

the implementation of hard labor requirements for persons incarcerated in corrections institutions; ~~and the nature and costs associated with other sentencing options and the utilization, cost, and effectiveness of placing a juvenile in secure custody under section 232.52, subsection 2, paragraph "g", if enacted in House File 528.~~ The committee shall coordinate the study with juvenile court services personnel to obtain the information regarding juveniles. A report regarding placing juveniles in secure custody shall be made to the general assembly by January 1, 1996. A follow-up report shall be made by June 30, 1996. In addition to legislative members, the membership of the interim committee shall include the following public members:

1. A representative from the board of parole.
 2. A representative from the division of criminal and juvenile justice planning of the department of human rights.
 3. A representative from an association of sheriffs and deputy sheriffs.
 4. A representative from the department of corrections.
 5. A representative from a county board of supervisors.
- The committee shall submit findings and any recommendations in a report to the general assembly by January 1, 1996.

Approved May 25, 1995

CHAPTER 192

PIPELINES AND UNDERGROUND HAZARDOUS LIQUID STORAGE

H.F. 303

AN ACT relating to pipelines and underground storage of hazardous liquids, and providing penalties and effective and retroactive applicability date provisions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 6B.42, subsection 1, Code 1995, is amended to read as follows:

1. A utility or railroad subject to section 327C.2, ~~chapter 479, or chapter or chapters 476, 478, 479, and 479B,~~ authorized by law to acquire property by condemnation, which acquires the property of a person or displaces a person for a program or project which has received or will receive federal financial assistance as defined in section 316.1, shall provide to the person in addition to any other sums of money in payment of just compensation, the payments and assistance required by law, in accordance with chapter 316.

Sec. 2. Section 306A.3, Code 1995, is amended to read as follows:

306A.3 **AUTHORITY TO ESTABLISH CONTROLLED-ACCESS FACILITIES - UTILITY ACCOMMODATION POLICY.**

Cities and highway authorities having jurisdiction and control over the highways of the state, as provided by chapter 306, acting alone or in co-operation with each other or with any federal, state, or local agency or any other state having authority to participate in the construction and maintenance of highways, are ~~hereby~~ authorized to plan, designate, establish, regulate, vacate, alter, improve, maintain, and provide controlled-access facilities for public use ~~wherever such authority or authorities are of the opinion that~~ if traffic conditions, present or future, will justify ~~such~~ special facilities; provided, that within ~~cities a~~ city such authority shall be subject to ~~such~~ municipal consent as may be provided by law. ~~Said cities and highway authorities, in~~ In addition to the specific powers granted in this chapter, cities and highway authorities shall ~~also have and may exercise, relative to~~

~~controlled access facilities~~, any ~~and all~~ additional authority ~~now or hereafter~~ vested in them relative to highways or streets within their respective jurisdictions. ~~Said cities~~ Cities and highway authorities may regulate, restrict, or prohibit the use of ~~such~~ controlled-access facilities by the various classes of vehicles or traffic in a manner consistent with section 306A.2.

The department shall adopt rules, pursuant to chapter 17A, embodying a utility accommodation policy which imposes reasonable restrictions on placements occurring on or after the effective date of the rules, on primary road rights-of-way. The rules may require utilities to give notice to the department prior to installation of a utility system on a primary road right-of-way and obtain prior permission from the department for the proposed installation. The rules shall recognize emergency situations and the need for immediate installation of service extensions subject to the standards adopted by the department and the utilities board. The rules shall be no less stringent than the standards adopted by the utilities board pursuant to chapters 478, 479, ~~and 479A, and 479B~~. This paragraph shall not be construed as granting the department authority which has been expressly granted to the utilities board to determine the route of utility installations. If the department requires a utility company permit, the department shall be required to act upon the permit application within thirty days of its filing. In cases of federal-aid highway projects on nonprimary highways, the local authority with jurisdiction over the highway and the department shall comply with all federal regulations and statutes regarding utility accommodation.

Sec. 3. Section 474.1, unnumbered paragraph 3, Code 1995, is amended to read as follows:

As used in this chapter and chapters 475A, 476, 476A, 478, 479, ~~and 479A, and 479B~~, "division" and "utilities division" mean the utilities division of the department of commerce.

Sec. 4. Section 474.9, Code 1995, is amended to read as follows:
474.9 GENERAL JURISDICTION OF UTILITIES BOARD.

The utilities board has general supervision of all pipelines and all lines for the transmission, sale, and distribution of electrical current for light, heat, and power pursuant to chapters 476, 476A, 478, 479, ~~and 479A, and 479B~~ and has other duties as provided by law.

Sec. 5. Section 479.1, Code 1995, is amended to read as follows:
479.1 PURPOSE.

It is the purpose of the ~~legislature~~ general assembly in enacting this law to confer upon the utilities board the power and authority to supervise the transportation or transmission of any solid, liquid, or gaseous substance, except water, within or through this state by pipeline, whether specifically mentioned in this chapter or not, and the power and authority to supervise the underground storage of gas, to protect the safety and welfare of the public in its use of public or private highways, grounds, waters, and streams of any kind in this state. However, this chapter does not apply to interstate natural gas or hazardous liquid pipelines, pipeline companies, and underground storage, as these terms are defined in ~~chapter~~ chapters 479A and 479B.

Sec. 6. Section 479.2, Code 1995, is amended to read as follows:
479.2 DEFINITIONS.

As used in this chapter:

1. "Board" means the utilities board within the utilities division of the department of commerce.
2. "Pipeline" as used in this chapter means a pipe, pipes, or pipelines used for the transportation or transmission of a solid, liquid, or gaseous substance, except water, within or through this state. However, the term does not include interstate pipe, pipes, or pipelines used for the transportation or transmission of natural gas or hazardous liquids.

~~3. "Pipeline company" as used in this chapter~~ means a person engaged in or organized for the purpose of owning, operating, or controlling pipelines for the transportation or transmission of any solid, liquid, or gaseous substance, except water, within or through this state. However, the term does not include a person owning, operating, or controlling interstate pipelines for the transportation or transmission of natural gas or hazardous liquids.

~~The term "board" when used in this chapter means the utilities board within the utilities division of the department of commerce.~~

~~4. The term "underground "Underground storage" insofar as this chapter is concerned shall include and mean~~ means storage of gas in a subsurface stratum or formation of the earth.

Sec. 7. Section 479.5, Code 1995, is amended to read as follows:

479.5 APPLICATION FOR PERMIT.

~~Any~~ A pipeline company ~~engaging in its said doing~~ business in this state shall file with the board its verified petition asking for a permit to construct, maintain and operate its pipeline or lines along, over or across the public or private highways, grounds, waters and streams of any kind of this state. Any pipeline company now owning or operating a pipeline in this state shall be issued a permit by the board upon supplying the information as provided for in section 479.6.

~~Any~~ A pipeline company ~~engaging in its said doing~~ business in this state and proposing to engage in underground storage of gas within this state shall file with the board its verified petition asking for a permit to construct, maintain and operate facilities for the underground storage of gas to include the construction, placement, maintenance and operation of machinery, appliances, fixtures, wells, pipelines, and stations necessary for the construction, maintenance and operation of ~~such~~ the gas underground storage facilities.

