

# One Hundred Fifth Legislature - Second Session - 2018

## Introducer's Statement of Intent

### LB766

---

**Chairperson: Senator Lydia Brasch**

**Committee: Agriculture**

**Date of Hearing: January 30, 2018**

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

The Nebraska Law of Division Fences (§§34-101 through 34-117), recognizes a mutual duty of adjoining landowners for the construction and care of division fences occurring on the boundary of the adjoining properties. §34-112.02 provides a mechanism whereby a landowner may compel an adjoining landowner's fulfillment of the shared fencing obligation by filing a fence dispute claim in county court.

Current law provides that to have recourse to initiating a fence claim, a landowner shall first give written notice to the adjacent landowner(s) of intent to build or repair a division fence. LB 766 would clarify that to have recourse to initiating a fence dispute claim, the written notice shall be provided prior to commencing fence construction or maintenance/repair. Current law further provides that a fence dispute claim may be filed no sooner than 7 days days after providing the notice. LB 766 provides that a claim may not be filed until at least 30 days have elapsed after giving notice.

These changes are consistent with legislative intent that recourse to the fence dispute remedy provided by §34-112.02 be a last resort in the event the landowners are unable to reach agreement among themselves on allocation of fencing responsibilities and costs. The revisions would facilitate opportunity for landowners to resolve fencing disputes before resorting to a fence dispute filing.

**Principal Introducer:** \_\_\_\_\_

Senator Lydia Brasch