

LFC Requester:	Austin Davidson
----------------	-----------------

## AGENCY BILL ANALYSIS - 2026 REGULAR SESSION

### **SECTION I: GENERAL INFORMATION**

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

**Date Prepared:** 1/20/2026

*Check all that apply:*

**Bill Number:** HJR 3

Original  Correction

Amendment  Substitute

**Sponsor:** Rep. Joanne J. Ferrary and  
Sen. Antoinette Sedillo Lopez

**Agency Name and Code Number:** 305 – New Mexico  
Department of Justice

**Short Title:** ENVIRONMENTAL RIGHTS,  
CA

**Person Writing Analysis:** Justin McCarthy  
**Phone:** (505) 645-5980  
**Email:** [Fir.request@nmdoj.gov](mailto:Fir.request@nmdoj.gov)

### **SECTION II: FISCAL IMPACT**

#### **APPROPRIATION (dollars in thousands)**

<b>Appropriation</b>		<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>FY26</b>	<b>FY27</b>		

(Parenthesis ( ) indicate expenditure decreases)

#### **REVENUE (dollars in thousands)**

<b>Estimated Revenue</b>			<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>FY26</b>	<b>FY27</b>	<b>FY28</b>		

(Parenthesis ( ) indicate revenue decreases)

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

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: N/A

Duplicates/Relates to Appropriation in the General Appropriation Act: N/A

### **SECTION III: NARRATIVE**

*This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator's request. The analysis does not represent any official policy or legal position of the NM Department of Justice.*

### **BILL SUMMARY**

Synopsis: HJR 3 proposes to amend Article II of the New Mexico Constitution to enshrine environmental rights and to establish an enforceable trust responsibility among the state, counties, and municipalities. If passed by the legislature, it would be submitted for approval or rejection by the voters.

Subsection 1(A) proposes to add a new subsection to Article II of the New Mexico Constitution that would enshrine various environmental rights, including “the right to clean and healthy air, water, soil and environments; healthy flora, fauna and habitats; a stable climate and thriving ecosystems; and the preservation of the natural, cultural and healthful qualities of the environment[.]” It further provides: “The state shall protect these rights equitably for all people regardless of race, ethnicity, tribal affiliation, gender, socioeconomic status or geography.”

Subsection 1(B) establishes a trust responsibility. It directs the state, counties, and municipalities to “serve as trustees of the natural resources of New Mexico . . . for the benefit of all the people, including present and future generations, who are the beneficiaries.”

Subsection 1(C) states that the constitutional amendment is self-executing and enforceable against the state, counties, and municipalities. However, monetary damages are not available for violations.

Section 2 directs that the proposed amendment be submitted to a vote by the people of New Mexico at the next general election or a special election prior to that date.

### **FISCAL IMPLICATIONS**

Because the constitutional amendment designates the state as a trustee of the natural resources of New Mexico, the New Mexico Department of Justice (NMDOJ) could be required to represent the state in constitutional challenges of existing laws or government action (or inaction) in the context of this amendment. This could require an appropriation of fiscal resources within the NMDOJ.

### **SIGNIFICANT ISSUES**

The right to a “clean and healthy” environment established in Subsection 1(A) of the proposed constitutional amendment may be subject to multiple interpretations.

Additionally, under Subsection 1(B) of the proposed constitutional amendment, there is a possibility that the state, counties, and municipalities will interpret the scope and duties of their trusteeship differently under existing environmental statutes and regulations.

It is important to note that HJR 3 is likely complementary as opposed to duplicative of Article XX, Section 21 of the New Mexico Constitution, thereby possibly *avoiding* a significant issue related to contradiction or overlap. That provision, known as the Pollution Control Clause, provides:

The 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. The 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.

N.M. Const. Art. XX, Sec. 21. The Pollution Control Clause has been interpreted as providing the legislature with the authority to pass various pollution control statutes such as the Environmental Improvement Act, Air Quality Control Act, and Hazardous Waste Act. *See Sanders-Reed v. Martinez*, 2015-NMCA-063, ¶ 16 (“Article XX, Section 21 of our constitution recognizes the duty to protect the atmosphere and other natural resources, and it delegates the implementation of that specific duty to the Legislature.”).

By contrast, HJR 3 would enshrine a fundamental right to a clean and healthy environment in Article II of the Bill of Rights of the New Mexico Constitution. Furthermore, it would authorize a cause of action as a mechanism to enforce this right against the state, counties, and municipalities.

## **PERFORMANCE IMPLICATIONS**

Although the proposed constitutional amendment does not compel the Attorney General to take any specific action, it designates the state as a trustee of natural resources, which includes NMDOJ. Performance implications would depend on the precise interpretation and implementation of the state’s trustee obligations.

## **ADMINISTRATIVE IMPLICATIONS**

Because the constitutional amendment authorizes a cause of action for non-monetary relief against the state, the NMDOJ may be involved in litigation challenging the constitutionality of existing laws or government action (or inaction) under this amendment.

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

N/A

## **TECHNICAL ISSUES**

N/A

## **OTHER SUBSTANTIVE ISSUES**

By solely providing for enforcement of this constitutional amendment against the state, counties, and municipalities, Section 1(C) does not provide a cause of action against private entities.

## **ALTERNATIVES**

N/A

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

Status quo.

## **AMENDMENTS**

N/A