~~As conditions precedent to the filing of a petition with the board requesting a permit, and not less than thirty days prior to the filing of such petition, the person, company, or corporation~~ A pipeline company shall hold informational meetings in each county in which real property or property rights ~~therein~~ will be affected at least thirty days prior to filing the petition for a new pipeline. A member of the board, ~~the counsel of the board, or a hearing examiner or a person~~ designated by the board shall serve as the presiding officer at each meeting and present an agenda for ~~such~~ the meeting which shall include a summary of the legal rights of the affected landowners. No formal record of the meeting shall be required.

The meeting shall be held at a location reasonably accessible to all persons, companies, or corporations which may be affected by the granting of the permit.

~~The person~~ pipeline company seeking the permit for a new pipeline shall give notice of the informational meeting to each person determined to be a landowner affected by the proposed project and each person in possession of or residing on the property. For the purposes of the informational meeting, "landowner" means a person listed on the tax assessment rolls as responsible for the payment of real estate taxes imposed on the property and "pipeline" means a line transporting a solid, liquid, or gaseous substance, except water, under pressure in excess of one hundred fifty pounds per square inch and extending a distance of not less than five miles or having a future anticipated extension of an overall distance of five miles.

The notice shall set forth the name of the applicant; the applicant's principal place of business; the general description and purpose of the proposed project; the general nature of the right of way desired; a map showing the route of the proposed project; that the landowner has a right to be present at such meeting and to file objections with the board; and a designation of the time and place of the meeting; and shall be served by certified mail with return requested not less than thirty days previous to the time set for the meeting; and shall be published once in a newspaper of general circulation in the county. ~~Such~~

The publication shall be considered notice to landowners whose residence is not known and to each person in possession of or residing on the property provided a good faith effort to notify can be demonstrated by the pipeline company.

No person, company, or corporation A pipeline company seeking rights under this chapter shall not negotiate or purchase any easements or other interests in land in any county known to be affected by the proposed project prior to the informational meeting.

Sec. 8. Section 479.23, Code 1995, is amended to read as follows:

479.23 EXTENSION OF PERMIT.

Any A pipeline company owning a permit granted under this chapter desiring to acquire an extension of such permit may petition the board in the same manner provided for the granting of such permit and the same proceeding shall be had as on an original application for the extension of a permit granted under this chapter by filing a petition containing the information required by section 479.6, subsections 1 through 4, 6, and 7, and section 479.26.

Sec. 9. Section 479.24, Code 1995, is amended to read as follows:

479.24 EMINENT DOMAIN.

Any A pipeline company having secured a granted a pipeline permit for pipelines as in under this chapter provided shall thereupon be vested with the right of eminent domain to such the extent as may be necessary and as prescribed and approved by said the board, not exceeding seventy-five feet in width for right of way and not exceeding one acre in any one location in addition to right of way for the location of pumps, pressure apparatus, or other stations or equipment necessary to the proper operation of its said pipeline or lines. The board may grant additional eminent domain rights where the pipeline company has presented sufficient evidence to adequately demonstrate that a greater area is required for the proper construction, operation, and maintenance of the pipeline or for the location of pumps, pressure apparatus, or other stations or equipment necessary to the proper operation of its pipeline.

Any A pipeline company having secured a permit for underground storage of gas as in this chapter provided shall be vested with the right of eminent domain to such the extent as may be necessary and as prescribed and approved by said the board in order to appropriate for its use for the underground storage of gas any subsurface stratum or formation in any land which the board shall have found to be suitable and in the public interest for the underground storage of gas, and in connection therewith may appropriate such other interests in property, as may be required to adequately to examine, prepare, maintain, and operate such the underground gas storage facilities. The right of appropriation hereby granted shall be without prejudice to the rights of the owner of said lands or of other rights or interests therein to drill or bore through the underground stratum or formation so appropriated in such manner as shall comply with orders, rules of the board issued for the purpose of protecting underground storage strata or formations against pollution and against the escape of gas therefrom and shall be without prejudice to the rights of the owner of said lands or other rights or interest therein as to all other uses thereof.

If agreement cannot be made with the private owner of lands as to damages caused by the construction of said pipeline or gas storage facilities, the same proceedings shall be taken as provided for taking private property for works of internal improvement.

Nothing in this This chapter shall does not authorize the construction of a pipeline longitudinally on, over or under any railroad right of way or public highway, or at other than an approximate right angle to such a railroad track or public highway without the consent of such the railroad company, the state department of transportation, or the county board of supervisors, as the case may be, nor shall any provision of and this chapter does not authorize or give the right of condemnation or eminent domain for such purposes.

Sec. 10. Section 479.25, Code 1995, is amended to read as follows:

479.25 DAMAGES.

Pipeline companies A pipeline company operating pipelines a pipeline or a gas storage

area shall have reasonable access to the ~~same pipeline or gas storage area~~ for the purpose of constructing, ~~reconstructing, enlarging, repairing~~ operating, maintaining, or locating their pipes, pumps, pressure apparatus or other stations, wells, devices, or equipment used in or upon ~~such line~~ the pipeline or gas storage area, ~~but~~; shall pay to the owner of ~~such lands~~ the land for the right of entry ~~thereon~~ and the owner of crops ~~thereon~~ for all damages caused by entering, using, or occupying ~~said lands for said purposes~~ the land; and shall pay to the owner ~~or owners of such lands~~ all damages caused ~~after~~ by the completion of construction of ~~said~~ the pipeline ~~on account of~~ due to wash or erosion of the soil at or along the location of ~~said~~ the pipeline ~~by reason of the construction thereof upon said lands on account of~~ and due to the settling of the soil along and above ~~said~~ the pipeline, ~~provided, that nothing herein contained shall. However, this section shall not prevent the execution of an agreement between the pipeline company and the owner of said land or crops with reference to the use thereof of the land.~~

Sec. 11. Section 479.27, Code 1995, is amended to read as follows:
479.27 VENUE — ~~SERVICE OF ORIGINAL NOTICE.~~

In all cases arising under this chapter, the district court of any county, ~~through in~~ which ~~said property of a pipeline company is located, shall have jurisdiction, and service of original notice on the pipeline company therein shall be had and made upon the chairperson of the board.~~

Sec. 12. Section 479.29, subsection 1, Code 1995, is amended to read as follows:

1. The board shall, pursuant to chapter 17A, adopt rules establishing standards for the protection of underground improvements during the construction of pipelines, to protect soil conservation and drainage structures from being permanently damaged by pipeline construction and for the restoration of agricultural lands after pipeline construction. To ensure that all interested persons are informed of this rule-making procedure and are afforded a right to participate, the board shall schedule an opportunity for oral presentations on the proposed rule making, and, in addition to the requirements of section 17A.4, shall distribute copies of the notice of intended action and opportunity for oral presentations to each county board of supervisors. Any county board of supervisors may, under the provisions of chapter 17A, and subsequent to the rule-making proceedings, petition under those provisions for additional rule making to establish standards to protect soil conservation practices, structures and drainage structures within that county. Upon the request of the petitioning county the board shall schedule a hearing to consider the merits of the petition. ~~These rules~~ Rules adopted under this section shall not apply within the boundaries of a city, unless the land is used for agricultural purposes.

