

# MICROFILM DIVIDER

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



ROLL NUMBER

DESCRIPTION

2353

2001 SENATE NATURAL RESOURCES

SB 2353

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2353

Senate Natural Resources Committee

Conference Committee

Hearing Date 2-8-01

Tape Number	Side A	Side B	Meter #
		X	Start - 19.3
2-9-01	X		1.7 - 10.9
Committee Clerk Signature <i>J. Ann ...</i>			

Minutes:

SENATOR FISCHER opened the hearing on SB 2353.

SENATOR CHRISTMANN of District 33 cosponsor of SB 2353 introduced the bill on behalf of a constituent how hunts on a family property that is mixed with school land and he is restricted to the area where he can hunt. This bill would allow a disabled person to hunt on school land only if they have permission from the lessee of the land.

MIKE BRAND, Director of Surface Management of the North Dakota State Land Department testified in a neutral position of SB 2353 (See attached testimony). He also presented a set of amendments prepared by his department. History was given as to the permission given to the disabled for hunting on school land and how some of those procedures had been against the way the law was written.

MIKE DONAHUE, representing the North Dakota Wildlife Federation and the United Sportsmen of North Dakota testified in opposition to SB 2353. He submitted a list a amendments that is were accepted could then accept the bill.

RON WANNER, owner of the Knife River Ranch testified in more of a neutral position than opposed. He likes the idea of asking the lessee for permission giving awareness of the surface rights of the lessee.

SENATOR FISCHER closed the hearing of SB 2353.

**FEBRUARY 9, 2001**

SENATOR FISCHER reopened discussion on SB 2353.

SENATOR CHRISTMANN proposed amendments that were prepared by the legislative council and were reviewed by the Committee.

SENATOR CHRISTMANN made a motion to adopt the amendment.

SENATOR TOLLEFSON second the motion.

SENATOR FISCHER called for roll vote # 1. The vote indicated 7 YAYS, 0 NAYS AND 0 ABSENT OR NOT VOTING.

SENATOR TOLLEFSON made a motion for a "DO PASS as AMENDED" of SB 2353.

SENATOR EVERY second the motion.

Discussion was held and clarification was asked of Mike Brand of the State Land Department and Roger Rostuet of the Game & Fish Department.

SENATOR FISCHER called for roll vote # 2. The vote indicated 7 YAYS, 0 NAYS, 0 ABSENT OR NOT VOTING.

SENATOR CHRISTMANN will carry SB 2353.

PROPOSED AMENDMENT TO SENATE BILL 2353

Page 1, line 1, remove "create and enact a new section to chapter 15-08 of the North Dakota"

Page 1, line 2, remove "Century Code, relating to access to school lands; and to"

Page 1, remove lines 6 through 11

Page 1, line 18, remove "lands belonging"

Page 1, line 19, replace "to the state known as school lands" with "lands controlled by the Board of University and School Lands"

Page 1, line 20, replace "lessee" with "Commissioner of University and School Lands"

Page 1, line 21, replace "school lands" with "lands controlled by the Board of University and School Lands"

Re-number accordingly

PROPOSED AMENDMENTS TO SENATE BILL NO. 2353

Page 1, line 1, remove "create and enact a new section to chapter 15-08 of the North Dakota"

Page 1, line 2, remove "Century Code, relating to access to school lands; and to"

Page 1, line 4, remove "school" and after "lands" insert "controlled by the board of university  
and school lands"

Page 1, remove lines 6 through 11

Page 1, line 18, remove "belonging"

Page 1, line 19, replace "to the state known as" with "controlled by the board of university and"

Page 1, line 20, after "lessee" insert "and the commissioner of university and school lands"

Page 1, line 21, remove "school" and after "lands" insert "controlled by the board of university  
and school lands"

Re-number accordingly

Date: 2-9-01  
Roll Call Vote #: |

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2353

Senate NATURAL RESOURCES Committee

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

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

Action Taken To adopt Amendment #57-10257.0 301

Motion Made By Christmann Seconded By Tollefson

Senators	Yes	No	Senators	Yes	No
Sen. Thomas Fischer, Chairman	✓		Sen. Michael A. Every	✓	
Sen. Ben Tollefson, Vice Chair.	✓		Sen. Jerome Kelsh	✓	
Sen. Randel Christmann	✓				
Sen. Layton Freborg	✓				
Sen. John T. Traynor	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment \_\_\_\_\_

