

LFC Requestor: KLUNDT, Kelly

2025 LEGISLATIVE SESSION
AGENCY BILL ANALYSIS

Section I: General

Chamber: Senate
Number: 219

Category: Bill
Type: Introduced

Date (of THIS analysis): 01/31/2025

Sponsor(s): Jeff Steinborn, Martin Hickey, Elizabeth "Liz" Thompson, Craig W. Brandt, and Andrea Romero

Short Title: Medical Psilocybin Act

Reviewing Agency: Agency 665 - Department of Health

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Section II: Fiscal Impact

APPROPRIATION (dollars in thousands)

| Appropriation Contained | | Recurring or Nonrecurring | Fund Affected |
|-------------------------|------------|----------------------------|---------------|
| FY 25 | FY 26 | | |
| \$0 | \$2,000.00 | Nonrecurring after FY26,27 | General |
| \$0 | \$1,000.00 | Recurring | General |
| \$0 | \$1,000.00 | Recurring | General |

REVENUE (dollars in thousands)

| Estimated Revenue | | | Recurring or Nonrecurring | Fund Affected |
|-------------------|-------|-------|---------------------------|---------------|
| FY 25 | FY 26 | FY 27 | | |
| \$0 | \$0 | \$0 | | |
| | | | | |

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY 25 | FY 26 | FY 27 | 3 Year Total Cost | Recurring or Non-recurring | Fund Affected |
|-------|-------|------------|------------|-------------------|----------------------------|---------------|
| Total | \$0 | \$4,000.00 | \$4,000.00 | \$8,000.00 | Recurring | General |

| | | | | | | |
|--|---------|---|------|---|---------|----------------|
| | | | | | | |
| PS&EB - Calculate position Pay Band at midpoint x 2080 hours worked in a year plus 36% benefits: | | | | | | |
| Program Manager: Pay band 75 | \$38.46 | x | 2080 | x | 1.36 | = \$108,795.65 |
| Equity Fund Coordinator: Pay band 65 | \$29.99 | x | 2080 | x | 1.36 | = \$84,835.71 |
| Research Fund Coordinator: Pay band 65 | \$29.99 | x | 2080 | x | 1.36 | = \$84,835.71 |
| Environmental Scientist & Specialist: Pay band 65 | \$29.99 | x | 2080 | x | 1.36 | = \$84,835.71 |
| Compliance Officer III: Pay band 65 | \$29.99 | x | 2080 | x | 1.36 | = \$84,835.71 |
| OSHA Compliance Officer: Pay band 65 | \$29.99 | x | 2080 | x | 1.36 | = \$84,835.71 |
| Eligibility Interviewer: Pay band 55 | \$23.84 | x | 2080 | x | 1.36 | = \$67,438.59 |
| Finance A/O II: Pay band 85 | \$46.92 | x | 2080 | x | 1.36 | = \$132,727.30 |
| Social and Community Service Coord III: Pay Band 70 | \$34.23 | x | 2080 | x | 1.36 | = \$96,829.82 |
| Social and Community Service Coord III: Pay Band 70 | \$34.23 | x | 2080 | x | 1.36 | = \$96,829.82 |
| Physician - FP,IM, and Hospitalist: Pay Band XB | \$90.99 | x | 2080 | x | 1.36 | = \$257,392.51 |
| Office Set up: | | | | | | |
| Computer set up - \$2,700 per FTE | | | | | 11 FTE= | \$29,700.00 |
| Desktop software (Office 365, Adobe, Kiteworks: \$699/FTE/yr | | | | | 11 FTE= | \$7,689.00 |
| Phones (Desk and Cell): \$1,725/FTE/yer | | | | | 11 FTE= | \$18,975.00 |
| IT Costs: | | | | | | |
| Enterprise cost such as subscriptions, help desk: \$1,500/FTE/year | | | | | 11 FTE= | \$16,500.00 |
| Office Space: | | | | | | |
| \$30.00 per square foot x 150 sqft = \$30.00 x 12 months = \$54,000/FTE/yr | | | | | 11 FTE= | \$594,000.00 |
| Evaluation of the program and contracts: | | | | | | \$148,900.00 |
| Total Cost per year: | | | | | | \$1,999,956.26 |

Section III: Relationship to other legislation

Duplicates: None

Conflicts with: None

Companion to: None

Relates to: None

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

Section IV: Narrative

1. BILL SUMMARY

a) Synopsis

Senate Bill 219 (SB219) proposes to enact the “Medical Psilocybin Act” to allow the beneficial use of psilocybin in a regulated system for alleviating qualified medical conditions in the state of New Mexico. To carry out the provisions of the Medical Psilocybin Act, \$2,000,000 per year would be appropriated from the general fund and attached administratively to the New Mexico Department of Health to be spent in fiscal year 2026 and 2027. Any unexpended or unencumbered balance would revert to the general fund.

