

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE MEMORIAL 81

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Richard D. Vigil

A MEMORIAL

REQUESTING COMPANIES THAT PRODUCE, SELL AND LICENSE PATENTED SEEDS TO REFRAIN FROM TAKING LEGAL ACTION AGAINST NEW MEXICO FARMERS WHO UNINTENTIONALLY POSSESS THOSE SEEDS AND REQUESTING THE CONGRESS OF THE UNITED STATES TO CONSIDER PASSING A LAW TO PROHIBIT THE PATENTING OF LIVING MICROORGANISMS.

WHEREAS, many New Mexico farmers opt to cultivate their crops using patented seeds, while other New Mexico farmers opt to cultivate their crops without using patented seeds, and often these farmers are neighbors; and

WHEREAS, it is difficult to protect a farmer's crops from seeds, both patented and unpatented, that are transferred from a neighboring farmer's property; and

WHEREAS, a farmer who comes into possession of patented

underscored material = new
~~[bracketed material]~~ = delete

underscored material = new
~~[bracketed material] = delete~~

1 seeds without having purchased or licensed the patented seeds
2 may be in violation of federal patent law, regardless of
3 whether or not the farmer knowingly came into possession of
4 those patented seeds; and

5 WHEREAS, it is difficult for many farmers to know whether
6 they are violating federal patent law, which makes it difficult
7 for those farmers to operate their farms; and

8 WHEREAS, New Mexico farmers who opt to cultivate their
9 crops without using patented seeds would be able to operate
10 their farms more easily if they did not need to fear being the
11 target of legal action taken by companies that produce, sell
12 and license patented seeds; and

13 WHEREAS, the New Mexico farmers who opt to cultivate their
14 crops using patented seeds would not be affected by the
15 cessation of such legal actions; and

16 WHEREAS, in 1980, the United States supreme court, in a
17 five to four decision in *Diamond v. Chakrabarty*, 447 U.S. 303
18 (1980), held that a live, human-made microorganism is
19 patentable subject matter; and

20 WHEREAS, this 1980 United States supreme court decision
21 has had a great impact on New Mexico farmers; and

22 WHEREAS, the congress of the United States has the power
23 to pass a law that a live, human-made microorganism is not
24 patentable subject matter, which would help many New Mexico
25 farmers;

.186930.1

underscoring material = new
~~[bracketed material]~~ = delete

1 NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF
2 REPRESENTATIVES OF THE STATE OF NEW MEXICO that companies that
3 produce, sell and license patented seeds be asked to refrain
4 from taking legal action against New Mexico farmers who
5 unintentionally possess patented seeds; and

6 BE IT FURTHER RESOLVED that the congress of the United
7 States consider passing a law to assert that a live, human-made
8 microorganism is not patentable subject matter; and

9 BE IT FURTHER RESOLVED that the appropriate legislative
10 interim committee be requested to study ways to protect all New
11 Mexico farmers; and

12 BE IT FURTHER RESOLVED that copies of this memorial be
13 transmitted to the New Mexico legislative council and to the
14 members of the New Mexico congressional delegation.