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SENATE FILE **2205**
BY COMMITTEE ON ENVIRONMENT
AND ENERGY UTILITIES

*Approved (p. 455)
(Joining also SF 2118)*

Passed Senate, Date 3/17/88 (p. 865) Passed House, Date 3/30/88 (p. 1182)

Vote: Ayes 47 Nays 0 Vote: Ayes 97 Nays 0

Approved April 12, 1988

Motion to reconsider (p. 865) - withdrawn 3-18 (p. 901)

A BILL FOR

1 An Act relating to interstate natural gas pipelines by
2 establishing a new chapter to define jurisdiction over
3 interstate natural gas pipelines, removing references to
4 interstate natural gas pipelines from the current chapter
5 relating to pipelines and natural gas storage, and adjusting
6 fees.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

SENATE FILE 2205

S-5376

1 Amend Senate File 2205 as follows:

2 1. Page 2, line 2, by inserting after the figure
3 "479A.18." the following: "When inspecting for safety
4 standard compliance, the board shall apply only United
5 States department of transportation safety standards."

6 2. Page 6, by inserting after line 28, the
7 following:

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

14 3. Page 9, line 25, by striking the word "until"
15 and inserting the following: "unless".

S-5376

Filed March 15, 1988

Adopted 3/17 (p. 865)

BY MICHAEL E. GRONSTAL

1 Section 1. NEW SECTION. 479A.1 PURPOSE.

2 It is the purpose of the general assembly in enacting this
3 law to confer upon the utilities board the power and authority
4 to implement certain controls over the transportation of
5 natural gas to protect landowners and tenants from
6 environmental or economic damages which may result from the
7 construction, operation, or maintenance of a pipeline within
8 the state. It is also the purpose of the general assembly in
9 enacting this law to provide for the board to act as an agent
10 for the federal government in determining pipeline company
11 compliance with the standards of the federal government for
12 pipelines within the boundaries of the state.

13 Sec. 2. NEW SECTION. 479A.2 DEFINITIONS.

14 As used in this chapter, unless the context requires
15 otherwise:

16 1. "Board" means the utilities board within the utilities
17 division of the department of commerce.

18 2. "Pipeline" means an interstate pipe, pipes, or
19 pipelines used for the transportation or transmission of
20 natural gas within or through this state.

21 3. "Pipeline company" means a person engaged in or
22 organized for the purpose of owning, operating, or controlling
23 pipelines.

24 4. "Underground storage" means the storage of natural gas
25 in a subsurface stratum or formation of the earth by a
26 pipeline company.

27 Sec. 3. NEW SECTION. 479A.3 CONDITIONS ATTENDING
28 OPERATION.

29 A pipeline company shall not construct, maintain, or
30 operate pipeline under, along, over, or across any public or
31 private highways, grounds, waters, or streams of any kind in
32 this state except in accordance with this chapter.

33 Sec. 4. NEW SECTION. 479A.4 CONSTRUCTION INSPECTION.

34 The board shall supervise pipelines, pipeline companies,
35 and underground storage, and shall inspect the construction,

1 maintenance, and condition of pipelines and underground
2 storage facilities in accordance with section 479A.18.

3 Sec. 5. NEW SECTION. 479A.5 NOTICE PRIOR TO
4 CONSTRUCTION.

5 Before beginning construction in this state, a pipeline
6 company shall provide an adequate opportunity for state
7 inspection, by giving written notice to the chairperson of the
8 board stating the time, date, location, and nature of the
9 construction. The notice shall be filed with the chairperson
10 of the board not less than five business days before
11 commencement of the construction.

12 Sec. 6. NEW SECTION. 479A.6 COST OF CONSTRUCTION
13 INSPECTION.

14 A pipeline company shall pay actual unrecovered costs
15 directly attributable to construction inspections conducted by
16 the board or the board's designee.

17 Sec. 7. NEW SECTION. 479A.7 ANNUAL INSPECTION FEE.

18 A pipeline company shall pay an annual inspection fee of
19 fifty cents per mile of pipeline or fraction thereof for each
20 inch of diameter of the pipeline located in this state. The
21 annual inspection fee shall be paid for the calendar year in
22 advance between January 1 and February 1 of each year.

23 Sec. 8. NEW SECTION. 479A.8 FAILURE TO PAY -- PENALTIES.

24 The board shall collect the inspection fees, and failure to
25 pay an inspection fee within thirty days after the time the
26 fee becomes due is cause for the assessment of civil penalties
27 in accordance with section 479A.16.

28 Sec. 9. NEW SECTION. 479A.9 DEPOSIT OF FUNDS.

29 Except as otherwise provided in section 479A.14, subsection
30 8, moneys received under this chapter shall be credited to the
31 utilities trust fund established in section 476.10.

32 Sec. 10. NEW SECTION. 479A.10 RULES.

33 The board shall adopt rules, pursuant to chapter 17A for
34 the enforcement of this chapter.

35 Sec. 11. NEW SECTION. 479A.11 DAMAGES.

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

18 Sec. 12. NEW SECTION. 479A.12 FINANCIAL CONDITION OF
19 COMPANY -- BOND OR OTHER SECURITY.

20 Before construction is begun by a pipeline company, the
21 company shall satisfy the board that the company has property
22 subject to execution within this state other than pipelines,
23 of a value in excess of two hundred fifty thousand dollars, or
24 the company must file and maintain with the board a surety
25 bond in the penal sum of two hundred fifty thousand dollars
26 with surety approved by the board, conditioned that the
27 company will pay any and all damages legally recovered against
28 it growing out of the construction or operation of its
29 pipeline and underground storage facilities in this state, or
30 the company shall deposit with the board security satisfactory
31 to the board as a guaranty for the payment of that amount of
32 damages, or furnish to the board satisfactory proofs of its
33 solvency and financial ability to pay that amount of damages.

34 Sec. 13. NEW SECTION. 479A.13 VENUE -- SERVICE OF
35 ORIGINAL NOTICE.

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

6 Sec. 14. NEW SECTION. 479A.14 LAND RESTORATION --
7 STANDARDS -- INSPECTION.

8 1. The board shall adopt rules establishing standards to
9 protect underground improvements during the construction of
10 pipelines, to protect soil conservation and drainage
11 structures from being permanently damaged by pipeline
12 construction, and for the restoration of agricultural lands
13 after pipeline construction. To ensure that all interested
14 persons are informed of this rulemaking procedure and are
15 afforded a right to participate, the board shall schedule an
16 opportunity for oral presentations on the proposed rulemaking
17 and, in addition to the requirements of section 17A.4, shall
18 distribute copies of the notice of intended action and
19 opportunity for oral presentations to each county board of
20 supervisors. A county board of supervisors may, under chapter
21 17A and subsequent to the rulemaking proceedings, petition for
22 additional rulemaking to establish standards to protect soil
23 conservation practices, structures, and drainage structures
24 within that county. Upon the request of the petitioning
25 county, the board shall schedule a hearing to consider the
26 merits of the petition. Rules adopted under this section do
27 not apply within the boundaries of a city.

28 2. The county board of supervisors shall cause an on-site
29 inspection for compliance with the standards adopted under
30 this section to be performed at any pipeline construction
31 project in the county. A professional engineer familiar with
32 the standards adopted under this section and registered under
33 chapter 114 shall be placed in charge of the inspection. The
34 reasonable costs of the inspection shall be borne by the
35 pipeline company.

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

9 4. As a part of the inspection process, the inspector
10 shall ascertain that the trench excavation has been filled in
11 a manner to provide that the topsoil has been replaced on top
12 and rocks and debris have been removed from the topsoil of the
13 easement area. An existing topsoil layer extending at least
14 one foot in width on either side of the pipeline excavation at
15 a maximum depth of one foot shall be removed separately and
16 shall be stockpiled and preserved separately during subsequent
17 construction operations, unless other means for separating the
18 topsoil are provided in the easement. The topsoil shall be
19 replaced so the upper portion of the pipeline excavation and
20 the crowned surface contain only the topsoil originally
21 removed.

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

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

1 standards adopted under this section.

