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## FISCAL IMPACT REPORT

**BILL NUMBER:** House Bill 320

**SHORT TITLE:** Industrial Carbon Reduction Act

**SPONSOR:** Dixon/Ortez/Small

**LAST ORIGINAL**  
**UPDATE:** \_\_\_\_\_ **DATE:** 2/5/26 **ANALYST:** Davidson

### APPROPRIATION\* (dollars in thousands)

FY26	FY27	Recurring or Nonrecurring	Fund Affected
	\$50,000.0	Nonrecurring	General Fund

\*Amounts reflect most recent analysis of this legislation.

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\* (dollars in thousands)

Agency/Program	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>NMED</b>	Choose an item.	Up to \$1,900	Up to \$1,961	Up to \$3,861	Recurring	General Fund
<b>EDD</b>		Up to \$1,900	Up to \$1,961	Up to \$3,861	Recurring	General fund
<b>Total</b>		Up to \$3,800	Up to \$3,922	Up to \$7,722	Recurring	General fund

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

Relates to House Bills 152 and 153

### Sources of Information

LFC Files

Agency or Agencies Providing Analysis

New Mexico Environment Department

Economic Development Department

State Ethics Commission

## SUMMARY

### Synopsis of House Bill 320

House Bill 320 (HB320) enacts the Industrial Carbon Reduction Act, creates a carbon reduction incentive program and a subsequent grant program, all within the Economic Development Department (EDD). The bill directs EDD to promulgate the rules and structure of the carbon reduction programs with the New Mexico Environment Department (NMED), outlining the

application process, eligibility, and criteria for qualification for the incentives and grants the bill creates.

The bill requires the first application period for both programs to be held 18 months after the effective date of the bill. The bill further directs NMED to promulgate rules about carbon intensity of eligible products in 12 months. The bill also asks for EDD and NMED to prepare and submit annual reports on the implementation of the bill.

House Bill 320 appropriates \$50 million from the general fund for the carbon reduction and investment fund for the purpose of production incentives and investment grants. Any unexpended funding will revert to the general fund by the end of fiscal year 2046.

The effective date of this bill is July 1, 2026.

## **FISCAL IMPLICATIONS**

The appropriation of \$50 million contained in this bill is a nonrecurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY27 shall not revert to the general fund, however; the bill specifies that unexpended funds shall revert to the general fund at the end of FY46. Although House Bill 320 does not specify future appropriations, establishing a new grant program could create an expectation the program will continue in future fiscal years.

This bill creates a new fund but does not provide for continuing appropriations.

NMED analysis predicts implementation of House Bill 320 could require significant staff, from the promulgation of the rules to the establishing and operation of the programs and then the monitoring of the grant and incentive programs.

NMED predicts the agency will need \$1.9 million in additional recurring funding for three program staff, legal staff, two personnel for administrative support, consultant rulemaking support and program development, equipment, travel, and public and tribal engagement. In NMED's analysis they note the fund affected would be the carbon reduction production and investment fund, although the bill does not specify if NMED or EDD could use the fund for this purpose. Therefore, absent specific authorization to use funds from the carbon reduction production and investment fund, the estimate above assumes the funding source for administrative staff is from the general fund.

Analysis from EDD notes the responsibilities the bill vests in it for rulemaking, administration of the programs, and the reporting will create additional work and thus will need additional funding to implement. EDD did not provide an estimate for the potential costs of implementation, but did, along with NMED, note the bill does not include additional funding for implementation for either agency nor does it carve out a portion of the \$50 million appropriation for administrative costs either. LFC analysis, based on the estimates from NMED, predicts EDD could also need up to \$1.9 million, similar to NMED's analysis in additional funding.

## **SIGNIFICANT ISSUES**

HB320 aligns with state and federal efforts to encourage industrial decarbonization and incentivize reductions in greenhouse gas emissions. By offering grants and incentives for facilities that achieve significant emissions reductions or invest in clean technology, the bill has the potential to promote economic and environmental benefits.

However, the effectiveness of the program depends on industry participation and enforcement. Ensuring that emissions reductions are verifiable and permanent will require robust oversight from NMED. Facilities may face technical and financial barriers to achieving the required 40 percent reduction in emissions, limiting eligibility.

Other states have similar incentive programs for decarbonization of the industrial sector, whether it be cap-and-trade or reduction targets or other forms of incentive. Colorado, Massachusetts, and Maine each have emission reduction targets for specifically the industrial sector and there are thirteen other states which have enacted legislation creating economy wide emission reduction targets, but no specific carve out for the industrial sector. There are also emission cap-and-trade programs with multiple states in the Northeast, though the system is limited to the power sector. Due to how new some of these programs are, it is still not clear as to how effective they have been in either reducing emissions or broadly incentivizing industry participation.

Analysis from the State Ethics Commission (SEC) notes the bill is potentially restricted by the state's Anti-Donation Clause:

House Bill 320 establishes two state-administered incentive mechanisms—the Carbon Reduction Production Incentive Program and the Carbon Reduction Investment Grant Program—funded through a direct appropriation from the general fund. These programs authorize direct transfers of public funds to eligible private entities in the form of production incentives and capital investment grants. As such, the programs implicate Article IX, Section 14 of the New Mexico Constitution (the Anti-Donation Clause), which restricts the State's ability to make donations to private entities unless a recognized exception applies.

SEC notes the state's Supreme Court has consistently found regardless of the intent or purpose of the transfer of public funds, if it deemed as a donation, it is in violation of the Anti-Donation Clause. The court has also found in previous instances that despite potential or anticipated downstream public benefits created by the transfer of public funds does not convert them into a "constitutionally permissible exchange."

Taking this into account, SEC notes HB320 does includes:

several structural features that appear designed to condition the receipt of funds on performance, including:

- eligibility thresholds requiring at least a forty-percent reduction in carbon intensity below industry benchmarks;
- annual reporting and verification requirements tied to actual production volumes and emissions reductions;
- limits on incentive payments to verified, incremental reductions;
- competitive application processes;
- funding caps tied to available appropriations; and
- clawback provisions in the investment grant program if recipients fail to meaningfully meet projected performance estimates.

SEC also notes that without a “ultimate constitutional analysis,” which takes into account how the programs created by the bill are implemented in both rule and contract and how the grants, incentives, application parameters, and enforcement of guardrails are enacted, it cannot be definitively determined if the programs created by the bill are in violation of the Anti-Donation Clause. SEC concludes it is a rather open question as to whether the bill and its use of public funds are sufficiently in the public’s interest and therefore removed from the Anti-Donation Clause’s anti-subsidy scope. SEC notes to determine this, further consideration could be warranted.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

House Bill 320 related to House Bills 152 and 153, both of which amend further the state’s regulations surrounding low-carbon materials and their use and purchase.

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