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## FISCAL IMPACT REPORT

SPONSOR Torraco ORIGINAL DATE 2/10/15  
LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Full Amount of Bail By Bondsmen SB 505

ANALYST Sánchez

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	NFI	NFI	NFI			

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the Courts (AOC)

New Mexico Sentencing Commission (NMSC)

### SUMMARY

#### Synopsis of Bill

Senate Bill 505 amends the bail bondsmen Licensing Law (Chapter 59A, Article 51 NMSA 1978) allowing a bail bondsmen to post all percent or property bonds set by a court provided that the paid surety executes a bail bond for the full amount set by the court.

### FISCAL IMPLICATIONS

None noted

### SIGNIFICANT ISSUES

According to AOC, individuals who want to have someone, including themselves, freed from custody pending trial will have to choose between owing the court or owing a bonding company. Either option has its own benefits and drawbacks.

### ADMINISTRATIVE IMPLICATIONS

The AOC reports that court staff will have minor changes to internal procedures.

SB 505 provides the statutory authority for a practice currently occurring in a variety of courts statewide.

Article 6, Section 3 of the NM Constitution gives the New Mexico Supreme court "superintending control over all inferior courts." New Mexico Court Rule 5-401 sets out the requirements regarding right to bail and the types of secured bonds that a court may require.

### **OTHER SUBSTANTIVE ISSUES**

AOC reports that if someone is in custody after arrest and a court sets bond at, for instance, \$5,000 cash or surety, the ordinary way to post bond is to pay a bonding company 10%. The company posts a bond assuring that 100% of the bond will be paid if the defendant does not appear when directed by the court. Court bonds are different in that the 10%, or other amount specified by the court, is paid directly to the court. If the defendant fails to appear, the court has a right of action against the person who posted the bond to collect the full amount. If someone chooses to post property such as a house as security, the court has a right of action against that property.

The bill would allow bonding companies to be the creditor for court or property bonds. So this would mean courts will not have to try to collect against defendants. The bonding company would be liable for the full bond amount to the court, but would have a claim against the person who had the bonding company post the bond. This means bonding companies could foreclose on property posted as security for a bond. This may be mitigated by the fact that bonding companies act as liaisons to defendants to make sure they know of the court proceedings and that they appear when required.

ABS/je/bb