

Standing Committee on
Government Operations



Report on Bill 92: An Act to Amend the Petroleum Products and Carbon Tax Act, No. 3

19th Northwest Territories Legislative Assembly

Chair: Mr. Rylund Johnson

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MLA Frame Lake

September 28, 2023

SPEAKER OF THE LEGISLATIVE ASSEMBLY

Mr. Speaker:

Your Standing Committee on Government Operations is pleased to provide its *Report on Bill 92: An Act to Amend the Petroleum Products and Carbon Tax Act, No. 3* and commends it to the House.



Mr. Rylund Johnson
Chair, Standing Committee on Government Operations

**STANDING COMMITTEE ON
GOVERNMENT OPERATIONS**

**Report on Bill 92: *An Act to Amend the Petroleum Products and
Carbon Tax Act, No. 3***

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STANDING COMMITTEE ON GOVERNMENT OPERATIONS

REPORT ON BILL 92: *AN ACT TO AMEND THE PETROLEUM PRODUCTS AND CARBON TAX ACT, NO. 3*

INTRODUCTION AND SUMMARY

Bill 92: *An Act to Amend the Petroleum Products and Carbon Tax Act, No. 3* (Bill 92)¹ received second reading on June 1, 2023,² and was referred to the Standing Committee on Government Operations (Committee) for review.

On June 27, 2023, the Minister of Finance and departmental officials provided a public briefing on the Bill.³ Bill 92 requires the government to set up an unconditional carbon tax revenue sharing grant with community governments. Bill 92 also requires the government to prepare and release an annual report on the carbon tax.⁴ Bill 92 ultimately fulfills commitments from the Minister of Finance to improve the government's carbon tax approach, in response to Members' concerns during the third reading of Bill 60: *An Act to Amend the Petroleum Products and Carbon Tax Act* (Bill 60).^{5, 6}

This report summarizes Committee's review of Bill 92, focusing on our amendments to improve the Bill. As originally drafted, Bill 92 fell short of the improvements many Regular Members wanted to see to the government's carbon tax approach – so much so that the Member for Frame Lake introduced a parallel private member's bill. Committee worked with departmental officials and the Member for Frame Lake to develop amendments to strengthen Bill 92 that everyone could support.

Ultimately, Committee put forward four amendments, which are included in Appendix B of this report. The Minister concurred with all four amendments, which were then adopted at the clause-by-clause review on July 28, 2023.⁷ Committee is satisfied that the changes to Bill 92 represent a reasonable compromise between the views of the Government of the Northwest Territories (GNWT) and of Regular Members.

AMENDMENTS

Motions #1 and #2: Legislative housekeeping

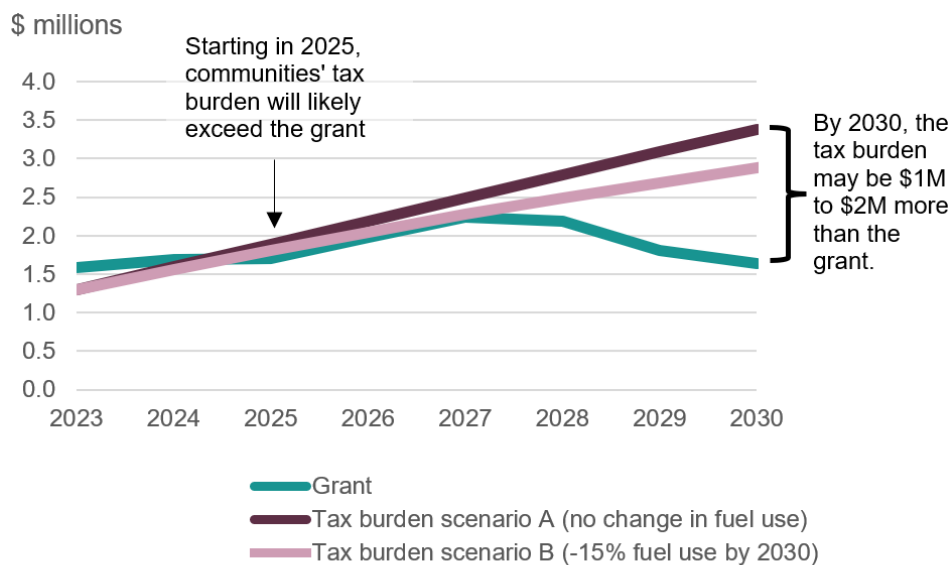
The Legislation Division initiated two minor changes to re-arrange the definitions in the Bill and make several resulting grammatical changes. These changes were minor and non-substantive. Committee agreed to both changes.

