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SENATE JOINT RESOLUTION 1

**52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016**

INTRODUCED BY

Peter Wirth and Antonio "Moe" Maestas

A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO ARTICLE 2, SECTION 13 OF THE  
CONSTITUTION OF NEW MEXICO TO PROTECT COMMUNITY SAFETY BY  
GRANTING COURTS NEW AUTHORITY TO DENY RELEASE ON BAIL PENDING  
TRIAL FOR DANGEROUS DEFENDANTS IN FELONY CASES WHILE RETAINING  
THE RIGHT TO PRETRIAL RELEASE FOR NON-DANGEROUS DEFENDANTS.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. It is proposed to amend Article 2, Section 13  
of the constitution of New Mexico to read:

"All persons shall, before conviction, be bailable by  
sufficient sureties, except for capital offenses when the proof  
is evident or the presumption great and in situations in which  
bail is specifically prohibited by this section. Excessive  
bail shall not be required, nor excessive fines imposed, nor  
cruel and unusual punishment inflicted.

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1           Bail may be denied ~~[by the district court for a period of~~  
2 ~~sixty days after the incarceration of the defendant by an order~~  
3 ~~entered within seven days after the incarceration, in the~~  
4 ~~following instances:~~

5           A. ~~the defendant is accused of a felony and has~~  
6 ~~previously been convicted of two or more felonies, within the~~  
7 ~~state, which felonies did not arise from the same transaction~~  
8 ~~or a common transaction with the case at bar;~~

9           B. ~~the defendant is accused of a felony involving~~  
10 ~~the use of a deadly weapon and has a prior felony conviction,~~  
11 ~~within the state. The period for incarceration without bail~~  
12 ~~may be extended by any period of time by which trial is delayed~~  
13 ~~by a motion for a continuance made by or on behalf of the~~  
14 ~~defendant] by a court of record pending trial for a defendant~~  
15 ~~charged with a felony if the prosecuting authority requests a~~  
16 ~~hearing and proves by clear and convincing evidence that no~~  
17 ~~release conditions will reasonably protect the safety of any~~  
18 ~~other person or the community. An appeal from an order denying~~  
19 ~~bail shall be given preference over all other matters.~~

20           A person who is not a danger and is otherwise eligible for  
21 bail shall not be detained solely because of financial  
22 inability to post a money or property bond."

23           SECTION 2. The amendment proposed by this resolution  
24 shall be submitted to the people for their approval or  
25 rejection at the next general election or at any special

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1 election prior to that date that may be called for that  
2 purpose.

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