

LFC Requester:

Noah Montano

### AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

#### SECTION I: GENERAL INFORMATION

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

**Date Prepared:** 2/17/2025

*Check all that apply:*

**Bill Number:** SB 410

Original  Correction   
Amendment  Substitute

**Sponsor:** Senator Craig W. Brandt

**Agency Name and Code Number:** 305 – New Mexico Department of Justice

**Short Title:** CRYSTALLINE POLYMORPH PSILOCYBIN RESCHEDULING

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#### SECTION II: FISCAL IMPACT

##### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis ( ) indicate expenditure decreases)

##### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis ( ) indicate revenue decreases)

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

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
 Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

*This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.*

**BILL SUMMARY**

Synopsis: NMSA 30-31-3 establishes the duties of the controlled substances board and allows the board to determine whether a substance should be added to a controlled substance schedule. In 30-31-3(A)-(B) the board is directed to determine whether a substance has the potential for abuse and issue findings and regulations. Subsection (C) notes that if a substance is designated a controlled substance under federal law, the board can control the substance under the Controlled Substances Act “after providing for a hearing pursuant to the Uniform Licensing Act.” House Bill 410 would add a subsection (E) which would read,

“Notwithstanding Subsection C of this section, immediately upon rescheduling by the United States food and drug administration of the pharmaceutical composition of crystalline polymorph psilocybin, shall be scheduled and listed in a manner to coincide with federal law, including the Controlled Substances Act . . . 21 U.S.C. Section 801 et seq.”

HB 410 also adds to Schedule I (NMSA 30-31-6). A new subsection (G) would read,

“psilocybin except immediately upon its rescheduling by the United States food and drug administration of the pharmaceutical composition of crystalline polymorph psilocybin.”

**FISCAL IMPLICATIONS**

None for this department.

**SIGNIFICANT ISSUES**

HB 410 may face two issues. First, the addition of Subsection E would circumvent procedural safeguards found in NMSA 30-31-3(C), which require the board follow the Uniform Licensing Act when considering substances rescheduled by the US FDA. Second, psilocybin is listed under NMSA 30-31-6(C). Crystalline polymorph psilocybin may be a material, compound, or preparation of psilocybin and therefore already be a Schedule I controlled substance. Depending on the actions of the FDA, there could be confusion as to whether crystalline polymorph psilocybin is a Schedule I drug or not.

**PERFORMANCE IMPLICATIONS**

N/A

**ADMINISTRATIVE IMPLICATIONS**

N/A

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Senate Bill 219, the Medical Psilocybin Act, may interact with HB 410 as SB 219 amends the listing of psilocybin in 30-31-6(C) to exclude the medical use of psilocybin from Schedule I.

## **TECHNICAL ISSUES**

The wording of Subsection E is somewhat unclear. Consider referencing the substance after the clause that refers to the FDAs rescheduling. Currently, without that dependent clause, the sentence is missing a subject (psilocybin).

United States is misspelled in Subsection G.

## **OTHER SUBSTANTIVE ISSUES**

N/A.

## **ALTERNATIVES**

N/A

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status quo.

## **AMENDMENTS**

N/A