, November 2022.
11. House of Commons, [Journals](#), 1 December 2022.

12. Call to Action no. 55 reads as follows:

We call upon all levels of government to provide annual reports or any current data requested by the National Council for Reconciliation so that it can report on the progress towards reconciliation. The reports or data would include, but not be limited to:

- i. The number of Aboriginal children – including Métis and Inuit children – in care, compared with non-Aboriginal children, the reasons for apprehension, and the total spending on preventive and care services by child-welfare agencies.
- ii. Comparative funding for the education of First Nations children on and off reserves.
- iii. The educational and income attainments of Aboriginal peoples in Canada compared with non-Aboriginal people.
- iv. Progress on closing the gaps between Aboriginal and non-Aboriginal communities in a number of health indicators such as: infant mortality, maternal health, suicide, mental health, addictions, life expectancy, birth rates, infant and child health issues, chronic diseases, illness and injury incidence, and the availability of appropriate health services.
- v. Progress on eliminating the overrepresentation of Aboriginal children in youth custody over the next decade.
- vi. Progress on reducing the rate of criminal victimization of Aboriginal people, including data related to homicide and family violence victimization and other crimes.
- vii. Progress on reducing the overrepresentation of Aboriginal people in the justice and correctional systems.

See TRC, [Truth and Reconciliation Commission of Canada: Calls to Action](#), 2015, p. 6.

13. Crown-Indigenous Relations and Northern Affairs Canada, [Indigenous-led Transitional Committee formed to establish a National Council for Reconciliation](#), News release, 18 January 2021.
14. Crown-Indigenous Relations and Northern Affairs Canada, [The National Council for Reconciliation](#), Background.
15. [Canada Not-for-profit Corporations Act](#), S.C. 2009, c. 23.
16. See Government of Canada, [Agent status and Crown corporations](#).
17. [Financial Administration Act](#), R.S.C. 1985, c. F-11.
18. See Government of Canada, [Agent status and Crown corporations](#).
19. [Income Tax Act](#), R.S.C. 1985, c. 1 (5<sup>th</sup> Supp.), s. 149.1.

20. Several Acts related to Indigenous peoples include the development of action plans and annual reporting mechanisms to Parliament. For example, the *Indigenous Languages Act* establishes an Office of a Commissioner to report annually on: the use and vitality of Indigenous languages; the adequacy of funding for Indigenous languages; the progress made with respect to the revitalization of Indigenous languages; the implementation of the Act; and, the activities and financial statements related to the work of the Office of the Commissioner of Indigenous Languages. The reports must be submitted to the Minister of Canadian Heritage within four months of the end of the fiscal year and be tabled in Parliament within the first 15 sitting days of the House of Commons after the report is received. Once the report is tabled, it stands referred to a committee of the Senate, the House or a joint committee that may be designated or established for the purpose of reviewing the report. See [Indigenous Languages Act](#), S.C. 2019, c. 23, ss. 43 and 44.

Another example is the *United Nations Declaration on the Rights of Indigenous Peoples Act*. Under this Act, the Minister of Justice is required to prepare and implement an action plan to be tabled in Parliament to achieve the objectives of the United Nations Declaration on the Rights of Indigenous Peoples. This action plan must be tabled in both houses of Parliament “as soon as practicable after it has been prepared” and then must be made public. The Action Plan is due 21 June 2023. Additionally, an annual report to Parliament by the Minister of Justice is required. The report must detail the measures taken to align the laws of Canada with the Declaration and the status of the preparation of the Action Plan. The report must be made public after it is tabled in Parliament. The report must be prepared within 90 days after the end of each fiscal year, in consultation and cooperation with Indigenous peoples. The first annual report **was tabled in June 2022. It was also tabled** in both houses of Parliament within 15 sitting days of its completion and permanently referred to the committee of each house that has a mandate to review matters relating to Indigenous peoples. See [United Nations Declaration on the Rights of Indigenous Peoples Act](#), S.C. 2021, c. 14, ss. 6 and 7; and **Government of Canada, [Annual progress report on the implementation of the United Nations Declaration on the Rights of Indigenous Peoples Act](#), June 2022.**

21. The term “Indigenous organization” is defined in the *Department of Indigenous Services Act* as “an Indigenous governing body or any other entity that represents the interests of an Indigenous group and its members.” See [Department of Indigenous Services Act](#), S.C. 2019, c. 29, s. 336, s. 2.
22. Karolyn Xie, [Bill C-29 – Federal government to create national reconciliation oversight body](#), National Centre for Truth and Reconciliation, 24 June 2022.
23. Annette Francis, [“Former NCTR director says National Council for Reconciliation is vital,” APTN National News, 1 December 2022.](#)
24. Olivia Stefanovich, [“Federal government tables bill to create national reconciliation oversight body,” CBC News, 23 June 2022.](#)
25. Fraser Needham, [“CAP, MMF question inclusivity of National Council for Reconciliation,” APTN National News, 27 June 2022;](#) and [Native Women’s Association of Canada, \*Native Women’s Association of Canada Wants Nomination of Board Member to Reconciliation Council to Be Legislated; Calls for Rewrite of Bill C-29\*, News release, 17 October 2022.](#)
26. House of Commons, [Debates](#), 29 November 2022, 1320 (Vance Badawey).
27. Olivia Stefanovich, [“Inuit organization drops support for government bill proposing reconciliation oversight body,” CBC News, 1 December 2022.](#)
28. Ibid.