

# SENATE BILL REPORT

## SB 5368

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As of February 5, 2019

**Title:** An act relating to requiring the department of natural resources to maintain the department's roads that are the exclusive means of accessing private property by road.

**Brief Description:** Requiring the department of natural resources to maintain the department's roads that are the exclusive means of accessing private property by road.

**Sponsors:** Senators Wagoner, Warnick, Bailey, Honeyford and Van De Wege.

**Brief History:**

**Committee Activity:** Agriculture, Water, Natural Resources & Parks: 1/31/19.

**Brief Summary of Bill**

- Directs the Department of Natural Resources to maintain any road under its ownership if the road is the exclusive means of accessing private property for at least ten years.

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### SENATE COMMITTEE ON AGRICULTURE, WATER, NATURAL RESOURCES & PARKS

**Staff:** Jeff Olsen (786-7428)

**Background:** The Department of Natural Resources (DNR) manages trust lands to fund the building of public schools, universities, other state institutions, and counties. DNR has built roads on state trust lands to manage forestland and earn income for trust beneficiaries.

DNR may grant permits for the using access roads to any person if it is in the best interest of the state. DNR may impose reasonable regulations including requirements for construction, reconstruction, maintenance, and repair; limitations on the extent and time of use; provision for revocation at the discretion of DNR; and charges for use.

**Summary of Bill:** DNR must maintain any road under its ownership or control if the road is the exclusive means of accessing private property for a continuous period of at least ten years. The duty to maintain the road terminates if the property made accessible by a road under DNR's ownership or control ceases to be privately owned.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: Homeowners that only have access to their property by using a road managed by DNR could lose their access if DNR abandoned the road. This bill would prevent DNR from abandoning a road if it is the only access to a homeowner's property.

CON: The requirement to perform maintenance on roads could be a compromise on the legal duty of undivided loyalty to the trust. A lack of language requiring payment for an easement could be considered a gift of public funds. Typically an easement owner pays for the costs of maintaining the road. DNR does not have an option to abandon the road to meet fish passage obligations.

OTHER: DNR uses its management funds to pay for building and maintaining roads. There is a concern about granting an unfunded mandate to maintain these roads. DNR and property owners should find ways to work out arrangements to find ways for homeowners to access their property.

**Persons Testifying:** PRO: Senator Keith Wagoner, Prime Sponsor.

CON: Joanna Eide, Department of Natural Resources; Dale Mix, DNR; Brian Sims, WSSDA.

OTHER: Heath Heikkila, American Forest Resource Council.

**Persons Signed In To Testify But Not Testifying:** No one.