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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. SHORT TITLE.--Sections 1 through 9 of this
act may be cited as the "Low-Carbon Construction Material
Rebate Act".

SECTION 2. 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 precast concrete;

B. "department" means the department of
environment;

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

D. "emissions benchmark" means the maximum
acceptable amount of greenhouse gas emissions associated with
a category of covered construction materials eligible for the

1 rebate;

2 E. "environmental product declaration" means a
3 declaration that is independently verified and provides a
4 life-cycle assessment of a product's global warming potential
5 and facilitates a comparison of environmental impacts between
6 products;

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

10 G. "low-carbon construction material" means a
11 covered construction material with a global warming potential
12 at or below the emissions benchmark established by the
13 department;

14 H. "material buyer" means a person purchasing low-
15 carbon construction material and using that material for
16 construction;

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

19 J. "program" means the low-carbon construction
20 material rebate program;

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

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

1 SECTION 3. ENVIRONMENTAL PRODUCT DECLARATIONS--

2 REQUIREMENTS.--An environmental product declaration shall:

3 A. be product- or facility-specific, unless the
4 department determines that only industry-average
5 environmental product declarations are available for a
6 particular covered material;

7 B. be independently verified;

8 C. facilitate a comparison of environmental
9 impacts between products fulfilling the same function;

10 D. meet or exceed internationally recognized
11 standards for environmental product declarations;

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

14 F. include:

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

17 (2) the manufacturing facility's location;

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

19 (4) the date of issuance;

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

22 (6) additional information the department
23 deems necessary.

24 SECTION 4. LOW-CARBON CONSTRUCTION MATERIAL REBATE

25 PROGRAM ESTABLISHED.--

1 A. The department shall establish and administer a
2 "low-carbon construction material rebate program" to provide
3 financial incentives to material buyers who purchase
4 low-carbon construction material.

5 B. Subject to appropriation, the program shall
6 provide rebates for low-carbon construction material
7 purchased by a material buyer subject to the requirements and
8 limits established in the Low-Carbon Construction Material
9 Rebate Act.

10 C. By no later than January 1, 2027, the
11 department shall promulgate rules to implement the program;
12 provided that the department shall not promulgate any rules
13 that require the use of a low-carbon construction material
14 that has received a verified environmental product
15 declaration. Promulgated rules shall include:

16 (1) application procedures and required
17 documentation;

18 (2) verification and audit requirements;

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

21 (4) requirements for environmental product
22 declarations; and

23 (5) antifraud and enforcement provisions.

24 **SECTION 5. EMISSIONS BASELINES AND BENCHMARKS.--**

25 A. The department shall establish emissions

1 baselines for conventionally produced covered construction
2 materials. Emissions baselines shall be based on regional
3 industry-average emissions data, or the best available data
4 source as determined by the department, and shall be updated
5 every three years.

6 B. Emissions benchmarks adopted by the department
7 may be fifteen percent lower than the emissions baseline for
8 each material.

9 C. The department shall review and may adjust
10 emissions baselines and emissions benchmarks every three
11 years to reduce emissions levels over time.

12 SECTION 6. REBATE STRUCTURE--LIMITS.--

13 A. Material buyers shall be eligible for rebates
14 for low-carbon construction material, subject to the
15 following limits:

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

18 (2) a maximum rebate of ten million dollars
19 (\$10,000,000) statewide per fiscal year.

20 B. The department shall prioritize distribution of
21 rebates based on:

22 (1) greatest emissions reductions relative
23 to the emissions baseline for an equivalent conventionally
24 produced material per dollar of rebate;

25 (2) greatest emissions reductions relative

1 to the emissions baseline for an equivalent conventionally
2 produced material per unit of material;

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

5 (4) greatest value to the state; and

6 (5) other criteria as determined by the
7 department.

8 SECTION 7. VERIFICATION AND CERTIFICATION
9 REQUIREMENTS.--

10 A. To receive a rebate, a material buyer shall
11 submit:

12 (1) an environmental product declaration for
13 the low-carbon construction material;

14 (2) evidence of the price paid for the low-
15 carbon construction material and the person that paid the
16 price; and

17 (3) any additional documentation required by
18 the department.

19 B. The department may conduct audits and
20 inspections to verify compliance with program requirements
21 and may require additional documentation or testing.

22 SECTION 8. REPORTING.--

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

- 1 (1) the number and value of rebates issued;
- 2 (2) types and quantities of low-carbon
- 3 construction material used by rebate recipients;
- 4 (3) estimated greenhouse gas emissions
- 5 reductions achieved;
- 6 (4) market availability and pricing trends
- 7 for low-carbon construction material; and
- 8 (5) program effectiveness and
- 9 recommendations for improvements.