Sec. 13. Section 479.30, Code 1995, is amended to read as follows:
479.30 ENTRY FOR LAND SURVEYS.

~~A After the informational meeting or after the filing of a petition if no informational meeting is required, a pipeline company may enter upon private land for the purpose of making land surveys surveying and examining the land to determine the direction or depth of pipelines, not to exceed a depth of twenty-five feet, after receipt of a permit to construct, maintain and operate its pipeline~~ a pipeline by giving ten days' written notice by restricted certified mail to the landowner as defined in section 479.5 and to any person residing on or in possession of the land. The entry for land surveys authorized in this section shall not be deemed a trespass and may be aided by injunction. The pipeline company shall pay the actual damages caused by the entry, ~~and survey, and examination.~~

Sec. 14. Section 479.31, unnumbered paragraph 1, Code 1995, is amended to read as follows:

~~Any A~~ A person who violates ~~any provision of this chapter or any regulation rule or order~~ issued pursuant to this chapter shall be subject to a civil penalty ~~of levied by the board~~ not to exceed ten thousand dollars for each violation. Each day that the violation continues

shall constitute a separate offense. However, the maximum civil penalty shall not exceed five hundred thousand dollars for any related series of violations. Civil penalties collected pursuant to this section shall be credited to and are appropriated for the Iowa energy center created in section 266.39C.

Sec. 15. Section 479.41, Code 1995, is amended to read as follows:

479.41 ARBITRATION AGREEMENTS.

If an easement or other written agreement between a landowner and a pipeline company provides for the determination through arbitration of the amount of monetary damages sustained by a landowner and caused by the construction, maintenance, or repair of a pipeline, and if either ~~person~~ party has not appointed its arbitrator or agreed to an arbitrator under the agreement within thirty days after the other ~~person~~ party has invoked the arbitration provisions of the agreement by written notice to the other party by restricted certified mail, the landowner or the pipeline company may petition a judicial magistrate in the county where the real property is located for the appointment of an arbitrator to serve in the stead of the arbitrator who would have been appointed or agreed to by the other ~~person~~ party. Before filing the petition the landowner or pipeline company shall give notice of the petitioning of the judicial magistrate by restricted certified mail to the other ~~person~~ party and file proof of mailing with the petition. If after hearing, the magistrate finds that the landowner or pipeline company has not been diligent in appointing or reasonable in agreeing to an arbitrator, the magistrate shall appoint an impartial arbitrator who shall have all of the powers and duties of an arbitrator appointed or agreed to by the other ~~person~~ party under the agreement.

For purposes of this section only, "landowner" means the persons who signed the easement or other written agreement, their heirs, successors, and assigns.

Sec. 16. Section 479.42, Code 1995, is amended to read as follows:

479.42 SUBSEQUENT PIPELINES.

A pipeline company shall not install a subsequent pipeline upon its existing easement when a damage claim from the installation of its previous pipeline on that easement has not been ~~determined by negotiation, arbitration or action of the courts. This section does not apply if resolved, unless the damage claim is under litigation, or arbitration, or a proceeding pursuant to section 479.46.~~

With the exception of claims for damage to drain tile and future crop deficiency, for this section to apply, landowners and tenants must submit in writing their claims for damages caused by installation of the pipeline within one year of final cleanup on the real property.

Sec. 17. Section 479.46, subsections 1, 2, and 3, Code 1995, are amended to read as follows:

1. The county board of supervisors shall determine when installation of a pipeline has been completed in that county for the purposes of this section. ~~Between seventy-five and one hundred~~ Not less than ninety days after the completion of installation, and if an agreement cannot be made as to damages, a landowner whose land was affected by the installation of the pipeline or a pipeline company may file with the board of supervisors a petition asking that a compensation commission determine the damages arising from the installation of the pipeline.

2. If the board of supervisors by resolution approves the petition, the landowner or pipeline company shall commence the proceeding by filing an application with the chief judge of the judicial district of the county for the appointment of a compensation commission as provided in section 6B.4.

The application shall contain the following:

- a. The name and address of the ~~petitioning landowner~~ applicant and a description of the land on which the damage is claimed to have occurred.
- b. A description of the nature of the damage claimed to have occurred and the amount of the damage claimed.
- c. The name and address of the pipeline company claimed to have caused the damage

or the name and address of the affected landowner.

3. After the commissioners have been appointed, the landowner applicant shall serve notice on the pipeline company or the landowner stating the following:

a. That a compensation commission has been appointed to determine the damages caused by the installation of the pipeline.

b. The name and address of the landowner applicant and a description of the land on which the damage is claimed to have occurred.

c. The date, time, and place when the commissioners will view the premises and proceed to appraise the damages and that the pipeline company or the landowner may appear before the commissioners.

Sections 6B.10 to 6B.13 apply to this notice. If more than one landowner petitions the county board of supervisors, the application to the chief judge, notice to the pipeline company, and appraisal of damages shall be consolidated into one application, notice, and appraisal. The county attorney may assist in co-ordinating the consolidated application and notice, but does not become an attorney for the landowners by doing so.

Sec. 18. Section 479.47, Code 1995, is amended to read as follows:

479.47 SUBSEQUENT TILING.

All additional costs of new tile construction caused by an existing pipeline shall be paid by the pipeline company. ~~The additional costs shall be paid by the pipeline company upon presentation of an invoice, verified by the county engineer or soil and water conservation district conservationist and specifically showing the added costs caused by the presence of the pipeline. A copy of the county engineer's or district conservationist's verification of additional costs shall accompany the invoice to the pipeline company. To receive compensation under this section, the landowner or agent of the landowner shall either present an invoice specifying the additional costs caused by the presence of the pipeline which is accompanied by a written verification of the additional costs by the county engineer or soil and water conservation district conservationist or reach an agreement with the pipeline company on the project design and share of the cost to be paid by the pipeline company during the planning of the tiling project.~~

Sec. 19. Section 479A.11, Code 1995, is amended to read as follows:

479A.11 DAMAGES.

~~Pipeline companies~~ A pipeline company operating pipelines or underground storage shall be given reasonable access to the pipelines and storage areas for the purpose of constructing, ~~reconstructing, enlarging, repairing,~~ operating, maintaining, or locating their pipes, pumps, pressure apparatus, or other stations, wells, devices, or equipment used in or upon a pipeline or storage area, but shall pay the owner of the lands for the right of entry and the owner of crops on the land all damages caused by entering, using, or occupying the lands for these purposes; and shall pay to the owner of the lands, after the completion of construction of the pipeline or storage, all damages caused by settling of the soil along and above the pipeline, and wash or erosion of the soil along the pipeline due to the construction of the pipeline. However, this section does not prevent the execution of an agreement with other terms between the pipeline company and the owner of the land or crops with reference to their use.