Exemptions from criminal and civil penalties for those participating in the program would need to be determined, since Psilocybin is still considered a Schedule 1 substance at the federal level.

The Department of Health (DOH) would be tasked with developing the “medical use of psilocybin program” that would determine the appropriate qualifying conditions and establishing training protocols, treatment protocols, safety protocols, data collection requirements, and other items to ensure an efficacious and safe program.

Additionally, SB219 would require the secretary of health to establish the “medical psilocybin advisory board” which would be responsible for recommending medical conditions that qualify for the use of psilocybin, reviewing petitions to add new medical conditions, recommending patient qualifications, and recommending formulation and preparation rules for psilocybin.

SB219 would require DOH to promulgate rules for the collection of data and publication of an annual assessment of the program. The assessment should consider the needs of New Mexicans and data shall be reported in such a way that individuals cannot be identified.

SB219 would require DOH to create and administer the “medical psilocybin treatment equity fund”, a non-reverting fund in the state treasury. The purpose of the fund would be to promote access by funding the treatment of qualified patients who meet certain income requirements. \$1,000,000 would be appropriated from the general fund for expenditure in 2026 and subsequent fiscal years.

SB 219 directs DOH to create and administer the “medical psilocybin research fund”, a non-reverting fund in the state treasury. This fund would be used to provide grants to state research universities and health care providers studying medical psilocybin. \$1,000,000 would be appropriated from the general fund for expenditure in 2026 and subsequent fiscal years.

Psilocybin products and medical care sold in accordance with the Medical Psilocybin Act could be deducted from gross receipts tax.

FDA approved psilocybin products would be exempt from the act but would be eligible for research and equity funds established by the act.

Is this an amendment or substitution? Yes No

Is there an emergency clause? Yes No

b) Significant Issues

In 2023, the prevalence of mental health illness among adults in New Mexico was at an all-time high with 36.4% of adults reporting symptoms of anxiety or depression

<https://www.kff.org/statedata/mental-health-and-substance-use-state-fact-sheets/new-mexico/>. The department of health has reported hopeful declines in 2023 reporting on alcohol mortality, drug overdose death rates, and suicide. Despite these declines, New Mexico continues to rank high compared to most states.

<https://www.cdc.gov/nchs/pressroom/sosmap/suicide-mortality/suicide.htm>, A large portion of suicides involve veterans and first responders. NM has witnessed promising declines in drug overdose, even surpassing the rate of decline witnessed in other states. A welcome nation-wide and precipitous drop in drug overdose deaths has been observed, but NM continues to rank high for total drug overdose

deaths. https://www.cdc.gov/nchs/pressroom/sosmap/drug_poisoning_mortality/drug_poisoning.htm New Mexico continues to rank high for alcohol-related death [Alcohol-related deaths decline in New Mexico for the second year in a row.](#)

Research demonstrates that psilocybin, a naturally occurring psychedelic found in over 200 species of mushrooms to be a promising treatment for some behavioral health conditions, including substance use disorders (SUD), major depressive disorder (MDD), treatment resistant depression (TRD), and end-of-life anxiety and psychological distress.

Psilocybin is currently a Schedule I drug according to the Federal Controlled Substances Act (<https://sharedsystems.dhsoha.state.or.us/DHSForms/Served/le4226.pdf>), however, the FDA has designated psilocybin as a breakthrough therapy, which means the FDA believes psilocybin could be a positive and substantial development in current treatment therapies.

SB219 seeks to create a regulatory framework to ensure product (psilocybin) safety and legal protection to those participating in the program, which supports a narrowly defined therapeutic medical model. Legal protections would extend to approved producers, clinicians, and qualified patients participating in the program. They would not be subject to arrest, prosecution, or penalty for that participation. SB219 is also clear in emphasizing participation in the program by a producer, clinician, or qualified patient does not relieve them from criminal prosecution or civil penalties for activities not authorized in the Medical Psilocybin Act. In summary, SB219 does not propose broad decriminalization of psilocybin. Legal protections would be narrowly tailored as necessary for the purpose of implementing a medical psilocybin therapeutic model as defined and approved by the program.

SB219 adds additional requirement related to engaging with Tribes, Pueblos and Nations to ensure that Native American rights and traditions are protected and fair and equitable access to psilocybin is promoted. To help achieve this, SB219 requires 1 of the 9 members of the “medical psilocybin advisory board” be an enrolled member of a New Mexico Indian Nation, Tribe, or Pueblo. Currently there are 24 Tribes, Pueblos, and Nations in New Mexico; each Tribe is a sovereign nation with its own government,

lifeways, traditions, and culture. It is noted that Tribal consultation(s) will be held during the development phase of the program.

