

HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR
HOUSE ENERGY, ENVIRONMENT AND NATURAL RESOURCES
COMMITTEE SUBSTITUTE FOR
HOUSE BILL 153

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

AN ACT

RELATING TO THE ENVIRONMENT; ENACTING THE LOW-CARBON
CONSTRUCTION MATERIAL REBATE ACT; ENACTING THE ENVIRONMENTAL
PRODUCT DECLARATION ACT; ENACTING THE INDUSTRIAL CARBON
REDUCTION ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. ~~[NEW MATERIAL]~~ SHORT TITLE.--Sections 1
through 9 of this act may be cited as the "Low-Carbon
Construction Material Rebate Act".

SECTION 2. ~~[NEW MATERIAL]~~ DEFINITIONS.--As used in the
Low-Carbon Construction Material Rebate Act:

A. "covered construction materials" means materials
used in a construction project, including cement, concrete,
asphalt binder, asphalt mixtures, aluminum, steel, glass,
roofing material, insulation material, engineered wood and

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1 precast concrete;

2 B. "department" means the department of
3 environment;

4 C. "emissions baseline" means a calculation of the
5 industry-average greenhouse gas emissions associated with a
6 material;

7 D. "emissions benchmark" means the maximum
8 acceptable amount of greenhouse gas emissions associated with a
9 category of covered construction materials eligible for the
10 rebate;

11 E. "environmental product declaration" means a
12 declaration that is independently verified and provides a life-
13 cycle assessment of a product's global warming potential and
14 facilitates a comparison of environmental impacts between
15 products;

16 F. "global warming potential" means the quantity of
17 greenhouse gas emissions associated with a product expressed in
18 terms of carbon dioxide equivalent;

19 G. "low-carbon construction material" means a
20 covered construction material with a global warming potential
21 at or below the emissions benchmark established by the
22 department;

23 H. "material buyer" means a person purchasing low-
24 carbon construction material and using that material for
25 construction;

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1 I. "material supplier" means a manufacturer,
2 producer or distributor of covered construction materials;

3 J. "program" means the low-carbon construction
4 material rebate program;

5 K. "project" means a construction project involving
6 more than one residential unit or more than five thousand
7 square feet of nonresidential floor area; and

8 L. "rebate" means a payment to a material buyer to
9 offset a portion of the cost of a qualifying purchase.

10 SECTION 3. [NEW MATERIAL] ENVIRONMENTAL PRODUCT
11 DECLARATIONS--REQUIREMENTS.--An environmental product
12 declaration shall:

13 A. be product- or facility-specific, unless the
14 department determines that only industry-average environmental
15 product declarations are available for a particular covered
16 material;

17 B. be independently verified;

18 C. facilitate a comparison of environmental impacts
19 between products fulfilling the same function;

20 D. meet or exceed internationally recognized
21 standards for environmental product declarations;

22 E. have been issued within five years of the date
23 submitted to the department; and

24 F. include:

25 (1) a life-cycle assessment of a product's

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1 global warming potential;

2 (2) the manufacturing facility's location;

3 (3) the scope of life-cycle analysis;

4 (4) the date of issuance;

5 (5) the product's specifications and

6 performance characteristics; and

7 (6) additional information the department

8 deems necessary.

9 SECTION 4. ~~[NEW MATERIAL]~~ LOW-CARBON CONSTRUCTION

10 MATERIAL REBATE PROGRAM ESTABLISHED.--

11 A. The department shall establish and administer a
12 "low-carbon construction material rebate program" to provide
13 financial incentives to material buyers who purchase low-carbon
14 construction material.

15 B. Subject to appropriation, the program shall
16 provide rebates for low-carbon construction material purchased
17 by a material buyer subject to the requirements and limits
18 established in the Low-Carbon Construction Material Rebate Act.

19 C. By no later than January 1, 2027, the department
20 shall promulgate rules to implement the program; provided that
21 the department shall not promulgate any rules that require the
22 use of a low-carbon construction material that has received a
23 verified environmental product declaration. Promulgated rules
24 shall include:

25 (1) application procedures and required

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1 documentation;

2 (2) verification and audit requirements;

3 (3) procedures for establishing and updating
4 emissions baselines, emissions benchmarks and rebate amounts;

5 (4) requirements for environmental product
6 declarations; and

7 (5) antifraud and enforcement provisions.

