HOUSE BILL 320

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

INTRODUCED BY

Meredith A. Dixon and Kristina Ortez

AN ACT

RELATING TO THE ENVIRONMENT; ENACTING THE INDUSTRIAL CARBON REDUCTION ACT; CREATING CARBON REDUCTION PRODUCTION AND INVESTMENT PROGRAMS IN THE ECONOMIC DEVELOPMENT DEPARTMENT; PROVIDING FOR THE ESTABLISHMENT OF INDUSTRY BENCHMARKS AND REDUCTION CALCULATIONS BY THE DEPARTMENT OF ENVIRONMENT; PROVIDING FOR RULEMAKING BY BOTH DEPARTMENTS; CREATING A FUND; MAKING A TRANSFER FROM THE GENERAL FUND TO THE CARBON REDUCTION PRODUCTION AND INVESTMENT FUND.

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

SECTION 1. [<u>NEW MATERIAL</u>] SHORT TITLE.--This act may be cited as the "Industrial Carbon Reduction Act".

SECTION 2. [<u>NEW MATERIAL</u>] DEFINITIONS.--As used in the Industrial Carbon Reduction Act:

A. "carbon intensity" means the quantity of carbon dioxide emitted during the production of an eligible product, reflecting scope one emissions and scope two emissions and inclusive of any such additional emissions required to achieve a reduction in carbon intensity;

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

C. "department" means the economic development department;

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

E. "eligible product" means concrete, cement, asphalt, iron, steel, glass, hydrogen, ammonia, methanol, ethylene, aluminum, pulp, paper, critical minerals or other industrial products as determined by the department of environment that are produced in New Mexico;

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

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

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

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

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

K. "qualified expenditure" means a capital expenditure made on or after January 1, 2026 and prior to January 1, 2037 that is dedicated to and necessary for producing an eligible product in a manner that reduces the product's carbon intensity by at least forty percent below the industry benchmark;

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

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

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

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

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

Q. "ton" means a metric ton.

SECTION 3. [NEW MATERIAL] CARBON REDUCTION PRODUCTION INCENTIVE PROGRAM--DEPARTMENT DUTIES--INDUSTRY BENCHMARK--CARBON REDUCTION ACHIEVEMENTS--CALCULATIONS BY DEPARTMENT OF ENVIRONMENT.--

A. The "carbon reduction production incentive program" is created in the department. The program provides incentives to New Mexico industries that meet or exceed the eligibility threshold as provided in this section.

B. Prior to January 1, 2037, an eligible entity that proposes to produce an eligible product with a carbon intensity that meets or exceeds the eligibility threshold may be eligible for a carbon reduction production incentive.

C. Incentives shall be granted to eligible entities that produce eligible products, which production results in meeting or exceeding the eligibility threshold for each product produced. The incentive is equal to eighty-five dollars ($85.00) per ton of carbon dioxide reduced below the industry benchmark; provided that the facility meets the eligibility threshold as determined by the department of environment. Eligible products for which the state has granted an incentive shall be sold by the eligible entity to an unrelated person or used by the eligible entity to produce a related product.

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

E. The department, in consultation with the department of environment, shall promulgate rules for a competitive application process for the award of certifications of eligibility, including the establishment of application periods. The department shall open the first application period within eighteen months of the effective date of this 2026 act. The first application period may apply to a limited subset of the eligible products listed in the rules of the department promulgated in accordance with the Industrial Carbon Reduction Act, in consultation with the department of environment.

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

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

(2) estimates of the carbon intensity of those products and the carbon reductions that will be achieved for

each year of the certification;

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

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

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

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

H. In awarding certifications of eligibility, the department, in consultation with the department of environment, shall prioritize applications that:

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

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

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

I. The department shall issue certifications of eligibility through December 31, 2036. The certifications shall be issued for a term of not less than ten years unless an applicant requests a shorter term. Certifications of eligibility shall not extend beyond December 31, 2026.

