

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

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.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}

Date Prepared: Jan 23, 2025 *Check all that apply:*
Bill Number: HJR 3 Original Correction
 Amendment Substitute

Sponsor: Sen. Sedillo-Lopez, Rep Ferrary, Rep Roybal-Caballero, Rep Hernandez, **Agency Name and Code** AOC 218
Short Title: Environmental Rights, CA **Number:** _____ **Person Writing** Kienna Rodriguez
Title: Environmental Rights, CA **Phone:** 505-396-0202 **Email** aocker@nmcourts.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: Duplicates or is a Companion to SJR 2 from 2022, SJR 3 from 2021, SJR 6 from 2023, SJR 8 from 2024, HJR 2 from 2022, HJR 4 from 2024 and HJR 4 from 2023.

Duplicates/Relates to Appropriation in the General Appropriation Act: None

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: HJR 3 proposes amending Article 2 of the Constitution of New Mexico to add a new section entitling the people of New Mexico to clean and healthy air, water, soil, and environments, healthy ecosystems, and a safe climate that preserves the natural, cultural, scenic, and healthful qualities of the environment. The amendment requires the state to protect these rights equitably for all people regardless of race, ethnicity, tribal affiliation, gender, socioeconomics, or geography.

The HJR 3 amendment requires the state, counties, and municipalities to serve as trustees of the natural resources of New Mexico and to conserve, protect, and maintain these resources for the benefit of all the people, including present and future generations.

HJR 3 states that the provisions of this section are self-executing and that monetary damages shall not be awarded for a violation of this section, which is enforceable against the state, counties, and municipalities.

HJR 3 requires the proposed amendment to be submitted to voters for approval or rejection at the next general election or any special election prior to that date.

FISCAL IMPLICATIONS

There will be minimal administrative costs for statewide updates, documentation, and distribution of any statutory changes. The passage of this amendment and any challenges to its constitutionality, including any litigation brought against the state, counties, or municipalities for allowing harm to the environment and ecosystems, would have an additional fiscal impact on the judiciary. New laws, amendments to existing laws, and new hearings have the potential to increase court caseloads, which require additional resources to handle the increase.

SIGNIFICANT ISSUES

1) In previous legislative sessions, the following joint resolutions amending Article 2 of the Constitution of New Mexico in a similar manner have been introduced: SJR 3 (2021), SJR 2 and HJR 2 (2022), HJR 4 and SJR 6 (2023), and HJR 4 and SJR 8 (2024).

Throughout the FIRs for some of the previous joint resolutions, the following points were made:

- a) According to NMED, the reviewing court would need to compare each cause of action with existing environmental regulations, inviting the court to determine the best environmental management.
- b) The absence of a legislative authority grant creates uncertainty about how the state would exercise its trusteeship authority and allocate it among the agencies.
- c) NMAG's analysis also stated: "By providing that the constitutional provisions

- are enforceable against the state, counties, and municipalities, paragraph C appears to preclude enforcement against private entities.”
- d) The amendment would only be effective if passed by voters in the next general or special election.
 - e) NMAG previously reported that HJR 3 could impose additional NMAG legal representation requirements regarding the state and its agencies by making the state a trustee of its natural resources.
 - f) NMED previously indicated that the need to expend significant legal resources to resolve the confusion and conflict created by HJR 3 would require additional monetary appropriations.
 - g) That the meaning of the terms “clean” and “healthy” will need to be established by legislation, administrative rules, and precedent.
 - h) That the proposed amendment could be used as a potential roadblock to pursuing clean energy projects as part of NM’s renewable energy transition, resulting in costly litigation that could impact the financial feasibility of specific energy projects.
 - i) The amendment may allow individuals to assert causes of action currently unavailable under existing environmental laws.
 - j) It was unclear how the joint resolution and the NM Natural Resources Trustee Act, Chapter 75, Article 7 NMSA 1978 align, as both contain language directing the state to act as trustees of natural resources.
 - k) Lastly, paragraph C of the amendment providing enforcement against the state counties and municipalities appears to preclude enforcement against private entities.
- 2) Courts will have to address what preservation of the “scenic” values of an environment means and narrow the scope of what constitutes “public natural resources” or “healthful qualities” of the environment. See *Penn Future: The People Have a Right: A Brief Overview of Environmental Rights Amendment Case Law*, March 25, 2024 at <https://www.pennfuture.org/Blog-Item-The-People-Have-A-Right-A-Brief-Overview-Of-Environmental-Rights-Amendment-Case-Law>

Please review the following links for the FIR of SJR 6 (2023) at:

<https://www.nmlegis.gov/Sessions/23%20Regular/firs/SJR06.PDF> and SJR 3 (2021) at: <https://www.nmlegis.gov/Sessions/21%20Regular/firs/SJR03.PDF> and HJR 2 (2022) at: <https://www.nmlegis.gov/Sessions/22%20Regular/firs/HJR02.PDF> and SJR 8 (2024) at: https://www.nmlegis.gov/Sessions/24%20Regular/AgencyAnalysis/SJR08_218.pdf

PERFORMANCE IMPLICATIONS

This bill may impact the measures of the courts with cases disposed of as a percentage of cases filed and the percentage change in case filings by case type.

ADMINISTRATIVE IMPLICATIONS

See “Fiscal Implications” above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HJR 3 is a duplicate of SJR 4, also proposing to amend Article 2 of the Constitution of New Mexico.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS