

One Hundred Second Legislature - First Session - 2011

Introducer's Statement of Intent

LB108

Chairperson: Senator Tom Carlson

Committee: Agriculture

Date of Hearing: January 25, 2011

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

LB 108 states an affirmative duty of adjacent landowners to maintain fences in good repair and provides statutory recognition that this duty includes the necessary management of conflicting vegetation. The bill declares that nuisance remedies be available to landowners to remedy the occurrence of vegetation causing damage or dislocation of a division fence.

LB 108 further strikes a qualification placed into the limited right of entry, found at 34-112.01, for purposes incidental to fence construction, repair or maintenance that expressly excludes the removal of trees and other items. This provision of the fencelaw was inserted by LB 108 enacted in 1997 and was intended as a restatement of the common law. Prior to this insertion, the fencelaw was silent with respect to any privileges of adjacent landowners relating to entry for purposes of addressing conflicting vegetation. It is the intent of this deletion to remove inference that the Legislature intended a narrowing of common law remedies and defenses in the course of addressing conflicting vegetation that were available to landowners prior to the insertion of 34-112.01.

Principal Introducer: _____

Senator Tom Carlson