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

6 8. An inspector may temporarily halt the construction if
7 the construction is not in compliance with this chapter and
8 the standards adopted under it, or the terms of the agreement
9 with the pipeline company regarding topsoil removal and
10 replacement, drainage structures, soil moisture conditions, or
11 the location of construction, until the inspector consults
12 with the supervisory personnel of the pipeline company. If
13 the construction is continued over the inspector's objection
14 and is found not to be in compliance with this chapter, the
15 standards, or the agreement, and is found to cause damage, a
16 civil penalty recovered under section 479A.16 as a result of
17 that violation shall be paid to the landowner.

18 9. The board shall instruct inspectors appointed by the
19 county board of supervisors regarding the content of this
20 chapter and the standards and the inspectors' responsibility
21 to require construction conforming with them.

22 10. An underground drain tile damaged, cut, or removed
23 shall be temporarily repaired and maintained as necessary to
24 allow for its proper function during construction of the
25 pipeline. If temporary repair is determined not to be
26 necessary, the exposed line shall be screened or otherwise
27 protected to prevent the entry of foreign material or small
28 animals into the tile line system.

29 Sec. 15. NEW SECTION. 479A.15 ENTRY FOR LAND SURVEYS.

30 A pipeline company may enter upon private land for the
31 purpose of making land surveys to determine direction or depth
32 of pipelines by giving ten days' written notice by restricted
33 certified mail to the landowner and to any person residing on
34 or in possession of the land. For purposes of this section
35 only, "landowner" means a person listed on the tax assessment

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1 rolls as responsible for the payment of real estate taxes
2 imposed on the property. The entry for land surveys
3 authorized in this section is not a trespass and may be aided
4 by injunction. The pipeline company shall pay the actual
5 damages caused by the entry and survey.

6 Sec. 16. NEW SECTION. 479A.16 CIVIL PENALTY.

7 A person who violates a provision of this chapter or a rule
8 or standards issued pursuant to this chapter is subject to a
9 civil penalty not to exceed one thousand dollars for each
10 violation. Each day that the violation continues constitutes
11 a separate offense. However, the civil penalty shall not
12 exceed two hundred thousand dollars for any related series of
13 violations.

14 A civil penalty may be compromised by the board. In
15 determining the amount of the penalty, or the amount agreed
16 upon in compromise, the appropriateness of the penalty to the
17 size of the business of the person charged, the gravity of the
18 violation, and the good faith of the person charged in
19 attempting to achieve compliance after notification of a
20 violation, shall be considered. The amount of the penalty,
21 when finally determined, or the amount agreed upon in
22 compromise, may be deducted from any sums owed by the state to
23 the person charged, or may be recovered in a civil action.

24 Sec. 17. NEW SECTION. 479A.17 REHEARING -- JUDICIAL
25 REVIEW.

26 Rehearing procedure for a person aggrieved by the action of
27 the board in assessing or failing to assess civil penalties
28 under this chapter shall be as provided in section 476.12.
29 Judicial review may be sought in accordance with chapter 17A.

30 Sec. 18. NEW SECTION. 479A.18 FEDERAL INSPECTION.

31 The board may enter into agreements with and receive moneys
32 from the United States department of transportation for the
33 inspection of pipelines to determine compliance with the
34 applicable standards of pipeline safety as provided by Pub. L.
35 No. 90-481, the Natural Gas Pipeline Safety Act of 1968, 49

1 U.S.C. § 1671-1684.

2 Sec. 19. NEW SECTION. 479A.19 RIGHT TO CANCEL AGREEMENT.

3 1. A person seeking to acquire an easement or other prop-
4 erty interest for the construction, maintenance, or operation
5 of a pipeline shall allow the landowner or a person serving in
6 a fiduciary capacity in the landowner's behalf to cancel an
7 agreement granting an easement or other interest by certified
8 mail with return requested to the company's principal place of
9 business if received by the company within seven days, ex-
10 cluding Saturday and Sunday, of the date of the contract;
11 shall inform the landowner or fiduciary in writing of the
12 right to cancel prior to the signing of the agreement by the
13 landowner or fiduciary; and shall provide the landowner or
14 fiduciary with a form in duplicate for the notice of
15 cancellation.

16 2. A person seeking to acquire an easement or other prop-
17 erty interest for the construction, maintenance, or operation
18 of a pipeline shall not record an agreement until after the
19 period for cancellation has expired, and shall not include in
20 an agreement a waiver of the right to cancel in accordance
21 with this section.

22 3. The landowner or a person serving in a fiduciary capa-
23 city in the landowner's behalf may exercise the right of can-
24 cellation only once for each pipeline project.

25 Sec. 20. NEW SECTION. 479A.20 ARBITRATION AGREEMENTS.

26 Notwithstanding conflicting provisions of chapter 679A, if
27 an easement or other written agreement between a landowner and
28 a pipeline company provides for the determination through
29 arbitration of the amount of monetary damages sustained by a
30 landowner and caused by the construction, maintenance, or re-
31 pair of a pipeline, and if either person has not appointed its
32 arbitrator or agreed to an arbitrator under the agreement
33 within thirty days after the other person has invoked the
34 arbitration provisions of the agreement by written notice to
35 the other party by restricted certified mail, the landowner or

1 the pipeline company may petition a magistrate in the county
2 where the real property is located for the appointment of an
3 arbitrator to serve in place of the arbitrator who would have
4 been appointed or agreed to by the other person. Before
5 filing the petition the landowner or pipeline company shall
6 give notice of the petitioning of the magistrate by restricted
7 certified mail to the other person and file proof of mailing
8 with the petition. If, after hearing, the magistrate finds
9 that the landowner or pipeline company has not been diligent
10 in appointing or reasonable in agreeing to an arbitrator, the
11 magistrate shall appoint an impartial arbitrator who shall
12 have all of the powers and duties of an arbitrator appointed
13 or agreed to by the other person under the agreement.

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

17 Sec. 21. NEW SECTION. 479A.21 SUBSEQUENT PIPELINES.

18 A pipeline company shall not install a subsequent pipeline
19 upon its existing easement when a damage claim from the
20 installation of its previous pipeline has not been determined
21 by negotiation, arbitration, or action of the courts.

22 However, this section does not apply if the damage claim is
23 under litigation or arbitration.

24 Sec. 22. NEW SECTION. 479A.22 DAMAGE STATEMENT.

5276 25 A pipeline company shall not install a pipeline until there
26 is a written statement on file with the board as to how
27 damages resulting from the construction of the pipeline shall
28 be determined and paid, except in cases of eminent domain.
29 The company shall provide a copy of the statement to the
30 landowner.

31 Sec. 23. NEW SECTION. 479A.23 NEGOTIATED ANNUAL FEE.

32 In lieu of a one-time lump sum payment for an easement or
33 other property interest allowing a pipeline to cross property,
34 a landowner and the pipeline company may negotiate an annual
35 fee, to be paid over a fixed number of years. Unless the

1 easement provides otherwise, the annual fee shall run with the
2 land and shall be payable to the owner of record.

3 Sec. 24. NEW SECTION. 479A.24 PARTICULAR DAMAGE CLAIMS.

4 1. The loss of gain by, or the death or injury of
5 livestock caused by the interruption or relocation of normal
6 feeding of the livestock due to the construction or repair of
7 a pipeline is a compensable loss and shall be so recognized by
8 a pipeline company.

9 2. A claim for damage for future crop deficiency within
10 the easement strip shall not be precluded from renegotiation
11 under section 472.52 on the grounds that it was apparent at
12 the time of settlement unless the settlement expressly
13 releases the pipeline company from claims for damage to the
14 productivity of the soil. The landowner shall notify the
15 company thirty days prior to harvest in each year to assess
16 crop deficiency.

17 3. With the exception of claims for damage to drain tile
18 and future crop deficiency, landowners and tenants must submit
19 in writing their claims for damages caused by installation of
20 the pipeline within one year of completion of installation of
21 a pipeline as determined by the county board of supervisors.

22 Sec. 25. NEW SECTION. 479A.25 DETERMINATION OF INSTALLA-
23 TION DAMAGES.

24 1. The county board of supervisors shall determine when
25 installation of a pipeline has been completed in that county
26 for the purposes of this section. Within one year of the
27 completion of installation, a landowner whose land was
28 affected by the installation of the pipeline may file with the
29 board of supervisors a petition asking that a compensation
30 commission determine the damages arising from the installation
31 of the pipeline.

