

1 A JOINT MEMORIAL

2 RECOGNIZING THE COMMUNITY OF CHIMAYO'S CHILE FARMERS, WHO  
3 FARM THE NATIVE CHIMAYO CHILE STRAINS IN THE GEOGRAPHICAL  
4 AREA OF CHIMAYO, AS THE RIGHTFUL OWNERS OF THE NAMES CHIMAYO,  
5 CHIMAYO RED, CHIMAYO GREEN AND CHIMAYO CHRISTMAS FOR CHILE  
6 AND AS TREASURERS OF A LIVING HEIRLOOM OF NORTHERN NEW MEXICO  
7 HISPANIC CULTURAL, FOOD AND AGRICULTURAL TRADITIONS;  
8 REQUESTING THE NEW MEXICO DEPARTMENT OF AGRICULTURE, WITH  
9 ASSISTANCE FROM THE ATTORNEY GENERAL, TO STUDY THE ISSUE OF  
10 TRADEMARKS AND COPYRIGHTS OF COMMUNITY FARM PRODUCTS.

11  
12 WHEREAS, it is the desire of the New Mexico legislature  
13 that the name "Chimayo" for chile shall continue to be the  
14 name that identifies the native strains of chile that were  
15 inherited from the traditional families who founded and named  
16 the village of Chimayo, New Mexico; and

17 WHEREAS, the 2005 New Mexico state university report,  
18 "Genetic Diversity of Chile Landraces from Northern New  
19 Mexico, Colorado and Mexico", identifies four Chimayo chile  
20 strains or landraces from among the seventeen native chile  
21 strains in northern New Mexico; and

22 WHEREAS, in 2005, the New Mexico legislature recognized  
23 Chimayo chile as a living heirloom of northern New Mexico  
24 Hispanic cultural, food and agricultural traditions; and

25 WHEREAS, the chiles known as Chimayo chile, Chimayo red, SJM 35  
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1 Chimayo green and Chimayo Christmas chile compose specific  
2 landraces particularly adapted to and cultivated in the  
3 geographical area of Chimayo; and

4 WHEREAS, the name Chimayo in relation to chile signifies  
5 the fruit from the native chile seeds grown in the  
6 geographical area of Chimayo, New Mexico; and

7 WHEREAS, the name Chimayo green denotes, in New Mexico's  
8 oral history, the name of the native strains of Chimayo chile  
9 when they are in the first stage of edible maturation when  
10 the color of the chile is green; and

11 WHEREAS, the name Chimayo red indicates, in New Mexico's  
12 chile traditions, the name of the native strains of Chimayo  
13 chile when they are fully mature, are at the seed-bearing  
14 stage and are the color red; and

15 WHEREAS, the name Chimayo Christmas chile means, in New  
16 Mexico's hottest traditions, the name of the native strains  
17 of Chimayo chile when the fruit is part green and part red;  
18 and

19 WHEREAS, it is right and proper for the names that grew  
20 out of the chile farming traditions of New Mexico to be  
21 maintained for the benefit of those who continue the living  
22 traditions from which they came; and

23 WHEREAS, the chile farmers, former, present and future,  
24 in the community of Chimayo are keepers of the living  
25 traditions that brought about the use of the name Chimayo for

1 chile; and

2 WHEREAS, in confirmation of the common law, wherein the  
3 Chimayo chile farmers' cultivation history contributed to  
4 four hundred five years of northern New Mexico's chile  
5 growing and language traditions, it is right and proper for  
6 New Mexico to recognize the community of Chimayo's chile  
7 farmers, who cultivate the native Chimayo chile strains in  
8 the geographical area of Chimayo, as the rightful owners of  
9 the trademark and trade name "Chimayo", including Chimayo  
10 red, Chimayo green, and Chimayo Christmas, for the heirloom  
11 chile that they continue to grow;

12 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE  
13 STATE OF NEW MEXICO that the community of Chimayo's chile  
14 farmers, who farm the native Chimayo chile strains in the  
15 geographical area of Chimayo, be recognized as the rightful  
16 owners of the name "Chimayo", having full authority to  
17 register the Chimayo name and any logo incorporating such  
18 name, with the United States patent and trademark office and  
19 other appropriate entities; to establish the rules of usage,  
20 certification standards and manner of control of the Chimayo  
21 name, logo and trademarks; and to enforce their rights in  
22 such name, logo and trademarks against any third parties  
23 using or registering the Chimayo name improperly on chile or  
24 related goods and services; and

25 BE IT FURTHER RESOLVED that the New Mexico department of SJM 35  
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1 agriculture be requested to study the trademarking and  
2 copyrighting of community farm products on behalf of the  
3 community of Chimayo chile farmers, who keep farming Chimayo  
4 chile in Chimayo, with the goal of enforcing their rights in  
5 name, logo and trademarks relative to third parties using or  
6 registering the Chimayo name improperly on chile or related  
7 goods and services; and

8 BE IT FURTHER RESOLVED that the attorney general be  
9 requested to assist the New Mexico department of agriculture  
10 with information on trademark and copyright law as it relates  
11 to agricultural products and their marketing or promotion;  
12 and

13 BE IT FURTHER RESOLVED that the director of the New  
14 Mexico department of agriculture report the study's findings  
15 and make recommendations for legislation no later than  
16 December 2007 to the appropriate committee designated by the  
17 New Mexico legislative council to review this issue; and

18 BE IT FURTHER RESOLVED that a copy of this memorial be  
19 transmitted to the director of the New Mexico department of  
20 agriculture and the attorney general. \_\_\_\_\_

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