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SENATE JOINT RESOLUTION 1

**56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SPECIAL SESSION, 2024**

INTRODUCED BY

Ron Griggs and Greg Nibert

A JOINT RESOLUTION

PROPOSING TO AMEND ARTICLE 2, SECTION 13 OF THE CONSTITUTION OF NEW MEXICO TO ALLOW CONDITIONS FOR DENIAL OF BAIL AND FOR PRETRIAL DETENTION, REMOVE THE REQUIREMENT THAT BAIL DENIAL BE MADE ONLY BY A COURT OF RECORD, REMOVE THE LIMITATION OF BAIL DENIAL TO PERSONS CHARGED WITH A FELONY AND ALLOW BAIL DENIAL FOR A PERSON WHO HAS PREVIOUSLY FAILED TO APPEAR BEFORE THE COURT AND IS A FLIGHT RISK.

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:

"A. 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

underscored material = new  
~~[bracketed material]~~ = delete

underscoring material = new  
[bracketed material] = delete

1 section.

2 B. Excessive bail shall not be required, nor  
3 excessive fines imposed, nor cruel and unusual punishment  
4 inflicted.

5 C. Bail may be denied [~~by a court of record~~] and a  
6 person may be detained pending trial [~~for a defendant charged~~  
7 ~~with a felony~~] if, after the prosecuting authority requests a  
8 hearing, [~~and proves~~] the court finds by clear and convincing  
9 evidence that [~~no~~] the person is dangerous and that release  
10 conditions will not reasonably protect the safety of any other  
11 person or the community, that the person is a flight risk or  
12 that the person has previously failed to appear before a court  
13 as required. An appeal from an order denying bail shall be  
14 given preference over all other matters.

15 D. A person who is not detainable on grounds of  
16 dangerousness, [~~nor~~] is not a flight risk in the absence of  
17 bond, has not previously failed to appear before a court as  
18 required and is otherwise eligible for bail shall not be  
19 detained solely because of financial inability to post a money  
20 or property bond.

21 E. A [~~defendant~~] person who is [~~neither a danger~~  
22 ~~nor~~] not detainable on grounds of dangerousness, is not a  
23 flight risk, has not previously failed to appear before a court  
24 as required and [~~who~~] has a financial inability to post a money  
25 or property bond may file a motion with the court requesting

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1 relief from the requirement to post bond. The court shall rule  
2 on the motion in an expedited manner."

3 SECTION 2. The amendment proposed by this resolution  
4 shall be submitted to the people for their approval or  
5 rejection at the next general election or at any special  
6 election prior to that date that may be called for that  
7 purpose.

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