Motion #3: Discretion for a higher community grant amount

Bill 92 sets the amount of the community revenue sharing grant at 10 percent of net carbon tax revenues. While this amount is consistent with the Minister’s commitment in the House, Committee was concerned that this may not be consistent with Committee’s vision for the grant’s purpose – to compensate community governments for the fiscal impacts of the carbon tax.

Using data from the Department of Finance, Committee projected communities’ grant revenues with their tax burden. The projections included two scenarios: one in which communities’ fuel use stays the same from 2021 through 2030, and another in which fuel use in 2030 is 15 percent lower than 2021 levels. A 15 percent reduction is consistent with a target in the *2030 Energy Strategy*.⁸ Committee found that, in both scenarios, communities’ total tax burden overtakes the total grant amount in 2025. The gap widens to between \$1 million and \$2 million after 2028.

Figure 1: The revenue sharing grant may not fully offset communities’ carbon tax burden in future years



Source: Office of the Clerk calculations on data from the Department of Finance

When the Minister committed to the 10 percent grant amount, Regular Members assumed that meant the carbon tax would be revenue-neutral for community governments. Our analysis suggested that would not be the case.

Committee sought to confirm whether the government also projects that the carbon tax would not be revenue-neutral for community governments. The government did not confirm or deny this point and emphasized that the community grants were not intended to reduce communities' carbon tax burden to zero. The department characterized the 10 percent as a "minimum" revenue sharing rate.

However, as Bill 92 was originally drafted, the revenue sharing grants had to be "equal to" 10 percent of net carbon tax revenues. With this wording, the 10 percent was not really a *minimum* revenue sharing rate, but rather an *exact* revenue sharing rate.

Committee wanted to ensure that a future Minister would have legislative discretion to provide a bigger grant, above 10 percent of net carbon tax revenues. We would have preferred that the legislation require the carbon tax to be revenue-neutral for community governments, but this proposal was unlikely to receive support from the department. Instead, Committee developed a motion to tweak the wording for the revenue sharing rate from "*equal to 10 percent*" to "*at least 10 percent.*" The government accepted this compromise.

Committee therefore recommends:

Recommendation 1: That the Department of Finance ensure that the carbon tax is revenue-neutral for community governments. Total carbon tax revenue sharing grants should equal or exceed community governments' total carbon tax burden each year.

Motion #4: More prescriptive requirements for the annual report

Bill 92 requires the government to prepare and release an annual report on the carbon tax. Although the Department of Finance already does this work, reporting on the administration of the carbon tax was not previously required in legislation.⁹ Committee has sought legislative requirements for carbon tax reporting since the 18th Assembly,¹⁰ and more recently during our review of Bill 60.¹¹

While Bill 92, as originally drafted, required an annual report, it did not specify a deadline for completing the report or what types of information must be disclosed. The Member for Frame Lake, in particular, was dissatisfied with these omissions. He advocated unsuccessfully for these requirements to be included in the government's bill before it was tabled in the Assembly.¹²

As a result, the Member for Frame Lake introduced a private member's bill – Bill 91: *An Act to Amend the Petroleum Products and Carbon Tax Act, No. 2* (Bill 91).¹³ Bill 91 provided a list of 17 types of financial and other items to be disclosed in the annual report, and a six-month deadline to prepare and release the annual report.¹⁴ Committee was tasked with reviewing Bill 91 alongside Bill 92. Committee received a public briefing on

Bill 91 from the Member for Frame Lake on June 27, 2023.¹⁵

Committee considered the competing visions for carbon tax annual reporting in Bills 91 and 92 and compared these with the department's current reporting practices. Committee found that Bill 91's reporting requirements surpass the department's current voluntary reporting practices. For example, the current annual report does not disclose information on penalties and fines, refunds, and emissions reductions. Our detailed analysis on this topic is available in Appendix A this report.

Committee preferred the annual reporting approach in Bill 91, with its more prescriptive requirements, over the approach in Bill 92. Committee believes the detailed reporting requirements in Bill 91 would ensure transparency from future Ministers and promote accountability for the government's work to address the effects of climate change – without imposing an unreasonable burden on the department.

