

MAR 1 1996
Place On Calendar

REPRINTED

HOUSE FILE 2419
BY COMMITTEE ON TRANSPORTATION

(SUCCESSOR TO HSB 712)

Passed House, Date ^(P. 792) 3-18-96 Passed Senate, Date ^(P. 1139) 4/1/96
Vote: Ayes 76 Nays 21 Vote: Ayes 49 Nays 0
Approved 4-17-96

A BILL FOR

1 An Act relating to transportation by granting the state
2 department of transportation condemnation rights for utility
3 facility replacement, requiring sixty day property payments,
4 requiring certain criteria be adopted by administrative rule,
5 modifying certain damage disclosure statement requirements,
6 providing for entry onto private property for sounding and
7 drilling, exempting operators of trucks hauling cement from
8 certain regulations, and relating to the disposal of abandoned
9 vehicles, and providing for release of retained funds for
10 public improvements.

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

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HF 2419

REPRINTED

1 Section 1. Section 306.19, subsection 6, Code Supplement
2 1995, is amended to read as follows:

3 6. If the agency determines that it is necessary to
4 ~~relocate an interstate hazardous liquid pipeline as defined by~~
5 ~~the federal Hazardous Liquid Pipeline Safety Act of 1979, 49~~
6 ~~U.S.C. § 20017, et seq.~~ a utility facility, the agency shall
7 have the authority to institute and maintain proceedings on
8 behalf of the pipeline-company owner of the utility facility
9 for the condemnation of replacement property rights. The
10 replacement property rights shall be equal in substance to the
11 pipeline-company's existing rights of the owner of the utility
12 facility, except that if the issue of width was not addressed,
13 the replacement property rights shall be for a width and
14 location deemed appropriate and necessary for the needs of the
15 pipeline-company owner of the utility facility, as determined
16 by the agency. The replacement property rights of the
17 pipeline-company owner of the utility facility shall be
18 subordinate to the rights of the agency only to the extent
19 necessary for the construction and maintenance of the
20 designated road. Within a reasonable time after completion of
21 the pipeline-replacement relocation, all previously owned
22 property rights of the pipeline-company owner of the utility
23 facility no longer required for operation and maintenance of
24 the pipeline utility facility shall be released or conveyed to
25 the appropriate parties. The authority of the agency under
26 this subsection may only be exercised upon execution of a
27 relocation agreement between the agency and the pipeline
28 company owner of the utility facility. For purposes of this
29 subsection, "utility facility" means an electric, gas, water,
30 steam power, or materials transmission or distribution system;
31 a transportation system; a communications system, including
32 cable television; and fixtures, equipment, or other property
33 associated with the operation, maintenance, or repair of the
34 system. A utility facility may be publicly, privately, or
35 cooperatively owned.

1 Sec. 2. NEW SECTION. 307.31 PROPERTY PAYMENTS.

2 All payments for the purchase of property acquired by the
3 department shall be made within sixty days of signing a
4 written agreement for such purchase. If the department fails
5 to complete the payment within sixty days, interest shall
6 begin to accrue on the sixty-first day and be calculated at an
7 annual rate of ten percent.

8 Sec. 3. Section 307A.2, subsection 13, Code 1995, is
9 amended to read as follows:

10 13. The criteria used by the commission for allocating
11 funds as a result of any long-range planning process shall be
12 adopted in accordance with the provisions of chapter 17A. The
13 commission shall adopt such rules and regulations in
14 accordance with the provisions of chapter 17A as it may deem
15 necessary to transact its business and for the administration
16 and exercise of its powers and duties.

17 Sec. 4. Section 314.9, Code 1995, is amended to read as
18 follows:

19 314.9 ENTERING PRIVATE LAND PROPERTY.

20 The agency in control of ~~any a highway or-highway-system-or~~
21 ~~the-engineer,-or-any-other-authorized-person-employed-by-said~~
22 ~~agency,~~ may after thirty days' written notice by restricted
23 certified mail addressed to the owner and also to the
24 occupant, enter upon private ~~land~~ property for the purpose of
25 making surveys, soundings, drillings, appraisals, and
26 examinations as ~~it~~ the agency deems appropriate or necessary
27 to determine the advisability or practicability of locating
28 and constructing a highway ~~thereon~~ on the property or for the
29 purpose of determining whether gravel or other material exists
30 on ~~said-land~~ the property of suitable quality and in
31 sufficient quantity to warrant the purchase or condemnation of
32 ~~said-land-or-part-thereof~~ the property. Such ~~The~~ entry, ~~after~~
33 ~~notice,~~ shall not be deemed a trespass, and the agency may be
34 aided by injunction to insure peaceful entry. The agency
35 shall pay actual damages caused by ~~such~~ the entry, surveys,

1 soundings, drillings, appraisals, or examinations.

2 Any damage caused by such the entry, surveys, soundings,
3 drillings, appraisals, or examinations shall be determined by
4 agreement or in the manner provided for the award of damages
5 in condemnation of ~~land~~ the property for highway purposes. ~~No~~
6 ~~such-soundings~~ Soundings or drillings shall not be done within
7 ~~twenty-rods~~ thirty feet of the dwelling house or buildings on
8 ~~said-land~~ without written consent of the owner.

9 Sec. 5. Section 321.69, subsection 3, Code Supplement
10 1995, is amended to read as follows:

11 3. The damage disclosure statement shall be provided by
12 the transferor to the transferee at or before the time of
13 sale. If the transferor is not a resident of this state the
14 transferee shall not be required to submit a damage disclosure
15 statement from the transferor with the transferee's
16 application for title unless the state of the transferor's
17 residence requires a damage disclosure statement. However,
18 the transferee shall submit a damage disclosure statement with
19 the transferee's application for title indicating whether a
20 salvage or rebuilt title had ever existed for the vehicle,
21 whether the vehicle had incurred prior damage of three
22 thousand dollars or more per incident, and the year, make, and
23 vehicle identification number of the motor vehicle. The
24 transferee shall not be required to indicate whether the
25 vehicle had incurred prior damage of three thousand dollars or
26 more per incident under this subsection if the transferor's
27 certificate of title is from another state and if it indicates
28 that the vehicle is salvaged and not rebuilt or is another
29 state's salvage certificate of title.

30 Sec. 6. Section 321.89, Code Supplement 1995, is amended
31 to read as follows:

32 321.89 ABANDONED VEHICLES.

33 1. DEFINITIONS. As used in this section and sections
34 321.90 and 321.91 unless the context otherwise requires:

35 a. "Police authority" means the Iowa highway safety

1 patrol, any law enforcement agency of a county or city or any
2 special security officer employed by the state board of
3 regents under section 262.13.

4 b. "Abandoned vehicle" means any of the following:

5 (1) A vehicle that has been left unattended on public
6 property for more than ~~forty-eight~~ twenty-four hours and lacks
7 current registration plates or two or more wheels or other
8 parts which renders the vehicle totally inoperable~~er.~~

9 (2) A vehicle that has remained illegally on public
10 property for more than ~~seventy-two~~ twenty-four hours~~er.~~

11 (3) A vehicle that has been unlawfully parked on private
12 property or has been placed on private property without the
13 consent of the owner or person in control of the property for
14 more than twenty-four hours~~er.~~

15 (4) A vehicle that has been legally impounded by order of
16 a police authority and has not been reclaimed for a period of
17 ten days~~er.~~ However, a police authority may declare the
18 vehicle abandoned within the ten-day period by commencing the
19 notification process in subsection 3.

20 (5) Any vehicle parked on the highway determined by a
21 police authority to create a hazard to other vehicle traffic.

22 (6) A vehicle that has been impounded pursuant to section
23 321J.4B by order of the court and whose owner has not paid the
24 impoundment fees after notification by the person or agency
25 responsible for carrying out the impoundment order.

26 ~~However, a vehicle shall not be considered abandoned for a~~
27 ~~period of five days if its owner or operator is unable to move~~
28 ~~the vehicle and notifies the police authority responsible for~~
29 ~~the geographical location of the vehicle and requests~~
30 ~~assistance in the removal of the vehicle.~~

31 c. "Demolisher" means any city or public agency organized
32 for the disposal of solid waste, or any person whose business
33 it is to convert a vehicle to junk, processed scrap or scrap
34 metal, or otherwise to wreck, or dismantle vehicles.

35 2. AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES. A

1 ~~police authority may, and on,~~ upon the authority's own
2 initiative or upon the request of any other authority having
3 the duties of control of highways or traffic, shall take into
4 custody ~~any~~ an abandoned vehicle on public property and may
5 take into custody ~~any~~ an abandoned vehicle on private
6 property. A police authority taking into custody an abandoned
7 vehicle which has been determined to create a traffic hazard
8 shall report the reasons constituting the hazard in writing to
9 the appropriate authority having duties of control of the
10 highway. The police authority may employ its own personnel,
11 equipment, and facilities, ~~or hire other personnel~~ a private
12 entity, equipment and facilities for the purpose of removing,
13 preserving, storing, or disposing of abandoned vehicles. If a
14 police authority employs a private entity to dispose of
15 abandoned vehicles, the police authority shall provide the
16 private entity with the names and addresses of the registered
17 owners, all lienholders of record, and any other known
18 claimant to the vehicle or the personal property found in the
19 vehicle. The owners, lienholders, or other claimants of the
20 abandoned vehicle shall not have a cause of action against a
21 private entity for action taken under this section, if the
22 private entity provides notice as required by subsection 3,
23 paragraph "a", to those persons whose names were provided by
24 the police authority.

25 3. NOTIFICATION OF OWNER, LIENHOLDERS, AND OTHER
26 CLAIMANTS.

