

1 SENATE JOINT RESOLUTION 1

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016**

3 INTRODUCED BY

4 Peter Wirth

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10 A JOINT RESOLUTION

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

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

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

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

.202341.3

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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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