However, advancing the changes in Bill 91 presented a procedural challenge that implicated Bill 92. Bill 91 and Bill 92 both placed measures related to annual reporting in sections numbered '20.2'. The Legislative Assembly could not pass two section '20.2's' with different wording and legal effect.

Committee's preferred approach was to insert the list of required contents in the annual report from Bill 91 into Bill 92. Committee sought the Minister's support for this approach. The government was concerned that certain reporting requirements in Bill 91 would create legal obligations on matters that were impossible to measure. Two subclauses in Bill 91 highlighted this concern:

- Subclause 20.2(2)(k), which requires reporting on the anticipated reduction of emissions in the Northwest Territories thanks to the carbon tax; and
- Subclause 20.2(2)(l), which requires a description of the effectiveness of the carbon tax in reducing emissions.

The government department further asserted that subclauses (k) and (l), with their focus on emissions, are outside the purpose of the *Petroleum Products and Carbon Tax Act (Act)*, which focuses on tax rates and collection.

Committee accepted the government's concern with subclause (k), but not with subclause (l). Committee believes subclause (l) provides enough discretion on how to report on the effectiveness of the carbon tax. We also stress that emissions reductions are indeed integral to the purpose of the *Act* and should not be out of scope for the annual report. The Minister has said that the carbon tax is meant to meet the territory's commitments under the *Pan-Canadian Framework on Clean Growth and Climate Change*.¹⁶ Under this federal framework, the government has committed to both a minimum level of carbon taxation and a target for emissions reductions. The *2030 Energy Strategy* explicitly links the carbon tax with emissions reductions.¹⁷

Committee therefore put forward a motion to insert the list of annual reporting requirements from clause 20.2(2) in Bill 91 into Bill 92, save and except for subclause (k). The wording of the motion contained several other minor differences from Bill 91, for clearer and more consistent wording. The Minister concurred with the motion and Committee approved the amendment at the clause-by-clause review.

IMPACT ON BILL 91

Given the Minister's concurrence with motion #4, Committee decided to not proceed with Bill 91. The government's legislation now includes detailed annual reporting requirements that Committee supported. Committee is satisfied with this outcome. We thank the Member for Frame Lake for his tireless advocacy for greater transparency and accountability around the government's work to address climate change.

CONCLUSION

This concludes the Standing Committee on Government Operations' review of Bill 92. Typically, Committee includes a recommendation in each report requesting a response from government within 120 days. The recommendation is then moved as a motion in the House and Cabinet is required to respond.¹⁸ However, since the 19th Legislative Assembly will dissolve in less than 120 days, Committee has decided to leave out this recommendation and requests that the government provide a public response to this report, even of a preliminary nature, before the beginning of the 20th Assembly.

NOTES

¹ Bill 92 is available at: https://www.ntassembly.ca/sites/assembly/files/bill_92_-_public_version_0.pdf.

² Remarks from Minister Wawzonek and MLA O'Reilly at the second reading of Bill 92 are available at: <https://www.ntassembly.ca/sites/assembly/files/hn230601.pdf#page=27>.

³ Video of the June 27, 2023, public review of Bill 92 is available at:

<https://www.youtube.com/watch?v=FmsNyaizi0s>.

⁴ A plain language summary for Bill 92 is available at:

https://www.ntassembly.ca/sites/assembly/files/td_952-192_plain_language_summary_bill_92_an_act_to_amend_the_petroleum_products_and_carbon_tax_act_no_3.pdf.

⁵ On March 29, 2023, the Minister of Finance committed to provide an annual revenue-sharing grant to community governments worth 10 percent of projected net carbon tax revenues. She also committed to putting the grant into legislation or regulations if that was Committee's wish. Available at:

<https://www.ntassembly.ca/sites/assembly/files/hn230329.pdf#page=64>.

⁶ On March 29, 2023, the Minister of Finance committed to consider additions to the carbon tax annual report that Members wanted to see. Available at:

<https://www.ntassembly.ca/sites/assembly/files/hn230329.pdf#page=64>.

⁷ Video of the July 28th, 2023, clause-by-clause review of Bill 92 is available at:

<https://www.youtube.com/watch?v=puNmRtoN1G8>.

⁸ The *2030 Energy Strategy* includes a goal to increase government building energy efficiency by 15%. Available at: https://www.inf.gov.nt.ca/sites/inf/files/resources/gnwt_inf_7272_energy_strategy_web-eng.pdf#page=15.