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

Date: 2-9  
Roll Call Vote #: 2

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2353

Senate NATURAL RESOURCES Committee

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

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

Action Taken Do Pass as Amended

Motion Made By Tollefson Seconded By Every

Senators	Yes	No	Senators	Yes	No
Sen. Thomas Fischer, Chairman	✓		Sen. Michael A. Every	✓	
Sen. Ben Tollefson, Vice Chair.	✓		Sen. Jerome Kelsh	✓	
Sen. Randel Christmann	✓				
Sen. Layton Freborg	✓				
Sen. John T. Traynor	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Christmann

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



**REPORT OF STANDING COMMITTEE**

**SB 2353: Natural Resources Committee (Sen. Fischer, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2353 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "create and enact a new section to chapter 15-08 of the North Dakota"

Page 1, line 2, remove "Century Code, relating to access to school lands; and to"

Page 1, line 4, remove "school" and after "lands" insert "controlled by the board of university and school lands"

Page 1, remove lines 6 through 11

Page 1, line 18, remove "belonging"

Page 1, line 19, replace "to the state known as" with "controlled by the board of university and"

Page 1, line 20, after "lessee" insert "and the commissioner of university and school lands"

Page 1, line 21, remove "school" and after "lands" insert "controlled by the board of university and school lands"

Renumber accordingly

2001 HOUSE NATURAL RESOURCES

SB 2353

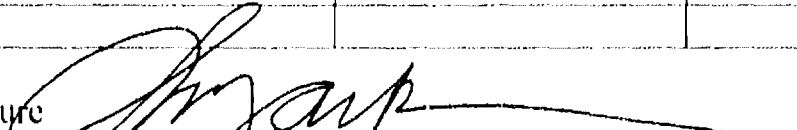
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2353

House Natural Resources Committee

Conference Committee

Hearing Date March 2, 2001

Tape Number	Side A	Side B	Meter #
1	x		3255 to 4755
Committee Clerk Signature 			

Minutes:

Chairman Earl Rennerfeldt, Vice Chair Jon O. Nelson, Rep. Brekke, Rep. DeKrey, Rep. Droydal, Rep. Galvin, Rep. Keiser, Rep. Klein, Rep. Nottestad, Rep. Porter, Rep. Weiler, Rep. Hanson, Rep. Kelsh, Rep. Solberg, Rep. Winrich.

Chairman Rennerfeldt: I will open the hearing on SB 2353. Read the title.

Sen. Christmann - District 33: I don't have a lot of detailed information on the bill, it is very simple. A constituent of mine who is disabled has family that ranches and they rent some school land that falls in the middle of their ranch and he would like to hunt with them. But, we have a provision to accommodate people with handicaps like that so that they can hunt and shoot from their motor vehicle. In the process of getting a license for that, they have to show that they have permission from the person who owns the property and send that in and they can get that handicap permit. Well, what he found out is, he can get this as long as it is on private land, but on

the school land he was not able to, the state was unable to grant that permission. So I had the bill introduced so the permission would be automatic from the state as long as they had permission from the farmer who leases the land from the state. That actually went to far. There are some unique situations where we wouldn't want that. But with the amendment which was brought in from the Board of University and School lands that clarifies just which it is, which is land controlled by the Board of University and School land, but does not cover areas set aside for school lands and nesting and things like that. Then down on the bottom, it clarifies the amendments that they would have to have permission both from the Board of University and School Lands and from the lessee. We are not giving them permission to go out and tear around on land where someone has leased it, they have to get permission and also the State has to give permission. It just allows the State to give them permission. That is the point of the bill.

Rep. Nottestad: Can they get these permits to travel on Federal Land that no motor vehicle can travel on?

Christmann: I don't know, I didn't research Federal Lands. I suspect there has to be more handicapped people with access to school lands situations than this, I think it is limited.

Rep. Winrich: Would this allow motor vehicle travel where otherwise it is not permitted? Are we allowing vehicles on road less areas where they normally wouldn't be?

Christmann: It would allow them onto areas that if we don't pass this, they can't go. That is what we normally consider school lands, lands controlled by the Board of University and School Lands. If we pass this, on those lands, they will only be able to do what they currently can do on private land, which is they can't go tearing up and down the coulees and go shooting out of the pickup. My understanding is they drive in somewhere and perch up on a spot and are able to

shoot out of the vehicle if wildlife comes along. This allows them to do on school land, just what they can do on private land right now.

Rep. Winrich: How many handicapped hunters there are in the state that this might affect?

Christmann: Wasn't it roughly right around 2000?