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

12 **SECTION 9. ANTIFRAUD PROVISIONS.--**

13 A. A material buyer or material supplier who
14 knowingly submits false information or fraudulent
15 documentation to obtain rebates under the Low-Carbon
16 Construction Material Rebate Act is guilty of a fourth degree
17 felony pursuant to Section 31-18-15 NMSA 1978 and shall be:

- 18 (1) permanently disqualified from
- 19 participating in the program;
- 20 (2) required to repay all rebates received
- 21 through fraud; and
- 22 (3) subject to debarment from state
- 23 procurement.

24 B. The department shall establish procedures for
25 investigating suspected fraud and shall cooperate with law

1 enforcement authorities in prosecution of a claim of fraud.

2 SECTION 10. SHORT TITLE.--Sections 10 through 13 of
3 this act may be cited as the "Environmental Product
4 Declaration Act".

5 SECTION 11. DEFINITIONS.--As used in the Environmental
6 Product Declaration Act:

7 A. "covered material" includes:

8 (1) concrete and concrete mixtures,
9 including ready-mix concrete, shotcrete, precast concrete and
10 concrete masonry units;

11 (2) cement;

12 (3) asphalt binder and asphalt mixtures;

13 (4) steel;

14 (5) glass;

15 (6) roofing materials;

16 (7) insulation materials;

17 (8) engineered wood; and

18 (9) aluminum;

19 B. "department" means the department of
20 environment;

21 C. "embodied carbon" means the greenhouse gas
22 emissions generated by the manufacturing, transportation,
23 installation, maintenance and disposal of covered materials
24 used in buildings, roads and other infrastructure;

25 D. "environmental product declaration" means a

1 declaration that is independently verified, provides a life-
2 cycle assessment of a product's global warming potential and
3 facilitates a comparison of environmental impacts between
4 products fulfilling the same function; and

5 E. "global warming potential" means the quantity
6 of greenhouse gas emissions associated with a product
7 expressed as the carbon dioxide equivalent.

8 SECTION 12. ENVIRONMENTAL PRODUCT DECLARATION PROGRAM--
9 CREATED--AUTHORITY--POWERS AND DUTIES.--

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

12 (1) assist manufacturers of covered
13 materials with the creation of environmental product
14 declarations that shall be shared with the department;

15 (2) receive and analyze data associated with
16 a manufacturer's environmental product declarations; and

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

19 B. The department shall administer the program.

20 C. The department may contract for services to
21 assist manufacturers of covered materials with the creation
22 of environmental product declarations that shall be shared
23 with the department.

24 D. On or before January 1, 2027, the department
25 shall promulgate rules to implement the Environmental Product

1 Declaration Act, including rules on environmental product
2 declaration verification and auditing procedures and on
3 reporting requirements and formats. The department shall not
4 promulgate any rules that require the use of a covered
5 material that has received a verified environmental product
6 declaration.

7 E. No later than October 1, 2027 and October 1
8 every year thereafter, the department shall publish a report
9 that includes:

10 (1) the number of environmental product
11 declarations provided to the department, organized by type of
12 covered material;

13 (2) the geographic distribution of
14 manufacturing facilities;

15 (3) an assessment of the number of
16 businesses within the state that manufacture covered
17 materials and are equipped to issue environmental product
18 declarations;

19 (4) an assessment of the progress made in
20 creating environmental product declarations for covered
21 materials;

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

24 (6) recommendations for program
25 improvements.

1 SECTION 13. ENVIRONMENTAL PRODUCT DECLARATIONS--

2 REQUIREMENTS.--An environmental product declaration shall:

3 A. be product- or facility-specific, unless the
4 department determines that only industry-average
5 environmental product declarations are available for a
6 particular covered material;

7 B. be independently verified;

8 C. facilitate a comparison of environmental
9 impacts between products fulfilling the same function;

10 D. meet or exceed internationally recognized
11 standards for environmental product declarations;

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

14 F. include:

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

17 (2) the manufacturing facility's location;

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

19 (4) the date of issuance;

20 (5) the name and credentials of the
21 independent verifier;

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

24 (7) additional information the department
25 deems necessary.

1 SECTION 14. SHORT TITLE.--Sections 14 through 21 of
2 this act may be cited as the "Industrial Carbon Reduction
3 Act".