27 a. A police authority or private entity which takes into
28 custody an abandoned vehicle shall notify, within twenty days,
29 by certified mail, the last known registered owner of the
30 vehicle, all lienholders of record, and any other known
31 claimant to the vehicle or to personal property found in the
32 vehicle, addressed to their last known addresses of record,
33 that the abandoned vehicle has been taken into custody.
34 Notice shall be deemed given when mailed. The notice shall
35 describe the year, make, model, and serial number of the

1 vehicle, describe the personal property found in the vehicle,
2 set forth the location of the facility where the vehicle is
3 being held, and inform the persons receiving the notice of
4 their right to reclaim the vehicle and personal property
5 within ~~twenty-one~~ ten days after the effective date of the
6 notice upon payment of all towing, preservation, and storage
7 charges resulting from placing the vehicle in custody and upon
8 payment of the costs of notice required pursuant to this
9 subsection. The notice shall also state that the failure of
10 the owner, or lienholders, or claimants to exercise their
11 right to reclaim the vehicle or personal property within the
12 time provided shall be deemed a waiver by the owner, ~~and all~~
13 lienholders, and claimants of all right, title, claim, and
14 interest in the vehicle or personal property and that failure
15 to reclaim the vehicle or personal property is deemed consent
16 to the sale of the vehicle at a public auction or disposal of
17 the vehicle to a demolisher and to disposal of the personal
18 property by sale or destruction. The notice shall state that
19 any person claiming rightful possession of the vehicle or
20 personal property who disputes the planned disposition of the
21 vehicle or property by the police authority or private entity
22 or of the assessment of fees and charges provided by this
23 section may ask for an evidentiary hearing before the police
24 authority to contest those matters. If the persons receiving
25 the notice do not ask for a hearing or exercise their right to
26 reclaim the vehicle or personal property within the ~~twenty-~~
27 ~~one-day~~ ten-day reclaiming period, the owner, and lienholders,
28 or claimants shall no longer have any right, title, claim, or
29 interest in or to the vehicle or the personal property. No A
30 court in any case in law or equity shall not recognize any
31 right, title, claim, or interest of the owner, and
32 lienholders, or claimants, after the expiration of the ~~twenty-~~
33 ~~one-day~~ ten-day reclaiming period.

34 b. If the identity of the last registered owner cannot be
35 determined, or if the registration contains no address for the

1 owner, or if it is impossible to determine with reasonable
2 certainty the identity and addresses of all lienholders,
3 notice by one publication in one newspaper of general
4 circulation in the area where the vehicle was abandoned shall
5 be sufficient to meet all requirements of notice under this
6 section. The published notice may contain multiple listings
7 of abandoned vehicles and personal property but shall be
8 published within the same time requirements and contain the
9 same information as prescribed for mailed notice in ~~subsection~~
10 ~~37~~ paragraph "a" ~~of this section~~.

11 c. The owner, ~~or any~~ lienholders, or claimants may, by
12 written request delivered to the police authority or private
13 entity prior to the expiration of the ~~twenty-one-day~~ ten-day
14 reclaiming period, obtain an additional ~~fourteen~~ five days
15 within which the vehicle or personal property may be
16 reclaimed.

17 4. AUCTION OF ABANDONED VEHICLES. If an abandoned vehicle
18 has not been reclaimed as provided for in subsection 3, the
19 police authority or private entity shall make a determination
20 as to whether or not the vehicle shall be sold for use upon
21 the highways. If the vehicle is not sold for use upon the
22 highways, it shall be sold for junk, or demolished and sold as
23 scrap. The police authority or private entity shall sell the
24 vehicle at public auction. Notwithstanding any other
25 provision of this section, ~~any a~~ police authority or private
26 entity, which has taken into possession any abandoned vehicle
27 which lacks an engine, or two or more wheels, or another part
28 which renders the vehicle totally inoperable, or which has a
29 fair market value of less than five hundred dollars as
30 determined by the police authority or private entity, may
31 dispose of the vehicle to a demolisher for junk without public
32 auction after complying with the notification procedures
33 ~~enumerated~~ in subsection 3 ~~and without public auction~~. The
34 purchaser of the vehicle takes title free and clear of all
35 liens and claims of ownership, shall receive a sales receipt

1 from the police authority or private entity, and is entitled
2 to register the vehicle and receive a certificate of title if
3 sold for use upon the highways. If the vehicle is sold or
4 disposed of to a demolisher for junk, the demolisher shall
5 make application for a junking certificate to the county
6 treasurer within fifteen days of purchase and shall surrender
7 the sales receipt in lieu of the certificate of title.

8 From the proceeds of the sale of an abandoned vehicle the
9 police authority, if the police authority did not hire a
10 private entity, shall reimburse itself for the expenses of the
11 auction, the costs of towing, preserving, and storing which
12 resulted from placing the abandoned vehicle in custody, all
13 notice and publication costs incurred pursuant to subsection
14 3, the cost of inspection, and any other costs incurred except
15 costs of bookkeeping and other administrative costs. Any
16 remainder from the proceeds of a sale shall be held for the
17 owner of the vehicle or entitled lienholder for ninety days,
18 and shall then be deposited in the road use tax fund. The
19 costs to police authorities of auction, towing, preserving,
20 storage, and all notice and publication costs, and all other
21 costs which result from placing abandoned vehicles in custody,
22 whenever the proceeds from a sale of the abandoned vehicles
23 are insufficient to meet these expenses and costs, shall be
24 paid from the road use tax fund and are the obligation of the
25 last owner or owners, jointly and severally.

26 The director of transportation shall establish by rule a
27 claims procedure to be followed by police authorities in
28 obtaining expenses and costs from the fund. If a private
29 entity has been hired, the police authority may file a claim
30 with the department for reimbursement of towing fees which
31 shall be paid from the road use tax fund.

32 Sec. 7. Section 321.285, subsection 6, Code 1995, is
33 amended to read as follows:

34 6. Notwithstanding any other speed restrictions, the speed
35 limit for all vehicular traffic on fully controlled-access,

1 divided, multilaned highways including the national system of
2 interstate highways designated by the federal highway
3 administration and this state (23 U.S.C. § 103 (e)) is sixty-
4 five miles per hour. However, the department or cities with
5 the approval of the department may establish a lower speed
6 limit upon such highways located within the corporate limits
7 of a city. For the purposes of this subsection a fully
8 controlled-access highway is a highway that gives preference
9 to through traffic by providing access connections with
10 selected public roads only and by prohibiting crossings at
11 grade or direct private driveway connections. A minimum speed
12 ~~of forty miles per hour, road conditions permitting, is~~ may be
13 established by the department on the highways referred to in
14 this subsection if warranted by engineering and traffic
15 investigations.

16 It is further provided that any kind of vehicle, implement,
17 or conveyance incapable of attaining and maintaining a speed
18 of forty miles per hour shall be prohibited from using the
19 interstate system.

20 Sec. 8. Section 321.449, Code Supplement 1995, is amended
21 by adding the following new unnumbered paragraph:

22 NEW UNNUMBERED PARAGRAPH. Notwithstanding other provisions
23 of this section, rules adopted under this section concerning
24 daily hours of service shall not apply to the operators of
25 trucks hauling cement or cement products.

26 Sec. 9. NEW SECTION. 573.15A EARLY RELEASE OF RETAINED
27 FUNDS.

28 Notwithstanding section 573.14, a public corporation may
29 release retained funds upon completion of ninety-five percent
30 of the contract in accordance with the following:

31 1. Any person, firm, or corporation who has, under
32 contract with the principal contractor or with subcontractors,
33 performed labor, or furnished materials, service, or
34 transportation, in the construction of the public improvement,
35 may file with the public corporation an itemized, sworn,

1 written statement of the claim for the labor, or materials,
2 service, or transportation. The claim shall be filed with the
3 public corporation either before the expiration of the thirty
4 days after completion of ninety-five percent of the contract
5 or at any time after the thirty-day period if the public
6 corporation has not paid the full contract price and no action
7 is pending to adjudicate rights in and to the unpaid portion
8 of the contract price.

9 2. The fund, as provided in section 573.13, shall be
10 retained by the public corporation for a period of thirty days
11 after ninety-five percent of the contract has been completed.
12 If at the end of the thirty-day period, a claim has been
13 filed, in accordance with this section, the public corporation
14 shall continue to retain from the unpaid funds, a sum equal to
15 double the total amount of all claims on file. The remaining
16 balance of the unpaid fund, or if there are no claims on file,
17 the entire unpaid fund, may be released and paid to the
18 contractor.

19 3. The public corporation, the principal contractor, or
20 any claimant for labor or materials, service, or
21 transportation, who has filed a claim or the surety on any
22 bond given for performance of the contract, at any time after
23 the expiration of thirty days, and not later than sixty days
24 after the completion of ninety-five percent of the contract,
25 may bring an action in equity in the county where the public
26 improvement is located to determine rights to moneys contained
27 in the fund or to enforce liability on the bond. The action
28 shall be brought in accordance with sections 573.16 through
29 573.18, with the completion of ninety-five percent of the
30 contract taking the place of the date of final acceptance.

31 4. A public corporation that releases funds at the
32 completion of ninety-five percent of the contract, in
33 accordance with this section, shall not be required to retain
34 additional funds.

35

EXPLANATION

1 The amendment to section 306.19 gives the state department
2 of transportation authority to institute and maintain
3 proceedings on behalf of the owner of a utility facility for
4 the condemnation of replacement property rights when the
5 construction or maintenance of a road requires condemnation of
6 the property on which the utility facility is located. The
7 replacement rights must be equal to the existing rights that
8 the owner of the utility facility possessed. "Utility
9 facility" is defined in the bill to mean any electric, gas,
10 water, steam power, or materials transmission or distribution
11 system; a transportation system; a communications system,
12 including cable television; and fixtures, equipment, or other
13 property associated with the operation, maintenance, or repair
14 of the system. A utility facility may be publicly, privately,
15 or cooperatively owned.

16 Section 307.31 is created and provides that payments for
17 the purchase of property acquired by the state department of
18 transportation must be made within 60 days of signing a
19 written agreement for the purchase. If the department fails
20 to complete the payment within 60 days, interest begins to
21 accrue on the 61st day and is calculated at an annual rate of
22 10 percent.

23 Section 307A.2 is amended to require the state department
24 of transportation to follow the administrative rulemaking
25 provisions of chapter 17A when adopting criteria for the
26 allocation of funds as a result of any long-range planning
27 process.

