

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION  
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2169

2001 SENATE AGRICULTURE

SB 2169

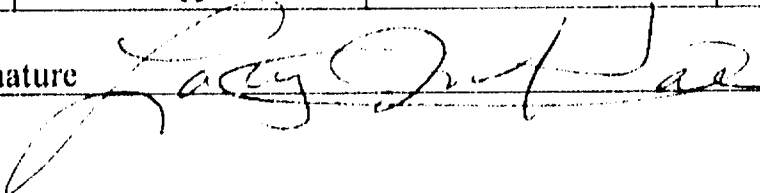
2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2169

Senate Agriculture Committee

☐ Conference Committee

Hearing Date January 25, 2001

Tape Number	Side A	Side B	Meter #
Jan. 25 1	X		0.0 - END
		X	0.0 - 14.6
Jan. 25 2	X		11.3 - 13.3
Committee Clerk Signature 			

Minutes:

JEFF KNUDSON; Seed Arbitration Board Designee of the Agriculture Commissioner, testified in support of this bill. See attached testimony.

SENATOR WANZEK; Through the arbitration process have you been able to successfully settle disputes?

JEFF KNUDSON; It has been mixed, the five cases that I have been involved in one of the cases was successful and no attorneys were involved, there were three rather high profile cases this past summer.

SENATOR KROEPLIN; The seed arbitration in settling dispute, how long has that been around?

JEFF KNUDSON; I think seed arbitration was probably implemented in the early 1990's.

SENATOR URLACHER; Will this move more cases into court?

JEFF KNUDSON; I believe that it will do the opposite.

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Senate Agriculture Committee

Bill/Resolution Number SB 2169

Hearing Date January 25, 2001

RICHARD SCHLOSSER; Seed Arbitration Board, testified in support of this bill.

Going through arbitration before going through the courts was a concern of the Board.

The hearing was closed.

SENATOR KLEIN moved for DO PASS of this bill.

SENATOR NICHOLS seconded the motion.

Roll call vote; 6 Yeas, 0 No, 0 Absent and Not voting.

SENATOR NICHOLS will carry the bill.

Date: 1-25-01  
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2169

Senate \_\_\_\_\_ Agriculture \_\_\_\_\_ Committee \_\_\_\_\_

☐ Subcommittee on \_\_\_\_\_  
or  
☐ Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken DO PASS

Motion Made By SEN KLEIN Seconded By SEN NICHOLS

Senators	Yes	No	Senators	Yes	No
Senator Wanzek - Chairman	✓		Senator Kroeplin	✓	
Senator Erbele - Vice Chairman	✓		Senator Nichols	✓	
Senator Klein	✓				
Senator Urlacher	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment SEN. NICHOLS

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE (410)**  
January 25, 2001 1:50 p.m.

**Module No: SR-13-1626**  
**Carrier: Nichols**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2169: Agriculture Committee (Sen. Wanzek, Chairman) recommends DO PASS**  
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2169 was placed on the  
Eleventh order on the calendar.

2001 HOUSE AGRICULTURE

SB 2169

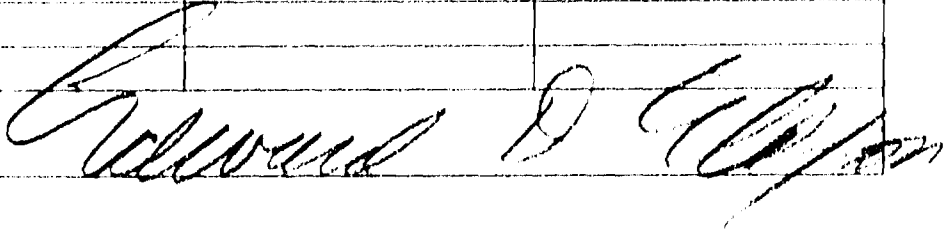
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2169

House Agriculture Committee

☐ Conference Committee

Hearing Date 3--09--01

Tape Number	Side A	Side B	Meter #
THREE	A		612 TO 1079
Committee Clerk Signature 			

Minutes:

CHAIRMAN NICHOLAS: WE WILL OPEN THE HEARING ON SB 2169

JEFF KNUTSON: SEED ARBITRATION BOARD DESIGNEE OF THE AGRICULTURE

COMMISSIONER: I am here to support SB 2169. Please see attached testimony.