4 SECTION 15. DEFINITIONS.--As used in the Industrial
5 Carbon Reduction Act:

6 A. "carbon intensity" means the quantity of carbon
7 dioxide emitted during the production of one ton of an
8 eligible product, including direct scope one emissions and
9 indirect scope two emissions;

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

14 C. "department" means the economic development
15 department;

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

18 E. "eligible product" means concrete, cement,
19 asphalt, iron, steel, glass, hydrogen, ammonia, methanol,
20 ethylene, aluminum, pulp, paper, critical minerals,
21 engineered wood products, other biomass-related industrial
22 products or other industrial products as determined by the
23 department of environment that are produced in New Mexico;

24 F. "eligibility threshold" means a carbon
25 intensity that is forty percent below the industry benchmark

1 in a given year to be eligible for a production incentive or
2 investment grant award;

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

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

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

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

18 K. "qualified expenditure" means a capital
19 expenditure made on or after January 1, 2026 and prior to
20 January 1, 2039 that is dedicated to and necessary for
21 producing an eligible product in a manner that reduces the
22 product's carbon intensity by at least forty percent below
23 the industry benchmark;

24 L. "qualified industrial facility" means a
25 facility located in New Mexico that is used to manufacture or

1 refine an eligible product;

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

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

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

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

12 Q. "ton" means a metric ton.

13 SECTION 16. CARBON REDUCTION PRODUCTION INCENTIVE

14 PROGRAM--DEPARTMENT DUTIES--INDUSTRY BENCHMARK--CARBON
15 REDUCTION ACHIEVEMENTS--CALCULATIONS BY DEPARTMENT OF
16 ENVIRONMENT.--

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

21 B. Prior to January 1, 2039, an eligible entity
22 that proposes to produce an eligible product with a carbon
23 intensity that meets or exceeds the eligibility threshold may
24 be eligible for a carbon reduction production incentive.

25 C. Incentives shall be granted to eligible

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

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

15 E. The department shall promulgate rules based on
16 the eligibility threshold set by the department of
17 environment. The department shall open the first application
18 period within eighteen months of the effective date of this
19 2026 act. The first application period may apply to a
20 limited subset of the eligible products listed in the rules
21 of the department promulgated in accordance with the
22 Industrial Carbon Reduction Act, in consultation with the
23 department of environment.

24 F. An eligible entity shall apply for a
25 certification of eligibility on forms and in the manner

1 prescribed by the department. At a minimum, the application
2 shall include:

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

5 (2) estimates of the carbon intensity of
6 those products and the carbon reductions that will be
7 achieved for each year of the certification;

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

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

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

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

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

23 (1) represent projects with the highest
24 likelihood of success, including consideration of technical
25 feasibility and relevant financial details pertaining to the

1 eligible entity;

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

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

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

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

19 (1) estimates submitted by the eligible
20 entity;

21 (2) how best to allocate available money;
22 and

23 (3) other criteria as determined by
24 standards set by the department of environment.

25 K. The department shall not issue certifications

1 of eligibility in a total amount that exceeds available
2 money.

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

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

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

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

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

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

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

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

25 SECTION 17. DEPARTMENT OF ENVIRONMENT--RULEMAKING--

1 DATA--INDUSTRY BENCHMARK CALCULATIONS.--

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

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

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

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

19 (4) shall include procedures for
20 determining:

21 (a) the carbon intensity of products
22 made at facilities that commenced operations prior to January
23 1, 2026;

24 (b) the carbon intensity of products
25 made at facilities that commence operations on or after

1 January 1, 2026; and

2 (c) industry benchmarks.

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

9 SECTION 18. DEPARTMENT--RULEMAKING.--In addition to
10 other rules required pursuant to the Industrial Carbon
11 Reduction Act, the department shall promulgate rules within
12 twelve months of the effective date of that act to 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
16 by eligible entities with statutory and rule requirements.

17 SECTION 19. CARBON REDUCTION INVESTMENT GRANT
18 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
3 made by the eligible entity, up to a maximum of five million
4 dollars (\$5,000,000).

5 C. The department shall promulgate rules based on
6 the eligibility threshold set by the department of
7 environment. 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
11 period may apply to a limited subset of eligible products.
12 The 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
22 at 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

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
11 environmental pollution, including air and water pollution;
12 and

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

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

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

20 (2) any remaining available grant funding.

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

1 **SECTION 20. ELIGIBILITY FOR INCENTIVE.**--An eligible
2 entity shall not be eligible to claim the carbon reduction
3 production incentive if the eligible entity claims in the
4 same taxable year for the same equipment or activity a
5 federal carbon dioxide sequestration tax credit pursuant to
6 Section 45Q of the federal Internal Revenue Code of 1986, as
7 that section may be amended or renumbered.

8 **SECTION 21. REPORTS TO LEGISLATURE.**--

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

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

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

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

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

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

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

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