Sec. 20. Section 479A.13, Code 1995, is amended to read as follows:

479A.13 JURISDICTION — ~~SERVICE OF ORIGINAL NOTICE.~~

In all cases arising under this chapter, the district court of any county in which property of a pipeline company is located, has jurisdiction of a case involving that company, ~~and service of original notice on the pipeline company may be made by serving the chairperson of the board.~~

Sec. 21. Section 479A.14, subsection 1, Code 1995, is amended to read as follows:

1. The board shall adopt rules establishing standards to protect underground improve-

ments during the construction of pipelines, to protect soil conservation and drainage structures from being permanently damaged by pipeline construction, and for the restoration of agricultural lands after pipeline construction. To ensure that all interested persons are informed of this rulemaking procedure and are afforded a right to participate, the board shall schedule an opportunity for oral presentations on the proposed rulemaking and, in addition to the requirements of section 17A.4, shall distribute copies of the notice of intended action and opportunity for oral presentations to each county board of supervisors. A county board of supervisors may, under chapter 17A and subsequent to the rulemaking proceedings, petition for additional rulemaking to establish standards to protect soil conservation practices, structures, and drainage structures within that county. Upon the request of the petitioning county, the board shall schedule a hearing to consider the merits of the petition. Rules adopted under this section do not apply within the boundaries of a county, unless the land is used for agricultural purposes.

Sec. 22. Section 479A.15, Code 1995, is amended to read as follows:
479A.15 ENTRY FOR LAND SURVEYS.

A pipeline company may enter upon private land for the purpose of ~~making land surveys surveying and examining the land~~ to determine direction or depth of pipelines a pipeline by giving ten days' written notice by restricted certified mail to the landowner and to any person residing on or in possession of the land. For purposes of this section only, "landowner" means a person listed on the tax assessment rolls as responsible for the payment of real estate taxes imposed on the property. The entry for land surveys authorized in this section is not a trespass and may be aided by injunction. The pipeline company shall pay the actual damages caused by the entry and survey.

Sec. 23. Section 479A.16, unnumbered paragraph 1, Code 1995, is amended to read as follows:

A person who violates ~~a provision of~~ this chapter or a rule or ~~standards an order~~ issued pursuant to this chapter is subject to a civil penalty levied by the board not to exceed one thousand dollars for each violation. Each day that the violation continues constitutes a separate offense. However, the civil penalty shall not exceed two hundred thousand dollars for any related series of violations. Civil penalties collected pursuant to this section shall be credited to and are appropriated for the Iowa energy center created in section 266.39C.

Sec. 24. Section 479A.20, Code 1995, is amended to read as follows:
479A.20 ARBITRATION AGREEMENTS.

Notwithstanding conflicting provisions of chapter 679A, if an easement or other written agreement between a landowner and a pipeline company provides for the determination through arbitration of the amount of monetary damages sustained by a landowner and caused by the construction, maintenance, or repair of a pipeline, and if either ~~person party~~ has not appointed its arbitrator or agreed to an arbitrator under the agreement within thirty days after the other ~~person party~~ has invoked the arbitration provisions of the agreement by written notice to the other party by restricted certified mail, the landowner or the pipeline company may petition a magistrate in the county where the real property is located for the appointment of an arbitrator to serve in place of the arbitrator who would have been appointed or agreed to by the other ~~person party~~. Before filing the petition the landowner or pipeline company shall give notice of the petitioning of the magistrate by restricted certified mail to the other ~~person party~~ and file proof of mailing with the petition. If, after hearing, the magistrate finds that the landowner or pipeline company has not been diligent in appointing or reasonable in agreeing to an arbitrator, the magistrate shall appoint an impartial arbitrator who shall have all of the powers and duties of an arbitrator appointed or agreed to by the other ~~person party~~ under the agreement.

For purposes of this section only, "landowner" means the persons who signed the ease-

ment or other written agreement, their heirs, successors, and assigns.

Sec. 25. Section 479A.21, Code 1995, is amended to read as follows:

479A.21 SUBSEQUENT PIPELINES.

A pipeline company shall not install a subsequent pipeline upon its existing easement when a damage claim from the installation of its previous pipeline on that easement has not been determined by negotiation, arbitration, or action of the courts. ~~However, this section does not apply if the damage resolved unless that claim is under litigation or arbitration or is the subject of a proceeding pursuant to section 479A.25.~~

Sec. 26. Section 479A.25, subsections 1, 2, and 3, Code 1995, are amended to read as follows:

1. The county board of supervisors shall determine when installation of a pipeline has been completed in that county for the purposes of this section. ~~Within one year of~~ Not less than ninety days after the completion of installation, and if an agreement cannot be made as to damages, a landowner whose land was affected by the installation of the pipeline or the pipeline company may file with the board of supervisors a petition asking that a compensation commission determine the damages arising from the installation of the pipeline.

2. If the board of supervisors by resolution approves the petition, the landowner or pipeline company shall commence the proceeding by filing an application with the chief judge of the judicial district of the county for the appointment of a compensation commission as provided in section 6B.4.

The application shall contain all of the following:

a. The name and address of the petitioning landowner applicant and a description of the land on which the damage is claimed to have occurred.

b. A description of the nature of the damage claimed to have occurred and the amount of the damage claimed.

c. The name and address of the pipeline company claimed to have caused the damage or the name and address of the affected landowner.

3. After the commissioners have been appointed, the landowner applicant shall serve notice on the pipeline company or the landowner stating all of the following:

a. That a compensation commission has been appointed to determine the damages caused by the installation of the pipeline.

b. The name and address of the landowner applicant and a description of the land on which the damage is claimed to have occurred.

c. The place, date, and time when the commissioners will view the premises and proceed to appraise the damages and that the pipeline company or landowner may appear before the commissioners.

~~d. That the pipeline company may appear before the commissioners.~~

Sections 6B.10 to 6B.13 apply to this notice. If more than one landowner petitions the county board of supervisors, the application to the chief judge, notice to the pipeline company, and appraisal of damages shall be consolidated into one application, notice, and appraisal. The county attorney may assist in coordinating the consolidated application and notice, but does not become an attorney for the landowners by doing so.

Sec. 27. Section 479A.26, Code 1995, is amended to read as follows:

479A.26 SUBSEQUENT TILING.

Additional costs of new tile construction caused by an existing pipeline shall be paid by the pipeline company. ~~The additional costs shall be paid by the pipeline company upon presentation of an invoice, verified by the county engineer or soil and water conservation district conservationist and specifically showing the added costs caused by the presence of the pipeline. A copy of the county engineer's or district conservationist's verification of additional costs shall accompany the invoice to the pipeline company. To receive compensation under this section, the landowner or agent of the landowner shall either~~

present an invoice specifying the additional costs caused by the presence of the pipeline which is accompanied by a written verification of the additional costs by the county engineer or soil and water conservation district conservationist or reach an agreement with the pipeline company on the project design and share of the cost to be paid by the pipeline company during the planning of the tiling project.

Sec. 28. NEW SECTION. 479B.1 PURPOSE – AUTHORITY.

It is the purpose of the general assembly in enacting this law to grant the utilities board the authority to implement certain controls over hazardous liquid pipelines to protect land-owners and tenants from environmental or economic damages which may result from the construction, operation, or maintenance of a hazardous liquid pipeline or underground storage facility within the state, to approve the location and route of hazardous liquid pipelines, and to grant rights of eminent domain where necessary.

Sec. 29. NEW SECTION. 479B.2 DEFINITIONS.