REPRESENTATIVE LLOYD: IF A MEMBER WAS ADDED WOULD HE BE VOTING  
OR NON VOTING.

JEFF KNUTSON: HE WOOD BE A VOTING MEMBER.

CHAIRMAN NICHOLAS: ANY OTHER QUESTION COMMITTEE MEMBERS. O.K.

REPRESENTATIVE OF STATE SEED DEPARTMENT: WE SUPPORT TAKING THAT  
ACTION.

REPRESENTATIVE PIETSCH: What this would do is take the seed commissioner by that  
supreme court action, this would remove the conflict of interest and allow the seed commissioner  
to serve on the arbritration board and changing the mandate would take away any conflict of



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House Agriculture Committee

Bill/Resolution Number SB 2169

Hearing Date 3--09--01

interest there. Is that right and also for regulating and being responsible for regulating and also sitting on the board.

JEFF KNUTSON: That is my understanding. Change from mandatory to voluntary.

CHAIRMAN NICHOLAS:: ANYONE ELSE WISHING TO SUPPORT OR IN  
OPPOSITION TO THIS BILL. WE WILL CLOSE ON HB 2169 1A:1079

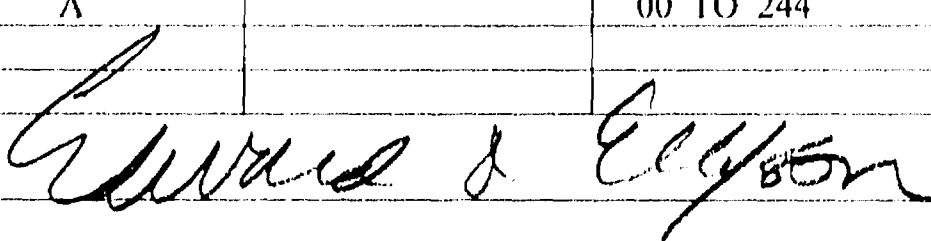
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2169

House Agriculture Committee

☐ Conference Committee

Hearing Date 3--16--01

Tape Number	Side A	Side B	Meter #
TWO	A		00 TO 244
Committee Clerk Signature 			

Minutes:

CHAIRMAN NICHOLAS: WE WILL OPEN ON SB 2169

THE CHAIR WILL ENTERTAIN A MOTION ON 2169. MOTION FOR A DO PASS

MADE BY REP. JOHNSON AND WAS SECONDED BY REPRESENTATIVE LLOYD.

THE CLERK WILL TAKE THE ROLL. THERE WERE ""12 YES""0 NO""3 ABSENT"

REPRESENTATIVE SANDVIG WILL CARRY THE BILL.,

WE WILL CLOSE ON 2169

3-16-01

Date:  
Roll Call Vote #:

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO.

SB 2169

House AGRICULTURE

Committee

☐ Subcommittee on \_\_\_\_\_  
or  
☐ Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken DO PASS

Motion Made By JOHNSON Seconded By LLOYD

Representatives	Yes	No	Representatives	Yes	No
Eugene Nicholas, Chairman	✓		Rod Frelich	✓	
Dennis E. Johnson - Vice Chairman	✓		Doug Lemieux		
Rick Berg	✓		Philip Mueller	✓	
Michael Brandenburg			Kenton Onstad	✓	
Joyce Kingsbury	✓		Sally M. Slandvig	✓	
Myron Koppang	✓		Dennis J. Renner		
Edward H. Lloyd	✓		Dwight Wrangham	✓	
Bill Pietsch	✓				

Total (Yes)

12

No

0

Absent

3

Floor Assignment

SANDOL

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE (410)**  
March 16, 2001 2:27 p.m.

**Module No: HR-46-5915**  
**Carrier: Sandvig**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2169: Agriculture Committee (Rep. Nicholas, Chairman) recommends DO PASS**  
(12 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). SB 2169 was placed on the  
Fourteenth order on the calendar.