28 Section 321.69 is amended to provide that a transferee of a
29 motor vehicle does not have to indicate whether a vehicle has
30 incurred prior damage of \$3,000 or more per incident if the
31 transferee's certificate of title is from another state and
32 indicates that the vehicle is salvaged and not rebuilt or the
33 other state's certificate of title is a salvage title.

34 Section 314.9 currently allows the agency in control of any
35 highway to enter onto private property for the purpose of

1 making surveys, soundings, drillings, appraisals, and
2 examination of property to determine the practicability and
3 advisability of constructing a highway or determining whether
4 gravel or other materials exist on the property of sufficient
5 quantity to warrant the purchase of the property. This bill
6 amends the prohibition on sounding and drilling from within 20
7 rods, which is equivalent to 330 feet of the dwelling house or
8 building to within 30 feet of the dwelling house or building
9 without the written consent of the property owner.

10 This bill makes several changes to section 321.89 relating
11 to the process for disposing of abandoned motor vehicles.
12 Current law defines a vehicle as abandoned that has been left
13 unattended on public property for more than 48 hours and lacks
14 current registration plates, or two or more wheels, or other
15 parts which render the vehicle totally inoperable or that has
16 remained illegally on public property for more than 72 hours.
17 This bill changes the time periods from 48 hours to 24 hours
18 and from 72 hours to 24 hours, respectively. The bill allows
19 a police authority to declare a vehicle abandoned within the
20 10-day period currently required by section 321.89, if the
21 notification process has been commenced. The bill eliminates
22 a provision that allowed a five-day period before a vehicle
23 was declared abandoned if the owner or operator notified the
24 police authority that the owner or operator was unable to move
25 the vehicle. The bill allows for a private entity to dispose
26 of abandoned vehicles, requires the private entity to follow
27 the notification provisions contained in section 321.89, and
28 protects the private entity from suit if notification
29 procedures were followed. The bill allows for sale or
30 destruction of personal property found within the abandoned
31 vehicle and allows for disposal of an abandoned vehicle to a
32 demolisher for junk if the vehicle has a fair market value of
33 less than \$500, as determined by the police authority or
34 private entity. The bill provides that unpaid costs remain
35 the obligation of the last owner of record and that a police

1 authority may file a claim with the state department of
2 transportation for reimbursement of towing costs of a private
3 entity from the road use tax fund.

4 The bill allows the state department of transportation to
5 establish a minimum speed limit on certain highways as
6 warranted by engineering and traffic investigations.

7 Section 321.449 is amended to exempt operators of trucks
8 hauling cement or cement products from daily hours of service
9 requirements.

10 This bill creates new section 573.15A which establishes a
11 procedure for the release of retained funds by a public
12 corporation to a contractor after completion of 95 percent of
13 the work contracted for a public improvement. The section
14 provides that a person, firm, or corporation who has, under
15 contract with the principal contractor or with subcontractors,
16 performed labor, or furnished materials, service, or
17 transportation, in the construction of the public improvement,
18 may file a claim with the public corporation for the labor, or
19 materials, service, or transportation. The fund shall be
20 retained by the public corporation for a period of 30 days
21 after 95 percent of the contract has been completed. If at
22 the end of the 30-day period, a claim has been filed, the
23 public corporation must retain from the unpaid funds, a sum
24 equal to double the total amount of all claims on file. The
25 remaining balance of the unpaid fund, or if there are no
26 claims on file, the entire unpaid fund, may then be released
27 and paid to the contractor. The public corporation, the
28 principal contractor, or any claimant for labor or materials,
29 service, or transportation who has filed a claim or the surety
30 on any bond given for performance of the contract, at any time
31 after the expiration of 30 days, and not later than 60 days
32 after the completion of 95 percent of the contract, may bring
33 an action in equity in the county where the public improvement
34 is located to determine rights to moneys contained in the fund
35 or to enforce liability on the bond.

**HOUSE FILE 2419
FISCAL NOTE**

A fiscal note for House File 2419 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 2419 changes several provisions of transportation-related functions. These include: giving the Department of Transportation (DOT) the authority to institute road construction condemnation proceedings on behalf of utility companies, requiring the DOT to provide payment to land owners within 60 days of signing an agreement for purchase, requiring the DOT to use the administrative rules process when adopting criteria for allocation of highway construction funds, allowing the DOT to test for the availability of highway construction materials within 30 feet of buildings, making numerous changes to the abandoned vehicle law and allows private entities to dispose of abandoned vehicles, allowing the DOT to establish minimum speed limits of certain highways, exempting operators of cement trucks from daily hours of service, establishing procedures for the release of retained funds by a public corporation to a contractor after completing 95.0% of the contracted work.

ASSUMPTIONS**Abandoned Vehicles:**

1. The State cost to tow vehicles is \$50 and the cost for vehicle storage is \$5 per day up to 45 days. These costs are set by administrative rules.
2. Under current law, 1,400 vehicles are processed through the abandoned vehicle process at an estimated cost of \$385,000 (1,400 vehicles @ \$275).
3. Approximately 140 abandoned vehicles (10.0%) will be processed through privatization at a cost of \$7,000 (140 vehicles @ \$50 towing fee). The \$5 per day storage fee will not apply to private entities.
4. Approximately 630 abandoned vehicles (45.0%) will have a fair market value of less than \$500 and will be demolished. No storage fees will be applied to these vehicles. The towing cost will be \$31,500 (630 vehicles @ \$50).
5. The remaining 630 vehicles will be processed by law enforcement at the current rate of \$275 per vehicle for a total cost of \$173,000 (630 vehicles @ \$275).

DOT Property Purchase Requirements:

1. The DOT purchases approximately 1,000 properties per year at an estimated cost of \$20.0 million.
2. House File 2419 requires the DOT to pay an interest rate of 10.0% to the property owner beginning on the 61st day if the DOT fails to complete the

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purchase within the required 60 days.

3. The average number of days to complete a property acquisition is 90 days.

FISCAL IMPACT

House File 2419 may cost up to \$326,500 from the Road Use Tax Fund and Primary Road Fund. This includes a savings of \$173,500 from the changes in the abandoned vehicle laws and a cost of \$500,000 for the mandatory 60 day payment provision.

SOURCE

Department of Transportation

(LSB 4377hv, DLR)

FILED MARCH 18, 1996

BY DENNIS PROUTY, FISCAL DIRECTOR

**HOUSE FILE 2419
FISCAL NOTE**

A fiscal note for House File 2419 as amended by H-5411 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 2419 as amended by H-5411 changes several provisions of transportation-related functions. These include: giving the Department of Transportation (DOT) the authority to institute road construction condemnation proceedings on behalf of utility companies, requiring the DOT to provide payment to land owners within 60 days of signing an agreement for purchase, requiring the DOT to use the administrative rules process when adopting criteria for allocation of highway construction funds, allowing the DOT to test for the availability of highway construction materials within 50 feet of buildings, making numerous changes to the abandoned vehicle law and allows private entities to dispose of abandoned vehicles, allowing the DOT to establish minimum speed limits of certain highways, exempting operators of cement trucks from daily hours of service, establishing procedures for the release of retained funds by a public corporation to a contractor after completing 95.0% of the contracted work.

ASSUMPTIONS

1. The State cost to tow vehicles is \$50 and the cost for vehicle storage is \$5 per day up to 45 days. These costs are set by administrative rules.
2. Under current law, 1,400 vehicles are processed through the abandoned vehicle process at an estimated cost of \$385,000 (1,400 vehicles @ \$275).
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4. Approximately 630 abandoned vehicles (45.0%) will have a fair market value of less than \$500 and will be demolished. No storage fees will be applied to these vehicles. The towing cost will be \$31,500 (630 vehicles @ \$50).
5. The remaining 630 vehicles will be processed by law enforcement at the current rate of \$275 per vehicle for a total cost of \$173,000 (630 vehicles @ \$275).

FISCAL IMPACT

House File 2419 as amended by H-5411 will reduce the costs associated with abandoned vehicles which will result in an annual savings of up to \$173,500 to the Road Use Tax Fund.

SOURCE

Department of Transportation

(LSB 4377hv.2, DLR)

H-5404

- 1 Amend House File 2419 as follows:
- 2 1. Page 2, by striking lines 8 through 16.
- 3 2. Title page, by striking line 4.
- 4 3. By renumbering as necessary.

By KOENIGS of Mitchell

H-5404 FILED MARCH 14, 1996

Post 3/18/96

(P.792)

HOUSE FILE 2419

H-5411

- 1 Amend House File 2419 as follows:
- 2 1. Page 2, by striking line 7 and inserting the
- 3 following: "annual rate equal to the coupon issue
- 4 yield equivalent, as determined by the United States
- 5 secretary of the treasury, of the average accepted
- 6 auction price for the last auction of fifty-two-week
- 7 United States treasury bills settled immediately
- 8 before the date of the award. However, interest shall
- 9 not begin to accrue after the sixty-first day, until
- 10 such time as the department obtains a clear title and
- 11 an abstract for the property."
- 12 2. Page 3, line 7, by striking the word "thirty"
- 13 inserting the following: "fifty".

By HEATON of Henry

H-5411 FILED MARCH 14, 1996

Adopted 3/18/96 (P.79)

HOUSE FILE 2419

H-5237

- 1 Amend House File 2419 as follows:
- 2 1. Page 9, by inserting after line 25 the
- 3 following:
- 4 "Sec. ____ . NEW SECTION. 476.94 PRUNING
- 5 RESTRICTIONS ESTABLISHED.
- 6 The board shall adopt by rule requirements and
- 7 guidelines for public utilities with respect to the
- 8 pruning of trees and shrubs growing near any
- 9 transmission lines of public utilities. The rules, to
- 10 the extent practicable, shall provide for the
- 11 preservation of such trees and shrubs, and limit the
- 12 extent of any necessary pruning in an effort to
- 13 minimize the negative aesthetic and environmental
- 14 impact of such pruning."
- 15 2. Title page, line 9, by inserting after the
- 16 word "vehicles," the following: "relating to public
- 17 utility pruning restrictions,".
- 18 3. By renumbering as necessary.