32 2. If the board of supervisors by resolution approves the
33 petition, the landowner shall commence the proceeding by
34 filing an application with the chief judge of the judicial
35 district of the county for the appointment of a compensation

1 commission as provided in section 472.4.

2 The application shall contain all of the following:

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

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

8 c. The name and address of the pipeline company claimed to
9 have caused the damage.

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

13 a. That a compensation commission has been appointed to
14 determine the damages caused by the installation of the pipe-
15 line.

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

18 c. The place, date, and time when the commissioners will
19 view the premises and proceed to appraise the damages.

20 d. That the pipeline company may appear before the com-
21 missioners.

22 Sections 472.10 to 472.13 apply to this notice. If more
23 than one landowner petitions the county board of supervisors,
24 the application to the chief judge, notice to the pipeline
25 company, and appraisal of damages shall be consolidated
26 into one application, notice, and appraisal. The county
27 attorney may assist in coordinating the consolidated
28 application and notice, but does not become an attorney for
29 the landowners by doing so.

30 4. The commissioners shall view the land at the time
31 provided in the notice and assess the damages sustained by the
32 landowner by reason of the installation of the pipeline. The
33 commissioners shall file their report with the sheriff. The
34 appraisal of damages returned by the commissioners is final
35 unless appealed. After the appraisal of damages has been

1 delivered to the sheriff by the compensation commission, the
2 sheriff shall give written notice by ordinary mail to the
3 pipeline company and the landowner of the date the
4 appraisalment of damages was made, the amount of the
5 appraisalment, and that any interested party may appeal to the
6 district court within thirty days of the date of mailing. The
7 sheriff shall endorse the date of mailing of notice on the
8 original appraisalment of damages. At the time of appeal, the
9 appealing party shall give written notice to the adverse party
10 or the party's attorney and the sheriff.

11 5. Chapter 472 applies to this section to the extent it is
12 applicable and consistent with this section.

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

30 7. As used in this section, "damages" means compensation
31 for damages to the land, crops, and other personal property
32 caused by the construction activity of installing a pipeline
33 and its attendant structures but does not include compensation
34 for a property interest, and "landowner" includes a tenant.

35 8. This section does not apply if the easement provides

1 for any other means of negotiation or arbitration.

2 Sec. 26. NEW SECTION. 479A.26 SUBSEQUENT TILING.

3 Additional costs of new tile construction caused by an
4 existing pipeline shall be paid by the pipeline company. The
5 additional costs shall be paid by the pipeline company upon
6 presentation of an invoice, verified by the county engineer or
7 soil conservation district conservationist and specifically
8 showing the added costs caused by the presence of the
9 pipeline. A copy of the county engineer's or district
10 conservationist's verification of additional costs shall
11 accompany the invoice to the pipeline company.

12 Before performing earthwork, tiling, or excavation within
13 three hundred feet of an existing pipeline, a landowner,
14 tenant, contractor, or the representative of any one of them
15 shall notify the pipeline company or its representative by
16 calling the pipeline company telephone number listed on the
17 roadside right-of-way marker. The pipeline company shall mark
18 the location of the existing pipeline within forty-eight hours
19 of notification with appropriate marker flags or stakes on the
20 land surface directly above the pipeline for a distance of one
21 hundred fifty feet either side of the proposed work site.
22 Markers shall be placed at twenty-five foot intervals, where
23 physically possible, along with the pipeline route indicating
24 the diameter of the pipeline. The pipeline company shall not
25 charge the landowner, tenant, or contractor for the placement
26 of the markers. Excavation, earthwork, or tiling shall not be
27 commenced in that area until the markers are in place and the
28 pipeline company representative is present and has notified
29 the contractor of the depth of the pipeline at the site of
30 crossing. The pipeline company representative shall be
31 present during all the excavation, earthwork, or tiling within
32 the marked area when that area is any one of the following:
33 1. Land located outside the corporate limits of a city.
34 2. Agricultural land within the corporate limits of a
35 city.

1 3. Nonagricultural land within the corporate limits of a
2 city when the pipeline facility is operated at a pressure in
3 excess of one hundred fifty pounds per square inch.

4 As used in this section, "agricultural land" means land of
5 one or more acres suitable for cultivation for the production
6 of crops, fruit, or other horticultural purposes or for the
7 grazing or production of livestock.

8 Sec. 27. Section 479.1, Code 1987, is amended to read as
9 follows:

10 479.1 PURPOSE AND-POLICY.

11 It is hereby-declared-to-be the purpose and-policy of the
12 legislature in enacting this law to confer upon the utilities
13 board the power and authority to supervise the transportation
14 or transmission of any solid, liquid, or gaseous substance,
15 except water, within or through this state by pipeline,
16 whether specifically mentioned herein in this chapter or not,
17 and the power and authority to supervise the underground
18 storage of gas, ~~so-as~~ to protect the safety and welfare of the
19 public in its use of any public or private highways, grounds,
20 waters, and streams of any kind in this state. However, this
21 chapter does not apply to interstate natural gas pipelines,
22 pipeline companies, and underground storage, as these terms
23 are defined in chapter 479A.

24 Sec. 28. Section 479.2, unnumbered paragraphs 1 and 2,
25 Code 1987, are amended to read as follows:

26 ~~The-term-"pipeline"-insofar~~ "Pipeline" as used in this
27 chapter ~~is-concerned-shall-include-and-mean-any~~ means a pipe,
28 pipes, or pipelines used for the transportation or
29 transmission of any a solid, liquid, or gaseous substance,
30 except water, within or through this state. However, the term
31 does not include interstate pipe, pipes, or pipelines used for
32 the transportation or transmission of natural gas.

33 ~~The-term-"pipeline~~ "Pipeline company", ~~insofar~~ as used in
34 this chapter ~~is-concerned-shall-include-and-mean-any~~ means a
35 person, firm, copartnership, association, corporation or

1 syndicate engaged in or organized for the purpose of owning,
2 operating, or controlling pipelines for the transportation or
3 transmission of any solid, liquid, or gaseous substance,
4 except water, within or through this state. However, the term
5 does not include a person owning, operating, or controlling
6 interstate pipelines for the transportation or transmission of
7 natural gas.

8 Sec. 29. Section 479.5, unnumbered paragraph 5, Code 1987,
9 is amended to read as follows:

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

24 Sec. 30. Section 479.12, Code 1987, is amended to read as
25 follows:

26 479.12 FINAL ORDER -- CONDITION.

27 ~~It~~ The board may grant such a permit in whole or in part
28 upon ~~such~~ such terms, conditions, and restrictions as to safety
29 requirements and as to location and route as ~~may be~~ determined
30 by it to be just and proper. ~~Provided, however, that before~~
31 any ~~Before~~ a permit ~~shall be~~ is granted to any a pipeline
32 company ~~proposing to engage in intrastate commerce,~~ the board
33 ~~shall,~~ after a public hearing as provided in this chapter,
34 shall determine whether the services proposed to be rendered
35 will promote the public convenience and necessity, and an

1 affirmative finding to ~~such that~~ effect ~~shall-be~~ is a
2 condition precedent to the granting of ~~such a~~ permit.

3 Sec. 31. Section 479.13, Code 1987, is amended to read as
4 follows:

5 479.13 COSTS AND FEES.

6 Applicant The applicant shall pay all costs and expenses of
7 the informational meetings, hearing, and necessary preliminary
8 investigation ~~in-connection-therewith~~ including the cost of
9 publishing notice of hearing, and shall pay ~~a-construction~~
10 ~~inspection-fee-in-the-sum-of-fifty-cents-per-mile-of-pipeline~~
11 ~~or-fraction-thereof-for-each-inch-of-diameter-of-such-pipeline~~
12 located-in-the-state the actual unrecovered costs directly
13 attributable to construction inspections conducted by the
14 board or the board's designee.

15 Sec. 32. Section 479.14, Code 1987, is amended to read as
16 follows:

17 479.14 INSPECTION FEE.