As used in this chapter, unless the context appears otherwise:

1. “Board” means the utilities board within the utilities division of the department of commerce.
2. “Hazardous liquid” means crude oil, refined petroleum products, liquefied petroleum gases, anhydrous ammonia, liquid fertilizers, liquefied carbon dioxide, alcohols, and coal slurries.
3. “Pipeline” means an interstate pipe or pipeline and necessary appurtenances used for the transportation or transmission of hazardous liquids.
4. “Pipeline company” means a person engaged in or organized for the purpose of owning, operating, or controlling pipelines for the transportation or transmission of any hazardous liquid or underground storage facilities for the underground storage of any hazardous liquid.
5. “Underground storage” means storage of hazardous liquid in a subsurface stratum or formation of the earth.
6. “Utilities division” means the utilities division of the department of commerce.

Sec. 30. NEW SECTION. 479B.3 CONDITIONS ATTENDING OPERATION.

A pipeline company shall not construct, maintain, or operate a pipeline or underground storage facility under, along, over, or across any public or private highways, grounds, waters, or streams of any kind in this state except in accordance with this chapter.

Sec. 31. NEW SECTION. 479B.4 APPLICATION FOR PERMIT INFORMATIONAL MEETING – NOTICE.

A pipeline company doing business in this state shall file a verified petition with the board asking for a permit to construct, maintain, and operate a new pipeline along, over, or across the public or private highways, grounds, waters, and streams of any kind in this state. Any pipeline company now owning or operating a pipeline or underground storage facility in this state shall be issued a permit by the board upon supplying the information as provided for in section 479B.5, subsections 1 through 5, and meeting the requirements of section 479B.13.

A pipeline company doing business in this state and proposing to store hazardous liquid underground within this state shall file with the board a verified petition asking for a permit to construct, maintain, and operate facilities for the underground storage of hazardous liquid which includes the construction, placement, maintenance, and operation of machinery, appliances, fixtures, wells, pipelines, and stations necessary for the construction, maintenance, and operation of the underground storage facilities.

The pipeline company shall hold informational meetings in each county in which real property or property rights will be affected at least thirty days prior to filing the petition for a new pipeline. A member of the board, or a person designated by the board, shall serve as the presiding officer at each meeting and present an agenda for the meeting

which shall include a summary of the legal rights of the affected landowners. No formal record of the meeting shall be required. The meeting shall be held at a location reasonably accessible to all persons who may be affected by granting the permit.

The pipeline company seeking the permit for a new pipeline shall give notice of the informational meeting to each landowner affected by the proposed project and each person in possession of or residing on the property. For the purposes of the informational meeting, "landowner" means a person listed on the tax assessment rolls as responsible for the payment of real estate taxes imposed on the property and "pipeline" means a line transporting a hazardous liquid under pressure in excess of one hundred fifty pounds per square inch and extending a distance of not less than five miles or having a future anticipated extension of an overall distance of five miles.

The notice shall set forth the following: the name of the applicant, the applicant's principal place of business, the general description and purpose of the proposed project, the general nature of the right-of-way desired, a map showing the route or location of the proposed project, that the landowner has a right to be present at the meeting and to file objections with the board, and a designation of the time and place of the meeting. The notice shall be sent by restricted certified mail and shall be published once in a newspaper of general circulation in the county not less than thirty days before the date set for the meeting. The publication shall be considered notice to landowners whose residence is not known and to each person in possession of or residing on the property provided a good faith effort to notify can be demonstrated by the pipeline company.

A pipeline company seeking rights under this chapter shall not negotiate or purchase an easement or other interest in land in a county known to be affected by the proposed project prior to the informational meeting.

Sec. 32. NEW SECTION. 479B.5 PETITION.

A petition for a permit shall state all of the following:

1. The name of the individual, firm, corporation, company, or association applying for the permit.
2. The applicant's principal office and place of business.
3. A legal description of the route of the proposed pipeline and a map of the route.
4. A general description of the public or private highways, grounds, waters, streams, and private lands of any kind along, over, or across which the proposed pipeline will pass.
5. If permission is sought to construct, maintain, and operate facilities for the underground storage of hazardous liquids the petition shall include the following additional information:
 - a. A description and a map of the public or private highways, grounds, waters, streams, and private lands of any kind under which the storage is proposed.
 - b. Maps showing the location of proposed machinery, appliances, fixtures, wells, and stations necessary for the construction, maintenance, and operation of the hazardous liquid storage facilities.
6. The possible use of alternative routes.
7. The relationship of the proposed project to the present and future land use and zoning ordinances.
8. The inconvenience or undue injury which may result to property owners as a result of the proposed project.
9. An affidavit attesting to the fact that informational meetings were held in each county affected by the proposed project and the time and place of each meeting.

Sec. 33. NEW SECTION. 479B.6 HEARING – NOTICE.

After the petition is filed, the board shall fix a date for a hearing and shall publish notice for two consecutive weeks, in a newspaper of general circulation in each county through which the proposed pipeline or hazardous liquid storage facilities will extend.

The hearing shall not be less than ten days nor more than thirty days from the date of the

last publication of the notice. If the pipeline exceeds five miles in length, the hearing shall be held in the county seat of the county located at the midpoint of the proposed pipeline or the county in which the proposed hazardous liquid storage facility would be located.

Sec. 34. NEW SECTION. 479B.7 OBJECTIONS.

A person, including a governmental entity, whose rights or interests may be affected by the proposed pipeline or hazardous liquid storage facilities may file written objections.

All objections shall be on file with the board not less than five days before the date of hearing on the application. However, the board may permit the filing of the objections later than five days before the hearing, in which event the applicant must be granted a reasonable time to meet the objections.

Sec. 35. NEW SECTION. 479B.8 EXAMINATION – TESTIMONY.

The board may examine the proposed route of the pipeline and location of the underground storage facility. At the hearing the board shall consider the petition and any objections and may hear testimony to assist the board in making its determination regarding the application.

Sec. 36. NEW SECTION. 479B.9 FINAL ORDER – CONDITION.

The board may grant a permit in whole or in part upon terms, conditions, and restrictions as to location and route as it determines to be just and proper. A permit shall not be granted to a pipeline company unless the board determines that the proposed services will promote the public convenience and necessity.

Sec. 37. NEW SECTION. 479B.10 COSTS AND FEES.

The applicant shall pay all costs of the informational meetings, hearing, and necessary preliminary investigation including the cost of publishing notice of hearing, and shall pay the actual unrecovered costs directly attributable to inspections conducted by the board.

Sec. 38. NEW SECTION. 479B.11 INSPECTION FEE.

If the board enters into agreements with the United States department of transportation pursuant to section 479B.23, a pipeline company shall pay an annual fee of fifty cents per mile of pipeline or fraction thereof for each inch of diameter of the pipeline located in the state. The inspection fee shall be paid to the board between January 1 and February 1 for the calendar year.

The board shall collect all fees. Failure to pay any fee within thirty days from the due date shall be grounds for revocation of the permit or assessment of civil penalties.

Sec. 39. NEW SECTION. 479B.12 USE OF FUNDS.

All moneys received under this chapter, other than civil penalties collected pursuant to section 479B.21, shall be remitted monthly to the treasurer of state and credited to the general fund of the state.