By FALLON of Polk

H-5237 FILED MARCH 7, 1996

3/18/96

(P.792)

Substituted for S.F. 2349
(p. 1077) (as amended)

HOUSE FILE 2419
BY COMMITTEE ON TRANSPORTATION

(SUCCESSOR TO HSB 712)

(As Amended and Passed by the House, March 18, 1996)

Re-Passed House, Date 4/9/96 (p. 1456) Passed Senate, Date 4/1/96
Vote: Ayes 95 Nays 0 Vote: Ayes 49 Nays 0
Approved 4-17-96 Re-passed Senate
50-0 4/11/96
(p. 1334)

A BILL FOR

1 An Act relating to transportation by granting the state
2 department of transportation condemnation rights for utility
3 facility replacement, requiring sixty day property payments,
4 requiring certain criteria be adopted by administrative rule,
5 modifying certain damage disclosure statement requirements,
6 providing for entry onto private property for sounding and
7 drilling, exempting operators of trucks hauling cement from
8 certain regulations, and relating to the disposal of abandoned
9 vehicles, and providing for release of retained funds for
10 public improvements.

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

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House Amendments _____

1 Section 1. Section 306.19, subsection 6, Code Supplement
2 1995, is amended to read as follows:

3 6. If the agency determines that it is necessary to
4 ~~relocate an interstate hazardous liquid pipeline as defined by~~
5 ~~the federal Hazardous Liquid Pipeline Safety Act of 1979, 49~~
6 ~~U.S.C. § 2001, et seq.~~ a utility facility, the agency shall
7 have the authority to institute and maintain proceedings on
8 behalf of the pipeline-company owner of the utility facility
9 for the condemnation of replacement property rights. The
10 replacement property rights shall be equal in substance to the
11 pipeline-company's existing rights of the owner of the utility
12 facility, except that if the issue of width was not addressed,
13 the replacement property rights shall be for a width and
14 location deemed appropriate and necessary for the needs of the
15 pipeline-company owner of the utility facility, as determined
16 by the agency. The replacement property rights of the
17 pipeline-company owner of the utility facility shall be
18 subordinate to the rights of the agency only to the extent
19 necessary for the construction and maintenance of the
20 designated road. Within a reasonable time after completion of
21 the pipeline-replacement relocation, all previously owned
22 property rights of the pipeline-company owner of the utility
23 facility no longer required for operation and maintenance of
24 the pipeline utility facility shall be released or conveyed to
25 the appropriate parties. The authority of the agency under
26 this subsection may only be exercised upon execution of a
27 relocation agreement between the agency and the pipeline
28 company owner of the utility facility. For purposes of this
29 subsection, "utility facility" means an electric, gas, water,
30 steam power, or materials transmission or distribution system;
31 a transportation system; a communications system, including
32 cable television; and fixtures, equipment, or other property
33 associated with the operation, maintenance, or repair of the
34 system. A utility facility may be publicly, privately, or
35 cooperatively owned.

1 Sec. 2. NEW SECTION. 307.31 PROPERTY PAYMENTS.

2 All payments for the purchase of property acquired by the
3 department shall be made within sixty days of signing a
4 written agreement for such purchase. If the department fails
5 to complete the payment within sixty days, interest shall
6 begin to accrue on the sixty-first day and be calculated at an
7 annual rate equal to the coupon issue yield equivalent, as
8 determined by the United States secretary of the treasury, of
9 the average accepted auction price for the last auction of
10 fifty-two-week United States treasury bills settled
11 immediately before the date of the award. However, interest
12 shall not begin to accrue after the sixty-first day, until
13 such time as the department obtains a clear title and an
14 abstract for the property.

15 Sec. 3. Section 307A.2, subsection 13, Code 1995, is
16 amended to read as follows:

17 13. The criteria used by the commission for allocating
18 funds as a result of any long-range planning process shall be
19 adopted in accordance with the provisions of chapter 17A. The
20 commission shall adopt such rules and regulations in
21 accordance with the provisions of chapter 17A as it may deem
22 necessary to transact its business and for the administration
23 and exercise of its powers and duties.

24 Sec. 4. Section 314.9, Code 1995, is amended to read as
25 follows:

26 314.9 ENTERING PRIVATE LAND PROPERTY.

27 The agency in control of any a highway or-highway-system-or
28 the-engineer,-or-any-other-authorized-person-employed-by-said
29 agency, may after thirty days' written notice by restricted
30 certified mail addressed to the owner and also to the
31 occupant, enter upon private land property for the purpose of
32 making surveys, soundings, drillings, appraisals, and
33 examinations as ~~it~~ the agency deems appropriate or necessary
34 to determine the advisability or practicability of locating
35 and constructing a highway thereon on the property or for the

1 purpose of determining whether gravel or other material exists
2 on ~~said-land~~ the property of suitable quality and in
3 sufficient quantity to warrant the purchase or condemnation of
4 ~~said-land-or-part-thereof~~ the property. ~~Such~~ The entry, ~~after~~
5 ~~notice~~, shall not be deemed a trespass, and the agency may be
6 aided by injunction to insure peaceful entry. The agency
7 shall pay actual damages caused by ~~such~~ the entry, surveys,
8 soundings, drillings, appraisals, or examinations.

9 Any damage caused by ~~such~~ the entry, surveys, soundings,
10 drillings, appraisals, or examinations shall be determined by
11 agreement or in the manner provided for the award of damages
12 in condemnation of ~~land~~ the property for highway purposes. ~~No~~
13 ~~such-soundings~~ Soundings or drillings shall not be done within
14 ~~twenty-rods~~ fifty feet of the dwelling house or buildings on
15 ~~said-land~~ without written consent of the owner.

16 Sec. 5. Section 321.69, subsection 3, Code Supplement
17 1995, is amended to read as follows:

18 3. The damage disclosure statement shall be provided by
19 the transferor to the transferee at or before the time of
20 sale. If the transferor is not a resident of this state the
21 transferee shall not be required to submit a damage disclosure
22 statement from the transferor with the transferee's
23 application for title unless the state of the transferor's
24 residence requires a damage disclosure statement. However,
25 the transferee shall submit a damage disclosure statement with
26 the transferee's application for title indicating whether a
27 salvage or rebuilt title had ever existed for the vehicle,
28 whether the vehicle had incurred prior damage of three
29 thousand dollars or more per incident, and the year, make, and
30 vehicle identification number of the motor vehicle. The
31 transferee shall not be required to indicate whether the
32 vehicle had incurred prior damage of three thousand dollars or
33 more per incident under this subsection if the transferor's
34 certificate of title is from another state and if it indicates
35 that the vehicle is salvaged and not rebuilt or is another

1 state's salvage certificate of title.

2 Sec. 6. Section 321.89, Code Supplement 1995, is amended
3 to read as follows:

4 321.89 ABANDONED VEHICLES.

5 1. DEFINITIONS. As used in this section and sections
6 321.90 and 321.91 unless the context otherwise requires:

7 a. "Police authority" means the Iowa highway safety
8 patrol, any law enforcement agency of a county or city or any
9 special security officer employed by the state board of
10 regents under section 262.13.

11 b. "Abandoned vehicle" means any of the following:

12 (1) A vehicle that has been left unattended on public
13 property for more than ~~forty-eight~~ twenty-four hours and lacks
14 current registration plates or two or more wheels or other
15 parts which renders the vehicle totally inoperable~~7-or.~~

16 (2) A vehicle that has remained illegally on public
17 property for more than ~~seventy-two~~ twenty-four hours~~7-or.~~

18 (3) A vehicle that has been unlawfully parked on private
19 property or has been placed on private property without the
20 consent of the owner or person in control of the property for
21 more than twenty-four hours~~7-or.~~

22 (4) A vehicle that has been legally impounded by order of
23 a police authority and has not been reclaimed for a period of
24 ten days~~7-or.~~ However, a police authority may declare the
25 vehicle abandoned within the ten-day period by commencing the
26 notification process in subsection 3.

27 (5) Any vehicle parked on the highway determined by a
28 police authority to create a hazard to other vehicle traffic.

29 (6) A vehicle that has been impounded pursuant to section
30 321J.4B by order of the court and whose owner has not paid the
31 impoundment fees after notification by the person or agency
32 responsible for carrying out the impoundment order.

33 ~~However, a vehicle shall not be considered abandoned for a~~
34 ~~period of five days if its owner or operator is unable to move~~
35 ~~the vehicle and notifies the police authority responsible for~~

~~1 the geographical location of the vehicle and requests
2 assistance in the removal of the vehicle.~~

3 c. "Demolisher" means any city or public agency organized
4 for the disposal of solid waste, or any person whose business
5 it is to convert a vehicle to junk, processed scrap or scrap
6 metal, or otherwise to wreck, or dismantle vehicles.

7 2. AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES. A
8 police authority ~~may, and on,~~ upon the authority's own
9 initiative or upon the request of any other authority having
10 the duties of control of highways or traffic, shall take into
11 custody ~~any an~~ an abandoned vehicle on public property and may
12 take into custody ~~any an~~ an abandoned vehicle on private
13 property. A police authority taking into custody an abandoned
14 vehicle which has been determined to create a traffic hazard
15 shall report the reasons constituting the hazard in writing to
16 the appropriate authority having duties of control of the
17 highway. The police authority may employ its own personnel,
18 equipment, and facilities, ~~or hire other personnel~~ a private
19 entity, equipment and facilities for the purpose of removing,
20 preserving, storing, or disposing of abandoned vehicles. If a
21 police authority employs a private entity to dispose of
22 abandoned vehicles, the police authority shall provide the
23 private entity with the names and addresses of the registered
24 owners, all lienholders of record, and any other known
25 claimant to the vehicle or the personal property found in the
26 vehicle. The owners, lienholders, or other claimants of the
27 abandoned vehicle shall not have a cause of action against a
28 private entity for action taken under this section, if the
29 private entity provides notice as required by subsection 3,
30 paragraph "a", to those persons whose names were provided by
31 the police authority.

32 3. NOTIFICATION OF OWNER, LIENHOLDERS, AND OTHER
33 CLAIMANTS.