18 Every A pipeline company shall pay an annual inspection fee
19 ~~in-the-sum of twenty-five~~ fifty cents per mile of pipeline or
20 fraction thereof for each inch of diameter of ~~such the~~
21 pipeline located in the state, ~~and-said the~~ inspection fee to
22 be paid to the board for the calendar year in advance between
23 January 1 and February 1 of each year ~~to-the-board.~~

24 Sec. 33. Section 479.33, Code 1987, is amended to read as
25 follows:

26 479.33 AUTHORIZED FEDERAL AID.

27 The board may enter into agreements with and receive moneys
28 from the United States department of transportation for the
29 inspection of pipelines to determine compliance with
30 applicable standards of pipeline safety, and for enforcement
31 of the applicable standards of pipeline safety as provided by
32 Public Law 90-481, the Natural Gas Pipeline Safety Act of 1968
33 (49 United States Code 1671-1684).

34 EXPLANATION

35 This bill establishes a new chapter 479A for the

1 supervision and regulation of interstate pipelines and
2 underground gas storage. The new chapter reflects the
3 provisions previously included in chapter 479 relating to both
4 interstate and intrastate pipelines.

5 This bill also provides that the power and authority of the
6 utilities board to supervise the transmission of substances
7 through pipelines in the state also applies to interstate
8 natural gas pipelines. The bill requires payment of the
9 actual unrecovered costs of the construction inspection and an
10 annual inspection fee, and provides language appropriate for
11 receipt of federal aid.

12 SIMILAR TO SF 2118 (LSB 7958S)

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Asa Energy 3/21
Do Pass 3/24 (p. 1063)

SENATE FILE **2205**
BY COMMITTEE ON ENVIRONMENT
AND ENERGY UTILITIES

(AS AMENDED AND PASSED BY THE SENATE MARCH 17, 1988)

----- - New Language by the Senate

Passed Senate, Date 3/17/88 (p. 865) Passed House, Date 3/30/88 (p. 1182)
Vote: Ayes 47 Nays 0 Vote: Ayes 97 Nays 0
Approved April 12, 1988 (p. 1480)

A BILL FOR

1 An Act relating to interstate natural gas pipelines by
2 establishing a new chapter to define jurisdiction over
3 interstate natural gas pipelines, removing references to
4 interstate natural gas pipelines from the current chapter
5 relating to pipelines and natural gas storage, and adjusting
6 fees.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 2205

1 Section 1. NEW SECTION. 479A.1 PURPOSE.

2 It is the purpose of the general assembly in enacting this
3 law to confer upon the utilities board the power and authority
4 to implement certain controls over the transportation of
5 natural gas to protect landowners and tenants from
6 environmental or economic damages which may result from the
7 construction, operation, or maintenance of a pipeline within
8 the state. It is also the purpose of the general assembly in
9 enacting this law to provide for the board to act as an agent
10 for the federal government in determining pipeline company
11 compliance with the standards of the federal government for
12 pipelines within the boundaries of the state.

13 Sec. 2. NEW SECTION. 479A.2 DEFINITIONS.

14 As used in this chapter, unless the context requires
15 otherwise:

16 1. "Board" means the utilities board within the utilities
17 division of the department of commerce.

18 2. "Pipeline" means an interstate pipe, pipes, or
19 pipelines used for the transportation or transmission of
20 natural gas within or through this state.

21 3. "Pipeline company" means a person engaged in or
22 organized for the purpose of owning, operating, or controlling
23 pipelines.

24 4. "Underground storage" means the storage of natural gas
25 in a subsurface stratum or formation of the earth by a
26 pipeline company.

27 Sec. 3. NEW SECTION. 479A.3 CONDITIONS ATTENDING
28 OPERATION.

29 A pipeline company shall not construct, maintain, or
30 operate pipeline under, along, over, or across any public or
31 private highways, grounds, waters, or streams of any kind in
32 this state except in accordance with this chapter.

33 Sec. 4. NEW SECTION. 479A.4 CONSTRUCTION INSPECTION.

34 The board shall supervise pipelines, pipeline companies,
35 and underground storage, and shall inspect the construction,

1 maintenance, and condition of pipelines and underground
2 storage facilities in accordance with section 479A.18. When
3 inspecting for safety standard compliance, the board shall
4 apply only United States department of transportation safety
5 standards.

6 Sec. 5. NEW SECTION. 479A.5 NOTICE PRIOR TO
7 CONSTRUCTION.

8 Before beginning construction in this state, a pipeline
9 company shall provide an adequate opportunity for state
10 inspection, by giving written notice to the chairperson of the
11 board stating the time, date, location, and nature of the
12 construction. The notice shall be filed with the chairperson
13 of the board not less than five business days before
14 commencement of the construction.

15 Sec. 6. NEW SECTION. 479A.6 COST OF CONSTRUCTION
16 INSPECTION.

17 A pipeline company shall pay actual unrecovered costs
18 directly attributable to construction inspections conducted by
19 the board or the board's designee.

20 Sec. 7. NEW SECTION. 479A.7 ANNUAL INSPECTION FEE.

21 A pipeline company shall pay an annual inspection fee of
22 fifty cents per mile of pipeline or fraction thereof for each
23 inch of diameter of the pipeline located in this state. The
24 annual inspection fee shall be paid for the calendar year in
25 advance between January 1 and February 1 of each year.

26 Sec. 8. NEW SECTION. 479A.8 FAILURE TO PAY -- PENALTIES.

27 The board shall collect the inspection fees, and failure to
28 pay an inspection fee within thirty days after the time the
29 fee becomes due is cause for the assessment of civil penalties
30 in accordance with section 479A.16.

31 Sec. 9. NEW SECTION. 479A.9 DEPOSIT OF FUNDS.

32 Except as otherwise provided in section 479A.14, subsection
33 8, moneys received under this chapter shall be credited to the
34 utilities trust fund established in section 476.10.

35 Sec. 10. NEW SECTION. 479A.10 RULES.

1 The board shall adopt rules, pursuant to chapter 17A for
2 the enforcement of this chapter.

3 Sec. 11. NEW SECTION. 479A.11 DAMAGES.

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

21 Sec. 12. NEW SECTION. 479A.12 FINANCIAL CONDITION OF
22 COMPANY -- BOND OR OTHER SECURITY.

23 Before construction is begun by a pipeline company, the
24 company shall satisfy the board that the company has property
25 subject to execution within this state other than pipelines,
26 of a value in excess of two hundred fifty thousand dollars, or
27 the company must file and maintain with the board a surety
28 bond in the penal sum of two hundred fifty thousand dollars
29 with surety approved by the board, conditioned that the
30 company will pay any and all damages legally recovered against
31 it growing out of the construction or operation of its
32 pipeline and underground storage facilities in this state, or
33 the company shall deposit with the board security satisfactory
34 to the board as a guaranty for the payment of that amount of
35 damages, or furnish to the board satisfactory proofs of its

1 solvency and financial ability to pay that amount of damages.

2 Sec. 13. NEW SECTION. 479A.13 VENUE -- SERVICE OF

3 ORIGINAL NOTICE.

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

9 Sec. 14. NEW SECTION. 479A.14 LAND RESTORATION --
10 STANDARDS -- INSPECTION.

11 1. The board shall adopt rules establishing standards to
12 protect underground improvements during the construction of
13 pipelines, to protect soil conservation and drainage
14 structures from being permanently damaged by pipeline
15 construction, and for the restoration of agricultural lands
16 after pipeline construction. To ensure that all interested
17 persons are informed of this rulemaking procedure and are
18 afforded a right to participate, the board shall schedule an
19 opportunity for oral presentations on the proposed rulemaking
20 and, in addition to the requirements of section 17A.4, shall
21 distribute copies of the notice of intended action and
22 opportunity for oral presentations to each county board of
23 supervisors. A county board of supervisors may, under chapter
24 17A and subsequent to the rulemaking proceedings, petition for
25 additional rulemaking to establish standards to protect soil
26 conservation practices, structures, and drainage structures
27 within that county. Upon the request of the petitioning
28 county, the board shall schedule a hearing to consider the
29 merits of the petition. Rules adopted under this section do
30 not apply within the boundaries of a city.

