

SENATE 3  
Date 2-4-05  
Re. SB 218

Testimony Before The Montana State Senate  
Judiciary Committee

Re: SB 218  
February 4, 2005  
8:00 am, Rm. 303, Capitol Bldg.

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Good morning Mr. Chairman and members of the Committee. My name is Dan Dutton and I own and operate a farm/ranch operation south of Belfry, MT in Carbon County.

In 1995, before the drought began and with prices at near record highs, the total value of Montana's wheat crop was \$904 million. By 2001, after six years of drought and with prices about \$3/bu, the total value of Montana's wheat crop dropped to \$304 million. This \$600 million drop in value equated to a conservative estimated reduction in tax revenue to Montana of \$232 million in 2001 compared to 1995. That decreased amount approximates Montana's budget shortfall addressed by the 2003 Legislature. The health of Montana's wheat production is central and vital to Montana's economy. Montana's wheat farmers need to focus on the production of the finest wheat in the world, not on litigation.

SB 218 recognizes this and addresses the legal concerns of Montana's wheat farmers—both those who chose to plant genetically engineered (GE) wheat and those who chose not to plant GE wheat once it is commercially introduced into Montana. SB 218 allows Montana's wheat farmers to get ahead of the legal curve regarding litigation related to GE wheat.

You should know that I am not opposed to genetically engineered crops and that in 2004, had GE silage corn planted on my farm. Montana's farmers need all the technology at their disposal to compete successfully with farmers in other states and countries.

When GE wheat is commercially available to Montana's wheat farmers, it will alter the risks that farmers must consider when making decisions about buying seed and planting and marketing their wheat crop. The new risks they will have to consider include possible loss of domestic and export markets and liability. With the introduction of GE wheat, what a farmer's neighbor plants may seriously affect the farmer's own crop. Farmers and seed companies who are responsible for genetically contaminating neighboring fields might be liable for a neighbor's damage based on tort claims of trespass to land, nuisance, negligence, or strict liability. SB 218 addresses this.

SB 218 does not prevent the commercial introduction of GE wheat into Montana. But, it does act as a strong incentive for manufacturers of GE wheat to develop rigorous stewardship programs for their products and correspondingly strong compliance programs. Thus, SB 218 also provides a strong incentive for farmers planting GE wheat to comply with all manufacturer, EPA and USDA requirements. Good documentation of practices used by farmers planting GE wheat will be critical.

Passage of SB 218 will not eliminate the risk to the farmer who chooses to plant GE wheat, but it brings some clarity to the issue of the liability to which he is exposed. Passage of SB 218 is not a guarantee that farmers' legal liabilities are eliminated relating to GE wheat, but he should fall asleep a little easier after a hard day in the field. I urge you to pass SB 218 out of committee with a do pass recommendation. Thank you.