34 a. A police authority or private entity which takes into
35 custody an abandoned vehicle shall notify, within twenty days,

1 by certified mail, the last known registered owner of the
2 vehicle, all lienholders of record, and any other known
3 claimant to the vehicle or to personal property found in the
4 vehicle, addressed to their last known addresses of record,
5 that the abandoned vehicle has been taken into custody.
6 Notice shall be deemed given when mailed. The notice shall
7 describe the year, make, model, and serial number of the
8 vehicle, describe the personal property found in the vehicle,
9 set forth the location of the facility where the vehicle is
10 being held, and inform the persons receiving the notice of
11 their right to reclaim the vehicle and personal property
12 within ~~twenty-one~~ ten days after the effective date of the
13 notice upon payment of all towing, preservation, and storage
14 charges resulting from placing the vehicle in custody and upon
15 payment of the costs of notice required pursuant to this
16 subsection. The notice shall also state that the failure of
17 the owner, or lienholders, or claimants to exercise their
18 right to reclaim the vehicle or personal property within the
19 time provided shall be deemed a waiver by the owner, ~~and all~~
20 lienholders, and claimants of all right, title, claim, and
21 interest in the vehicle or personal property and that failure
22 to reclaim the vehicle or personal property is deemed consent
23 to the sale of the vehicle at a public auction or disposal of
24 the vehicle to a demolisher and to disposal of the personal
25 property by sale or destruction. The notice shall state that
26 any person claiming rightful possession of the vehicle or
27 personal property who disputes the planned disposition of the
28 vehicle or property by the police authority or private entity
29 or of the assessment of fees and charges provided by this
30 section may ask for an evidentiary hearing before the police
31 authority to contest those matters. If the persons receiving
32 the notice do not ask for a hearing or exercise their right to
33 reclaim the vehicle or personal property within the ~~twenty-~~
34 ~~one-day~~ ten-day reclaiming period, the owner, and lienholders,
35 or claimants shall no longer have any right, title, claim, or

1 interest in or to the vehicle or the personal property. No A
2 court in any case in law or equity shall not recognize any
3 right, title, claim, or interest of the owner, and
4 lienholders, or claimants, after the expiration of the twenty-
5 one-day ten-day reclaiming period.

6 b. If the identity of the last registered owner cannot be
7 determined, or if the registration contains no address for the
8 owner, or if it is impossible to determine with reasonable
9 certainty the identity and addresses of all lienholders,
10 notice by one publication in one newspaper of general
11 circulation in the area where the vehicle was abandoned shall
12 be sufficient to meet all requirements of notice under this
13 section. The published notice may contain multiple listings
14 of abandoned vehicles and personal property but shall be
15 published within the same time requirements and contain the
16 same information as prescribed for mailed notice in subsection
17 37 paragraph "a" of-this-section.

18 c. The owner, or-any lienholders, or claimants may, by
19 written request delivered to the police authority or private
20 entity prior to the expiration of the twenty-one-day ten-day
21 reclaiming period, obtain an additional fourteen five days
22 within which the vehicle or personal property may be
23 reclaimed.

24 4. AUCTION OF ABANDONED VEHICLES. If an abandoned vehicle
25 has not been reclaimed as provided for in subsection 3, the
26 police authority or private entity shall make a determination
27 as to whether or not the vehicle shall be sold for use upon
28 the highways. If the vehicle is not sold for use upon the
29 highways, it shall be sold for junk, or demolished and sold as
30 scrap. The police authority or private entity shall sell the
31 vehicle at public auction. Notwithstanding any other
32 provision of this section, any a police authority or private
33 entity, which has taken into possession any abandoned vehicle
34 which lacks an engine, or two or more wheels, or another part
35 which renders the vehicle totally inoperable, or which has a

1 fair market value of less than five hundred dollars as
2 determined by the police authority or private entity, may
3 dispose of the vehicle to a demolisher for junk without public
4 auction after complying with the notification procedures
5 enumerated in subsection 3 ~~and without public auction~~. The
6 purchaser of the vehicle takes title free and clear of all
7 liens and claims of ownership, shall receive a sales receipt
8 from the police authority or private entity, and is entitled
9 to register the vehicle and receive a certificate of title if
10 sold for use upon the highways. If the vehicle is sold or
11 disposed of to a demolisher for junk, the demolisher shall
12 make application for a junking certificate to the county
13 treasurer within fifteen days of purchase and shall surrender
14 the sales receipt in lieu of the certificate of title.

15 From the proceeds of the sale of an abandoned vehicle the
16 police authority, if the police authority did not hire a
17 private entity, shall reimburse itself for the expenses of the
18 auction, the costs of towing, preserving, and storing which
19 resulted from placing the abandoned vehicle in custody, all
20 notice and publication costs incurred pursuant to subsection
21 3, the cost of inspection, and any other costs incurred except
22 costs of bookkeeping and other administrative costs. Any
23 remainder from the proceeds of a sale shall be held for the
24 owner of the vehicle or entitled lienholder for ninety days,
25 and shall then be deposited in the road use tax fund. The
26 costs to police authorities of auction, towing, preserving,
27 storage, and all notice and publication costs, and all other
28 costs which result from placing abandoned vehicles in custody,
29 whenever the proceeds from a sale of the abandoned vehicles
30 are insufficient to meet these expenses and costs, shall be
31 paid from the road use tax fund and are the obligation of the
32 last owner or owners, jointly and severally.

33 The director of transportation shall establish by rule a
34 claims procedure to be followed by police authorities in
35 obtaining expenses and costs from the fund. If a private

1 entity has been hired, the police authority may file a claim
2 with the department for reimbursement of towing fees which
3 shall be paid from the road use tax fund.

4 Sec. 7. Section 321.285, subsection 6, Code 1995, is
5 amended to read as follows:

6 6. Notwithstanding any other speed restrictions, the speed
7 limit for all vehicular traffic on fully controlled-access,
8 divided, multilaned highways including the national system of
9 interstate highways designated by the federal highway
10 administration and this state (23 U.S.C. § 103 (e)) is sixty-
11 five miles per hour. However, the department or cities with
12 the approval of the department may establish a lower speed
13 limit upon such highways located within the corporate limits
14 of a city. For the purposes of this subsection a fully
15 controlled-access highway is a highway that gives preference
16 to through traffic by providing access connections with
17 selected public roads only and by prohibiting crossings at
18 grade or direct private driveway connections. A minimum speed
19 ~~of forty miles per hour, road conditions permitting, is~~ may be
20 established by the department on the highways referred to in
21 this subsection if warranted by engineering and traffic
22 investigations.

23 It is further provided that any kind of vehicle, implement,
24 or conveyance incapable of attaining and maintaining a speed
25 of forty miles per hour shall be prohibited from using the
26 interstate system.

27 Sec. 8. Section 321.449, Code Supplement 1995, is amended
28 by adding the following new unnumbered paragraph:

29 NEW UNNUMBERED PARAGRAPH. Notwithstanding other provisions
30 of this section, rules adopted under this section concerning
31 daily hours of service shall not apply to the operators of
32 trucks hauling cement or cement products.

33 Sec. 9. NEW SECTION. 573.15A EARLY RELEASE OF RETAINED
34 FUNDS.

35 Notwithstanding section 573.14, a public corporation may

1 release retained funds upon completion of ninety-five percent
2 of the contract in accordance with the following:

3 1. Any person, firm, or corporation who has, under
4 contract with the principal contractor or with subcontractors,
5 performed labor, or furnished materials, service, or
6 transportation, in the construction of the public improvement,
7 may file with the public corporation an itemized, sworn,
8 written statement of the claim for the labor, or materials,
9 service, or transportation. The claim shall be filed with the
10 public corporation either before the expiration of the thirty
11 days after completion of ninety-five percent of the contract
12 or at any time after the thirty-day period if the public
13 corporation has not paid the full contract price and no action
14 is pending to adjudicate rights in and to the unpaid portion
15 of the contract price.

16 2. The fund, as provided in section 573.13, shall be
17 retained by the public corporation for a period of thirty days
18 after ninety-five percent of the contract has been completed.
19 If at the end of the thirty-day period, a claim has been
20 filed, in accordance with this section, the public corporation
21 shall continue to retain from the unpaid funds, a sum equal to
22 double the total amount of all claims on file. The remaining
23 balance of the unpaid fund, or if there are no claims on file,
24 the entire unpaid fund, may be released and paid to the
25 contractor.

26 3. The public corporation, the principal contractor, or
27 any claimant for labor or materials, service, or
28 transportation, who has filed a claim or the surety on any
29 bond given for performance of the contract, at any time after
30 the expiration of thirty days, and not later than sixty days
31 after the completion of ninety-five percent of the contract,
32 may bring an action in equity in the county where the public
33 improvement is located to determine rights to moneys contained
34 in the fund or to enforce liability on the bond. The action
35 shall be brought in accordance with sections 573.16 through

1 573.18, with the completion of ninety-five percent of the
2 contract taking the place of the date of final acceptance.
3 4. A public corporation that releases funds at the
4 completion of ninety-five percent of the contract, in
5 accordance with this section, shall not be required to retain
6 additional funds.

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HOUSE FILE 2419

S-5577

1 Amend House File 2419, as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 3, by striking line 14 and inserting the
4 following: "twenty-rods one hundred fifty feet of the
5 dwelling house or within fifty feet of other buildings
6 on".

