

LFC Requester:	Davidson
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO
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(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: 1/22/2025 *Check all that apply:*
Bill Number: HJR 3 Original Correction
 Amendment Substitute

Sponsor:	Ferrary, Roybal Caballero, Franklin, Hernandez and Sedillo Lopez	Agency Name and Code Number:	NMED 667		
	Environmental Rights, CA	Person Writing	Gloria I. Lucero		
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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		\$1000.0	\$1000.0	3,000.0	Recurring	NMED Operating budget

(Parenthesis () Indicate Expenditure Decreases)

Duplicates: SJR4 (2025); Duplicate of 2025 SB9121; Similar to 2024 HJR4, SJR8; 2023 HJR4, SJR6

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

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

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 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 of 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 NMED is properly enforcing its authority. If passed, the New Mexico Environment Department (NMED) would need to dedicate at least 1.0 full-time equivalent (FTE) attorney, (approximately \$152,000 in salary and benefits), in fiscal year 2025 (FY25) 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, and paralegals, trainers, and support staff in the remainder of FY25 and FY26 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 or not 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. (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. In order 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 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

Duplicate of 2025 SJR4; nearly identical to 2021 SJR3; identical to 2022 HJR2; similar to 2023 HJR4 and 2024 SJR8.

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.