8 SECTION 5. [NEW MATERIAL] EMISSIONS BASELINES AND
9 BENCHMARKS.--

10 A. The department shall establish emissions
11 baselines for conventionally produced covered construction
12 materials. Emissions baselines shall be based on regional
13 industry-average emissions data, or the best available data
14 source as determined by the department, and shall be updated
15 every three years.

16 B. Emissions benchmarks adopted by the department
17 may be fifteen percent lower than the emissions baseline for
18 each material.

19 C. The department shall review and may adjust
20 emissions baselines and emissions benchmarks every three years
21 to reduce emissions levels over time.

22 SECTION 6. [NEW MATERIAL] REBATE STRUCTURE--LIMITS.--

23 A. Material buyers shall be eligible for rebates
24 for low-carbon construction material, subject to the following
25 limits:

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1 (1) a maximum rebate of five hundred thousand
2 dollars (\$500,000) per project; and

3 (2) a maximum rebate of ten million dollars
4 (\$10,000,000) statewide per fiscal year.

5 B. The department shall prioritize distribution of
6 rebates based on:

7 (1) greatest emissions reductions relative to
8 the emissions baseline for an equivalent conventionally
9 produced material per dollar of rebate;

10 (2) greatest emissions reductions relative to
11 the emissions baseline for an equivalent conventionally
12 produced material per unit of material;

13 (3) material produced by New Mexico-based
14 manufacturers;

15 (4) greatest value to the state; and

16 (5) other criteria as determined by the
17 department.

18 SECTION 7. [NEW MATERIAL] VERIFICATION AND CERTIFICATION
19 REQUIREMENTS.--

20 A. To receive a rebate, a material buyer shall
21 submit:

22 (1) an environmental product declaration for
23 the low-carbon construction material;

24 (2) evidence of the price paid for the low-
25 carbon construction material and the person that paid the

1 price; and

2 (3) any additional documentation required by
3 the department.

4 B. The department may conduct audits and
5 inspections to verify compliance with program requirements and
6 may require additional documentation or testing.

7 SECTION 8. [NEW MATERIAL] REPORTING.--

8 A. The department shall submit an annual report to
9 the governor and the appropriate interim legislative committee
10 by October 1 of each year detailing:

11 (1) the number and value of rebates issued;

12 (2) types and quantities of low-carbon
13 construction material used by rebate recipients;

14 (3) estimated greenhouse gas emissions
15 reductions achieved;

16 (4) market availability and pricing trends for
17 low-carbon construction material; and

18 (5) program effectiveness and recommendations
19 for improvements.

20 B. The department shall make rebate awards and
21 program data publicly available on its website.

22 SECTION 9. [NEW MATERIAL] ANTIFRAUD PROVISIONS.--

23 A. A material buyer or material supplier who
24 knowingly submits false information or fraudulent documentation
25 to obtain rebates under the Low-Carbon Construction Material

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1 Rebate Act is guilty of a fourth degree felony pursuant to
2 Section 31-18-15 NMSA 1978 and shall be:

3 (1) permanently disqualified from
4 participating in the program;

5 (2) required to repay all rebates received
6 through fraud; and

7 (3) subject to debarment from state
8 procurement.

9 B. The department shall establish procedures for
10 investigating suspected fraud and shall cooperate with law
11 enforcement authorities in prosecution of a claim of fraud.

12 SECTION 10. [NEW MATERIAL] SHORT TITLE.--Sections 10
13 through 13 of this act may be cited as the "Environmental
14 Product Declaration Act".