⁹ Since the carbon tax was introduced in 2019, the Department of Finance has released three annual reports on the carbon tax.

The *Northwest Territories Carbon Tax Report 2019-2020* is available at:

https://www.fin.gov.nt.ca/sites/fin/files/resources/gnwt_carbon_tax_report_2019-2020_web.pdf.

The *Northwest Territories Carbon Tax Report 2020-2021* is available at:

https://www.fin.gov.nt.ca/sites/fin/files/resources/2020-21_annual_carbon_tax_report.pdf.

The *Northwest Territories Carbon Tax Report 2021-2022* is available at:

https://www.fin.gov.nt.ca/sites/fin/files/resources/gnwt_carbon_tax_report_13277_web_updated_012323.pdf.

¹⁰ In the 18th Assembly, Committee sought to include reporting requirements in Bill 42: *An Act to Amend the Petroleum Products Tax Act*. Committee was advised that such an amendment was outside the scope of the bill. Instead, Committee recommended that the government table an annual report on the carbon tax and specified which details should be disclosed in the annual report. See recommendation #3 and the surrounding discussion in Committee's report on the Bill. Available at:

https://www.ntassembly.ca/sites/assembly/files/19-08-13_cr_26-183_report_on_the_review_of_bills_42_and_43_carbon_tax_-_final.pdf#page=13.

¹¹ See recommendation #4 in Committee's *Report on Bill 60: An Act to Amend the Petroleum Products and Carbon Tax Act*. Available at: https://www.ntassembly.ca/sites/assembly/files/cr_45-192_scogo_report_on_bill_60_an_act_to_amend_the_petroleum_products_and_carbon_tax_act_0.pdf#page=12.

¹² More generally, the Member for Frame Lake has advocated for legislative approach to carbon taxation modelled on the *Yukon Government Carbon Tax Rebate Act*. On March 6, 2023, the Member for Frame Lake tabled a draft bill modelled on Yukon's legislation. Available at:

https://www.ntassembly.ca/sites/assembly/files/td_874-192_model_nwt_carbon_tax_rebate_act.pdf.

¹³ Bill 91: *An Act to Amend the Petroleum Products and Carbon Tax Act, No. 2*, is available at:

https://www.ntassembly.ca/sites/assembly/files/bill_91_-_public_version.pdf.

¹⁴ The Member for Frame Lake provided more detail on the principle of Bill 91 at second reading.

Available at: <https://www.ntassembly.ca/sites/assembly/files/hn230530.pdf#page=33>.

¹⁵ Video of the June 27, 2023, public review of Bill 91 is available at:

<https://www.youtube.com/watch?v=FmsNyajzi0s>.

¹⁶ See, for example, the Minister of Finance's 2022 Budget Address. Available at:

<https://www.ntassembly.ca/sites/assembly/files/hn220222.pdf#page=7>.

¹⁷ The *2030 Energy Strategy* aims to reduce emissions by 517 kt. The carbon tax is expected to represent 66 kt of those reductions. Available at:

https://www.inf.gov.nt.ca/sites/inf/files/resources/gnwt_inf_7272_energy_strategy_web-eng.pdf#page=15.

¹⁸ As required by Rule 9.4(5) of the *Rules of the Northwest Territories Legislative Assembly*. Available at:

https://www.ntassembly.ca/sites/assembly/files/td_527-192.pdf#page=40.

APPENDIX A: Analysis of reporting requirements

Table 1: Reporting requirements in Bill 91 surpass current disclosure practices

Sub-clause	Topic	Reporting requirement in Bill 91	Current disclosure
			Annual Report
A	Revenues	Total collected on each fuel	Mostly*
B	Rebates	Total provided	Yes
		Total refused	No
C	Large emitter grants	Total provided to each large emitter	N/A [‡]
		Identify of each recipient	N/A [‡]
		Purpose of each grant, if applicable	N/A [‡]
		Anticipated emissions reduction from the grant, if applicable	N/A [‡]
D	Revenue sharing	Total shared with each community government	N/A [§]
E	Penalties and fines	Total for not paying arrears	No
F		Total for reporting non-compliance	No
H		Total for Supreme Court orders	No
I		Total for not paying or remitting the tax	No
G	Refunds	Total provided	No
J	Administration	Total GNWT costs	Yes
K	Emissions	Anticipated emissions reduction due to tax	Not really ^α
L		Description of carbon tax effectiveness at reducing emissions	Not really ^α
M	Other	Any other information on carbon tax the Minister consider of public interest	Yes

* Revenues for butane are not currently disclosed.