31 2. The county board of supervisors shall cause an on-site
32 inspection for compliance with the standards adopted under
33 this section to be performed at any pipeline construction
34 project in the county. A professional engineer familiar with
35 the standards adopted under this section and registered under

1 chapter 114 shall be placed in charge of the inspection. The
2 reasonable costs of the inspection shall be borne by the
3 pipeline company.

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

12 4. As a part of the inspection process, the inspector
13 shall ascertain that the trench excavation has been filled in
14 a manner to provide that the topsoil has been replaced on top
15 and rocks and debris have been removed from the topsoil of the
16 easement area. An existing topsoil layer extending at least
17 one foot in width on either side of the pipeline excavation at
18 a maximum depth of one foot shall be removed separately and
19 shall be stockpiled and preserved separately during subsequent
20 construction operations, unless other means for separating the
21 topsoil are provided in the easement. The topsoil shall be
22 replaced so the upper portion of the pipeline excavation and
23 the crowned surface contain only the topsoil originally
24 removed.

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

34 6. If the pipeline company or its contractor does not
35 comply with the orders of the inspector for compliance with

1 the standards, the county board of supervisors may direct the
2 county attorney to petition the district court for an order
3 requiring corrective action to be taken in compliance with the
4 standards adopted under this section.

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

9 8. An inspector may temporarily halt the construction if
10 the construction is not in compliance with this chapter and
11 the standards adopted under it, or the terms of the agreement
12 with the pipeline company regarding topsoil removal and
13 replacement, drainage structures, soil moisture conditions, or
14 the location of construction, until the inspector consults
15 with the supervisory personnel of the pipeline company. If
16 the construction is continued over the inspector's objection
17 and is found not to be in compliance with this chapter, the
18 standards, or the agreement, and is found to cause damage, a
19 civil penalty recovered under section 479A.16 as a result of
20 that violation shall be paid to the landowner.

21 9. The board shall instruct inspectors appointed by the
22 county board of supervisors regarding the content of this
23 chapter and the standards and the inspectors' responsibility
24 to require construction conforming with them.

25 10. An underground drain tile damaged, cut, or removed
26 shall be temporarily repaired and maintained as necessary to
27 allow for its proper function during construction of the
28 pipeline. If temporary repair is determined not to be
29 necessary, the exposed line shall be screened or otherwise
30 protected to prevent the entry of foreign material or small
31 animals into the tile line system.

32 11. This section does not preclude the application of
33 provisions for protecting or restoring property contained in
34 agreements independently executed by the pipeline company and
35 the landowner if the provisions are not inconsistent with

1 state law or with rules adopted by the board.

2 Sec. 15. NEW SECTION. 479A.15 ENTRY FOR LAND SURVEYS.

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

14 Sec. 16. NEW SECTION. 479A.16 CIVIL PENALTY.

15 A person who violates a provision of this chapter or a rule
16 or standards issued pursuant to this chapter is subject to a
17 civil penalty not to exceed one thousand dollars for each
18 violation. Each day that the violation continues constitutes
19 a separate offense. However, the civil penalty shall not
20 exceed two hundred thousand dollars for any related series of
21 violations.

22 A civil penalty may be compromised by the board. In
23 determining the amount of the penalty, or the amount agreed
24 upon in compromise, the appropriateness of the penalty to the
25 size of the business of the person charged, the gravity of the
26 violation, and the good faith of the person charged in
27 attempting to achieve compliance after notification of a
28 violation, shall be considered. The amount of the penalty,
29 when finally determined, or the amount agreed upon in
30 compromise, may be deducted from any sums owed by the state to
31 the person charged, or may be recovered in a civil action.

32 Sec. 17. NEW SECTION. 479A.17 REHEARING -- JUDICIAL
33 REVIEW.

34 Rehearing procedure for a person aggrieved by the action of
35 the board in assessing or failing to assess civil penalties

1 under this chapter shall be as provided in section 476.12.
2 Judicial review may be sought in accordance with chapter 17A.

3 Sec. 18. NEW SECTION. 479A.18 FEDERAL INSPECTION.

4 The board may enter into agreements with and receive moneys
5 from the United States department of transportation for the
6 inspection of pipelines to determine compliance with the
7 applicable standards of pipeline safety as provided by Pub. L.
8 No. 90-481, the Natural Gas Pipeline Safety Act of 1968, 49
9 U.S.C. § 1671-1684.

10 Sec. 19. NEW SECTION. 479A.19 RIGHT TO CANCEL AGREEMENT.

11 1. A person seeking to acquire an easement or other prop-
12 erty interest for the construction, maintenance, or operation
13 of a pipeline shall allow the landowner or a person serving in
14 a fiduciary capacity in the landowner's behalf to cancel an
15 agreement granting an easement or other interest by certified
16 mail with return requested to the company's principal place of
17 business if received by the company within seven days, ex-
18 cluding Saturday and Sunday, of the date of the contract;
19 shall inform the landowner or fiduciary in writing of the
20 right to cancel prior to the signing of the agreement by the
21 landowner or fiduciary; and shall provide the landowner or
22 fiduciary with a form in duplicate for the notice of
23 cancellation.

24 2. A person seeking to acquire an easement or other prop-
25 erty interest for the construction, maintenance, or operation
26 of a pipeline shall not record an agreement until after the
27 period for cancellation has expired, and shall not include in
28 an agreement a waiver of the right to cancel in accordance
29 with this section.

30 3. The landowner or a person serving in a fiduciary capa-
31 city in the landowner's behalf may exercise the right of can-
32 cellation only once for each pipeline project.

33 Sec. 20. NEW SECTION. 479A.20 ARBITRATION AGREEMENTS.

34 Notwithstanding conflicting provisions of chapter 679A, if
35 an easement or other written agreement between a landowner and

1 a pipeline company provides for the determination through
2 arbitration of the amount of monetary damages sustained by a
3 landowner and caused by the construction, maintenance, or re-
4 pair of a pipeline, and if either person has not appointed its
5 arbitrator or agreed to an arbitrator under the agreement
6 within thirty days after the other person has invoked the
7 arbitration provisions of the agreement by written notice to
8 the other party by restricted certified mail, the landowner or
9 the pipeline company may petition a magistrate in the county
10 where the real property is located for the appointment of an
11 arbitrator to serve in place of the arbitrator who would have
12 been appointed or agreed to by the other person. Before
13 filing the petition the landowner or pipeline company shall
14 give notice of the petitioning of the magistrate by restricted
15 certified mail to the other person and file proof of mailing
16 with the petition. If, after hearing, the magistrate finds
17 that the landowner or pipeline company has not been diligent
18 in appointing or reasonable in agreeing to an arbitrator, the
19 magistrate shall appoint an impartial arbitrator who shall
20 have all of the powers and duties of an arbitrator appointed
21 or agreed to by the other person under the agreement.

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

25 Sec. 21. NEW SECTION. 479A.21 SUBSEQUENT PIPELINES.

26 A pipeline company shall not install a subsequent pipeline
27 upon its existing easement when a damage claim from the
28 installation of its previous pipeline has not been determined
29 by negotiation, arbitration, or action of the courts.

30 However, this section does not apply if the damage claim is
31 under litigation or arbitration.

32 Sec. 22. NEW SECTION. 479A.22 DAMAGE STATEMENT.

33 A pipeline company shall not install a pipeline unless
34 there is a written statement on file with the board as to how
35 damages resulting from the construction of the pipeline shall

1 be determined and paid, except in cases of eminent domain.
2 The company shall provide a copy of the statement to the
3 landowner.

4 Sec. 23. NEW SECTION. 479A.23 NEGOTIATED ANNUAL FEE.

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

11 Sec. 24. NEW SECTION. 479A.24 PARTICULAR DAMAGE CLAIMS.

12 1. The loss of gain by, or the death or injury of
13 livestock caused by the interruption or relocation of normal
14 feeding of the livestock due to the construction or repair of
15 a pipeline is a compensable loss and shall be so recognized by
16 a pipeline company.