15 SECTION 11. [NEW MATERIAL] DEFINITIONS.--As used in the
16 Environmental Product Declaration Act:

17 A. "covered material" includes:

18 (1) concrete and concrete mixtures, including
19 ready-mix concrete, shotcrete, precast concrete and concrete
20 masonry units;

21 (2) cement;

22 (3) asphalt binder and asphalt mixtures;

23 (4) steel;

24 (5) glass;

25 (6) roofing materials;

1 (7) insulation materials;

2 (8) engineered wood; and

3 (9) aluminum;

4 B. "department" means the department of
5 environment;

6 C. "embodied carbon" means the greenhouse gas
7 emissions generated by the manufacturing, transportation,
8 installation, maintenance and disposal of covered materials
9 used in buildings, roads and other infrastructure;

10 D. "environmental product declaration" means a
11 declaration that is independently verified, provides a life-
12 cycle assessment of a product's global warming potential and
13 facilitates a comparison of environmental impacts between
14 products fulfilling the same function; and

15 E. "global warming potential" means the quantity of
16 greenhouse gas emissions associated with a product expressed as
17 the carbon dioxide equivalent.

18 SECTION 12. [NEW MATERIAL] ENVIRONMENTAL PRODUCT
19 DECLARATION PROGRAM--CREATED--AUTHORITY--POWERS AND DUTIES.--

20 A. The "environmental product declaration program"
21 is created in the department to enable the department to:

22 (1) assist manufacturers of covered materials
23 with the creation of environmental product declarations that
24 shall be shared with the department;

25 (2) receive and analyze data associated with a

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1 manufacturer's environmental product declarations; and

2 (3) research options for reducing embodied
3 carbon in state construction projects.

4 B. The department shall administer the program.

5 C. The department may contract for services to
6 assist manufacturers of covered materials with the creation of
7 environmental product declarations that shall be shared with
8 the department.

9 D. On or before January 1, 2027, the department
10 shall promulgate rules to implement the Environmental Product
11 Declaration Act, including rules on environmental product
12 declaration verification and auditing procedures and on
13 reporting requirements and formats. The department shall not
14 promulgate any rules that require the use of a covered material
15 that has received a verified environmental product declaration.

16 E. No later than October 1, 2027 and October 1
17 every year thereafter, the department shall publish a report
18 that includes:

19 (1) the number of environmental product
20 declarations provided to the department, organized by type of
21 covered material;

22 (2) the geographic distribution of
23 manufacturing facilities;

24 (3) an assessment of the number of businesses
25 within the state that manufacture covered materials and are

1 equipped to issue environmental product declarations;

2 (4) an assessment of the progress made in
3 creating environmental product declarations for covered
4 materials;

5 (5) recommendations for reducing embodied
6 carbon in state construction projects; and

7 (6) recommendations for program improvements.

8 SECTION 13. [NEW MATERIAL] ENVIRONMENTAL PRODUCT

9 DECLARATIONS--REQUIREMENTS.--An environmental product
10 declaration shall:

11 A. be product- or facility-specific, unless the
12 department determines that only industry-average environmental
13 product declarations are available for a particular covered
14 material;

15 B. be independently verified;

16 C. facilitate a comparison of environmental impacts
17 between products fulfilling the same function;

18 D. meet or exceed internationally recognized
19 standards for environmental product declarations;

20 E. have been issued within five years of the date
21 submitted to the department; and

22 F. include:

23 (1) a life-cycle assessment of a product's
24 global warming potential;

25 (2) the manufacturing facility's location;

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1 (3) the scope of life-cycle analysis;

2 (4) the date of issuance;

3 (5) the name and credentials of the
4 independent verifier;

5 (6) the product's specifications and
6 performance characteristics; and

7 (7) additional information the department
8 deems necessary.

9 SECTION 14. [NEW MATERIAL] SHORT TITLE.--Sections 14
10 through 21 of this act may be cited as the "Industrial Carbon
11 Reduction Act".

12 SECTION 15. [NEW MATERIAL] DEFINITIONS.--As used in the
13 Industrial Carbon Reduction Act:

14 A. "carbon intensity" means the quantity of carbon
15 dioxide emitted during the production of one ton of an eligible
16 product, including direct scope one emissions and indirect
17 scope two emissions;

18 B. "certification of eligibility" means the
19 certification provided by the department that qualifies an
20 eligible entity to be awarded a production incentive or an
21 investment grant;

22 C. "department" means the economic development
23 department;

24 D. "eligible entity" means a person that owns or
25 operates a qualified industrial facility in New Mexico;

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1 E. "eligible product" means concrete, cement,
 2 asphalt, iron, steel, glass, hydrogen, ammonia, methanol,
 3 ethylene, aluminum, pulp, paper, critical minerals, engineered
 4 wood products, other biomass-related industrial products or
 5 other industrial products as determined by the department of
 6 environment that are produced in New Mexico;