‡ No large emitters have applied for a grant to date.

§ Revenue sharing is new, and could not be disclosed in previous annual reports.

α The annual report says emissions analysis is “difficult” to assess. However, the GNWT has at least once (2030 Energy Strategy) disclosed the anticipated emissions reduction due to the carbon tax.

Source: Office of the Clerk analysis

APPENDIX B: Motions to amend Bill 92

MOTION

AN ACT TO AMEND THE
PETROLEUM PRODUCTS AND
CARBON TAX ACT, NO. 3

That clause 2 of Bill 92 be amended by
(a) striking out "definition" and
substituting "definitions"; and
(b) adding the following after the
proposed definition "fiscal year":

"Taxation Section" means the Taxation Section of the
Taxation, Corporate Credit and Collections Division of
the Department of Finance; (*Service de la fiscalité*)

MOTION

LOI N° 3 MODIFIANT LA LOI DE LA TAXE
SUR LES PRODUITS PÉTROLIERS
ET LA TAXE SUR LE CARBONE

Il est proposé que l'article 2 du projet de loi 92
soit modifié par :

a) suppression de «de la définition
suyvante» et par substitution de «des
définitions suivantes»;

b) adjonction de ce qui suit après la
définition proposée de «exercice» :

«Service de la fiscalité» Le Service de la fiscalité de la
Division de la fiscalité, du crédit et du recouvrement
du ministère des Finances. (*Taxation Section*)

MOTION

AN ACT TO AMEND THE
PETROLEUM PRODUCTS AND
CARBON TAX ACT, NO. 3

That clause 3 of Bill 92 be amended in proposed subsection 2.4(1) by

- (a) striking out the semicolon at the end of the English version of the definition "Public Accounts" and substituting a period; and**
- (b) striking out the proposed definition "Taxation Section".**

MOTION

LOI N° 3 MODIFIANT LA LOI DE LA TAXE
SUR LES PRODUITS PÉTROLIERS
ET LA TAXE SUR LE CARBONE

Il est proposé que l'article 3 du projet de loi 92 soit modifié au paragraphe 2.4(1) proposé par suppression :

- a) du point virgule, dans la version anglaise, à la fin de la définition de «Public Accounts» et par substitution d'un point;**
- b) de la définition proposée de «Service de la fiscalité».**

MOTION

AN ACT TO AMEND THE
PETROLEUM PRODUCTS AND
CARBON TAX ACT, NO. 3

That clause 3 of Bill 92 be amended in that portion of proposed subsection 2.4(5) preceding paragraph (a) by striking out "equal to 10%" and substituting "that is at least 10%".

MOTION

LOI N° 3 MODIFIANT LA LOI DE LA TAXE
SUR LES PRODUITS PÉTROLIERS
ET LA TAXE SUR LE CARBONE

Il est proposé que l'article 3 du projet de loi 92 soit modifié par suppression de «égal à 10 %», dans le passage introductif du paragraphe 2.4(5), et par substitution de «d'au moins 10 %».

MOTION

AN ACT TO AMEND THE
PETROLEUM PRODUCTS AND
CARBON TAX ACT, NO. 3

That clause 4 of Bill 92 be amended by deleting proposed section 20.2 and substituting the following:

Definition: "emissions reduction project" 20.2. (1) In this section, "emissions reduction project" means an emissions reduction project as defined in the regulations.

Annual report (2) The Minister shall, for each fiscal year, prepare an annual report with respect to the collection and administration of carbon tax under this Act during that year.