2001 TESTIMONY

SB 2169

**Testimony of Jeff Knudson  
Seed Arbitration Board Designee of the  
Agriculture Commissioner  
Senate Bill 2169  
Senate Agriculture Committee  
Roosevelt Park Room  
January 25, 2000**

---

Chairman Wanzek, members of the Committee, my name is Jeff Knudson. I am the Agriculture Commissioner's designee to and Chairman of the North Dakota Seed Arbitration Board. I am here to support Senate Bill 2169. Senate Bill 2169 does two things:

1. It removes the mandate for seed arbitration of seed-related disputes from NDCC § 4-09-20.2.
2. It adds the State Seed Commissioner as a member of the North Dakota Seed Arbitration Board.

Seed arbitration is currently a legal prerequisite to a civil action for settlement of a dispute involving a seed transaction under NDCC § 4-09-20.2. On September 13, 2000, the North Dakota Supreme Court adopted administrative rules regarding Alternative Dispute Resolution. Rule 8.8 (attached) was adopted as part of the North Dakota Rules of Court and becomes effective on March 1, 2001. Rule 8.8 requires parties in civil cases to discuss early Alternative Dispute Resolution (ADR) and to file a statement (attached) with the district court detailing ADR participation that has or is planned to occur.

Effectively, the adoption of Rule 8.8 to the North Dakota Rules of Court will mandate disputing parties to consider ADR prior to civil action. However, the parties will consider which type of ADR is appropriate, or may state their reason as to why they believe ADR is not appropriate for the dispute in question. If the legal prerequisite for arbitration were eliminated from NDCC § 4-09-20.2, the requirement of parties to consider ADR would shift to the North Dakota Rules of Court and provide disputing parties the flexibility to choose the form of ADR they believe is most appropriate. Removing the legal prerequisite from NDCC § 4-09-20.2 would also eliminate the liability of the State Seed Commissioner to enforce compliance of the current seed arbitration requirement. Seed arbitration would remain available and be an obvious choice as one of the low-cost options of ADR to be considered by parties involved in seed disputes.

This bill would also add the State Seed Commissioner as a member of the Seed Arbitration Board. Most seed arbitration cases involve seed germination or other seed performance complaints. Due to the nature of disputes heard by the Board, it makes sense that the State Seed Commissioner be included as a Board member. The Seed Commissioner's expertise on these issues would benefit and enhance the role of the Seed Arbitration Board.

I urge your favorable consideration of this bill. Thank you.



North Dakota Supreme Court Notices ▲  
Rules Relating to Alternative Dispute Resolution - As  
Adopted - 20000199

RULE 8.8 ALTERNATIVE DISPUTE RESOLUTION

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(a) Parties to civil suits are encouraged to participate in alternative dispute resolution ("ADR") at an early stage of the case under N.D.R.Civ.P. 16(a)(6), and all parties in civil cases not excluded from application of this rule must discuss early ADR participation and the appropriate timing of such effort. After the filing of an answer, each party must within 60 days serve and file a statement with the district court (in the form shown in appendix F) detailing ADR participation that has occurred or is planned to occur. The statement must certify that the parties have discussed ADR participation with each other and that the parties' lawyers have discussed ADR with their clients. The statement must also set forth whether ADR will be court-sponsored under this rule or performed by a private neutral. If a party does not plan to participate in ADR, the statement must contain the reason for not participating. The statement may be incorporated into a joint informational statement under N.D.R.Ct. 8.3(a). Cases which are limited to review of an administrative decision on an existing record are excluded from this authorization, except upon specific designation by a judicial officer.

(b) Confidentiality. The court-sponsored ADR process is confidential and not open to the public. Disclosure of confidential ADR communications is prohibited, except as authorized by the court and agreed to by the parties.

(1) Statements made and documents produced in non-binding ADR processes which are not otherwise discoverable are not subject to discovery or other disclosure and are not admissible into evidence for any purpose at trial.

(2) The neutral conducting an ADR proceeding may not be called to testify in connection with any dispute relating to the ADR proceeding or its result except upon written agreement of the parties and the concurrence of the district court, or when otherwise required by law.

(3) Notes, records, and recollections of the neutral are confidential, which means that they shall not be disclosed to the parties, the public, or anyone other than the neutral unless all parties and the neutral agree to such disclosure or such disclosure is required by law or other applicable professional codes. No record shall be made without the agreement of both parties, except for a memorandum of issues that are resolved.



(c) The primary forms of ADR offered by the district court are mediative court-sponsored settlement conferences other than pretrial conferences under N.D.R.Civ.P. 16 and domestic relations mediation. Additionally, parties are encouraged to arrange and participate in ADR in the private market as an alternative to court-sponsored ADR.