By ANDY McKEAN

S-5577 FILED MARCH 27, 1996

Adopted 4/1/96

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HOUSE FILE 2419

S-5418

Amend House File 2419 as amended, passed, and reprinted by the House, as follows:

- 3 1. Page 3, by inserting after line 15 the following:
4 following:
5 "Sec. ____ . Section 321.69, subsections 2 and 3,
6 Code Supplement 1995, are amended to read as follows:
7 2. The damage disclosure statement required by
8 this section shall, at a minimum, state the total
9 retail dollar amount of all damage to the vehicle
10 during the period of the transferor's ownership of the
11 vehicle and whether the transferor knows if the
12 vehicle was titled as a salvage or flood vehicle in
13 this or any other state prior to the transferor's
14 ownership of the vehicle. For the purposes of this
15 section, "damage" refers to damage to the vehicle
16 caused by fire, vandalism, collision, weather, falling
17 objects, submersion in water, or flood, where the cost
18 of repair is three five thousand dollars or more per
19 incident, but does not include normal wear and tear,
20 glass damage, mechanical repairs or electrical repairs
21 that have not been caused by fire, vandalism,
22 collision, weather, falling objects, submersion in
23 water, or flood. "Damage" does not include the cost
24 of repairing, replacing, or reinstalling an inflatable
25 restraint system. A determination of the amount of
26 damage to a vehicle shall be based on estimates of the
27 retail cost of repairing the vehicle, including labor,
28 parts, and other materials, if the vehicle has not
29 been repaired or on the actual retail cost of repair,
30 including labor, parts, and other materials, if the
31 vehicle has been repaired. Only individual incidents
32 in which the retail cost of repairs is three five
33 thousand dollars or more are required to be disclosed
34 by this section. If the vehicle has incurred damage
35 of three five thousand dollars or more per incident in
36 more than one incident, the damage amounts must be
37 combined and disclosed as the total of all separate
38 incidents.
39 3. The damage disclosure statement shall be
40 provided by the transferor to the transferee at or
41 before the time of sale. If the transferor is not a
42 resident of this state the transferee shall not be
43 required to submit a damage disclosure statement from
44 the transferor with the transferee's application for
45 title unless the state of the transferor's residence
46 requires a damage disclosure statement. However, the
47 transferee shall submit a damage disclosure statement
48 with the transferee's application for title indicating
49 whether a salvage or rebuilt title had ever existed
50 for the vehicle, whether the vehicle had incurred

S-5418

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S-5418

Page 2

- 1 prior damage of three five thousand dollars or more
2 per incident, and the year, make, and vehicle
3 identification number of the motor vehicle."
4 2. By renumbering as necessary.

By BRAD BANKS
DERRYL McLAREN

S-5418 FILED MARCH 19, 1996

Order 3/27/96 (p.1077)

S-5408

- 1 Amend House File 2419, as amended, passed, and
 2 reprinted by the House, as follows:
 3 1. Page 2, by striking lines 1 through 23.
 4 2. By striking page 3, line 16, through page 9,
 5 line 3.
 6 3. Page 9, by striking lines 27 through 32.
 7 4. Title page, by striking lines 1 through 10 and
 8 inserting the following: "An Act relating to
 9 transportation by granting the state department of
 10 transportation condemnation rights for utility
 11 facility replacement, providing for entry onto private
 12 property for sounding and drilling, and providing for
 13 release of retained funds for public improvements."
 14 5. By renumbering as necessary.

By MIKE CONNOLLY

S-5408 FILED MARCH 19, 1996

o/order 3/27/96 (p.1078)

HOUSE FILE 2419

S-5555

- 1 Amend House File 2419, as amended, passed, and
 2 reprinted by the House, as follows:
 3 1. Page 1, by striking line 12 and inserting the
 4 following: "facility, except that if-the-issue-of
 5 width-was-not-addressed,".
 6 2. Page 1, line 16, by inserting after the word
 7 "agency" the following: "and the owner of the
 8 facility".

By MIKE CONNOLLY

S-5555 FILED MARCH 27, 1996

ADOPTED (p.1079)

HOUSE FILE 2419

S-5557

- 1 Amend House File 2419, as amended, passed, and
 2 reprinted by the House, as follows:
 3 1. Page 2, by striking lines 1 through 14.
 4 2. By striking page 3, line 16, through page 9,
 5 line 3.
 6 3. Page 9, by striking lines 27 through 32.
 7 4. Title page, by striking lines 1 through 10 and
 8 inserting the following: "An Act relating to
 9 transportation by granting the state department of
 10 transportation condemnation rights for utility
 11 facility replacement, requiring certain criteria be
 12 adopted by administrative rule, providing for entry
 13 onto private property for sounding and drilling, and
 14 providing for release of retained funds for public
 15 improvements."
 16 5. By renumbering as necessary.

By MIKE CONNOLLY

S-5557 FILED MARCH 27, 1996

ADOPTED (p.1078)

Motion/Rc 3/27/96 Rittner
Motion to Rc 4/1/96 (p.1138)
withdrawn

SENATE AMENDMENT TO HOUSE FILE 2419

H-5756

- 1 Amend House File 2419, as amended, passed, and
- 2 reprinted by the House, as follows:
- 3 1. Page 1, by striking line 12 and inserting the
- 4 following: "facility, except that ~~if-the-issue-of~~
- 5 width-was-not-addressed,".
- 6 2. Page 1, line 16, by inserting after the word
- 7 "agency" the following: "and the owner of the
- 8 facility".
- 9 3. Page 2, by striking lines 1 through 14.
- 10 4. Page 3, by striking line 14 and inserting the
- 11 following: "twenty-rod one hundred fifty feet of the
- 12 dwelling house or within fifty feet of other buildings
- 13 on".
- 14 5. By striking page 3, line 16, through page 9,
- 15 line 3.
- 16 6. Page 9, by striking lines 27 through 32.
- 17 7. Title page, by striking lines 1 through 10 and
- 18 inserting the following: "An Act relating to
- 19 transportation by granting the state department of
- 20 transportation condemnation rights for utility
- 21 facility replacement, requiring certain criteria be
- 22 adopted by administrative rule, providing for entry
- 23 onto private property for sounding and drilling, and
- 24 providing for release of retained funds for public
- 25 improvements."
- 26 8. By renumbering, relettering, or redesignating
- 27 and correcting internal references as necessary.

RECEIVED FROM THE SENATE

H-5756 FILED APRIL 1, 1996

House concurred as amended 4/9/96 (p. 1456)

HOUSE FILE 2419

H-5818

- 1 Amend the Senate amendment, H-5756, to House File
- 2 2419, as amended, passed, and reprinted by the House,
- 3 as follows:
- 4 1. Page 1, by striking line 9.
- 5 2. Page 1, line 21, by inserting after the word
- 6 "replacement," the following: "requiring sixty-day
- 7 property payments,".
- 8 3. By renumbering as necessary.

By HEATON of Henry

H-5818 FILED APRIL 2, 1996

WITHDRAWN 4/9/96 (p. 1456)

HOUSE FILE 2419

H-5859

- 1 Amend the Senate amendment, H-5756, to House File
- 2 2419, as amended, passed, and reprinted by the House,
- 3 as follows:
- 4 1. Page 1, by striking lines 14 and 15 and
- 5 inserting the following:
- 6 "_____. By striking page 3, line 16, through page
- 7 4, line 1."
- 8 2. Page 1, line 23, by inserting after the word
- 9 "drilling," the following: "relating to the process
- 10 for disposal of abandoned vehicles,".
- 11 3. By renumbering as necessary.

By WELTER of Jones

H-5859 FILED APRIL 3, 1996

Adopted 4/9/96 (p. 1456)

HOUSE AMENDMENT TO SENATE AMENDMENT TO
HOUSE FILE 2419

S-5691

- 1 Amend the Senate amendment, H-5756, to House File
- 2 2419, as amended, passed, and reprinted by the House,
- 3 as follows:
- 4 1. Page 1, by striking lines 14 and 15 and
- 5 inserting the following:
- 6 "_____. By striking page 3, line 16, through page
- 7 4, line 1."
- 8 2. Page 1, line 23, by inserting after the word
- 9 "drilling," the following: "relating to the process
- 10 for disposal of abandoned vehicles,".
- 11 3. By renumbering as necessary.

RECEIVED FROM THE HOUSE

S-5691 FILED APRIL 9, 1996

Senate concurred 4/11/96 (p. 1333)

CHAIR BRAUNS
HEATON
MUNDIE

HSB 712
TRANSPORTATION

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
TRANSPORTATION BILL BY
CHAIRPERSON WELTER)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to transportation by granting the state
2 department of transportation condemnation rights for utility
3 facility replacement, requiring sixty day property payments,
4 requiring certain criteria be adopted by administrative rule,
5 modifying certain damage disclosure statement requirements,
6 providing for entry onto private property for sounding and
7 drilling, relating to the disposal of abandoned vehicles, and
8 providing for release of retained funds for public
9 improvements.

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

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S.F. _____ H.F. _____

1 Section 1. Section 306.19, subsection 6, Code Supplement
2 1995, is amended to read as follows:

3 6. If the agency determines that it is necessary to
4 ~~relocate an interstate hazardous liquid pipeline as defined by~~
5 ~~the federal Hazardous Liquid Pipeline Safety Act of 1979, 49~~
6 ~~U.S.C. § 20017, et seq.~~ a utility facility, the agency shall
7 have the authority to institute and maintain proceedings on
8 behalf of the pipeline-company owner of the utility facility
9 for the condemnation of replacement property rights. The
10 replacement property rights shall be equal in substance to the
11 pipeline-company's existing rights of the owner of the utility
12 facility, except that if the issue of width was not addressed,
13 the replacement property rights shall be for a width and
14 location deemed appropriate and necessary for the needs of the
15 pipeline-company owner of the utility facility, as determined
16 by the agency. The replacement property rights of the
17 pipeline-company owner of the utility facility shall be
18 subordinate to the rights of the agency only to the extent
19 necessary for the construction and maintenance of the
20 designated road. Within a reasonable time after completion of
21 the pipeline-replacement relocation, all previously owned
22 property rights of the pipeline-company owner of the utility
23 facility no longer required for operation and maintenance of
24 the pipeline utility facility shall be released or conveyed to
25 the appropriate parties. The authority of the agency under
26 this subsection may only be exercised upon execution of a
27 relocation agreement between the agency and the pipeline
28 company owner of the utility facility. For purposes of this
29 subsection, "utility facility" means an electric, gas, water,
30 steam power, or materials transmission or distribution system;
31 a transportation system; a communications system, including
32 cable television; and fixtures, equipment, or other property
33 associated with the operation, maintenance, or repair of the
34 system. A utility facility may be publicly, privately, or
35 cooperatively owned.

