

# A Climate Accountability Law for a Safe and Brighter Future

Brief to the Senate Standing Committee on Energy, the Environment and Natural Resources on the strengths and areas for improvement of Bill C-12, the *Canadian Net-Zero Emissions Accountability Act*

June 15, 2021

## Introduction

It is well beyond time for Canada to take ambitious action on climate change. The Paris Agreement commits all signatories to working to hold average global warming to 1.5°C, with countries pledging to “undertake rapid [greenhouse gas] reductions ... in accordance with best available science...” (Article 4).

In 2018, the Intergovernmental Panel on Climate Change – the world’s preeminent climate authority – detailed how essential it is to keep global temperature rise to within 1.5 degrees in order to avoid the most catastrophic and irreversible impacts of climate change.<sup>1</sup> Canada is warming at a rate roughly double that of the rest of the world, and the rate in northern parts of the country is nearly three times the global average.

Meanwhile, Canada has missed every single climate target it has set. As one of the top ten net emitters of greenhouse gases (GHGs) globally and one of the top per capita emitting countries, Canada disproportionately contributes to the climate crisis. As a result, we have an obligation, as well as an international commitment under the Paris Agreement, to do our fair share of reducing domestic and global emissions as quickly as possible.

As we explained in our 2020 report, *A New Canadian Climate Accountability Act: Building the legal foundation to achieve net-zero emissions by 2050*<sup>2</sup> countries around the world have been adopting climate accountability laws to set science-based climate targets and then ensure that successive governments can be held accountable for achieving them. The United Kingdom, which enacted its law with all-party support in 2008, has since reduced its greenhouse gas emissions to levels not seen since the late 1800s.

Bill C-12 is an important step in the right direction. For the first time in Canada’s history, a sitting government is putting in place many of the key procedural tools that will help Canada achieve its climate targets. While Bill C-12 in many cases does not follow the recommended approach in our report, the Bill

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<sup>1</sup> IPCC, 2018: Global Warming of 1.5°C. *An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty* [Masson-Delmotte, V., P. Zhai, H.-O. Pörtner, D. Roberts, J. Skea, P.R. Shukla, A. Pirani, W. Moufouma-Okia, C. Péan, R. Pidcock, S. Connors, J.B.R. Matthews, Y. Chen, X. Zhou, M.I. Gomis, E. Lonnoy, T. Maycock, M. Tignor, and T. Waterfield (eds.)]. In Press.

<sup>2</sup> Julia Croome *et al*, *A New Canadian Climate Accountability Act: Building the legal foundation to achieve net-zero emissions by 2050* (May 2020), available [here](#), [here](#) and [here](#).

is a substantial step forward. Ideally, it could be strengthened to align with global best practices. However, the current reality is a minority government, the uncertainty around a potential upcoming election, and a climate emergency that does not afford us the luxury of perfecting the Bill. Our priority is to ensure that it is passed in a timely manner, within this session of Parliament, so that it can begin guiding current and future Canadian governments. Delay is the enemy of preventing further degradation of our healthy atmosphere and the resulting threats to our communities.

These submissions are organized around five pillars based on an assessment of climate accountability legislation around the world, and in particular the UK *Climate Change Act, 2008* (UK CCA), which has served as a model for countries in the European Union, New Zealand and elsewhere. In this brief we have adjusted the framing of the pillars from the language we use in our report to reflect Bill C-12 and the appointment of the Net-Zero Advisory Body, and to highlight critical gaps. However, the essential content remains the same. In each case we explain why the element is important and what the Bill does to deliver accountability, as well as identify weaknesses that we hope will be addressed through implementation.

The five pillars are:

1. Early and ambitious action
2. Mid- and long-term certainty
3. Credible, effective plans and reports
4. Accountability
5. Science and expert advice

These pillars are described below, along with an analysis of how Bill C-12 measures up against them. With enough political and bureaucratic will and determination, we believe the Bill can live up to its potential as an effective tool for ensuring Canada never misses another climate target and does its fair share to keep global temperature rise to within 1.5 degrees.

Finally, we provide a brief response to a proposal from the Canadian Association of Petroleum Producers (CAPP) to explicitly require the Minister to consider economic issues alongside the best available science. In our view, this approach undermines the purpose of the Act and would further harm Canada's international reputation as a climate leader.

**1. Early and ambitious action** – because we cannot afford to delay climate action any longer.

**Why it matters:** Climate scientists warn that the world has to act immediately. Canada has a history of setting its greenhouse gas emission reduction targets a decade or more out and then failing to take the near-term actions required to meet them. By failing to include a 2025 milestone year, Bill C-12 gives the

impression of only requiring accountability for future governments. Canada must bend its emissions curve sharply, and that means starting immediately.