17 2. A claim for damage for future crop deficiency within
18 the easement strip shall not be precluded from renegotiation
19 under section 472.52 on the grounds that it was apparent at
20 the time of settlement unless the settlement expressly
21 releases the pipeline company from claims for damage to the
22 productivity of the soil. The landowner shall notify the
23 company thirty days prior to harvest in each year to assess
24 crop deficiency.

25 3. With the exception of claims for damage to drain tile
26 and future crop deficiency, landowners and tenants must submit
27 in writing their claims for damages caused by installation of
28 the pipeline within one year of completion of installation of
29 a pipeline as determined by the county board of supervisors.

30 Sec. 25. NEW SECTION. 479A.25 DETERMINATION OF INSTALLA-
31 TION DAMAGES.

32 1. The county board of supervisors shall determine when
33 installation of a pipeline has been completed in that county
34 for the purposes of this section. Within one year of the
35 completion of installation, a landowner whose land was

1 affected by the installation of the pipeline may file with the
2 board of supervisors a petition asking that a compensation
3 commission determine the damages arising from the installation
4 of the pipeline.

5 2. If the board of supervisors by resolution approves the
6 petition, the landowner shall commence the proceeding by
7 filing an application with the chief judge of the judicial
8 district of the county for the appointment of a compensation
9 commission as provided in section 472.4.

10 The application shall contain all of the following:

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

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

16 c. The name and address of the pipeline company claimed to
17 have caused the damage.

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

21 a. That a compensation commission has been appointed to
22 determine the damages caused by the installation of the pipe-
23 line.

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

26 c. The place, date, and time when the commissioners will
27 view the premises and proceed to appraise the damages.

28 d. That the pipeline company may appear before the com-
29 missioners.

30 Sections 472.10 to 472.13 apply to this notice. If more
31 than one landowner petitions the county board of supervisors,
32 the application to the chief judge, notice to the pipeline
33 company, and appraisal of damages shall be consolidated
34 into one application, notice, and appraisal. The county
35 attorney may assist in coordinating the consolidated

1 application and notice, but does not become an attorney for
2 the landowners by doing so.

3 4. The commissioners shall view the land at the time
4 provided in the notice and assess the damages sustained by the
5 landowner by reason of the installation of the pipeline. The
6 commissioners shall file their report with the sheriff. The
7 appraisalment of damages returned by the commissioners is final
8 unless appealed. After the appraisalment of damages has been
9 delivered to the sheriff by the compensation commission, the
10 sheriff shall give written notice by ordinary mail to the
11 pipeline company and the landowner of the date the
12 appraisalment of damages was made, the amount of the
13 appraisalment, and that any interested party may appeal to the
14 district court within thirty days of the date of mailing. The
15 sheriff shall endorse the date of mailing of notice on the
16 original appraisalment of damages. At the time of appeal, the
17 appealing party shall give written notice to the adverse party
18 or the party's attorney and the sheriff.

19 5. Chapter 472 applies to this section to the extent it is
20 applicable and consistent with this section.

21 6. The pipeline company shall pay all costs of the
22 assessment made by the commissioners and reasonable attorney
23 fees and costs incurred by the landowner as determined by the
24 commissioners, if the award of the commissioners exceeds one
25 hundred ten percent of the final offer of the pipeline company
26 prior to the determination of damages. If the award does not
27 exceed one hundred ten percent, the landowners shall pay the
28 fees and costs incurred by the pipeline company. The pipeline
29 company shall file with the sheriff an affidavit setting forth
30 the most recent offer made to the landowner. Commissioners
31 shall receive a per diem of fifty dollars and actual and
32 necessary expenses incurred in the performance of their
33 official duties. The pipeline company shall also pay all
34 costs occasioned by the appeal, including reasonable attorney
35 fees to be taxed by the court, unless on the trial of the

1 appeal the same or a lesser amount of damages is awarded than
2 was allowed by the commission from which the appeal was taken.

3 7. As used in this section, "damages" means compensation
4 for damages to the land, crops, and other personal property
5 caused by the construction activity of installing a pipeline
6 and its attendant structures but does not include compensation
7 for a property interest, and "landowner" includes a tenant.

8 8. This section does not apply if the easement provides
9 for any other means of negotiation or arbitration.

10 Sec. 26. NEW SECTION. 479A.26 SUBSEQUENT TILING.

11 Additional costs of new tile construction caused by an
12 existing pipeline shall be paid by the pipeline company. The
13 additional costs shall be paid by the pipeline company upon
14 presentation of an invoice, verified by the county engineer or
15 soil conservation district conservationist and specifically
16 showing the added costs caused by the presence of the
17 pipeline. A copy of the county engineer's or district
18 conservationist's verification of additional costs shall
19 accompany the invoice to the pipeline company.

20 Before performing earthwork, tiling, or excavation within
21 three hundred feet of an existing pipeline, a landowner,
22 tenant, contractor, or the representative of any one of them
23 shall notify the pipeline company or its representative by
24 calling the pipeline company telephone number listed on the
25 roadside right-of-way marker. The pipeline company shall mark
26 the location of the existing pipeline within forty-eight hours
27 of notification with appropriate marker flags or stakes on the
28 land surface directly above the pipeline for a distance of one
29 hundred fifty feet either side of the proposed work site.
30 Markers shall be placed at twenty-five foot intervals, where
31 physically possible, along with the pipeline route indicating
32 the diameter of the pipeline. The pipeline company shall not
33 charge the landowner, tenant, or contractor for the placement
34 of the markers. Excavation, earthwork, or tiling shall not be
35 commenced in that area until the markers are in place and the

1 pipeline company representative is present and has notified
2 the contractor of the depth of the pipeline at the site of
3 crossing. The pipeline company representative shall be
4 present during all the excavation, earthwork, or tiling within
5 the marked area when that area is any one of the following:

6 1. Land located outside the corporate limits of a city.

7 2. Agricultural land within the corporate limits of a
8 city.

9 3. Nonagricultural land within the corporate limits of a
10 city when the pipeline facility is operated at a pressure in
11 excess of one hundred fifty pounds per square inch.

12 As used in this section, "agricultural land" means land of
13 one or more acres suitable for cultivation for the production
14 of crops, fruit, or other horticultural purposes or for the
15 grazing or production of livestock.

16 Sec. 27. Section 479.1, Code 1987, is amended to read as
17 follows:

18 479.1 PURPOSE AND-POLICY.

19 It is ~~hereby-declared-to-be~~ the purpose and-policy of the
20 legislature in enacting this law to confer upon the utilities
21 board the power and authority to supervise the transportation
22 or transmission of any solid, liquid, or gaseous substance,
23 except water, within or through this state by pipeline,
24 whether specifically mentioned herein in this chapter or not,
25 and the power and authority to supervise the underground
26 storage of gas, ~~so-as~~ to protect the safety and welfare of the
27 public in its use of any public or private highways, grounds,
28 waters, and streams of any kind in this state. However, this
29 chapter does not apply to interstate natural gas pipelines,
30 pipeline companies, and underground storage, as these terms
31 are defined in chapter 479A.

32 Sec. 28. Section 479.2, unnumbered paragraphs 1 and 2,
33 Code 1987, are amended to read as follows:

34 ~~The-term-"pipeline"-insofar~~ "Pipeline" as used in this
35 chapter ~~is-concerned-shall-include-and-mean-any~~ means a pipe,

1 pipes, or pipelines used for the transportation or
2 transmission of any a solid, liquid, or gaseous substance,
3 except water, within or through this state. However, the term
4 does not include interstate pipe, pipes, or pipelines used for
5 the transportation or transmission of natural gas.

6 ~~The term "pipeline~~ "Pipeline company" ~~insofar as used in~~
7 ~~this chapter is concerned shall include and mean any~~ means a
8 ~~person, firm, copartnership, association, corporation or~~
9 ~~syndicate~~ engaged in or organized for the purpose of owning,
10 operating, or controlling pipelines for the transportation or
11 transmission of any solid, liquid, or gaseous substance,
12 except water, within or through this state. However, the term
13 does not include a person owning, operating, or controlling
14 interstate pipelines for the transportation or transmission of
15 natural gas.

16 Sec. 29. Section 479.5, unnumbered paragraph 5, Code 1987,
17 is amended to read as follows:

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

32 Sec. 30. Section 479.12, Code 1987, is amended to read as
33 follows:

34 479.12 FINAL ORDER -- CONDITION.