Sec. 40. NEW SECTION. 479B.13 FINANCIAL CONDITION OF PERMITTEE BOND.

Before a permit is granted under this chapter the applicant must satisfy the board that the applicant has property within this state other than pipelines or underground storage facilities, subject to execution of a value in excess of two hundred fifty thousand dollars, or the applicant must file and maintain with the board a surety bond in the penal sum of two hundred fifty thousand dollars with surety approved by the board, conditioned that the applicant will pay any and all damages legally recovered against it growing out of the construction, maintenance, or operation of its pipeline or underground storage facilities in this state. When the pipeline company deposits with the board security satisfactory to the board as a guaranty for the payment of the damages, or furnishes to the board satisfactory proofs of its solvency and financial ability to pay the damages, the pipeline company is relieved of the provisions requiring bond.

Sec. 41. NEW SECTION. 479B.14 PERMITS – LIMITATIONS – SALE OR TRANSFER – RECORDS – EXTENSION.

The board shall prepare and issue permits. The permit shall show the name and address of the pipeline company to which it is issued and identify the decision and order of the board under which the permit is issued. The permit shall be signed by the chairperson of the board and the official seal of the board shall be affixed to it.

The board shall not grant an exclusive right to any pipeline company to construct, maintain, or operate its pipeline along, over, or across any public or private highway, grounds, waters, or streams. The board shall not grant a permit for longer than twenty-five years.

A permit shall not be sold until the sale is approved by the board.

If a transfer of a permit is made before the construction for which it was issued is completed in whole or in part, the transfer shall not be effective until the pipeline company to which it was issued files with the board a notice in writing stating the date of the transfer and the name and address of the transferee.

The board shall keep a record of all permits granted by it, showing when and to whom granted and the location and route of the pipeline or underground storage facility, and if the permit has been transferred, the date and the name and address of the transferee.

A pipeline company may petition the board for an extension of a permit granted under this section by filing a petition containing the information required by section 479B.5, subsections 1 through 5, and meeting the requirements of section 479B.13.

Sec. 42. NEW SECTION. 479B.15 ENTRY FOR LAND SURVEYS.

After the informational meeting or after the filing of a petition if no informational meeting is required, a pipeline company may enter upon private land for the purpose of surveying and examining the land to determine direction or depth of pipelines by giving ten days' written notice by restricted certified mail to the landowner as defined in section 479B.4 and to any person residing on or in possession of the land. The entry for land surveys shall not be deemed a trespass and may be aided by injunction. The pipeline company shall pay the actual damages caused by the entry, survey, and examination.

Sec. 43. NEW SECTION. 479B.16 EMINENT DOMAIN.

A pipeline company granted a pipeline permit shall be vested with the right of eminent domain, to the extent necessary and as prescribed and approved by the board, not exceeding seventy-five feet in width for right-of-way and not exceeding one acre in any one location in addition to right-of-way for the location of pumps, pressure apparatus, or other stations or equipment necessary to the proper operation of its pipeline. The board may grant additional eminent domain rights where the pipeline company has presented sufficient evidence to adequately demonstrate that a greater area is required for the proper construction, operation, and maintenance of the pipeline or for the location of pumps, pressure apparatus, or other stations or equipment necessary to the proper operation of its pipeline.

A pipeline company granted a permit for underground storage of hazardous liquid shall be vested with the right of eminent domain to the extent necessary and as prescribed and approved by the board in order to appropriate for its use for the underground storage of hazardous liquid any subsurface stratum or formation in any land which the board shall have found to be suitable and in the public interest for the underground storage of hazardous liquid, and may appropriate other interests in property, as may be required adequately to examine, prepare, maintain, and operate the underground storage facilities.

This chapter does not authorize the construction of a pipeline longitudinally on, over, or under any railroad right-of-way or public highway, or at other than an approximate right angle to a railroad track or public highway without the consent of the railroad company, the state department of transportation, or the county board of supervisors, and this chapter does not authorize or give the right of condemnation or eminent domain for such purposes.

Sec. 44. NEW SECTION. 479B.17 DAMAGES.

A pipeline company operating a pipeline or an underground storage facility shall have reasonable access to the pipeline or underground storage facility for the purpose of constructing, operating, maintaining, or locating pipes, pumps, pressure apparatus, or other stations, wells, devices, or equipment used in or upon the pipeline or underground storage facility. A pipeline company shall pay the owner of the land for the right of entry and the owner of crops for all damages caused by entering, using, or occupying the lands and shall pay to the owner all damages caused by the completion of construction of the pipeline due to wash or erosion of the soil at or along the location of the pipeline and due to the settling of the soil along and above the pipeline. However, this section does not prevent the execution of an agreement between the pipeline company and the owner of the land or crops with reference to the use of the land.

Sec. 45. NEW SECTION. 479B.18 VENUE.

In all cases arising under this chapter, the district court of any county in which property of a pipeline company is located has jurisdiction of a case involving the pipeline company.

Sec. 46. NEW SECTION. 479B.19 ORDERS – ENFORCEMENT.

If the pipeline company fails to obey an order within the period of time determined by the board, the board may commence an equitable action in the district court of the county where the pipeline, device, apparatus, equipment, or underground storage facility is located to compel compliance with its order. If, after trial, the court finds that the order is reasonable, equitable, and just, the court shall decree a mandatory injunction compelling obedience to and compliance with the order and may grant other relief as may be just and proper. Appeal from the decree may be taken in the same manner as in other actions.

Sec. 47. NEW SECTION. 479B.20 LAND RESTORATION STANDARDS.

1. The board, pursuant to chapter 17A, shall adopt rules establishing standards for the protection of underground improvements during the construction of pipelines or underground storage facilities, to protect soil conservation and drainage structures from being permanently damaged by construction of the pipeline or underground storage facility, and for the restoration of agricultural lands after pipeline or underground storage facility construction. To ensure that all interested persons are informed of this rulemaking procedure and are afforded a right to participate, the board shall schedule an opportunity for oral presentations on the proposed rulemaking, and, in addition to the requirements of section 17A.4, shall distribute copies of the notice of intended action and opportunity for oral presentations to each county board of supervisors. Any county board of supervisors may, under the provisions of chapter 17A, and subsequent to the rulemaking proceedings, petition under those provisions for additional rulemaking to establish standards to protect soil conservation practices, structures, and drainage structures within that county. Upon the request of the petitioning county, the board shall schedule a hearing to consider the merits of the petition. Rules adopted under this section shall not apply within the boundaries of a city unless the land is used for agricultural purposes.

2. The county board of supervisors shall cause an on-site inspection for compliance with the standards adopted under this section to be performed at any pipeline construction project in the county. A professional engineer familiar with the standards adopted under this section and registered under chapter 542B shall be responsible for the inspection. A county board of supervisors may contract for the services of a professional engineer for the purposes of the inspection. The reasonable costs of the inspection shall be paid by the pipeline company.

3. If the inspector determines that there has been a violation of the standards adopted under this section, the inspector shall give oral notice, followed by written notice, to the pipeline company and the contractor operating for the pipeline company and order corrective action to be taken in compliance with the standards. The costs of the corrective action shall be borne by the contractor operating for the pipeline company.