#### **How does/doesn't Bill C-12 address early and ambitious action?**

- ☑ Sets out where emissions should be in 2026 and requires that plans show what emissions will be for each year;
- ☑ Ensures that there is regular progress reporting starting in 2023; and
- ☑ Includes early and ambitious climate action as a purpose of the Act.

**What can be done through implementation:** It is important that Canada sets an ambitious 2026 objective, aimed at ensuring that by mid-decade we are well on our way to an even more ambitious 2030 target.

2. **Mid- and long-term certainty** – because certainty and clarity respecting our mid- and long-term targets will let governments, businesses and the public plan accordingly.

**Why it matters:** In addition to ensuring immediate ambition, net-zero legislation should provide enough certainty and clarity respecting our mid- and long-term targets that governments, businesses and the public can plan accordingly. Plans need to be long-term enough to provide for actions that take some time to implement or to achieve their goals, and to allow for course correction if they are not delivering their promised results. Certainty is essential in a federation, as other levels of government need time to consider federal climate action in the development of their own climate actions so that the two can complement one another.

#### **How does/doesn't Bill C-12 address mid- and long-term certainty?**

- ☑ Requires five-year emissions targets to be set ten years in advance, on a rolling basis;
- ☑ Requires targets to be set with a focus on best available science and with advice from the advisory body;
- ✗ Ensures that the 2030 target represents Canada's fair share of domestic emissions reduction;
- ✗ Ensure that achieving and plans to achieve milestones and Canada's 2050 net zero target do not rely on unproven or risky negative emissions technologies.

**What can be done through implementation:** Bill C-12 sets the 2030 target as Canada's Nationally Determined Contribution (NDC, a national government's response to climate change under the Paris Agreement) as amended from time to time. In addition, it mandates a review of the target by 2025. As such, Canada has the opportunity to set a strong target in its current NDC, and to revise it upward, to better reflect Canada's fair share of global emissions reductions.

**3. Credible, effective plans and reports** – because achieving climate goals requires transparent plans that demonstrate how targets will be met, and regular reporting on progress.

**Why it matters:** Transparent plans that demonstrate how targets will be met and reporting on progress are foundational to achieving climate goals. Plans and reports must be detailed and provide all data, methodologies and assumptions relied on. Reporting should be annual, or at a minimum occur twice in each five-year period. Transparency works alongside the other elements of climate accountability legislation, allowing, for example, the advisory body to make informed comment on the adequacy of the report and other levels of government to contribute to achieving the milestone targets.

**How does/doesn't Bill C-12 address credible, effective plans and reports?**

- Requires plans to describe projected annual and sectoral emissions;
- Requires plans to provide a timeline for implementation of measures;
- Requires plans to indicate the data, assumptions and methods relied on;
- Requires plans to include information on and modelling of expected provincial measures (rather than only a summary of key cooperative provincial measures);
- Requires detailed plans ten years in advance of a target (the “description of key measures” intended to achieve a target ten years out includes insufficient detail and accountability requirements to ensure that current governments will actively work towards achieving the ten-year milestone);
- Requires reporting every two years on progress to achieve targets starting in 2023 (until 2027);
- Requires progress reports every two years after 2027;
- Requires independent assessment of plan implementation by the Commissioner for Environment and Sustainable Development; and
- Requires the Minister to specify additional actions that could (although, unfortunately, not must) be taken in the event that a target may not be met;
- Requires the Minister to specify actions that the government is taking, or will take, to address any failure to meet a target.

**What can be done through implementation:** While C-12 fails to make important information mandatory in plans, it does *allow* for that information to be included. The plans and reports that the government develops in the coming months will set the standard for future plans. If plans include modelling, data, assumptions, anticipated provincial action and other key information, they will set the stage for future credible plans.

- 4. Accountability** – because ensuring real climate action has to look beyond the current election cycle and cannot rely on political will alone.

**Why it matters:** Achieving real climate action can be politically challenging, so climate accountability laws work when they require decision-makers to put long-term economic and planetary health ahead of short-term profits. Canada has seen a history of finger-pointing for past missed targets, with federal politicians shifting responsibility to the provinces. It is essential that the federal government ultimately be accountable for collaborating with provinces and ensuring that as a country Canada achieves its climate goals.

**How does/doesn't Bill C-12 address accountability?**

- Requires the Minister to have a “plan for achieving” GHG targets;
- Clearly requires the Minister to demonstrate that the measures described in a plan will meet the targets;
- Requires the Minister to ensure milestone targets are met
- Requires an independent review of plan implementation by the Commissioner for Environment and Sustainable Development, at least every five-years;

**What can be done through implementation:** By ensuring that future plans do describe the measures necessary to achieve milestone targets, and that the plans are implemented, the Minister can create a culture of accountability.