(d) A sliding fee schedule based on participants' assets and income will be established by administrative order and applied to court-sponsored mediation services in all cases involving domestic relations.

(e) The trial judge will not serve as the settlement judge under this rule. The trial judge will not be informed of any positions taken by parties during ADR and will only be advised whether the case settled.

(f) Administration. Each district court will designate by order of appointment a judicial officer or employee for its district to serve as program administrator to implement, oversee, and evaluate the district's ADR program.

(g) Disqualification. A judicial officer or employee conducting an ADR proceeding may be disqualified for bias or prejudice or for a conflict of interest.

(1) Any party who believes a judicial officer or employee conducting an ADR proceeding has a conflict of interest must file a request for recusal at the earliest opportunity.

(2) Upon disqualification of a judicial officer or employee from conducting an ADR proceeding, the presiding judge will assign another judicial officer or employee to conduct further ADR proceedings.

(h) Availability. Court-sponsored ADR will depend on available resources.

#### EXPLANATORY NOTE

Rule 8.8 was adopted, effective March 1, 2001. Rule 8.8 is an adaptation of United States District Court, District of North Dakota, Local Rule 16.2.

SOURCES: Joint Procedure Committee Minutes of January 28-29, 1999, pages 7-12; May 6-7, 1999, pages 7-11.

STATUTES AFFECTED:

REPEALED: N.D. Sup. Ct. Admin. R. 28, effective March 1, 2001.

## APPENDIX F. RULE 8.8 INFORMATIONAL STATEMENT

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF \_\_\_\_\_

JUDICIAL DISTRICT \_\_\_\_\_

Civil No. \_\_\_\_\_

A.B.,

Plaintiff,

vs.

C.D.,

Defendant.

N.D.R.Ct. 8.8  
INFORMATIONAL  
STATEMENT

## a. ADR PROCESS (check one):

\_\_\_\_\_ Counsel, after discussing ADR with their clients, agree that ADR is appropriate and choose the following:

\_\_\_\_\_ Mediation

\_\_\_\_\_ Arbitration (non-binding)

\_\_\_\_\_ Arbitration (binding)

\_\_\_\_\_ Court-Sponsored Settlement Conference

\_\_\_\_\_ Other (explain) \_\_\_\_\_

\_\_\_\_\_ Counsel, after discussing ADR with their clients, agree that ADR is NOT appropriate because:

\_\_\_\_\_ the case implicates the federal or state constitution

\_\_\_\_\_ domestic violence has occurred between the parties

\_\_\_\_\_ other (explain) \_\_\_\_\_

## b. PROVIDER (check one):

\_\_\_\_\_ The parties have selected the following ADR neutral: \_\_\_\_\_

\_\_\_\_\_ The parties would like ADR conducted by a judicial officer or employee and request the Court to appoint one.

\_\_\_\_\_ The parties cannot agree on an ADR neutral and request the Court to appoint one.

\_\_\_\_\_ The parties agreed to select an ADR neutral on or before \_\_\_\_\_

## c. DEADLINE: The parties recommend that the ADR process be completed by \_\_\_\_\_

Signed: \_\_\_\_\_  
Lawyer for (Petitioner)

Attorney ID #: \_\_\_\_\_  
Firm: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Date: \_\_\_\_\_

Signed \_\_\_\_\_  
Lawyer for (Respondent)

Attorney ID #: \_\_\_\_\_  
Firm: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Date: \_\_\_\_\_

[Adopted effective March 1, 2001.]

**Testimony of Jeff Knudson  
Seed Arbitration Board Designee of the  
Agriculture Commissioner  
Senate Bill 2169  
House Agriculture Committee  
Peace Garden Room  
March 9, 2001**

---

Chairman Nicholas and members of the Committee, my name is Jeff Knudson. I am the Agriculture Commissioner's designee to and Chairman of the North Dakota Seed Arbitration Board. I am here to support Senate Bill 2169. Senate Bill 2169 does two things:

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Effectively, the adoption of Rule 8.8 to the North Dakota Rules of Court will mandate disputing parties to consider ADR prior to civil action. However, the parties will consider which type of ADR is appropriate, or may state their reason as to why they believe ADR is not appropriate for the dispute in question. If the legal prerequisite for arbitration were eliminated from NDCC § 4-09-20.2, the requirement of parties to consider ADR would shift to the North Dakota Rules of Court and provide disputing parties the flexibility to choose the form of ADR they believe is most appropriate. Removing the legal prerequisite from NDCC § 4-09-20.2 would also eliminate the liability of the State Seed Commissioner to enforce compliance of the current seed arbitration requirement. Seed arbitration would remain available and be an obvious choice as one of the low-cost options of ADR to be considered by parties involved in seed disputes.

