A MEMORIAL

REQUESTING THE ECONOMIC DEVELOPMENT DEPARTMENT TO STUDY THE
EFFECTS OF BELOW-COST SALES ON NEW MEXICO SMALL BUSINESSES.

    WHEREAS, fair and healthy competition in the marketplace
provides maximum benefits to New Mexico's small businesses
and residents; and

    WHEREAS, certain marketing practices impair competition
and are contrary to the public interest; and

    WHEREAS, advertising, offers to sell or sales of
commodities at below cost by retailers or wholesalers, with
the intent of inducing the sale of the commodities and of
unfairly diverting trade from a competitor or otherwise
injuring a competitor, impair or prevent fair competition,
slow economic development and are not in the best interest of
the public; and

    WHEREAS, any person who is engaged in the production,
manufacture or distribution of a below-cost commodity for the
purpose of damaging the competition of an established seller,
or a person who intends to sell such a commodity, is engaging
in an activity against the public interest; and

    WHEREAS, the practice of selling merchandise below cost
in order to attract patronage is generally a form of unfair
competition, and such practice causes commercial
dislocations, indirectly burdens and obstructs commerce and

diverts business from dealers who maintain fair prices; and

WHEREAS, such practice can cause bankruptcies and business failures, which result in unemployment, disruption of leases and nonpayment of taxes and loans and contribute to undesirable consequences, including economic depression;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NEW MEXICO that the economic development department be requested to study the impact of below-cost sales on small businesses in New Mexico; and

BE IT FURTHER RESOLVED that the economic development department report its findings to the appropriate interim legislative committee by November 2012; and

BE IT FURTHER RESOLVED that a copy of this memorial be transmitted to the economic development department.