- 5. Science and expert advice** – because addressing the climate emergency demands the best available science.

**Why it matters:** Climate change and its implications can be complicated, and Canadians need to trust that decisions are being made on the basis of clear science about what needs to be done to address climate change, not political trade-offs. Independent expert bodies have a demonstrated track record of depoliticizing emotive and polarized decisions, resulting in better governance.

**How does/doesn't Bill C-12 address credible, effective plans and reports?**

- Creates an independent advisory body to advise the Minister on setting targets and plans and achieving targets;
- Prescribes the knowledge and expertise that the advisory body as a whole must hold (does not establish a stakeholder advisory body).
- Requires the Minister to consult the advisory body prior to setting targets;

- ☑ Requires annual reports by the advisory body, which the Minister will make public and respond to;
- ☑ Ensures that targets and plans consider the best available scientific information;
- ✘ Requires the advisory body’s advice to be based on the best available science respecting credible pathways to achieving net-zero emissions and upholding Canada’s Paris Agreement commitments; and
- ✘ Requires the Minister to *base* targets on the best available science (as opposed to simply consider it).

**What can be done through implementation:** The Minister can ensure that members appointed to the advisory body are experts in climate science and are independent, and that the body’s terms of reference focus on best available science. The Minister can also ensure that climate science is accorded a high level of importance in decision-making under the Act.

### Considering economic factors

During the Committee’s pre-study of the Bill, some Senators showed interest in requiring the Minister to consider economic objectives alongside the best available science when setting climate targets.

We acknowledge the need to consider the impacts of climate mitigation policies in order to ensure a just transition that supports workers while addressing inequities and injustices. However, it is important to distinguish between considering economic factors in order to support provinces, communities and Indigenous Peoples in the transition to a clean economy, and considering economic interests when setting targets. The former is sound policy, while the latter would weaken ambition and be inconsistent with the purpose of climate accountability law and Canada’s international commitments.

The purpose of climate accountability law is to allow political leaders and the public to clearly understand what is required for Canada to do its part to avoid climate catastrophe by drastically reducing greenhouse gas emissions, and to hold decision-makers to account for achieving those reductions. To consider socio-economic goals or indicators alongside the best available science would undermine that purpose by encouraging politicians to water down targets in the name of short-term economic interests.

The Paris Agreement requires Canada to “undertake rapid reductions thereafter in accordance with best available science...” (Article 4). While the Paris Agreement does recognize that other factors may be relevant (ie. the Article also refers to the “context of sustainable development and efforts to eradicate poverty”), its clear focus is on achieving targets set in accordance with best available science. Requiring governments to justify targets as consistent with short-term economic objectives is therefore contrary to Canada’s commitments under the Paris Agreement.

Canada's decades of missed climate targets occurred in large part due to efforts to prioritize short-term economic interests over what climate science requires. Injecting economic considerations into Bill C-12 would be a recipe for further missed targets and would likely further undermine Canada's reputation as a climate leader. Indeed, the reason why we need climate accountability legislation is because economic decision-making is already prioritized by governments, through for instance the prevalence of using Gross Domestic Product (GDP) as our main measure of progress.

Finally, setting five-year economic targets without reference to the global and national economic costs of climate change in the decades and centuries to come would mandate a one-sided economic analysis, a problem not easily remedied because estimates of long-term economic climate risks are dependent on subjective or value-laden questions of risk and of how future risk should be valued.<sup>3</sup>

## Conclusion

It is clear that Bill C-12 is not a world-leading climate accountability law. At the same time, the Bill, implemented well, could enable world-leading climate action that Canada can be proud of. Additionally, the legislated five-year review is a hopeful sign we can learn by doing as the Act is implemented.

We therefore urge you to pass Bill C-12 in time for it to receive Royal Assent before Parliament rises for the summer recess, and join us in considering how it may be implemented - and potentially amended in five years' time - in such a way that Canada breaks its bad habit of missing climate goals and joins with global leaders in combating climate change.

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<sup>3</sup> Marc Fleurbaey, Maddalena Ferranna, Mark Budolfson, Francis Dennig, Kian Mintz-Woo, Robert Socolow, Dean Spears, Stéphane Zuber, The Social Cost of Carbon: Valuing Inequality, Risk, and Population for Climate Policy, *The Monist*, Volume 102, Issue 1, January 2019, Pages 84–109, <https://doi.org/10.1093/monist/ony023>.