35 ~~It~~ The board may grant such a permit in whole or in part

1 upon such terms, conditions, and restrictions as to safety
2 requirements and as to location and route as may-be determined
3 by it to be just and proper. ~~Provided, however, that before~~
4 ~~any~~ Before a permit ~~shall-be~~ is granted to any a pipeline
5 company ~~proposing-to-engage-in-intrastate-commerce,~~ the board
6 ~~shall,~~ after a public hearing as provided in this chapter,
7 shall determine whether the services proposed to be rendered
8 will promote the public convenience and necessity, and an
9 affirmative finding to ~~such that effect shall-be~~ is a
10 condition precedent to the granting of such a permit.

11 Sec. 31. Section 479.13, Code 1987, is amended to read as
12 follows:

13 479.13 COSTS AND FEES.

14 Applicant The applicant shall pay all costs and-expenses of
15 the informational meetings, hearing, and necessary preliminary
16 investigation ~~in-connection-therewith~~ including the cost of
17 publishing notice of hearing, and shall pay a-construction
18 ~~inspection-fee-in-the-sum-of-fifty-cents-per-mile-of-pipeline~~
19 ~~or-fraction-thereof-for-each-inch-of-diameter-of-such-pipeline~~
20 ~~located-in-the-state~~ the actual unrecovered costs directly
21 attributable to construction inspections conducted by the
22 board or the board's designee.

23 Sec. 32. Section 479.14, Code 1987, is amended to read as
24 follows:

25 479.14 INSPECTION FEE.

26 Every A pipeline company shall pay an annual inspection fee
27 ~~in-the-sum~~ of ~~twenty-five~~ fifty cents per mile of pipeline or
28 fraction thereof for each inch of diameter of such the
29 pipeline located in the state, ~~and-said~~ the inspection fee to
30 be paid to the board for the calendar year in advance between
31 January 1 and February 1 of each year ~~to-the-board.~~

32 Sec. 33. Section 479.33, Code 1987, is amended to read as
33 follows:

34 479.33 AUTHORIZED FEDERAL AID.

35 The board may enter into agreements with and receive moneys

1 from the United States department of transportation for the
2 inspection of pipelines to determine compliance with
3 applicable standards of pipeline safety, and for enforcement
4 of the applicable standards of pipeline safety as provided by
5 Public Law 90-481, the Natural Gas Pipeline Safety Act of 1968
6 (49 United States Code 1671-1684).

7 SIMILAR TO SF 2118 (LSB 7958S)

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SENATE FILE 2205

AN ACT

RELATING TO INTERSTATE NATURAL GAS PIPELINES BY ESTABLISHING
A NEW CHAPTER TO DEFINE JURISDICTION OVER INTERSTATE
NATURAL GAS PIPELINES, REMOVING REFERENCES TO INTERSTATE
NATURAL GAS PIPELINES FROM THE CURRENT CHAPTER RELATING
TO PIPELINES AND NATURAL GAS STORAGE, AND ADJUSTING FEES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 479A.1 PURPOSE.

It is the purpose of the general assembly in enacting this law to confer upon the utilities board the power and authority to implement certain controls over the transportation of natural gas to protect landowners and tenants from environmental or economic damages which may result from the construction, operation, or maintenance of a pipeline within the state. It is also the purpose of the general assembly in enacting this law to provide for the board to act as an agent for the federal government in determining pipeline company compliance with the standards of the federal government for pipelines within the boundaries of the state.

Sec. 2. NEW SECTION. 479A.2 DEFINITIONS.

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

1. "Board" means the utilities board within the utilities division of the department of commerce.

2. "Pipeline" means an interstate pipe, pipes, or pipelines used for the transportation or transmission of natural gas within or through this state.

3. "Pipeline company" means a person engaged in or organized for the purpose of owning, operating, or controlling pipelines.

4. "Underground storage" means the storage of natural gas in a subsurface stratum or formation of the earth by a pipeline company.

Sec. 3. NEW SECTION. 479A.3 CONDITIONS ATTENDING OPERATION.

A pipeline company shall not construct, maintain, or operate pipeline 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. 4. NEW SECTION. 479A.4 CONSTRUCTION INSPECTION.

The board shall supervise pipelines, pipeline companies, and underground storage, and shall inspect the construction, maintenance, and condition of pipelines and underground storage facilities in accordance with section 479A.18. When inspecting for safety standard compliance, the board shall apply only United States department of transportation safety standards.

Sec. 5. NEW SECTION. 479A.5 NOTICE PRIOR TO CONSTRUCTION.

Before beginning construction in this state, a pipeline company shall provide an adequate opportunity for state inspection, by giving written notice to the chairperson of the board stating the time, date, location, and nature of the construction. The notice shall be filed with the chairperson of the board not less than five business days before commencement of the construction.

Sec. 6. NEW SECTION. 479A.6 COST OF CONSTRUCTION INSPECTION.

A pipeline company shall pay actual unrecovered costs directly attributable to construction inspections conducted by the board or the board's designee.

Sec. 7. NEW SECTION. 479A.7 ANNUAL INSPECTION FEE.

A pipeline company shall pay an annual inspection fee of fifty cents per mile of pipeline or fraction thereof for each inch of diameter of the pipeline located in this state. The annual inspection fee shall be paid for the calendar year in advance between January 1 and February 1 of each year.

Sec. 8. NEW SECTION. 479A.8 FAILURE TO PAY -- PENALTIES.

The board shall collect the inspection fees, and failure to pay an inspection fee within thirty days after the time the fee becomes due is cause for the assessment of civil penalties in accordance with section 479A.16.

Sec. 9. NEW SECTION. 479A.9 DEPOSIT OF FUNDS.

Except as otherwise provided in section 479A.14, subsection 8, moneys received under this chapter shall be credited to the utilities trust fund established in section 476.10.

Sec. 10. NEW SECTION. 479A.10 RULES.

The board shall adopt rules, pursuant to chapter 17A for the enforcement of this chapter.

Sec. 11. NEW SECTION. 479A.11 DAMAGES.

Pipeline companies operating pipelines or underground storage shall be given reasonable access to the pipelines and storage areas for the purpose of constructing, reconstructing, enlarging, repairing, 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. 12. NEW SECTION. 479A.12 FINANCIAL CONDITION OF COMPANY -- BOND OR OTHER SECURITY.

Before construction is begun by a pipeline company, the company shall satisfy the board that the company has property subject to execution within this state other than pipelines, of a value in excess of two hundred fifty thousand dollars, or the company 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 company will pay any and all damages legally recovered against it growing out of the construction or operation of its pipeline and underground storage facilities in this state, or the company shall deposit with the board security satisfactory to the board as a guaranty for the payment of that amount of damages, or furnish to the board satisfactory proofs of its solvency and financial ability to pay that amount of damages.

Sec. 13. NEW SECTION. 479A.13 VENUE -- 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. 14. NEW SECTION. 479A.14 LAND RESTORATION -- STANDARDS -- INSPECTION.

1. The board shall adopt rules establishing standards to protect 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 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 city.

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 114 shall be placed in charge of the inspection. The reasonable costs of the inspection shall be borne 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 one foot 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 contain only the topsoil originally removed.

5. Adequate inspection of underground improvements altered during construction of a 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 before commencing trenching operations to ensure that construction takes place in the proper location.

8. An inspector may temporarily halt the construction if the construction is not in compliance with this chapter and the standards adopted under it, 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 continued over the inspector's objection and is found not to be in compliance with this chapter, the standards, or the agreement, and is found to cause damage, a civil penalty recovered under section 479A.16 as a result of that violation shall be paid to the landowner.

9. The board shall instruct inspectors appointed by the county board of supervisors regarding the content of this chapter and the standards and the inspectors' responsibility to require construction conforming with them.

10. An 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. If temporary repair is determined not to be necessary, the exposed line shall be screened or otherwise protected to prevent the entry of 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. 15. NEW SECTION. 479A.15 ENTRY FOR LAND SURVEYS.

A pipeline company may enter upon private land for the purpose of making land surveys to determine direction or depth of pipelines 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. 16. NEW SECTION. 479A.16 CIVIL PENALTY.