7 F. "eligibility threshold" means a carbon intensity
 8 that is forty percent below the industry benchmark in a given
 9 year to be eligible for a production incentive or investment
 10 grant award;

11 G. "environmental product declaration" means the
 12 independently verified declaration that provides a life-cycle
 13 assessment of a product's carbon intensity;

14 H. "grant" means a monetary payment to an eligible
 15 entity to offset the cost of qualified expenditures made for a
 16 qualified industrial facility that results in the reduction of
 17 carbon intensity of at least forty percent below the industry
 18 benchmark for the eligible product being manufactured or
 19 refined in the facility;

20 I. "incentive" means a per-ton subsidy made to an
 21 eligible entity that reduces carbon intensity in the production
 22 of eligible products by the eligibility threshold or more;

23 J. "industry benchmark" means the industry-wide
 24 average carbon intensity for a given eligible product;

25 K. "qualified expenditure" means a capital

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1 expenditure made on or after January 1, 2026 and prior to
2 January 1, 2039 that is dedicated to and necessary for
3 producing an eligible product in a manner that reduces the
4 product's carbon intensity by at least forty percent below the
5 industry benchmark;

6 L. "qualified industrial facility" means a facility
7 located in New Mexico that is used to manufacture or refine an
8 eligible product;

9 M. "refine" means a chemical or physical process to
10 remove impurities from a substance or material;

11 N. "scope one emissions" means direct greenhouse
12 gas emissions from sources that are owned or controlled by the
13 eligible entity;

14 O. "scope two emissions" means indirect greenhouse
15 gas emissions associated with the purchase of electricity,
16 steam, heat or cooling;

17 P. "scope three emissions" means indirect
18 greenhouse gas emissions, excluding scope two emissions; and

19 Q. "ton" means a metric ton.

20 SECTION 16. [NEW MATERIAL] CARBON REDUCTION PRODUCTION
21 INCENTIVE PROGRAM--DEPARTMENT DUTIES--INDUSTRY BENCHMARK--
22 CARBON REDUCTION ACHIEVEMENTS--CALCULATIONS BY DEPARTMENT OF
23 ENVIRONMENT.--

24 A. The "carbon reduction production incentive
25 program" is created in the department. The program provides

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1 incentives to New Mexico industries that meet or exceed the
 2 eligibility threshold as provided in this section.

3 B. Prior to January 1, 2039, an eligible entity
 4 that proposes to produce an eligible product with a carbon
 5 intensity that meets or exceeds the eligibility threshold may
 6 be eligible for a carbon reduction production incentive.

7 C. Incentives shall be granted to eligible entities
 8 that produce eligible products, which production results in
 9 meeting or exceeding the eligibility threshold for each product
 10 produced. The incentive is equal to eighty-five dollars
 11 (\$85.00) per ton of carbon dioxide reduced below the industry
 12 benchmark; provided that the facility meets the eligibility
 13 threshold as determined by the department of environment.

14 Eligible products for which the state has granted an incentive
 15 shall be sold by the eligible entity to an unrelated person or
 16 used by the eligible entity to produce a related product.

17 D. Only new, incremental carbon reductions are
 18 eligible for incentives; provided that the reductions are below
 19 the industry benchmark; and provided further that the facility
 20 meets the eligibility threshold.

21 E. The department shall promulgate rules based on
 22 the eligibility threshold set by the department of environment.
 23 The department shall open the first application period within
 24 eighteen months of the effective date of this 2026 act. The
 25 first application period may apply to a limited subset of the

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1 eligible products listed in the rules of the department
2 promulgated in accordance with the Industrial Carbon Reduction
3 Act, in consultation with the department of environment.

4 F. An eligible entity shall apply for a
5 certification of eligibility on forms and in the manner
6 prescribed by the department. At a minimum, the application
7 shall include:

8 (1) eligible products for which the
9 certification is being sought;

10 (2) estimates of the carbon intensity of those
11 products and the carbon reductions that will be achieved for
12 each year of the certification;

13 (3) estimates of the volume of production by
14 ton for each eligible product each year;

15 (4) an estimate of the year when production of
16 each eligible product will begin; and

17 (5) any other information required by the
18 department or requested by the department of environment.

