A JOINT RESOLUTION

PROPOSING AMENDMENTS TO ARTICLE 2, SECTION 13 OF THE CONSTITUTION OF NEW MEXICO THAT WILL ALLOW CONDITIONS FOR DENIAL OF BAIL TO BE SET BY THE LEGISLATURE, REMOVE THE REQUIREMENT THAT BAIL DENIAL DECISIONS BE MADE BY A COURT OF RECORD, REMOVE THE LIMITATION OF BAIL DENIAL TO DEFENDANTS CHARGED WITH A FELONY, CLARIFY THAT BAIL MAY BE DENIED IF NO RELEASE CONDITIONS WILL REASONABLY ENSURE THE APPEARANCE OF THE PERSON AS REQUIRED AND REMOVE COURT PROCEDURAL DIRECTIONS.

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 section or statute.

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

C. Bail may be denied [by a court of record] pending trial [for a defendant charged with a felony] if [the prosecuting authority requests] after a hearing [and proves] the court finds by clear and convincing evidence that no release conditions will reasonably ensure the appearance of the person as required or protect the safety of any other person or the community. An appeal from an order denying bail shall be given preference over all other matters. [A]

D. No person who is [not detainable on grounds of dangerousness nor a flight risk in the absence of bond and is otherwise] eligible for [bail] pretrial release pursuant to this section shall [not] be detained solely because of financial inability to post a money or property bond. [A defendant who is neither a danger nor a flight risk and who has a financial inability to post a money or property bond may file a motion with the court requesting relief from the requirement to post bond. The court shall rule on the motion in an expedited manner.]

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