1 Sec. 2. NEW SECTION. 307.31 PROPERTY PAYMENTS.

2 All payments for the purchase of property acquired by the
3 department shall be made within sixty days of signing a
4 written agreement for such purchase. If the department fails
5 to complete the payment within sixty days, interest shall
6 begin to accrue on the sixty-first day and be calculated at an
7 annual rate of ten percent.

8 Sec. 3. Section 307A.2, subsection 13, Code 1995, is
9 amended to read as follows:

10 13. The criteria used by the commission for allocating
11 funds as a result of any long-range planning process shall be
12 adopted in accordance with the provisions of chapter 17A. The
13 commission shall adopt such rules and regulations in
14 accordance with the provisions of chapter 17A as it may deem
15 necessary to transact its business and for the administration
16 and exercise of its powers and duties.

17 Sec. 4. Section 314.9, Code 1995, is amended to read as
18 follows:

19 314.9 ENTERING PRIVATE ~~LAND~~ PROPERTY.

20 The agency in control of any a highway or-highway-system-or
21 ~~the-engineer,-or-any-other-authorized-person-employed-by-said~~
22 ~~agency,~~ may after thirty days' written notice by restricted
23 certified mail addressed to the owner and also to the
24 occupant, enter upon private ~~land~~ property for the purpose of
25 making surveys, soundings, drillings, appraisals, and
26 examinations as ~~it~~ the agency deems appropriate or necessary
27 to determine the advisability or practicability of locating
28 and constructing a highway ~~thereon~~ on the property or for the
29 purpose of determining whether gravel or other material exists
30 ~~on said-land~~ the property of suitable quality and in
31 sufficient quantity to warrant the purchase or condemnation of
32 ~~said-land-or-part-thereof~~ the property. ~~Such~~ The entry, ~~after~~
33 ~~notice,~~ shall not be deemed a trespass, and the agency may be
34 aided by injunction to insure peaceful entry. The agency
35 shall pay actual damages caused by ~~such~~ the entry, surveys,

1 soundings, drillings, appraisals, or examinations.

2 Any damage caused by ~~such~~ the entry, surveys, soundings,
3 drillings, appraisals, or examinations shall be determined by
4 agreement or in the manner provided for the award of damages
5 in condemnation of ~~land~~ the property for highway purposes. No
6 ~~such-soundings~~ Soundings or drillings shall not be done within
7 ~~twenty-reds~~ thirty feet of the dwelling house or buildings on
8 ~~said-land~~ without written consent of the owner.

9 Sec. 5. Section 321.69, subsection 3, Code Supplement
10 1995, is amended to read as follows:

11 3. The damage disclosure statement shall be provided by
12 the transferor to the transferee at or before the time of
13 sale. If the transferor is not a resident of this state the
14 transferee shall not be required to submit a damage disclosure
15 statement from the transferor with the transferee's
16 application for title unless the state of the transferor's
17 residence requires a damage disclosure statement. However,
18 the transferee shall submit a damage disclosure statement with
19 the transferee's application for title indicating whether a
20 salvage or rebuilt title had ever existed for the vehicle,
21 whether the vehicle had incurred prior damage of three
22 thousand dollars or more per incident, and the year, make, and
23 vehicle identification number of the motor vehicle. The
24 transferee shall not be required to submit a damage disclosure
25 statement under this subsection if the prior certificate of
26 title is from another state and if it indicates that the
27 vehicle is salvaged and not rebuilt or is another state's
28 salvage certificate of title.

29 Sec. 6. Section 321.89, Code Supplement 1995, is amended
30 to read as follows:

31 321.89 ABANDONED VEHICLES.

32 1. DEFINITIONS. As used in this section and sections
33 321.90 and 321.91 unless the context otherwise requires:

34 a. "Police authority" means the Iowa highway safety
35 patrol, any law enforcement agency of a county or city or any

1 special security officer employed by the state board of
2 regents under section 262.13.

3 b. "Abandoned vehicle" means any of the following:

4 (1) A vehicle that has been left unattended on public
5 property for more than ~~forty-eight~~ twenty-four hours and lacks
6 current registration plates or two or more wheels or other
7 parts which renders the vehicle totally inoperable~~7-or.~~

8 (2) A vehicle that has remained illegally on public
9 property for more than ~~seventy-two~~ twenty-four hours~~7-or.~~

10 (3) A vehicle that has been unlawfully parked on private
11 property or has been placed on private property without the
12 consent of the owner or person in control of the property for
13 more than twenty-four hours~~7-or.~~

14 (4) A vehicle that has been legally impounded by order of
15 a police authority and has not been reclaimed for a period of
16 ten days~~7-or.~~ However, a police authority may declare the
17 vehicle abandoned within the ten-day period by commencing the
18 notification process in subsection 3.

19 (5) Any vehicle parked on the highway determined by a
20 police authority to create a hazard to other vehicle traffic.

21 (6) A vehicle that has been impounded pursuant to section
22 321J.4B by order of the court and whose owner has not paid the
23 impoundment fees after notification by the person or agency
24 responsible for carrying out the impoundment order.

25 ~~However, a vehicle shall not be considered abandoned for a~~
26 ~~period of five days if its owner or operator is unable to move~~
27 ~~the vehicle and notifies the police authority responsible for~~
28 ~~the geographical location of the vehicle and requests~~
29 ~~assistance in the removal of the vehicle.~~

30 c. "Demolisher" means any city or public agency organized
31 for the disposal of solid waste, or any person whose business
32 it is to convert a vehicle to junk, processed scrap or scrap
33 metal, or otherwise to wreck, or dismantle vehicles.

34 2. AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES. A
35 police authority may~~7-and-on,~~ upon the authority's own

1 initiative or upon the request of any other authority having
2 the duties of control of highways or traffic, shall take into
3 custody any an abandoned vehicle on public property and may
4 take into custody any an abandoned vehicle on private
5 property. A police authority taking into custody an abandoned
6 vehicle which has been determined to create a traffic hazard
7 shall report the reasons constituting the hazard in writing to
8 the appropriate authority having duties of control of the
9 highway. The police authority may employ its own personnel,
10 equipment, and facilities, or hire other-personnel a private
11 entity, equipment and facilities for the purpose of removing,
12 preserving, storing, or disposing of abandoned vehicles. If a
13 police authority employs a private entity to dispose of
14 abandoned vehicles, the police authority shall provide the
15 private entity with the names and addresses of the registered
16 owners, all lienholders of record, and any other known
17 claimant to the vehicle or the personal property found in the
18 vehicle. The owners, lienholders, or other claimants of the
19 abandoned vehicle shall not have a cause of action against a
20 private entity for action taken under this section, if the
21 private entity provides notice as required by subsection 3,
22 paragraph "a", to those persons whose names were provided by
23 the police authority.

24 3. NOTIFICATION OF OWNER, LIENHOLDERS, AND OTHER
25 CLAIMANTS.

26 a. A police authority or private entity which takes into
27 custody an abandoned vehicle shall notify, within twenty days,
28 by certified mail, the last known registered owner of the
29 vehicle, all lienholders of record, and any other known
30 claimant to the vehicle or to personal property found in the
31 vehicle, addressed to their last known addresses of record,
32 that the abandoned vehicle has been taken into custody.
33 Notice shall be deemed given when mailed. The notice shall
34 describe the year, make, model, and serial number of the
35 vehicle, describe the personal property found in the vehicle,

1 set forth the location of the facility where the vehicle is
2 being held, and inform the persons receiving the notice of
3 their right to reclaim the vehicle and personal property
4 within twenty-one ten days after the effective date of the
5 notice upon payment of all towing, preservation, and storage
6 charges resulting from placing the vehicle in custody and upon
7 payment of the costs of notice required pursuant to this
8 subsection. The notice shall also state that the failure of
9 the owner, or lienholders, or claimants to exercise their
10 right to reclaim the vehicle or personal property within the
11 time provided shall be deemed a waiver by the owner, and all
12 lienholders, and claimants of all right, title, claim, and
13 interest in the vehicle or personal property and that failure
14 to reclaim the vehicle or personal property is deemed consent
15 to the sale of the vehicle at a public auction or disposal of
16 the vehicle to a demolisher and to disposal of the personal
17 property by sale or destruction. The notice shall state that
18 any person claiming rightful possession of the vehicle or
19 personal property who disputes the planned disposition of the
20 vehicle or property by the police authority or private entity
21 or of the assessment of fees and charges provided by this
22 section may ask for an evidentiary hearing before the police
23 authority to contest those matters. If the persons receiving
24 the notice do not ask for a hearing or exercise their right to
25 reclaim the vehicle or personal property within the twenty-
26 one-day ten-day reclaiming period, the owner, and lienholders,
27 or claimants shall no longer have any right, title, claim, or
28 interest in or to the vehicle or the personal property. No A
29 court in any case in law or equity shall not recognize any
30 right, title, claim, or interest of the owner, and
31 lienholders, or claimants, after the expiration of the twenty-
32 one-day ten-day reclaiming period.

33 b. If the identity of the last registered owner cannot be
34 determined, or if the registration contains no address for the
35 owner, or if it is impossible to determine with reasonable

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1 certainty the identity and addresses of all lienholders,
2 notice by one publication in one newspaper of general
3 circulation in the area where the vehicle was abandoned shall
4 be sufficient to meet all requirements of notice under this
5 section. The published notice may contain multiple listings
6 of abandoned vehicles and personal property but shall be
7 published within the same time requirements and contain the
8 same information as prescribed for mailed notice in subsection
9 37, paragraph "a" ~~of this section~~.

10 c. The owner, or any lienholders, or claimants may, by
11 written request delivered to the police authority or private
12 entity prior to the expiration of the twenty-one-day ten-day
13 reclaiming period, obtain an additional fourteen five days
14 within which the vehicle or personal property may be
15 reclaimed.