19 G. The department shall keep application periods
20 open for a minimum of four months. After the close of a given
21 application period, the department, in consultation with the
22 department of environment, shall select applications submitted
23 during that period to be awarded certifications of eligibility.

24 H. In awarding certifications of eligibility, the
25 department, in consultation with the department of environment,

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1 shall prioritize applications that:

2 (1) represent projects with the highest
3 likelihood of success, including consideration of technical
4 feasibility and relevant financial details pertaining to the
5 eligible entity;

6 (2) are likely to minimize other environmental
7 pollution, including air and water pollution; and

8 (3) support favorable economic growth in New
9 Mexico, including growth of high-quality employment
10 opportunities for New Mexico residents.

11 I. The department shall issue certifications of
12 eligibility through December 31, 2036. The certifications
13 shall be issued for a term of not less than ten years unless an
14 applicant requests a shorter term. Certifications of
15 eligibility shall not extend beyond December 31, 2038.

16 J. In awarding certifications of eligibility, the
17 department shall state the aggregate incentive amount to which
18 the eligible entity is entitled over the term of the
19 certification of eligibility. In calculating the aggregate
20 amount for a certification of eligibility, the department shall
21 consider:

22 (1) estimates submitted by the eligible
23 entity;

24 (2) how best to allocate available money; and

25 (3) other criteria as determined by standards

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1 set by the department of environment.

2 K. The department shall not issue certifications of
3 eligibility in a total amount that exceeds available money.

4 L. An eligible entity that is claiming an incentive
5 for a given year shall report to the department:

6 (1) the total number of tons of the eligible
7 product produced in the given year; and

8 (2) the carbon intensity of the eligible
9 product, as an annual average for that year, and as determined
10 by the production processes used to produce the product in that
11 year.

12 M. The department of environment shall calculate
13 the net ton carbon intensity reduction available for the
14 incentive and calculate the value of the incentive, which shall
15 be paid at the end of the calendar year. The department of
16 environment shall reset the industry benchmark every five
17 years.

18 N. The department shall publish on the department's
19 website on a regular basis the:

20 (1) dollar value of the certifications of
21 eligibility issued each year;

22 (2) dollar value of each incentive granted in
23 each calendar year; and

24 (3) remaining capacity for the issuance of
25 certifications of eligibility.

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1 SECTION 17. [NEW MATERIAL] DEPARTMENT OF ENVIRONMENT--
2 RULEMAKING--DATA--INDUSTRY BENCHMARK CALCULATIONS.--

3 A. In addition to other rules required pursuant to
4 the Industrial Carbon Reduction Act, the department of
5 environment shall promulgate rules within twelve months of the
6 effective date of that act that include methodologies for
7 determining carbon intensity of eligible products, which:

8 (1) shall include scope one emissions and
9 scope two emissions;

10 (2) shall be established in such a way that
11 allows for accurate and consistent comparison between industry
12 benchmarks and carbon intensity estimates provided by an
13 eligible entity applying for certification of eligibility or an
14 incentive;

15 (3) may include scope three emissions and use
16 environmental product declarations for eligible products if the
17 declarations are available and in common use in more accurately
18 measuring industry benchmarks for eligible products; and

19 (4) shall include procedures for determining:

20 (a) the carbon intensity of products
21 made at facilities that commenced operations prior to January
22 1, 2026;

23 (b) the carbon intensity of products
24 made at facilities that commence operations on or after January
25 1, 2026; and

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1 (c) industry benchmarks.

2 B. Using the methodologies determined in accordance
3 with Subsection A of this section and data from the three to
4 five most recent years for which data are available, the
5 department of environment shall calculate the industry
6 benchmark for all eligible products within two years of the
7 effective date of the Industrial Carbon Reduction Act.

