

## AGENCY BILL ANALYSIS - 2026 REGULAR SESSION

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

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

**Date Prepared:** Jan 20, 2026 **Check all that apply:**  
**Bill Number:** HJR-3  Original  Correction  
 Amendment  Substitute

<b>Sponsor:</b> <u>Ferryay/Sedillo Lopez</u> <b>Short</b> <u>ENVIRONMENTAL RIGHTS,</u> <u>CA</u>	<b>Agency Name</b> <b>and Code</b> <b>Number:</b> <u>NMED 667</u>  <b>Person Writing</b> <u>Gloria I. Lucero</u> <b>Email</b> <u>Gloria.lucero@env.nm.gov</u>  <b>Phone:</b> <u>505-490-7111</u> : <u>.gov</u>
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### **SECTION II: FISCAL IMPACT**

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

	<b>FY26</b>	<b>FY27</b>	<b>FY28</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>		<u>\$1,000.00</u>	<u>\$1,000.00</u>	<u>\$3,000</u>		

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: (Very similar to 2025 HJR3, SB9121; Similar to 2024 HJR4, SJR8; 2023 HJR4, SJR6) Proposes to amend Article 2 of the Constitution of New Mexico with the addition of a new section that vests the people of the New Mexico with environmental rights. The proposal directs the state, counties and municipalities to serve as trustees of the natural resources of the state for the benefit of all the people. Provides that monetary damages shall not be awarded for a violation of the section, but that it is enforceable against the state, counties and municipalities.

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

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

##### Synopsis:

House Joint Resolution 3 (HJR3) proposes to amend Article 2 of the New Mexico Constitution to

include recognition of environmental rights held by the people of the State of New Mexico, to have the right to clean and healthy air, water, soil, native eco-systems and environments, and safe climate. The State, counties and municipalities would serve as trustees of the natural resources to protect for the benefit of the people of New Mexico, and the bill would place a duty on the State, counties, and municipalities to ensure the conservation, protection and maintenance of natural resources for the benefit of all people including present and future generations. This law would be enforceable against the state, counties and municipalities. Monetary damages shall not be awarded for violation of this law.

The amendment proposed by this resolution shall be submitted to the people of NM for approval or rejection at the next general election or at any special election whichever comes first.

## **FISCAL IMPLICATIONS**

HJR3 may require significant resources to resolve legal uncertainty in its language and to ensure the New Mexico Environment Department (NMED) is properly enforcing its authority. If passed, NMED would need to dedicate at least 1.0 full-time equivalent (FTE) attorney, (approximately \$140,000 in salary and benefits), in fiscal year 2027 (FY27) to initially research and resolve uncertainties about its authority, and to determine the extent of NMED's status as a trustee for environmental rights. Depending on that assessment, NMED may need additional attorneys, paralegals, trainers, and support staff in the remainder of FY26 and FY27 to ensure proper enforcement measures are being taken. In addition, NMED's bureaus would incur other costs, in the form of education, internal training, coordination with the Environmental Protection Agency, and hearing costs. Without additional FTEs, NMED may not be able to effectively enforce the additional environmental and public health protections required by HJR3. This proposition must be fully funded in the agency's base operating budget and continue into future years.

## **SIGNIFICANT ISSUES**

If HJR3 passes and the electorate approves the amendment, this creates a trustee obligation and imposes duties on the state, counties, and municipalities. Creating a trusteeship and placing duties on these government bodies to ensure the protection of the environment could cause confusion regarding how these government bodies and their new roles mesh with existing environmental laws, permits and regulators. While individuals may be able to assert causes of action currently unavailable, the reviewing courts would be invited to determine new courses for alternative environmental management actions that could short-circuit existing statutory and regulatory schemes, for example, Sections 74-1-1 through 74-1-10 NMSA 1978, the "Environmental Improvement Act," Section 74-2 NMSA 1978, the "Air Quality Control Act," Section 74-4, the "Hazardous Waste Act," Section 74-6, the "Water Quality Act," Section 74-9, the "Solid Waste Act," and, the "New Mexico Natural Resources Trustee Act," NMSA 1978, Sections 75-7-1 et seq. This could require NMED to track complaints in civil courts statewide to determine whether intervention would be necessary to protect its own authority and regulatory schemes.

There may also be issues with the "self-executing" language in Section C, and whether this language precludes further judicial inquiry. Further, while monetary damages shall not be awarded, the amendment does not make clear what other remedies could be imposed on the state, counties and municipalities. Amendments in other states using similar language were invalidated for

separation of powers issues. See (Robinson Twp. V. Commonwealth of Penn., 83 A.3d 901 (Pa. 2013) and (Robinson Twp. V. Commonwealth of Penn., 96 A.3d 1104 (Pa. Cmmw. 2014).

## **PERFORMANCE IMPLICATIONS**

NMED will need to expend significant legal resources to resolve the confusion arising from conflicting actions and authorities. To provide the important and necessary actions NMED must be able to take in order to protect public health and the environment, including maintaining robust enforcement programs to hold polluters accountable and ensure a level playing field for regulated entities across the state, there must be a corresponding increase in NMED FTEs.

## **ADMINISTRATIVE IMPLICATIONS**

NMED may need to promulgate new rules or amend existing rules to conform to any new or changed requirements resulting from HJR3.

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

Nearly identical to 2025 HJR3 and SJR4; similar to 2024 SJR8, similar to 2023 HJR4; similar to 2022 HJR2, and similar to 2021 SJR3.

## **TECHNICAL ISSUES**

None identified.

## **OTHER SUBSTANTIVE ISSUES**

None identified.

## **ALTERNATIVES**

None identified.

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

Without HJR3, environmental protection and public health will continue as currently structured with the Constitutional charge to the legislature in Article 20, Section 21 to “provide for control of pollution and control of despoilment of the air, water and other natural resources of this state.” Legislative authority to enact and amend statutes for pollution control will continue, as will enforcement and implementation of those statutes by state agencies, boards and commissions, including NMED.

## **AMENDMENTS**

None identified.