4. As a part of the inspection process, the inspector shall ascertain that the trench

excavation has been filled in a manner to provide that the topsoil has been replaced on top and rocks and debris have been removed from the topsoil of the easement area. An existing topsoil layer extending at least one foot in width on either side of the pipeline excavation at a maximum depth of twelve inches shall be removed separately and shall be stockpiled and preserved separately during subsequent construction operations, unless other means for separating the topsoil are provided in the easement. The topsoil shall be replaced so the upper portion of the pipeline excavation and the crowned surface shall contain only the topsoil originally removed.

5. Adequate inspection of underground improvements altered during construction of the pipeline shall be conducted at the time of the replacement or repair of the underground improvements. An inspector shall be present on the site at all times at each phase and separate activity of the opening of the trench, the restoration of underground improvements, and backfilling. The pipeline company and its contractor shall keep all county inspectors continually informed of the work schedule and any schedule changes.

6. If the pipeline company or its contractor does not comply with the orders of the inspector for compliance with the standards, the county board of supervisors may direct the county attorney to petition the district court for an order requiring corrective action to be taken in compliance with the standards adopted under this section.

7. The pipeline company shall allow landowners and inspectors to view the proposed center line of the pipeline prior to commencing trenching operations to ensure that construction takes place in its proper location.

8. An inspector may temporarily halt the construction if the construction is not in compliance with the law or the terms of the agreement with the pipeline company regarding topsoil removal and replacement, drainage structures, soil moisture conditions, or the location of construction until the inspector consults with the supervisory personnel of the pipeline company. If the construction is then continued over the inspector's objection and is found not to be in compliance with the law or agreement and is found to cause damage, any civil penalty recovered under section 479B.21 as a result of that violation shall be paid to the landowner.

9. The board shall instruct inspectors appointed by the board of supervisors regarding the content of the statutes and rules and the inspector's responsibility to require construction conforming with the standards provided by this chapter.

10. Any underground drain tile damaged, cut, or removed shall be temporarily repaired and maintained as necessary to allow for its proper function during construction of the pipeline or underground storage facility. If temporary repair is not determined to be necessary, the exposed tile shall nonetheless be screened or otherwise protected to prevent the entry of any foreign material or small animals into the tile line system.

11. This section does not preclude the application of provisions for protecting or restoring property contained in agreements independently executed by the pipeline company and the landowner if the provisions are not inconsistent with state law or with rules adopted by the board.

Sec. 48. NEW SECTION. 479B.21 CIVIL PENALTY.

A person who violates this chapter or any rule or order issued pursuant to this chapter shall be subject to a civil penalty levied by the board in an amount not to exceed one thousand dollars for each violation. Each day that the violation continues shall constitute a separate offense. However, the maximum civil penalty shall not exceed two hundred thousand dollars for any related series of violations. Civil penalties collected pursuant to this section shall be credited to and are appropriated for the use of the Iowa energy center created in section 266.39C.

A civil penalty may be compromised by the board. In determining the amount of the penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the pipeline company charged, the gravity of the violation, and the good faith of the person charged in attempting to achieve compliance, after notification of a violation,

shall be considered. The amount of the penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owed by the state to the person charged, or may be recovered in a civil action.

Sec. 49. NEW SECTION. 479B.22 REHEARING – JUDICIAL REVIEW.

Rehearing procedure for any person aggrieved by actions of the board under this chapter shall be as provided in section 476.12. Judicial review may be sought in accordance with the terms of chapter 17A.

Sec. 50. NEW SECTION. 479B.23 AUTHORIZED FEDERAL AID.

The board may enter into agreements with and receive moneys from the United States department of transportation for the inspection of pipelines to determine compliance with applicable standards of pipeline safety, and for enforcement of the applicable standards of pipeline safety as provided by 49 U.S.C. § 60101 et seq.

Sec. 51. NEW SECTION. 479B.24 CANCELLATION.

A pipeline company seeking to acquire an easement or other property interest for the construction, maintenance, or operation of a pipeline or underground storage facility shall do all of the following:

1. Allow the landowner or a person serving in a fiduciary capacity on the landowner's behalf to cancel an agreement granting an easement or other interest by restricted certified mail to the pipeline company's principal place of business if received by the pipeline company within seven days, excluding Saturday and Sunday, of the date of the agreement and inform the landowner or the fiduciary in writing of the right to cancel prior to the signing of the agreement by the landowner or the fiduciary.

2. Provide the landowner or a person serving in a fiduciary capacity in the landowner's behalf with a form in duplicate for the notice of cancellation.

3. Not record an agreement until after the period for cancellation has expired.

4. Not include in the agreement a waiver of the right to cancel in accordance with this section. The landowner or a person serving in a fiduciary capacity in the landowner's behalf may exercise the right of cancellation only once for each pipeline project.

Sec. 52. NEW SECTION. 479B.25 ARBITRATION AGREEMENTS.

If an easement or other written agreement between a landowner and a pipeline company provides for the determination through arbitration of the amount of monetary damages sustained by a landowner and caused by the construction, maintenance, or repair of a pipeline or underground storage facility, and if either party has not appointed its arbitrator or agreed to an arbitrator under the agreement within thirty days after the other party has invoked the arbitration provisions of the agreement by written notice to the other party by restricted certified mail, the landowner or the pipeline company may petition a magistrate in the county where the real property is located for the appointment of an arbitrator to serve in the stead of the arbitrator who would have been appointed or agreed to by the other party. Before filing the petition the landowner or pipeline company shall give notice of the petitioning of the magistrate by restricted certified mail to the other party and file proof of mailing with the petition.

If after hearing, the magistrate finds that the landowner or pipeline company has not been diligent in appointing or reasonable in agreeing to an arbitrator, the magistrate shall appoint an impartial arbitrator who shall have all of the powers and duties of an arbitrator appointed or agreed to by the other party under the agreement.

For purposes of this section only, "landowner" means the person who signed the easement or other written agreement, or the person's heirs, successors, and assigns.

Sec. 53. NEW SECTION. 479B.26 SUBSEQUENT PIPELINE OR UNDERGROUND STORAGE FACILITY.

A pipeline company shall not construct a subsequent pipeline or underground storage

facility upon its existing easement when a damage claim from the installation of its previous pipeline on that easement has not been resolved unless that claim is under litigation or arbitration, or is the subject of a proceeding pursuant to section 479B.30.

With the exception of claims for damage to drain tile and future crop deficiency, for this section to apply, landowners and tenants must submit their claims in writing for damages caused by construction of the pipeline or underground storage facility within one year of final cleanup on the real property by the pipeline company.

Sec. 54. NEW SECTION. 479B.27 DAMAGE AGREEMENT.

A pipeline company shall not construct a pipeline or underground storage facility until a written statement is on file with the board as to how damages resulting from the construction of the pipeline shall be determined and paid, except in cases of eminent domain. The pipeline company shall provide a copy of the statement to the landowner.

Sec. 55. NEW SECTION. 479B.28 NEGOTIATED FEE.

In lieu of a one-time lump sum payment for an easement or other property interest allowing a pipeline to cross property or allowing underground storage of hazardous liquids, a landowner and the pipeline company may negotiate an annual fee, to be paid over a fixed number of years. Unless the easement provides otherwise, the annual fee shall run with the land and shall be payable to the owner of record.