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

(1) estimates submitted by the eligible entity;

(2) how best to allocate money in the fund; and

(3) other criteria as determined by the department in consultation with the department of environment.

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

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

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

(2) the carbon intensity of the eligible product, as an annual average for that year, and as determined

underscored material = new
[~~bracketed material~~] = delete

by the production processes used to produce the product in that year.

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

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

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

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

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

SECTION 4. [<u>NEW MATERIAL</u>] DEPARTMENT OF ENVIRONMENT--RULEMAKING--DATA--INDUSTRY BENCHMARK CALCULATIONS.--

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

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

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

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

(4) shall include procedures for determining:

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

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

(c) industry benchmarks.

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

SECTION 5. [NEW MATERIAL] DEPARTMENT--RULEMAKING.--In addition to other rules required pursuant to the Industrial

Carbon Reduction Act, the department shall promulgate rules within twelve months of the effective date of that act to include:

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

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

SECTION 6. [NEW MATERIAL] CARBON REDUCTION INVESTMENT GRANT PROGRAM.--

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

B. Prior to January 1, 2037, an eligible entity that makes qualified expenditures for a new or renovated qualified industrial facility may be eligible for a carbon reduction investment grant from the department. The grant shall be ten percent of the cost of qualified expenditures made by the eligible entity, up to a maximum of five million dollars ($5,000,000).

C. The department, in consultation with the department of environment, shall promulgate rules for a competitive application process for the award of a carbon reduction investment grant. The process shall include application periods.

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

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

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

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

(3) an estimate of the year in which the qualified industrial facility will begin production of the eligible product.

F. After the close of an application period, the department, in consultation with the department of environment, shall prioritize applications that:

(1) are estimated to achieve the greatest carbon intensity reduction, as confirmed by the department of environment;

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

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

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

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

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

(2) any remaining available grant funding.

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

SECTION 7. [NEW MATERIAL] ELIGIBILITY FOR INCENTIVE.--An eligible entity shall not be eligible to claim the carbon reduction production incentive if the eligible entity claims in the same taxable year for the same equipment or activity a federal carbon dioxide sequestration tax credit pursuant to Section 45Q of the federal Internal Revenue Code of 1986, as that section may be amended or renumbered.

SECTION 8. [NEW MATERIAL] CARBON REDUCTION PRODUCTION AND INVESTMENT FUND CREATED.--

A. The "carbon reduction production and investment fund" is created as a nonreverting fund in the state treasury. The fund consists of appropriations, transfers, distributions, income from investment of the fund and gifts, grants and donations. The fund shall be administered by the department, and money in the fund is subject to appropriation by the legislature to pay production incentives and investment grants. Disbursements from the fund shall be made upon warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the secretary of economic development or the secretary's authorized representative. Money in the fund shall revert to the general fund at the end of fiscal year 2046.

B. The department may provide that the fund consists of two accounts, the carbon reduction production incentive account and the carbon reduction investment grant account. The department may transfer money between accounts to pay current invoices and to increase or decrease the number of incentives and grants being funded based on the number of applications for each program.

SECTION 9. [NEW MATERIAL] REPORTS TO LEGISLATURE.--

A. The department and the department of environment shall prepare an annual report on the implementation of the

Industrial Carbon Reduction Act. The report shall include:

(1) the number and types of applications received for each program;

(2) the number and total dollar value of certifications of eligibility issued;

(3) total carbon intensity reductions achieved by each program;

(4) economic impacts, including jobs created or retained, by type and salary range;

(5) analysis of program effectiveness and recommendations for improvements; and

(6) any other data or other information deemed relevant by the department and the department of environment.

B. The report shall be submitted to the interim legislative committee that studies economic development and rural policy and the legislative finance committee by October 1 of each year, with a copy of the report filed with the legislative library.

SECTION 10. TRANSFER.--On July 1, 2026, fifty million dollars ($50,000,000) is transferred from the general fund to the carbon reduction production and investment fund.

SECTION 11. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2026.