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HOUSE BILL 320

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

INTRODUCED BY

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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. [NEW MATERIAL] SHORT TITLE.--This act may be
cited as the "Industrial Carbon Reduction Act".

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

A. "carbon intensity" means the quantity of carbon

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1 dioxide emitted during the production of an eligible product,
2 reflecting scope one emissions and scope two emissions and
3 inclusive of any such additional emissions required to achieve
4 a reduction in carbon intensity;

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

9 C. "department" means the economic development
10 department;

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

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

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

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

25 H. "grant" means a monetary payment to an eligible

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1 entity to offset the cost of qualified expenditures made for a
2 qualified industrial facility that results in the reduction of
3 carbon intensity of at least forty percent below the industry
4 benchmark for the eligible product being manufactured or
5 refined in the facility;

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

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

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

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

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

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

25 O. "scope two emissions" means indirect greenhouse

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1 gas emissions associated with the purchase of electricity,
2 steam, heat or cooling;

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

5 Q. "ton" means a metric ton.

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

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

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

18 C. Incentives shall be granted to eligible entities
19 that produce eligible products, which production results in
20 meeting or exceeding the eligibility threshold for each product
21 produced. The incentive is equal to eighty-five dollars
22 (\$85.00) per ton of carbon dioxide reduced below the industry
23 benchmark; provided that the facility meets the eligibility
24 threshold as determined by the department of environment.

25 Eligible products for which the state has granted an incentive

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1 shall be sold by the eligible entity to an unrelated person or
2 used by the eligible entity to produce a related product.

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

7 E. The department, in consultation with the
8 department of environment, shall promulgate rules for a
9 competitive application process for the award of certifications
10 of eligibility, including the establishment of application
11 periods. The department shall open the first application
12 period within eighteen months of the effective date of this
13 2026 act. The first application period may apply to a limited
14 subset of the eligible products listed in the rules of the
15 department promulgated in accordance with the Industrial Carbon
16 Reduction Act, in consultation with the department of
17 environment.

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

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

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

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1 each year of the certification;

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

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

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

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

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

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

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

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

25 I. The department shall issue certifications of

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

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

11 (1) estimates submitted by the eligible
12 entity;

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

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

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

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

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

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

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

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

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

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

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

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

17 SECTION 4. [NEW MATERIAL] DEPARTMENT OF ENVIRONMENT--
18 RULEMAKING--DATA--INDUSTRY BENCHMARK CALCULATIONS.--

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

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

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

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

10 (4) shall include procedures for determining:

11 (a) the carbon intensity of products
12 made at facilities that commenced operations prior to January
13 1, 2026;

14 (b) the carbon intensity of products
15 made at facilities that commence operations on or after January
16 1, 2026; and

17 (c) industry benchmarks.

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

24 SECTION 5. [NEW MATERIAL] DEPARTMENT--RULEMAKING.--In
25 addition to other rules required pursuant to the Industrial
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1 Carbon Reduction Act, the department shall promulgate rules
2 within twelve months of the effective date of that act to
3 include:

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

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

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

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

14 B. Prior to January 1, 2037, an eligible entity
15 that makes qualified expenditures for a new or renovated
16 qualified industrial facility may be eligible for a carbon
17 reduction investment grant from the department. The grant
18 shall be ten percent of the cost of qualified expenditures made
19 by the eligible entity, up to a maximum of five million dollars
20 (\$5,000,000).

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (2) any remaining available grant funding.

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

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

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

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

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

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

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

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1 Industrial Carbon Reduction Act. The report shall include:

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

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

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

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

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

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

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

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

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