

<b>LFC Requester:</b>	<b>Austin Davidson</b>
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**AGENCY BILL ANALYSIS  
2024 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:**

**Analysis.nmlegis.gov**

*{Analysis must be uploaded as a PDF}*

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

Check all that apply:  
**Original**     **Amendment**    \_\_\_\_\_  
**Correction**    \_\_\_\_\_ **Substitute**    \_\_\_\_\_

**Date** 1/16/24  
**Bill No:** HJR 4

**Sponsor:** Rep. Joanne J. Ferrary  
**Short Title:** ENVIRONMENTAL RIGHTS, CA

**Agency Name and Code**    539 – State Land Office  
**Number:** \_\_\_\_\_  
**Person Writing**    Sunalei Stewart  
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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
None	None		

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
None	None	None		

(Parenthesis ( ) Indicate Expenditure Decreases)

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

	<b>FY24</b>	<b>FY25</b>	<b>FY26</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>	N/A	Unknown	Unknown	Unknown	Recurring	Land Maintenance Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis:

HJR 4 would add a new section to Article 2 of the Constitution to state that the people of New Mexico are “entitled to clean and healthy air, water, soil and environments; a stable climate; and self-sustaining ecosystems, for the benefit of public health, safety and general welfare.” It would require the state to “protect these rights equitably for all people regardless of race, ethnicity, tribal membership status, gender, socioeconomics or geography.” The Resolution would also require the state, counties and municipalities to serve as trustees for New Mexico’s natural resources and “conserve, protect and maintain these resources for the benefit of all the people, including present and future generations.” The new provision would be “self executing” and enforceable against the state, counties and municipalities, except that monetary damages would not be available. The Resolution is subject to voter approval or rejection.

**FISCAL IMPLICATIONS**

The Resolution, if adopted and approved by the voters, could result in an undetermined increase in budgetary costs associated with litigation. It is difficult to anticipate what lawsuits may be filed, on which basis, the likelihood of any such suits prevailing, and which future leasing activities may or may not be impacted. However, to the extent that activities are prevented from occurring that would otherwise have occurred, there could be an undetermined negative impact on earnings.

**SIGNIFICANT ISSUES**

New Mexicans should be entitled to a healthy environment, and the actions of governmental actors, whether they are at the state or local level, should reflect the importance of protecting air, water, soil and the ecosystems that rely on them. In making leasing decisions, the State Land Office balances the requirement to generate revenue with an obligation to protect the lands it manages in perpetuity. Maintaining healthy lands and a stable climate are key to ensuring that state trust lands remain productive for current and future generations that rely on them. Responsible leasing activities can and should occur in a manner that protects the state’s air, water and soil.

**PERFORMANCE IMPLICATIONS**

## **ADMINISTRATIVE IMPLICATIONS**

It is difficult to anticipate how this provision would apply to and be enforced against state agencies such as the State Land Office. There is pending a lawsuit against the state, the legislature and various state agencies (not including the State Land Office) seeking a court judgment requiring the state to take various measures in recognition of an existing right to a healthful environment and protection of natural resources, relying on NM Const. art. XX, § 21 and art. II, §§ 4 & 18. See *Atencio v. State of NM et al.*, 1st Jud. Dist., Santa Fe County, No. D-101-CV-2023-01038. If the constitutional amendment allows citizen suits to contest State Land Office lease decisions, or approval and review protocols, this could have administrative and/or performance impacts.

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

### **TECHNICAL ISSUES**

Similar proposed constitutional amendment introduced in earlier sessions would have repealed existing article 20, section 21 of the Constitution which provides that “protection of the state’s beautiful and healthful environment is hereby declared to be of fundamental importance to the public interest, health, safety and the general welfare” and that “[t]he legislature shall provide for control of pollution and control of despoilment of the air, water and other natural resources of this state, consistent with the use and development of these resources for the maximum benefit of the people.” See, e.g., HJR 2 (2022). In the absence of a repeal or revision of article 20, section 21, the proposed amendment would create some overlap and potential conflict, though a full repeal might create questions as to the scope and extent of the authority of the legislature and certain agencies.

The clause making this provision “enforceable against the state, counties and municipalities” seems to leave various details to be worked out through litigation that might be included in the amendment, such as in what courts lawsuits may be filed and what kind of relief in the way of injunction or mandamus might be available. Alternatively, the proposed amendment could state explicitly that the legislature shall provide for enforcement in addition to the amendment being “self executing” to make it clear that the legislature has authority in that regard.

### **OTHER SUBSTANTIVE ISSUES**

#### **ALTERNATIVES**

#### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

#### **AMENDMENTS**