Contents of annual report (3) The annual report prepared under subsection (2) must contain the following information:

- (a) with respect to each type of fuel listed in the Schedule, the total amount of carbon tax collected;
- (b) the total amount of rebates provided or refused under subsection 2.2(1);
- (c) in respect of each grant provided under subsection 2.3(2),
 - (i) the total amount of the grant,
 - (ii) the name of the large emitter to whom the grant was provided,
 - (iii) the purpose for which the grant was provided, if applicable, and
 - (iv) if the grant was provided to offset the costs of an emissions reduction project, the anticipated reduction in greenhouse gas emissions resulting from the project;
- (d) the total amount of each grant provided under subsection 2.4(3), and the name of the community government to whom it was provided;
- (e) the total amount of any penalties payable or collected in respect of carbon tax under subsection 16(2);
- (f) the total amount of any penalties assessed

MOTION

LOI N° 3 MODIFIANT LA LOI DE LA TAXE
SUR LES PRODUITS PÉTROLIERS
ET LA TAXE SUR LE CARBONE

Il est proposé que l'article 4 du projet de loi 92 soit modifié par abrogation de l'article 20.2 proposé et par substitution de ce qui suit :

20.2. (1) Pour l'application du présent article, «projet de réduction des émissions» s'entend du projet de réduction des émissions au sens du règlement. Définition : «projet de réduction des émissions»

(2) Le ministre prépare, pour chaque exercice, un rapport annuel concernant la perception et l'administration de la taxe sur le carbone sous le régime de la présente loi au cours de cet exercice. Rapport annuel

(3) Le rapport annuel préparé en vertu du paragraphe (2) comprend les renseignements suivants : Contenu du rapport annuel

- a) pour chaque type de carburant figurant à l'annexe, le montant total de la taxe sur le carbone perçue;
- b) le montant total des dégrèvements accordés ou refusés en vertu du paragraphe 2.2(1);
- c) pour chaque subvention accordée en vertu du paragraphe 2.3(2) :
 - (i) le montant total de la subvention,
 - (ii) le nom du grand émetteur à qui la subvention a été accordée,
 - (iii) l'objet de la subvention, le cas échéant,
 - (iv) si la subvention a été accordée pour compenser les coûts d'un projet de réduction des émissions, la réduction prévue des émissions de gaz à effet de serre découlant du projet;
- d) le montant total de chaque subvention accordée en vertu du paragraphe 2.4(3) et le nom du gouvernement communautaire à qui elle a été accordée;
- e) le montant total des peines payables ou perçues au titre de la taxe sur le carbone

- or collected in respect of carbon tax under subsection 16(5);
- (g) the total amount of any refunds provided in respect of carbon tax under section 16.1;
- (h) the total amount of any carbon tax, interest, penalties or costs ordered to be paid or refunded for offences related to carbon tax under subsection 16.7(5);
- (i) the total amount of any fines ordered under subsection 21(1.1) or (1.2) for offences related to carbon tax;
- (j) the total amount of costs incurred by the Taxation Section to administer carbon tax under this Act;
- (k) a description of the effectiveness of carbon tax in reducing greenhouse gas emissions in the Northwest Territories;
- (l) any other information in respect of the collection or administration of carbon tax that the Minister considers to be in the public interest.

- en vertu du paragraphe 16(2);
- f) le montant total des peines imposées ou perçues à l'égard de la taxe sur le carbone en vertu du paragraphe 16(5);
- g) le montant total des remboursements effectués au titre de la taxe sur le carbone en vertu de l'article 16.1;
- h) le montant total de la taxe sur le carbone, des intérêts, des pénalités ou des dépens dont le paiement ou le remboursement a été ordonné pour des infractions liées à la taxe sur le carbone en vertu du paragraphe 16.7(5);
- i) le montant total des amendes imposées en vertu du paragraphe 21(1.1) ou (1.2) pour des infractions liées à la taxe sur le carbone;
- j) le montant total des dépenses engagées par la Section des impôts pour administrer la taxe carbone en vertu de la présente loi;
- k) une description de l'efficacité de la taxe sur le carbone dans la réduction des émissions de gaz à effet de serre dans les Territoires du Nord-Ouest;
- l) tout autre renseignement relatif à la perception ou à l'administration de la taxe sur le carbone que le ministre estime être d'intérêt public.

Tabling of
annual report

- (4) The Minister shall cause the annual report prepared under subsection (2)
 - (a) to be tabled in the Legislative Assembly at the earliest opportunity after completion of the report; and
 - (b) to be published on a website maintained by the Department responsible for the administration of this Act.

- (4) Le ministre, à la fois :
 - a) fait déposer devant l'Assemblée législative le rapport annuel préparé en vertu du paragraphe (2) dans les meilleurs délais après l'achèvement du rapport;
 - b) fait publier ce rapport sur un site Web géré par le ministère responsable de l'administration de la présente loi.

Dépôt du
rapport
annuel