Sec. 56. NEW SECTION. 479B.29 PARTICULAR DAMAGE CLAIMS.

1. The loss of gain by or the death or injury of livestock caused by the interruption or relocation of normal feeding of the livestock caused by the construction or repair of a pipeline or underground storage facility is a compensable loss and shall be recognized by a pipeline company.

2. A claim for damage for future crop deficiency within the easement strip shall not be precluded from renegotiation under section 6B.52 on the grounds that it was apparent at the time of settlement unless the settlement expressly releases the pipeline company from claims for damage to the productivity of the soil. The landowner shall notify the pipeline company in writing thirty days prior to harvest in each year to assess crop deficiency.

Sec. 57. NEW SECTION. 479B.30 DETERMINATION OF CONSTRUCTION DAMAGES.

1. The county board of supervisors shall determine when construction of a pipeline or underground storage facility has been completed in that county for the purposes of this section. Not less than ninety days after the completion of construction and if an agreement cannot be made as to damages, a landowner whose land was affected by the construction of the pipeline or underground storage facility or the pipeline company may file with the board of supervisors a petition asking that a compensation commission determine the damages arising from construction of the pipeline.

2. If the board of supervisors by resolution approves the petition, the landowner or pipeline company shall commence the proceeding by filing an application with the chief judge of the judicial district for the county for the appointment of a compensation commission as provided in section 6B.4. The application shall contain all of the following information:

a. The name and address of the applicant and a description of the land on which the damage is claimed to have occurred.

b. A description of the nature of the damage claimed to have occurred and the amount of the damage claimed.

c. The name and address of the pipeline company claimed to have caused the damage or the name and address of the affected landowner.

3. After the commissioners have been appointed, the applicant shall serve notice on the pipeline company or the landowner stating all of the following:

a. That a compensation commission has been appointed to determine the damages caused

by the construction of the pipeline or underground storage facility.

b. The name and address of the applicant and a description of the land on which the damage is claimed to have occurred.

c. The date, time, and place when the commissioners will view the premises and proceed to appraise the damages and that the pipeline company or landowner may appear before the commissioners.

Sections 6B.10 to 6B.13 apply to this notice. If more than one landowner petitions the county board of supervisors, the application to the chief judge, notice to the pipeline company, and appraisal of damages shall be consolidated into one application, notice, and appraisal. The county attorney may assist in coordinating the consolidated application and notice, but does not become an attorney for the landowners by doing so.

4. The commissioners shall view the land at the time provided in the notice and assess the damages sustained by the landowner by reason of the construction of the pipeline or underground storage facility and they shall file their report with the sheriff. The appraisal of damages returned by the commissioners is final unless appealed. After the appraisal of damages has been delivered to the sheriff by the compensation commission, the sheriff shall give written notice by ordinary mail to the pipeline company and the landowner of the date the appraisal of damages was made, the amount of the appraisal, and that any interested party may appeal to the district court within thirty days of the date of mailing. The sheriff shall endorse the date of mailing of notice on the original appraisal of damages. At the time of appeal, the appealing party shall give written notice to the adverse party or the party's attorney and the sheriff.

5. Chapter 6B applies to this section to the extent it is applicable and consistent with this section.

6. The pipeline company shall pay all costs of the assessment made by the commissioners and reasonable attorney fees and costs incurred by the landowner as determined by the commissioners if the award of the commissioners exceeds one hundred ten percent of the final offer of the pipeline company prior to the determination of damages; if the award does not exceed one hundred ten percent, the landowners shall pay the fees and costs incurred by the pipeline company. The pipeline company shall file with the sheriff an affidavit setting forth the most recent offer made to the landowner. Commissioners shall receive a per diem of fifty dollars and actual and necessary expenses incurred in the performance of their official duties. The pipeline company shall also pay all costs occasioned by the appeal, including reasonable attorney fees to be taxed by the court, unless on the trial of the appeal the same or a lesser amount of damages is awarded than was allowed by the commission from which the appeal was taken.

7. As used in this section, "damages" means compensation for damages to the land, crops, and other personal property caused by the construction of a pipeline and its attendant structures or underground storage facility but does not include compensation for a property interest, and "landowner" includes a farm tenant.

8. The provisions of this section do not apply if the easement provides for any other means of negotiation or arbitration.

Sec. 58. NEW SECTION. 479B.31 SUBSEQUENT TILING.

All additional costs of new tile construction caused by an existing pipeline or underground storage facility shall be paid by the pipeline company. To receive compensation under this section, the landowner or agent of the landowner shall either present an invoice specifying the additional costs caused by the presence of the pipeline which is accompanied by a written verification of the additional costs by the county engineer or soil and water conservation district conservationist or reach an agreement with the pipeline company on the project design and share of the cost to be paid by the pipeline company during the planning of the tiling project.

Sec. 59. NEW SECTION. 480.9 LIABILITY FOR OWNER OF FARMLAND.

An owner of farmland used in a farm operation, as defined in section 352.2, who complies with the requirements of this chapter shall not be held responsible for any damages to an underground facility, including fiber optic cable, if the damage occurred on the farmland in the normal course of the farm operation, unless the owner intentionally damaged the underground facility or acted with wanton disregard or recklessness in causing the damage to the underground facility. For purposes of this section, an "owner" includes a family member, employee, or tenant of the owner.

Sec. 60. Section 546.7, Code 1995, is amended to read as follows:

546.7 UTILITIES DIVISION.

The utilities division shall regulate and supervise public utilities operating in the state. The division shall enforce and implement chapters 476, 476A, 477C, 478, 479, and 479A, and 479B and shall perform other duties assigned to it by law. The division is headed by the administrator of public utilities who shall be appointed by the governor pursuant to section 474.1.

Sec. 61. **EFFECTIVE DATE.** This Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 62. **RETROACTIVE APPLICABILITY.** The sections of this Act which create new sections 479B.17, 479B.25, and 479B.29 through 479B.31 are retroactive to July 1, 1993.

Approved May 26, 1995

CHAPTER 193

FRANCHISE TAX ON FINANCIAL INSTITUTIONS

S.F. 478

AN ACT relating to the state franchise tax imposed on financial institutions by disallowing the deduction for expenses related to a financial institution's investment in investment subsidiaries and providing applicability dates.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 422.61, subsection 2, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. A deduction shall not be allowed for that portion of the taxpayer's expenses computed under this paragraph which is allocable to an investment in an investment subsidiary. The portion of the taxpayer's expenses which is allocable to an investment in an investment subsidiary is an amount which bears the same ratio to the taxpayer's expenses as the taxpayer's average adjusted basis, as computed pursuant to section 1016 of the Internal Revenue Code, of investment in that investment subsidiary bears to the average adjusted basis for all assets of the taxpayer. The portion of the taxpayer's expenses that is computed and disallowed under this paragraph shall be added.

Sec. 2. Section 422.61, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. "Investment subsidiary" means an affiliate that is owned, capitalized, or utilized by a financial institution with one of its purposes being to make, hold, or manage, for and on behalf of the financial institution, investments in securities which the financial institution would be permitted by applicable law to make for its own account.