Additionally, when looking at the implications of the bill, there needs to be recognition of the Tribal jurisdictions and how enactment of SB219 may not apply on Tribal lands.

Lastly, SB219 focuses on medical treatment uses for psilocybin. For Tribes, use of psychedelics have been decriminalized under the 1994 Amendment to the American Indian Religious Freedom Act of 1978 (AIRFA); the challenge is that usage has been described as relating to “the use, possession, or transportation of peyote by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion is lawful, and shall not be prohibited by the United States.” The fact that SB219 focuses on medical treatment may not extend under the current federal guidelines for Tribes.

States such as Oregon and Colorado have adopted laws that legalize and regulate the use of psilocybin. Regulatory costs are offset by the collection of regulatory fees and taxes. In addition to the costs of regulation, there are the costs associated with psilocybin product and assisted therapy. The use of whole mushroom products in a state regulated model has the potential to be significantly less expensive than the use of synthesized psilocybin marketed by pharmaceutical companies. To ensure affordability and access to treatment, SB219 includes the non-reverting “medical psilocybin treatment equity fund” to enable the department to set regulatory guidelines to help fund indigent and other individuals who would not otherwise be able to afford the treatment.

2. PERFORMANCE IMPLICATIONS

- Does this bill impact the current delivery of NMDOH services or operations?

Yes No

The Department of Health will need to create a Medical Use of Psilocybin Program and hire staff to manage and regulate the program (as described in the fiscal impact section of this analysis), including creating regulations and requirements for participation in the program and for disbursement of the two attached funds: the medical psilocybin treatment equity fund and the medical psilocybin research fund.

The Secretary would need to create the Advisory Board.

The Department would need to promulgate rules for the collection of data from producers, clinicians, and qualified patients to evaluate the efficacy of the medical use of psilocybin and publish an annual assessment of the program.

The Office of Tribal Liaison will need to plan and conduct formal Tribal Consultation sessions in relation to the development of the program. The Office of Tribal Liaison is currently represented by two employees and there are 24 Tribes, Pueblos, and Nations in New Mexico.

- Is this proposal related to the NMDOH Strategic Plan? Yes No

Goal 1: We expand equitable access to services for all New Mexicans

Goal 2: We ensure safety in New Mexico healthcare environments

Goal 3: We improve health status for all New Mexicans

Goal 4: We support each other by promoting an environment of mutual respect, trust, open communication, and needed resources for staff to serve New Mexicans and to grow and reach their professional goals

3. FISCAL IMPLICATIONS

- If there is an appropriation, is it included in the Executive Budget Request?
 Yes No N/A
- If there is an appropriation, is it included in the LFC Budget Request?
 Yes No N/A
- Does this bill have a fiscal impact on NMDOH? Yes No

Please see Section II.

4. ADMINISTRATIVE IMPLICATIONS

Will this bill have an administrative impact on NMDOH? Yes No

SB219 would require DOH to establish the medical psilocybin advisory board
SB219 would require DOH to promulgate rules for the collection of data and publication of an annual assessment of the program.

SB219 would require DOH to administer two separate non-reverting funds

SB219 would require DOH to monitor producers and clinicians

To conduct government to government Tribal Consultation meetings, the Office of Tribal Liaison will need to be more engaged with Tribal Leadership. Costs related to staff travel, meeting venue(s), and materials will need to be calculated.

5. DUPLICATION, CONFLICT, COMPANIONSHIP OR RELATIONSHIP

None.

6. TECHNICAL ISSUES

Are there technical issues with the bill? Yes No

7. LEGAL/REGULATORY ISSUES (OTHER SUBSTANTIVE ISSUES)

- Will administrative rules need to be updated or new rules written? Yes No
- Have there been changes in federal/state/local laws and regulations that make this legislation necessary (or unnecessary)? Yes No
- Does this bill conflict with federal grant requirements or associated regulations?
 Yes No
- Are there any legal problems or conflicts with existing laws, regulations, policies, or programs? Yes No

Sections 30-31-6 NMSA 1978 would need to be amended to update the psilocybin definition.

The possession and distribution of psilocybin mushrooms, as well as possession of drug paraphernalia, are still felonies under both NM law and federal law.

8. DISPARITIES ISSUES

This bill primarily serves individuals with mental health disorders (PTSD, depression, substance use disorders), end-of-life patients, and other qualifying conditions. This bill expands treatment options for underserved populations, including veterans, Native American communities, and low-income patients. Barriers such as cost, provider availability, and rural access remain concerns, but are addressed in large part in the bill.

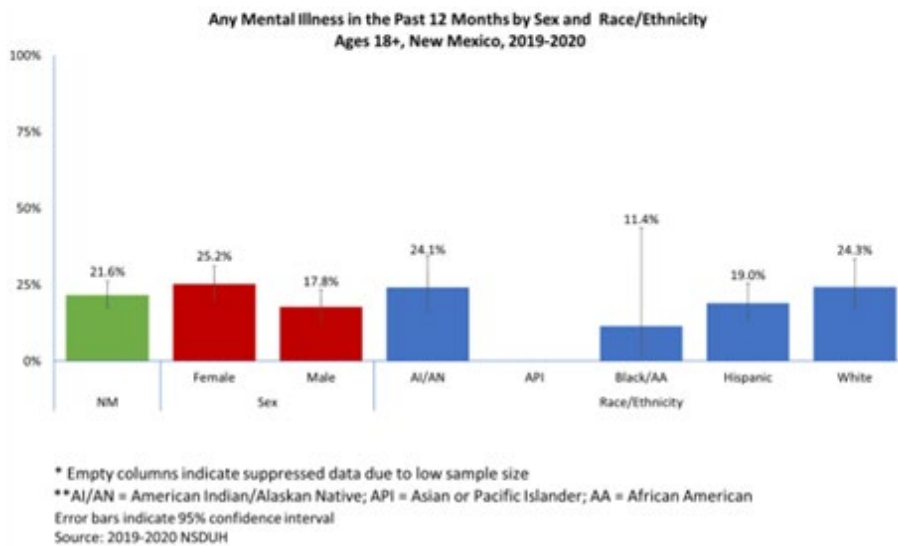
Some medical providers may not be able to provide psilocybin related medical care due to federal regulations. This includes patients who obtain their care through federal programs, such as those administered by the Veteran's Administration and Indian Health Services.

Until psilocybin is FDA approved, this therapy won't be eligible for consideration by Medicaid, Medicare, or private insurance for coverage. Even with insurance coverage, there are likely to be issues with access in many parts of New Mexico given the level of resources needed for the current therapy model.

SB 219 includes the "medical psilocybin treatment equity fund". This will reduce potential disparities due to the federal regulations as well as other patients who may have a lack of access to medical providers or who have other financial hardships.

Per a 2021 study conducted by Henry Lowe, et al., published in *Molecules*, psilocybin is the psychedelic drug with the safest record for therapeutic use.

AI/AN has the highest rate of mental illness of the ethnicities represented on the proceeding chart. [State of Mental Health in New Mexico](#)



1. National Institute of Mental Health (NIMH). (2021, October). Mental Illness. <https://www.nimh.nih.gov/health/statistics/mental-illness>
2. U.S. Department of Health and Human Services. (2020). Mental Health and Mental Disorders - Healthy People 2030. <https://health.gov/healthypeople/objectives-and-data/browse-objectives/mental-health-and-mental-disorders>

9. HEALTH IMPACT(S)

If psilocybin derived products are found to be an efficacious treatment for certain mental health and substance use disorders, this could open a new avenue for treatment that could prove to be particularly helpful for those who have found current treatment regimens ineffective.

According to the 2022 State of Mental Health in New Mexico report (<https://www.nmhealth.org/data/view/report/2650/>) New Mexico had the 4th highest suicide death rate among all US states in 2020 with a rate of 24.2 deaths per 100,000 population which is a 19 percent increase in the age-adjusted suicide death rate since 2011. In addition, survey data from the Behavioral Risk Factor Surveillance System (BRFSS) in 2020 shows 18 percent of adults reported having a history of a depression diagnosis, and 13 percent of adults experienced frequent mental distress defined as having 14 or more days where they felt their mental health was not good. According to data from the New Mexico Department of Health’s Bureau of Vital Records and Health statistics, 2,273 New Mexicans died from alcohol-related causes in 2021. The age adjusted death rate per 100,000 New Mexican residents for alcohol-related causes increased from 65.7 deaths in 2017 to 102.8 deaths in 2021 (<https://ibis.doh.nm.gov/query/builder/mort/MortCnty/Count.html>; select “alcohol-related causes by county”). Improvements in treatment options for both mental health conditions and substance use disorders could lead to significant improvements in the quality of life for New Mexicans suffering from these issues. SB219 could also reduce the need for mental health and substance use related hospitalizations and improve overall mental health outcomes.

10. ALTERNATIVES

None.

11. WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

If SB 219 is not enacted, the availability of receiving treatment using psilocybin will not be readily available to residents of New Mexico. The research and treatment of qualified patients utilizing psilocybin could be reduced and/or delayed and not take place. Future

psilocybin options may be minimized due to lack of research data on cheaper and more equitable options like “whole mushroom psilocybin” as opposed to synthetic versions.

12. AMENDMENTS

None.