A person who violates a provision of this chapter or a rule or standards issued pursuant to this chapter is subject to a civil penalty 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.

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 business of the person 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. 17. NEW SECTION. 479A.17 REHEARING -- JUDICIAL REVIEW.

Rehearing procedure for a person aggrieved by the action of the board in assessing or failing to assess civil penalties under this chapter shall be as provided in section 476.12. Judicial review may be sought in accordance with chapter 17A.

Sec. 18. NEW SECTION. 479A.18 FEDERAL INSPECTION.

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 the applicable standards of pipeline safety as provided by Pub. L. No. 90-481, the Natural Gas Pipeline Safety Act of 1968, 49 U.S.C. § 1671-1684.

Sec. 19. NEW SECTION. 479A.19 RIGHT TO CANCEL AGREEMENT.

1. A person seeking to acquire an easement or other property interest for the construction, maintenance, or operation of a pipeline shall allow the landowner or a person serving in a fiduciary capacity in the landowner's behalf to cancel an agreement granting an easement or other interest by certified mail with return requested to the company's principal place of business if received by the company within seven days, excluding Saturday and Sunday, of the date of the contract; shall inform the landowner or fiduciary in writing of the right to cancel prior to the signing of the agreement by the landowner or fiduciary; and shall provide the landowner or fiduciary with a form in duplicate for the notice of cancellation.

2. A person seeking to acquire an easement or other property interest for the construction, maintenance, or operation of a pipeline shall not record an agreement until after the

period for cancellation has expired, and shall not include in an agreement a waiver of the right to cancel in accordance with this section.

3. 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. 20. NEW SECTION. 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 has not appointed its arbitrator or agreed to an arbitrator under the agreement within thirty days after the other person 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. 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 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 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. 21. NEW SECTION. 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 has not been determined by negotiation, arbitration, or action of the courts. However, this section does not apply if the damage claim is under litigation or arbitration.

Sec. 22. NEW SECTION. 479A.22 DAMAGE STATEMENT.

A pipeline company shall not install a pipeline unless there is a written statement 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 company shall provide a copy of the statement to the landowner.

Sec. 23. NEW SECTION. 479A.23 NEGOTIATED ANNUAL FEE.

In lieu of a one-time lump sum payment for an easement or other property interest allowing a pipeline to cross property, 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. 24. NEW SECTION. 479A.24 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 due to the construction or repair of a pipeline is a compensable loss and shall be so 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 472.52 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 company thirty days prior to harvest in each year to assess crop deficiency.

3. With the exception of claims for damage to drain tile and future crop deficiency, landowners and tenants must submit in writing their claims for damages caused by installation of the pipeline within one year of completion of installation of a pipeline as determined by the county board of supervisors.

Sec. 25. NEW SECTION. 479A.25 DETERMINATION OF INSTALLATION DAMAGES.

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 the completion of installation, a landowner whose land was affected by the installation of the pipeline 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 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 472.4.

The application shall contain all of the following:

a. The name and address of the petitioning landowner 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.

3. After the commissioners have been appointed, the landowner shall serve notice on the pipeline company 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 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.

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

Sections 472.10 to 472.13 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 installation of the pipeline. The commissioners 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 472 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 activity of installing a pipeline and its attendant structures but does not include compensation for a property interest, and "landowner" includes a tenant.

8. This section does not apply if the easement provides for any other means of negotiation or arbitration.

Sec. 26. NEW SECTION. 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 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.

Before performing earthwork, tiling, or excavation within three hundred feet of an existing pipeline, a landowner, tenant, contractor, or the representative of any one of them shall notify the pipeline company or its representative by calling the pipeline company telephone number listed on the roadside right-of-way marker. The pipeline company shall mark the location of the existing pipeline within forty-eight hours of notification with appropriate marker flags or stakes on the land surface directly above the pipeline for a distance of one hundred fifty feet either side of the proposed work site. Markers shall be placed at twenty-five foot intervals, where physically possible, along with the pipeline route indicating

the diameter of the pipeline. The pipeline company shall not charge the landowner, tenant, or contractor for the placement of the markers. Excavation, earthwork, or tiling shall not be commenced in that area until the markers are in place and the pipeline company representative is present and has notified the contractor of the depth of the pipeline at the site of crossing. The pipeline company representative shall be present during all the excavation, earthwork, or tiling within the marked area when that area is any one of the following:

1. Land located outside the corporate limits of a city.
2. Agricultural land within the corporate limits of a city.
3. Nonagricultural land within the corporate limits of a city when the pipeline facility is operated at a pressure in excess of one hundred fifty pounds per square inch.

As used in this section, "agricultural land" means land of one or more acres suitable for cultivation for the production of crops, fruit, or other horticultural purposes or for the grazing or production of livestock.

Sec. 27. Section 479.1, Code 1987, is amended to read as follows:

479.1 PURPOSE AND POLICY.

It is hereby ~~declared to be~~ the purpose ~~and policy~~ of the legislature 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 herein in this chapter or not, and the power and authority to supervise the underground storage of gas, ~~so as~~ to protect the safety and welfare of the public in its use of any public or private highways, grounds, waters, and streams of any kind in this state. However, this chapter does not apply to interstate natural gas pipelines, pipeline companies, and underground storage, as these terms are defined in chapter 479A.

Sec. 28. Section 479.2, unnumbered paragraphs 1 and 2, Code 1987, are amended to read as follows:

~~The term "pipeline" insofar as "Pipeline" as used in this chapter is concerned shall include and mean any~~ means a pipe, pipes, or pipelines used for the transportation or transmission of any 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.

~~The term "pipeline "Pipeline company" insofar as used in this chapter is concerned shall include and mean any~~ person, firm, copartnership, association, corporation or syndicate 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.

Sec. 29. Section 479.5, unnumbered paragraph 5, Code 1987, is amended to read as follows:

The person, company, or corporation seeking the permit shall give notice of the informational meeting to each person, company, or corporation determined to be the a landowner affected by the proposed project and any each person, company or corporation in possession of or residing on the property. For the purposes of this section the informational meeting, "landowner" means a person, company, or corporation listed on the tax assessment rolls as responsible for the payment of real estate taxes imposed on the property and "pipeline" means any a line transporting any 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.

Sec. 30. Section 479.12, Code 1987, is amended to read as follows:

479.12 FINAL ORDER -- CONDITION.

It ~~The board~~ may grant such a permit in whole or in part upon such terms, conditions, and restrictions as to safety requirements and as to location and route as may be determined by it to be just and proper. ~~Provided, however, that before any~~ Before a permit shall be is granted to any a pipeline company proposing to engage in intrastate commerce, the board shall, after a public hearing as provided in this chapter, shall determine whether the services proposed to be rendered will promote the public convenience and necessity, and an affirmative finding to such that effect shall be is a condition precedent to the granting of such a permit.

Sec. 31. Section 479.13, Code 1987, is amended to read as follows:

479.13 COSTS AND FEES.

~~Applicant~~ The applicant shall pay all costs and expenses of the informational meetings, hearing, and necessary preliminary investigation in connection therewith including the cost of publishing notice of hearing, and shall pay a construction inspection fee in the sum of fifty cents per mile of pipeline or fraction thereof for each inch of diameter of such pipeline located in the state the actual unrecovered costs directly attributable to construction inspections conducted by the board or the board's designee.

Sec. 32. Section 479.14, Code 1987, is amended to read as follows:

479.14 INSPECTION FEE.

Every A pipeline company shall pay an annual inspection fee in the sum of twenty-five fifty cents per mile of pipeline or fraction thereof for each inch of diameter of such the pipeline located in the state, and said the inspection fee to be paid to the board for the calendar year in advance between January 1 and February 1 of each year to the board.

Sec. 33. Section 479.33, Code 1987, is amended to read as follows:

479.33 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 Public Law 90-481, the Natural Gas Pipeline Safety Act of 1968 (49 United States Code 1671-1684).

JO ANN ZIMMERMAN
President of the Senate

DONALD D. AVENSON
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2205, Seventy-second General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved April 12, 1988

TERRY E. BRANSTAD
Governor

SF 2205