8 SECTION 18. [NEW MATERIAL] DEPARTMENT--RULEMAKING.--In
9 addition to other rules required pursuant to the Industrial
10 Carbon Reduction Act, the department shall promulgate rules
11 within twelve months of the effective date of that act to
12 include:

13 A. all requirements necessary for an eligible
14 entity to submit a complete application; and

15 B. practices and procedures to ensure compliance by
16 eligible entities with statutory and rule requirements.

17 SECTION 19. [NEW MATERIAL] CARBON REDUCTION INVESTMENT
18 GRANT PROGRAM.--

19 A. The "carbon reduction investment grant program"
20 is created in the department. The program provides grants to
21 eligible entities to offset capital investments in qualified
22 facilities located in New Mexico.

23 B. Prior to January 1, 2039, an eligible entity
24 that makes qualified expenditures for a new or renovated
25 qualified industrial facility may be eligible for a carbon

1 reduction investment grant from the department. The grant
 2 shall be ten percent of the cost of qualified expenditures made
 3 by the eligible entity, up to a maximum of five million dollars
 4 (\$5,000,000).

5 C. The department shall promulgate rules based on
 6 the eligibility threshold set by the department of environment.
 7 The process shall include application periods.

8 D. The department shall open the first application
 9 period within eighteen months of the effective date of the
 10 Industrial Carbon Reduction Act. The first application period
 11 may apply to a limited subset of eligible products. The
 12 department shall keep applications open for at least four
 13 months.

14 E. An eligible entity that seeks a grant shall
 15 include all information required by rule of the department,
 16 including:

17 (1) estimates of the carbon intensity of the
 18 eligible products manufactured or refined in the facility for
 19 which a grant is being sought;

20 (2) estimates of the volume of production by
 21 ton for each eligible product, with production estimates for at
 22 least ten years from the beginning of the production made
 23 possible by the qualified expenditure; and

24 (3) an estimate of the year in which the
 25 qualified industrial facility will begin production of the

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1 eligible product.

2 F. After the close of an application period, the
3 department shall prioritize applications that:

4 (1) are estimated to achieve the greatest
5 carbon intensity reduction;

6 (2) represent projects with the highest
7 likelihood of success, including consideration of technical
8 feasibility and relevant financial details pertaining to the
9 eligible entity;

10 (3) are likely to minimize other environmental
11 pollution, including air and water pollution; and

12 (4) support favorable economic growth in the
13 state, including growth of high-quality employment
14 opportunities for New Mexico residents.

15 G. The department shall publish on the department's
16 website on a regular basis:

17 (1) the dollar value of grants issued pursuant
18 to this section each year; and

19 (2) any remaining available grant funding.

20 H. The department shall include a clawback
21 provision in the department's contract with the eligible entity
22 that requires the eligible entity to repay the grant in the
23 event the eligible entity fails to meaningfully meet the
24 estimates set out in Subsection E of this section.

25 SECTION 20. [NEW MATERIAL] ELIGIBILITY FOR INCENTIVE.--An

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1 eligible entity shall not be eligible to claim the carbon
 2 reduction production incentive if the eligible entity claims in
 3 the same taxable year for the same equipment or activity a
 4 federal carbon dioxide sequestration tax credit pursuant to
 5 Section 45Q of the federal Internal Revenue Code of 1986, as
 6 that section may be amended or renumbered.

7 SECTION 21. [NEW MATERIAL] REPORTS TO LEGISLATURE.--

8 A. The department and the department of environment
 9 shall prepare an annual report on the implementation of the
 10 Industrial Carbon Reduction Act. The report shall include:

- 11 (1) the number and types of applications
 12 received for each program;
- 13 (2) the number and total dollar value of
 14 certifications of eligibility issued;
- 15 (3) total carbon intensity reductions achieved
 16 by each program;
- 17 (4) economic impacts, including jobs created
 18 or retained, by type and salary range;
- 19 (5) analysis of program effectiveness and
 20 recommendations for improvements; and
- 21 (6) any other data or other information deemed
 22 relevant by the department and the department of environment.

23 B. The report shall be submitted to the interim
 24 legislative committee that studies economic development and
 25 rural policy and the legislative finance committee by October 1

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1 of each year, with a copy of the report filed with the
2 legislative library.

3 SECTION 22. EFFECTIVE DATE.--The effective date of the
4 provisions of this act is July 1, 2026.

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