Rep. Winrich: 2000, wow!

Christmann: But again, I used to rent some school land, I don't any more. I wouldn't have just let everybody go in there with their vehicles. I don't think it will open things wide up, the people that are renting that and paying cash rent on that, are not going to want everything torn up. I might let one or two individuals in.

Rep. Galvin: How do you determine the degree of handicap?

Christmann: I believe it is determined on the same basis with your handicapped parking permit. If they qualify for that, they qualify for the hunting permit.

Vice Chair Nelson: Currently on state land, unless they have a special need, that land is open for hunting, so the permission you are requiring here is for the vehicle access. Is that correct?

Christmann: That is right.

Chairman Rennerfeldt: Any other questions of the committee. Anyone else care to testify in favor of this bill?

Dean Hildebrand: We certainly don't have any objections to it.

Mike Donahue: We are in favor of this bill. (see written testimony).

Mike Brand - State Land Department: I am not here to testify today, however, I would be happy to answer any questions you might have.

Chairman Rennerfeldt: Any questions of the committee?

Rep. Nottestad: Are there any school lands now that are road less where vehicles are not allowed to enter as a renter or anyone else?

Brand: The school lands are open for non vehicular access, but there aren't any that are declared road less. The land board has said they don't want people driving all over the school lands simply because these lands are leased for agricultural purposes. They are leased for grazing and we don't want the grass driven down all over the place, so most of the land does have section line access. This particular bill we, up until two years ago, we were issuing letters of permission to handicapped hunters. We weren't aware that we weren't supposed to. We found out we weren't supposed to this and that is the reason we talked to Sen. Christmann.

Rep. Nottestad: On school lands that aren't leased, all they would need to do is get permission from you, or how would that work out? I know there are school lands that aren't leased.

Brand: All they would have to do is give me a call and I would review the situation, if it was leased then I would talk to the leasee also to see what their perspective was. If it is not leased then we would make the decision solely.

Rep. Porter: If someone shoots a deer on school land, and they don't have this permission whether they are handicapped or not, can they retrieve their game by driving out and picking that deer up like they can on private land?

Brand: No, they cannot and that is stated on the proclamation also.

Chairman Rennerfeldt: Any other questions from the committee? Is there any opposition to SB 2353. If not I will close the hearing on SB 2353.

Rep. Galvin: I move a Do Pass on the bill as amended.

Rep. Klein: I second.

Chairman Rennerfeldt: Is there any discussion on the bill? Call the roll.

Page 5  
House Natural Resources Committee  
Bill/Resolution Number SB 2353  
Hearing Date March 2, 2001

**MOTION FOR A DO PASS**

**YES, 13      NO, 0**

**2 ABSENT AND NOT VOTING**

**CARRIED BY REP. GALVIN**

Date: 03/02/01  
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2353

House Natural Resources Committee

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

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

Action Taken 00 Pass

Motion Made By Rep. Galvin Seconded By Rep. Klein

Representatives	Yes	No	Representatives	Yes	No
Earl Rennerfeldt - Chairman	✓		Lyle Hanson	✓	
Jon O. Nelson - Vice Chairman	✓		Scot Kelsh	✓	
Curtis E. Brekke	✓		Lonnie B. Winrich	✓	
Duane DeKrey			Dorvan Solberg	✓	
David Drovdal	✓				
Pat Galvin	✓				
George Keiser					
Frank Klein	✓				
Darrell D. Nottestad	✓				
Todd Porter	✓				
Dave Weiler	✓				

Total (Yes) 13 No 0

Absent 2

Floor Assignment Rep. Galvin

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



**REPORT OF STANDING COMMITTEE (410)**  
March 2, 2001 10:59 a.m.

**Module No: HR-36-4681**  
**Carrier: Galvin**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2353: Natural Resources Committee (Rep. Rennerfeldt, Chairman) recommends DO PASS (13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2353 was placed on the Fourteenth order on the calendar.**

2001 TESTIMONY  
SB 2353

te: (701) 328-2800  
ix: (701) 328-3650  
vw.land.state.nd.us

North Dakota  
**STATE LAND DEPARTMENT**  
1707 N 9th Street  
PO Box 5523  
Bismarck, ND 58506-5523



Robert J. Olheiser  
COMMISSIONER

**TESTIMONY OF MIKE BRAND**  
Director, Surface Management

**SB 2353**  
Senate Natural Resources Committee

February 8, 2001

School trust lands are dedicated by the enabling act and the constitution to producing income for the common schools and 12 other institutions in the state. Just as park land is dedicated to parks, and wildlife management areas are dedicated to wildlife management, school trust lands are dedicated to providing income for the common schools and institutions in the state. School trust lands are not multiple use lands. Even so, we have found that in the majority of cases, hunting has not conflicted with the constitutional purpose of these lands and over 99% of the school trust lands were open to hunters in both 1999 and 2000.