This bill would also add the State Seed Commissioner as a member of the Seed Arbitration Board. Most seed arbitration cases involve seed germination or other seed performance complaints. Due to the nature of disputes heard by the Board, it makes sense that the State Seed Commissioner be included as a Board member. The Seed Commissioner's expertise on these issues would benefit and enhance the role of the Seed Arbitration Board.

I urge your favorable consideration of this bill. Thank you.

North Dakota Supreme Court Rules N.D.R.Ct. ▲

Effective March 1, 2001

**RULE 8.8 ALTERNATIVE DISPUTE RESOLUTION**

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(c) The primary forms of ADR offered by the district court are mediative court-sponsored settlement conferences other than pretrial conferences under N.D.R.Civ.P. 16 and domestic relations mediation. Additionally, parties are encouraged to arrange and participate in ADR in the private market as an alternative to court-sponsored ADR.

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#### EXPLANATORY NOTE

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SOURCES: Joint Procedure Committee Minutes of January 28-29, 1999, pages 7-12; May 6-7, 1999, pages 7-11.

STATUTES AFFECTED:

REPEALED: N.D. Sup. Ct. Admin. R. 28, effective March 1, 2001.

CROSS-REFERENCE: N.D.R.Ct. 8.9 (Roster of Alternative Dispute Resolution Neutrals).

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# North Dakota Supreme Court Rules N.D.R.Ct.▲

## APPENDIX F. RULE 8.8 ALTERNATIVE DISPUTE RESOLUTION STATEMENT

STATE OF NORTH DAKOTA  
COUNTY OF \_\_\_\_\_

IN DISTRICT COURT  
\_\_\_\_\_ JUDICIAL DISTRICT

A.B., )  
Plaintiff, )

Civil No. \_\_\_\_\_

vs. )

### N.D.R.Ct. 8.8 ALTERNATIVE DISPUTE RESOLUTION STATEMENT

C.D., )  
Defendant.)

- a. ALTERNATIVE DISPUTE RESOLUTION ("ADR") PROCESS (check one):
- \_\_\_\_\_ Counsel, after discussing ADR with their clients, agree that ADR is appropriate and choose the following:
- \_\_\_\_\_ Mediation
- \_\_\_\_\_ Arbitration (non-binding)
- \_\_\_\_\_ Arbitration (binding)
- \_\_\_\_\_ Court-Sponsored Settlement Conference
- \_\_\_\_\_ Other (explain) \_\_\_\_\_
- \_\_\_\_\_ Counsel, after discussing ADR with their clients, agree that ADR is NOT appropriate because:
- \_\_\_\_\_ the case implicates the federal or state constitution
- \_\_\_\_\_ domestic violence has occurred between the parties
- \_\_\_\_\_ other (explain) \_\_\_\_\_
- b. PROVIDER (check one):
- \_\_\_\_\_ The parties have selected the following ADR neutral: \_\_\_\_\_
- \_\_\_\_\_ The parties would like ADR conducted by a judicial officer or employee and request the Court to appoint one.
- \_\_\_\_\_ The parties cannot agree on an ADR neutral and request the Court to appoint one.
- \_\_\_\_\_ The parties agreed to select an ADR neutral on or before \_\_\_\_\_
- c. DEADLINE: The parties recommend that the ADR process be completed by \_\_\_\_\_

Signed: \_\_\_\_\_  
Lawyer for  
(Petitioner)  
Attorney ID #: \_\_\_\_\_  
Firm: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Date: \_\_\_\_\_

Signed \_\_\_\_\_  
Lawyer for (Respondent)  
Attorney ID #: \_\_\_\_\_  
Firm: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Date: \_\_\_\_\_

[Adopted effective March 1, 2001.]

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