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FISCAL IMPACT REPORT

SPONSOR <u>Chandler</u>	LAST UPDATED <u>2/19/2025</u>
	ORIGINAL DATE <u>1/23/25</u>
	BILL <u>House Bill</u>
SHORT TITLE <u>Uniform Investigative Demand Procedure</u>	NUMBER <u>62/aHGEIC</u>
	ANALYST <u>Chilton</u>

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No fiscal impact	No fiscal impact	No fiscal impact	No fiscal impact		

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency Analysis Received From

Regulation and Licensing Department (RLD)

New Mexico Attorney General (NMAG)

Administrative Office of the Courts (AOC)

Agency Analysis was Solicited but Not Received From

Administrative Office of the District Attorneys (AODA)

SUMMARY

Synopsis of HGEIC Amendment to House Bill 62

The House Government, Elections, and Indian Affairs Committee amendment makes several changes to House Bill 62 (HB62):

1. Those believing that a civil investigative demand (CID) is warranted may apply to the Santa Fe County district court, which would rule if the CID has merit, after which the Attorney General may issue a written demand for the information.
2. A CID approved by a court would apply to all investigation-related demands.
3. Confidentiality regarding CIDs is extended to cover all court records of all sorts relevant to a case, unless release of that information is ordered by the court.
4. Material to be produced under a CID must be allowed at least fifteen days after the demand, rather than ten as in the original bill.
5. CIDs may not require the disclosure of privileged material of all sorts rather than just “testimony or documentary” material.

Synopsis of House Bill 62

House Bill 62 (HB62) would authorize the Office of the Attorney General (NMAG) to issue civil investigative demands. It defines the means and regulations by which these demands would be

issued and their effects. Allowable means of serving the demand are specified.

Civil investigative demands (CIDs) could be issued by NMAG on a person believed to hold information relevant to a prospective civil proceeding. The issuance of the CID would not be made public without a court order and could not contain requirements that would be improper in a court-required order for production of evidence. Documents required to be produced could be inspected in the respondent's office or somewhere mutually agreed on by the respondent and NMAG. The respondent could contest the CID in the district court in Santa Fe, and if the respondent failed to respond, the respondent could be brought to the district court in Santa Fe to enforce the CID.

It also amends the following sections of state law, removing language that would be superseded with passage of this bill:

- Section 6-4-22 NMSA 1978 to remove language (section H) that refers to CIDs regarding penalties for tobacco tax prosecutions;
- Section 6-27-9 NMSA 1978 that refers to CIDs regarding investigations having to do with the Affordable Housing Act; and
- Section 57-22-9.1 NMSA 1978, that refers to civil penalties.

In addition, the following sections of law would be repealed in their entirety, again because these sections are no longer needed with passage of this bill:

- 47-6-25.1, the New Mexico Subdivision Act;
- 57-1-5, regarding contracts and agreements in restraint of trade;
- 57-12-12, regarding Unfair Practices Act investigations;
- 57-13-9, regarding pyramid promotional schemes;
- 57-15-6, regarding false advertising.

In general, these deleted and amended sections contain language similar to that in Section 1 of House Bill 62 but apply only to certain types of CIDs; the new requirements specified in Section 1 of the bill would apply to all matters for which NMAG would issue a CID.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

FISCAL IMPLICATIONS

This bill does not have an overall fiscal impact. However, as noted by the Administrative Office of the Courts, “The bill has the potential to impact the caseload of the district court in Santa Fe County given that it would be the sole court with jurisdiction to hear petitions related to these inquiries. It would lead to an increase in judge and staff time in one district court.”

SIGNIFICANT ISSUES

The proposed bill appears to unify the authority given to NMAG to demand information into a single statute rather than it being spread among multiple sections of law, creating uniform methodology across types of litigation. NMAG notes:

The proposed language appears to reorganize the broad and statutory authority already provided to the Attorney General from different sections of the NMSA 1978 and move it

to the authorizing statute of the Attorney General in Chapter 8, Article 5 of the NMSA 1978. This is in line and concert with the current broad and discretionary authority of the Attorney General as listed in the Attorney General authorizing statute.

LAC/hj/hg/rl/SL2/sgs