The Board of University and School Lands (Land Board) is on record supporting public access on school trust lands. Only within the last couple of years did we discover that handicapped access on public lands was not allowed under North Dakota Century Code section 20.1-02-05. Before then, the procedure that we followed to grant access was to issue a letter of permission to the handicapped hunter and also require that they get permission from our lessee. The purpose of getting the lessee's permission was not to give the lessee control. Rather it was to make sure that the lessee was aware that a hunter was driving around on the school trust land with our permission. Under the surface lease, the Land Board retains the final authority to decide who has access to school trust lands. We have worked for nearly 20 years to open school trust lands to hunting and it would be unfortunate to jeopardize it with SB 2353.

Our concern with SB 2353 is that it shifts the decision making authority for access to school trust lands from the Land Board to the lessees of school trust lands. This would be a step 20 years backwards to a time when lessees decided who could and who could not hunt on school trust lands. In 1982, the Land Board opened school trust lands to the public reversing nearly 100 years of access control by our lessees. Before then, school trust lands were arbitrarily closed by lessees. Now, only the Land Board can close a tract of school land and these lands are only closed for very specific reasons such as mine sink holes or the safety of a lessee or the lessee's livestock. Our record is very good on the issue of keeping school trust lands open. Last year, 99.6% of the all school trust lands were open to hunters. We do not support setting the clock back for handicapped hunters by giving access control to the lessees of school trust lands when we have worked so hard to open these lands to the public.

It is important to leave access control with the Land Board to protect both the lessee's property and the hunting public. Hazards are not always apparent to the public but between the Land Board and

SB 2353

Testimony of Mike Brand

Senate Natural Resources Committee

February 8, 2001

the lessee, we should be aware of them. The State also does not have immunity from lawsuits so requiring the Land Board to have all school trust lands open to handicapped hunters exposes the state and handicapped hunters to an unnecessary liability risk. To minimize liability risks and because over 99% of school trust lands are already open to hunting, we request that Section 1 of SB 2353 be deleted in its entirety. Section 1 is unnecessary and deleting this section would not reduce access to school trust lands by handicapped hunters.

The only part of the current law that prevents handicapped access to school trust lands is subsection 11 of section 20.1-02-05. To clarify that it is not the lessee that controls hunting on school trust lands, we suggest amending SB 2353 on page one, line 20, by replacing the word "lessee" with "Commissioner of University and School Lands".

A final technical detail is that on page 1, lines 19 and 21, references to "school lands" should be replaced with "lands controlled by the Board of University and School Lands". School lands are not defined in the Century Code and only 89% of the land controlled by the Land Board is managed for the schools.

Our proposed changes would make sure that handicapped hunters again have access to school trust lands as they did before 1999. These changes would also make sure that the control of hunting on school trust lands remained with the state rather than setting the clock back by 20 years and giving control back to individual lessees.

We respectfully request your support of the amendments that we have proposed for SB 2353 (copy attached).

02/08/01

To: Senate Natural Resources Committee

From: Mike Donahue #258 for United  
Sportsmen and the North Dakota Wildlife  
Federation, Inc.

Reference: SB 2353

We oppose the bill. However, we can  
support the bill if the following  
amendments are made.

a. Delete lines 8-11.

b. At line 14 delete the strike-over on  
the words "at the directors discretion."

c. ~~At line 15 delete "Physically unable  
to walk" and replace with  
"permanent mobility impaired."~~

d. Note: permanent mobility impaired  
is defined in NDCC 39-01-15.

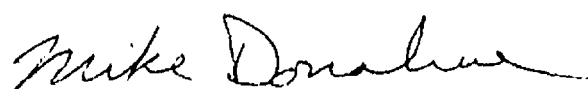
Mike Donahue  
#258  
222-3899

**ND House Natural Resources Committee  
Earl Rennerfeldt, Chairman  
March 2, 2001  
9:30 am**

**SB 2353 (Engrossed)**

The United Sportsmen of North Dakota and the North Dakota Wildlife Federation  
support the engrossed bill.

Thank you,



Mike Donahue  
Lobbyist #258