

LFC Requester:	Klundt, Kelly
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

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(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

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

Date Prepared: 1/31/25 *Check all that apply:*
Bill Number: SB 219 Original Correction
 Amendment Substitute

Sponsor: Sen. Jeff Steinborn **Agency Name and Code:** AOC
Short Title: Medical Psilocybin Act **Number:** 218
Title: _____ **Person Writing:** Kathleen Sabo
Phone: 505-470-3214 **Email:** aoccaj@nmcourts.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
None	\$2,000	Rec. (FY '26 and '27)	General
None	\$2,000	Rec.	General

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
Unknown	Unknown	Unknown	Rec.	General

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Unknown	Unknown	Unknown	Unknown	Rec.	General

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: Conflicts with HB 218 (also amending Section 7-9-73.2 NMSA 1978).

Duplicates/Relates to Appropriation in the General Appropriation Act: None.

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: SB 219 enacts the “Medical Psilocybin Act,” (MPA) allowing the beneficial use of psilocybin in an approved setting to treat qualified medical conditions. The MPA defines “psilocybin” as the naturally occurring psychedelic compound and its pharmacologically active metabolite psilocin, found in certain mushrooms, but does not include synthetic or synthetic analogs of psilocybin.

The following provisions of the MPA affect the courts:

Section 5 of the MPA provides an exemption from criminal and civil penalties for the medical use of psilocybin for a producer, clinician or qualified patient and lists lawful conduct that is prohibited from constituting grounds for detention, search or arrest of a person or for a violation of probation or parole, and provides that psilocybin that relates to the conduct is not contraband or subject to seizure or forfeiture pursuant to the Controlled Substances Act or the Forfeiture Act. The MPA prohibits a clinician from being subject to arrest or prosecution for recommending the program or providing medical services. The MPA also prohibits a person from being subject to arrest or prosecution for a psilocybin-related offense for simply being in the presence of the medical use of psilocybin as allowed under the provisions of the MPA.

Section 6 of the MPA provides that participation in the program does not relieve a producer, clinician or qualified patient from: (1) criminal prosecution or civil penalties for activities not authorized in the MPA; or (2) liability for damages or criminal prosecution arising out of the operation of a motor vehicle if driving while under the influence of psilocybin. The MPA provides a petty misdemeanor penalty for a person who makes a fraudulent representation to a law enforcement officer about the person’s participation in the program to avoid arrest or prosecution for a psilocybin-related offense.

Section 10 prohibits a person serving a period of probation or parole or who is in the custody or under the supervision of the state or a local government pending trials as part of a community supervision program from being penalized for participation in the program.

Section 13 amends Section 30-31-6 NMSA 1978, within the Controlled Substances Act and governing Schedule I drugs, to remove psilocybin and psilocin as provided otherwise in the Controlled Substances Act and MPA, from Schedule 1. SB 219 further provides that the enumeration of psilocybin and psilocin in Schedule 1 does not apply to their medical use as provided in the MPA. Any person who is a producer or clinician under the MPA shall comply with the federal Comprehensive Drug Abuse Prevention and Control Act of 1970 and other requirements of law.

The MPA appropriates the following:

- \$2 million from the general fund to the DOH for expenditure in FYs 26 and 27 to

carry out the provisions of the MPA.

- \$1 million from the general fund to the Medical Psilocybin Treatment Equity Fund for expenditure in FY 26 and subsequent fiscal years to carry out the purposes of the fund.
- \$1 million from the general fund to the Medical Psilocybin research fund for expenditure in FY 26 and subsequent fiscal years to carry out the purposes of the fund.

FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions, and appeals from convictions, as well as challenges to the law. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

SIGNIFICANT ISSUES

- 1) In 2024, SM 12, requesting the DOH to study the efficacy of using psilocybin for therapeutic treatments and the establishment of a program for psilocybin to be used therapeutically, passed the Senate.
<https://www.nmlegis.gov/Sessions/24%20Regular/memorials/senate/SM012.pdf>

During the September 25, 2024 meeting of the Legislative Health & Human Services Committee, legislators heard a presentation on the medical use of psilocybin, and discussed whether to launch a state-level psilocybin program. According to the Albuquerque Journal, reporting on the committee meeting and psilocybin, Oregon became the first state to decriminalize possession and legalize supervised use of psilocybin. Colorado passed a ballot measure in 2022, allowing adults 21 and older to possess psilocybin and give it to other adults. Other states, like Arizona and Pennsylvania, have not decriminalized psilocybin, but have enacted legislation allowing research to be conducted for clinical trials. Dr. Gary French, medical director of NM's Department of Health's Center for Medical Cannabis, said launching a new state psilocybin program could take up to three years, and that Medicaid could not cover the program's costs because psilocybin remains effectively illegal for anything outside of research under federal guidelines. See *New Mexico lawmakers weigh possible approaches to state-level psilocybin program*, Dan Boyd, Albuquerque Journal, September 25, 2024, https://www.abqjournal.com/news/article_48af2bfa-7b84-11ef-ac8b-ef43052a77a9.html.

At the committee meeting referenced above, legislators received a handout titled, *Medical Use of Psilocybin*, authored by Larry Leeman, MD, MPH, University of New Mexico, and Gary French, MD, NM Department of Health. See *Medical Use of Psilocybin*,
<https://www.nmlegis.gov/handouts/LHHS%20092324%20Item%2010%20Psilocybin.pdf>

In the presentation and handout, the authors note that legislative authorization to conduct research with psilocybin would likely require some level of immunity, and that estimated costs for Colorado and Oregon to establish a regulatory framework was \$4-7 million over a two-year development period. They also report that the expectation is that revenue from

program fees and taxes will cover the costs of these programs once fully implemented.

PERFORMANCE IMPLICATIONS

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

ADMINISTRATIVE IMPLICATIONS

See “Fiscal Implications,” above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Conflicts with HB 218 (also amending Section 7-9-73.2 NMSA 1978).

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS