

1 SENATE JOINT MEMORIAL 9

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

3 INTRODUCED BY

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9  
10 A JOINT MEMORIAL

11 REQUESTING THE NEW MEXICO DIRECT CAREGIVERS COALITION TO  
12 CONVENE A TASK FORCE TO STUDY ISSUES RELATING TO THE DIRECT-  
13 CARE WORKFORCE IN NEW MEXICO AND TO RECOMMEND MEASURES FOR  
14 IMPLEMENTATION OF FEDERAL REQUIREMENTS IN THE STATE MEDICAID  
15 PROGRAM.

16  
17 WHEREAS, seniors and persons with disabilities make up a  
18 large and growing proportion of New Mexico residents, with  
19 persons over age sixty-five making up fifteen percent of New  
20 Mexicans, a number that is expected to double by 2030; and

21 WHEREAS, an additional thirteen percent of New Mexicans  
22 ages eighteen to sixty-five are persons with disabilities; and

23 WHEREAS, many seniors and persons with disabilities  
24 require assistance with activities of daily living in order to  
25 live independently and participate in their communities; and

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1           WHEREAS, the assistance of direct-care workers allows  
2 those individuals with disabilities to live with dignity,  
3 safety and independence in their own homes and communities and  
4 in the most integrated settings appropriate to their needs and  
5 preferences; and

6           WHEREAS, home- and community-based services provided by  
7 direct-care workers provide lower-cost alternatives to  
8 institutional care and reduce rates of hospitalization for the  
9 individuals they serve; and

10          WHEREAS, the direct-care workforce is the single most  
11 significant factor in delivering quality home-care services;  
12 and

13          WHEREAS, an increasing number of direct-care workers will  
14 be needed to provide home- and community-based services as the  
15 demand for these services increases with the growth of the  
16 population of seniors and persons with disabilities living in  
17 New Mexico; and

18          WHEREAS, New Mexico is currently experiencing a shortage  
19 of direct-care workers, and the median caregiver turnover rate  
20 has been found in some studies to be as high as sixty percent;  
21 and

22          WHEREAS, the lack of sufficient caregivers and turnover of  
23 caregiver staff are linked to interruptions in continuity of  
24 care, reduced quality of care, poorer health outcomes, reduced  
25 quality of life and a heavier strain placed on already

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1 overburdened family caregivers; and

2 WHEREAS, the lack of sufficient caregivers and turnover of  
3 caregiver staff are also linked to increased costs for the  
4 state due to preventable crises, individuals being forced to  
5 enter higher-cost institutional care and the loss to the  
6 workforce of family caregivers, especially women, who must make  
7 up for the lack of adequate caregiving resources; and

8 WHEREAS, family caregivers are often forced to quit their  
9 jobs or reduce employment hours to provide needed services; and

10 WHEREAS, the direct-care workforce is the fastest-growing  
11 employment sector in the state; and

12 WHEREAS, the majority of New Mexico's direct-care workers  
13 live in poverty and often must rely on public benefits to  
14 supplement their salaries; and

15 WHEREAS, efforts to extend basic workforce wage and  
16 overtime protections are essential to improving the  
17 sustainability of the direct-care workforce; and

18 WHEREAS, the medicaid program is the single largest payer  
19 for long-term services and supports in the state through  
20 programs such as the developmental disabilities waiver program  
21 and the community benefit program in centennial care; and

22 WHEREAS, the United States department of labor has issued  
23 new regulations under the federal Fair Labor Standards Act of  
24 1938 that include requirements that most direct-care workers  
25 providing assistance in the home be paid at least the federal

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1 minimum wage and that they be paid for overtime and travel  
2 expenses; and

3 WHEREAS, the Americans with Disabilities Act of 1990 and  
4 *Olmstead v. L.C.* require that state programs must serve  
5 individuals with disabilities in the most integrated setting  
6 appropriate for their needs and preferences; and

7 WHEREAS, in implementing the new federal Fair Labor  
8 Standards Act of 1938 regulations, the state medicaid program  
9 must review its policies and programs to ensure that they  
10 comply with the Americans with Disabilities Act of 1990 and the  
11 *Olmstead* decision;

12 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE  
13 STATE OF NEW MEXICO that the New Mexico direct caregivers  
14 coalition be requested to convene a task force to study direct-  
15 care programs in the state medicaid program and make  
16 recommendations for both short- and long-term actions to ensure  
17 that the state is in compliance with all applicable federal  
18 laws; and

19 BE IT FURTHER RESOLVED that the task force be requested to  
20 make recommendations to promote a stable and growing workforce  
21 to meet the needs of New Mexico's seniors and persons with  
22 disabilities who need long-term services and supports to live  
23 independently in their communities; and

24 BE IT FURTHER RESOLVED that the task force include, among  
25 others, representatives of the medical assistance division of

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1 the human services department; the developmental disabilities  
2 supports division of the department of health; the aging and  
3 long-term services department; the workforce solutions  
4 department; organizations and individuals that represent New  
5 Mexico direct-care workers and agencies employing caregivers,  
6 direct-care workers who have taken leadership roles in  
7 improving working conditions; senior and disability rights  
8 organizations that represent the interests of consumers of  
9 direct-care services; persons with disabilities and seniors who  
10 employ or direct the work of a direct-care worker; groups that  
11 represent family caregivers; persons who act or have recently  
12 acted as family caregivers; and other interested parties; and

13 BE IT FURTHER RESOLVED that the task force in its first  
14 report be requested to include recommendations for near-term  
15 changes to the state's home- and community-based services  
16 medicaid programs to comply with recent federal regulatory  
17 provisions; and

18 BE IT FURTHER RESOLVED that the task force be requested to  
19 include in its second report recommendations to promote long-  
20 term stability and expansion of the direct-care workforce to  
21 meet the growing needs of New Mexico residents for those  
22 services; and

23 BE IT FURTHER RESOLVED that the task force be requested to  
24 submit its first report to the legislative health and human  
25 services committee by October 1, 2017; and

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1 BE IT FURTHER RESOLVED that the task force be requested to  
2 submit its second report to the legislative health and human  
3 services committee by October 1, 2018; and

4 BE IT FURTHER RESOLVED that copies of this memorial be  
5 transmitted to the governor, the executive director of the New  
6 Mexico direct caregivers coalition, the secretary of health,  
7 the secretary of human services, the secretary of aging and  
8 long-term services and the secretary of workforce solutions.