



NM Environmental Rights Amendment (*aka the NM Green Amendment*) Key Points: Raising Up Environmental Rights in New Mexico

The New Mexico Green Amendment 2023 Language:

SECTION 1. It is proposed to amend Article 2 of the constitution of New Mexico by adding a new section to read:

The people of the state shall be 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. The state shall protect these rights equitably for all people regardless of race, ethnicity, tribal membership status, socioeconomics, gender, or geography.

The state, counties and municipalities shall serve as trustee of the natural resources of New Mexico and shall conserve, protect and maintain these resources for the benefit of all the people, including present and future generations.

The provisions of this section are self-executing. Monetary damages shall not be awarded for a violation of this section. This section is enforceable against the state, counties and municipalities.

SECTION 2. It is proposed to amend Article 20 of the constitution of New Mexico by repealing Section 21.

Industrial externalities, damaging development, and, at times, misplaced government action have allowed the inalienable rights of New Mexico residents to clean air, plentiful and healthy water, a safe climate, and healthy environments to be violated. Despite state environmental laws, regulations and agencies, New Mexico water, air, soils, landscapes, and special natural spaces have been allowed to degrade in ways that are harming every aspect of people’s lives, with Indigenous communities, People of Color, and low income communities being disproportionately harmed. An effective Constitutional Environmental Rights Amendment could help change that.

A New Mexico Green Amendment would constitutionally mandate that state government officials protect the environmental rights of all residents equitably, including future generations. The self-executing amendment will allow legal redress when these rights are violated by government action.

Establishing an enforceable environmental right will drive better government decisionmaking at all levels of government and will prevent situations or conditions in which land becomes too contaminated, water becomes too polluted, and air too dirty to support healthy lives, including a healthy economy.

In order to obtain this highest level of protection in New Mexico, a proposed amendment must pass by majority vote through both houses of the New Mexico Legislature after which the people of New Mexico will be given the opportunity to vote on whether or not their *right to a clean, safe and healthy environment* will be equitably and meaningfully protected by the state constitution.

A New Mexico Green Amendment will:

- √ ...Place rights to a clean and healthy environment legally on par with our most treasured freedoms such as free speech, freedom of religion and the right to free and open elections;
- √ ... Ensure that every government official in the state will work to advance environmental protection at every level of the decisionmaking process, rather than waiting until the end of the process when the focus is on permitting rather than prevention. All government action, including the passage of laws, regulations, policies and programs is done in service to advancing the state constitution – government officials cannot change or violate the constitution, they must honor and implement it.
- √ ... Ensure government decisions and action prioritize environmental justice, environmental protection and pollution prevention as compared to prioritizing pollution permitting and management;
- √ ... Strengthen environmental justice by ensuring all communities – regardless of race, ethnicity, tribal membership status or socioeconomic status – have the same rights to clean water and air and healthy environments, and creating a clear constitutional duty on all government officials to protect our environment for all communities equitably;
- √ ... Fill the gaps in environmental laws and provide a legal basis for securing water, air and environmental protection even in those situations where there is no state law or regulation to provide protection;
- √ ... Ensure consideration of cumulative impacts as part of decisionmaking so the additive impact of new pollution/degradation is considered;
- √ ... Empower communities to address unconstitutional infringement on environmental rights such as clean water and air, contaminated soils or devastated ecosystems, by providing constitutional grounding for advocacy and access to courts for redress; as written the amendment specifically provides for equitable remedies as opposed to money damage payouts.
- √ ... Strengthen the healthy economic growth that avoids the costs of environmental harm including illness, cleanup costs, flooding, drought & declining property values by ensuring government actions avoid environmental degradation rather than responding to it after-the-fact;
- √ ... Strengthen environmental protections beyond Article XX Section 21 by explicitly recognizing an independent enforceable, right of the people to a clean, safe and healthy environment, including the human health values of the environment; mandating a focus on preventing environmental pollution and degradation rather than a focus on control of harm; raising up environmental rights to the constitution's bill of rights which brings additional legal strength for environmental protection and environmental justice; mandating consideration and protection of the rights of future generations; and ensuring informed government decisionmaking is a constitutional pre-requisite to taking action that could infringe upon environmental rights.¹

¹ *Article XX, § 21, Pollution Control reads: 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.*