16 4. AUCTION OF ABANDONED VEHICLES. If an abandoned vehicle
17 has not been reclaimed as provided for in subsection 3, the
18 police authority or private entity shall make a determination
19 as to whether or not the vehicle shall be sold for use upon
20 the highways. If the vehicle is not sold for use upon the
21 highways, it shall be sold for junk, or demolished and sold as
22 scrap. The police authority or private entity shall sell the
23 vehicle at public auction. Notwithstanding any other
24 provision of this section, any a police authority or private
25 entity, which has taken into possession any abandoned vehicle
26 which lacks an engine, or two or more wheels, or another part
27 which renders the vehicle totally inoperable, or which has a
28 fair market value of less than five hundred dollars as
29 determined by the police authority or private entity, may
30 dispose of the vehicle to a demolisher for junk without public
31 auction after complying with the notification procedures
32 enumerated in subsection 3 and without public auction. The
33 purchaser of the vehicle takes title free and clear of all
34 liens and claims of ownership, shall receive a sales receipt
35 from the police authority or private entity, and is entitled

1 to register the vehicle and receive a certificate of title if
2 sold for use upon the highways. If the vehicle is sold or
3 disposed of to a demolisher for junk, the demolisher shall
4 make application for a junking certificate to the county
5 treasurer within fifteen days of purchase and shall surrender
6 the sales receipt in lieu of the certificate of title.

7 From the proceeds of the sale of an abandoned vehicle the
8 police authority, if the police authority did not hire a
9 private entity, shall reimburse itself for the expenses of the
10 auction, the costs of towing, preserving, and storing which
11 resulted from placing the abandoned vehicle in custody, all
12 notice and publication costs incurred pursuant to subsection
13 3, the cost of inspection, and any other costs incurred except
14 costs of bookkeeping and other administrative costs. Any
15 remainder from the proceeds of a sale shall be held for the
16 owner of the vehicle or entitled lienholder for ninety days,
17 and shall then be deposited in the road use tax fund. The
18 costs to police authorities of auction, towing, preserving,
19 storage, and all notice and publication costs, and all other
20 costs which result from placing abandoned vehicles in custody,
21 whenever the proceeds from a sale of the abandoned vehicles
22 are insufficient to meet these expenses and costs, shall be
23 paid from the road use tax fund and are the obligation of the
24 last owner or owners, jointly and severally.

25 The director of transportation shall establish by rule a
26 claims procedure to be followed by police authorities in
27 obtaining expenses and costs from the fund. If a private
28 entity has been hired, the police authority may file a claim
29 with the department for reimbursement of towing fees which
30 shall be paid from the road use tax fund.

31 Sec. 7. Section 321.285, subsection 6, Code 1995, is
32 amended to read as follows:

33 6. Notwithstanding any other speed restrictions, the speed
34 limit for all vehicular traffic on fully controlled-access,
35 divided, multilaned highways including the national system of

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1 interstate highways designated by the federal highway
2 administration and this state (23 U.S.C. § 103 (e)) is sixty-
3 five miles per hour. However, the department or cities with
4 the approval of the department may establish a lower speed
5 limit upon such highways located within the corporate limits
6 of a city. For the purposes of this subsection a fully
7 controlled-access highway is a highway that gives preference
8 to through traffic by providing access connections with
9 selected public roads only and by prohibiting crossings at
10 grade or direct private driveway connections. A minimum speed
11 ~~of forty miles per hour, road conditions permitting, is~~ may be
12 established by the department on the highways referred to in
13 this subsection if warranted by engineering and traffic
14 investigations.

15 It is further provided that any kind of vehicle, implement,
16 or conveyance incapable of attaining and maintaining a speed
17 of forty miles per hour shall be prohibited from using the
18 interstate system.

19 Sec. 8. NEW SECTION. 573.15A EARLY RELEASE OF RETAINED
20 FUNDS.

21 Notwithstanding section 573.14, a public corporation may
22 release retained funds upon completion of ninety-five percent
23 of the contract in accordance with the following:

24 1. Any person, firm, or corporation who has, under
25 contract with the principal contractor or with subcontractors,
26 performed labor, or furnished materials, service, or
27 transportation, in the construction of the public improvement,
28 may file with the public corporation an itemized, sworn,
29 written statement of the claim for the labor, or materials,
30 service, or transportation. The claim shall be filed with the
31 public corporation either before the expiration of the thirty
32 days after completion of ninety-five percent of the contract
33 or at any time after the thirty-day period if the public
34 corporation has not paid the full contract price and no action
35 is pending to adjudicate rights in and to the unpaid portion

1 of the contract price.

2 2. The fund, as provided in section 573.13, shall be
3 retained by the public corporation for a period of thirty days
4 after ninety-five percent of the contract has been completed.
5 If at the end of the thirty-day period, a claim has been
6 filed, in accordance with this section, the public corporation
7 shall continue to retain from the unpaid funds, a sum equal to
8 double the total amount of all claims on file. The remaining
9 balance of the unpaid fund, or if there are no claims on file,
10 the entire unpaid fund, may be released and paid to the
11 contractor.

12 3. The public corporation, the principal contractor, or
13 any claimant for labor or materials, service, or
14 transportation, who has filed a claim or the surety on any
15 bond given for performance of the contract, at any time after
16 the expiration of thirty days, and not later than sixty days
17 after the completion of ninety-five percent of the contract,
18 may bring an action in equity in the county where the public
19 improvement is located to determine rights to moneys contained
20 in the fund or to enforce liability on the bond. The action
21 shall be brought in accordance with sections 573.16 through
22 573.18, with the completion of ninety-five percent of the
23 contract taking the place of the date of final acceptance.

24 4. A public corporation that releases funds at the
25 completion of ninety-five percent of the contract, in
26 accordance with this section, shall not be required to retain
27 additional funds.

28

EXPLANATION

29 The amendment to section 306.19 gives the state department
30 of transportation authority to institute and maintain
31 proceedings on behalf of the owner of a utility facility for
32 the condemnation of replacement property rights when the
33 construction or maintenance of a road requires condemnation of
34 the property on which the utility facility is located. The
35 replacement rights must be equal to the existing rights that

1 the owner of the utility facility possessed. "Utility
2 facility" is defined in the bill to mean any electric, gas,
3 water, steam power, or materials transmission or distribution
4 system; a transportation system; a communications system,
5 including cable television; and fixtures, equipment, or other
6 property associated with the operation, maintenance, or repair
7 of the system. A utility facility may be publicly, privately,
8 or cooperatively owned.

9 Section 307.31 is created and provides that payments for
10 the purchase of property acquired by the state department of
11 transportation must be made within 60 days of signing a
12 written agreement for the purchase. If the department fails
13 to complete the payment within 60 days, interest begins to
14 accrue on the 61st day and is calculated at an annual rate of
15 10 percent.

16 Section 307A.2 is amended to require the state department
17 of transportation to follow the administrative rulemaking
18 provisions of chapter 17A when adopting criteria for the
19 allocation of funds as a result of any long-range planning
20 process.

21 Section 321.69 is amended to provide that a transferee of a
22 motor vehicle does not have to file a damage disclosure
23 statement if the prior certificate of title is from another
24 state and indicates that the vehicle is salvaged and not
25 rebuilt or the other state's certificate of title is a salvage
26 title.

27 Section 314.9 currently allows the agency in control of any
28 highway to enter onto private property for the purpose of
29 making surveys, soundings, drillings, appraisals, and
30 examination of property to determine the practicability and
31 advisability of constructing a highway or determining whether
32 gravel or other materials exist on the property of sufficient
33 quantity to warrant the purchase of the property. This bill
34 amends the prohibition on sounding and drilling from within 20
35 rods, which is equivalent to 330 feet of the dwelling house or

1 building to within 30 feet of the dwelling house or building
2 without the written consent of the property owner.

3 This bill makes several changes to section 321.89 relating
4 to the process for disposing of abandoned motor vehicles.
5 Current law defines a vehicle as abandoned that has been left
6 unattended on public property for more than 48 hours and lacks
7 current registration plates, or two or more wheels, or other
8 parts which render the vehicle totally inoperable or that has
9 remained illegally on public property for more than 72 hours.
10 This bill changes the time periods from 48 hours to 24 hours
11 and from 72 hours to 24 hours, respectively. The bill allows
12 a police authority to declare a vehicle abandoned within the
13 10-day period currently required by section 321.89, if the
14 notification process has been commenced. The bill eliminates
15 a provision that allowed a five-day period before a vehicle
16 was declared abandoned if the owner or operator notified the
17 police authority that the owner or operator was unable to move
18 the vehicle. The bill allows for a private entity to dispose
19 of abandoned vehicles, requires the private entity to follow
20 the notification provisions contained in section 321.89, and
21 protects the private entity from suit if notification
22 procedures were followed. The bill allows for sale or
23 destruction of personal property found within the abandoned
24 vehicle and allows for disposal of an abandoned vehicle to a
25 demolisher for junk if the vehicle has a fair market value of
26 less than \$500, as determined by the police authority or
27 private entity. The bill provides that unpaid costs remain
28 the obligation of the last owner of record and that a police
29 authority may file a claim with the state department of
30 transportation for reimbursement of towing costs of a private
31 entity from the road use tax fund.

32 The bill allows the state department of transportation to
33 establish a minimum speed limit on certain highways as
34 warranted by engineering and traffic investigations.

35 This bill creates new section 573.15A which establishes a

1 procedure for the release of retained funds by a public
2 corporation to a contractor after completion of 95 percent of
3 the work contracted for a public improvement. The section
4 provides that a person, firm, or corporation who has, under
5 contract with the principal contractor or with subcontractors,
6 performed labor, or furnished materials, service, or
7 transportation, in the construction of the public improvement,
8 may file a claim with the public corporation for the labor, or
9 materials, service, or transportation. The fund shall be
10 retained by the public corporation for a period of 30 days
11 after 95 percent of the contract has been completed. If at
12 the end of the 30-day period, a claim has been filed, the
13 public corporation must retain from the unpaid funds, a sum
14 equal to double the total amount of all claims on file. The
15 remaining balance of the unpaid fund, or if there are no
16 claims on file, the entire unpaid fund, may then be released
17 and paid to the contractor. The public corporation, the
18 principal contractor, or any claimant for labor or materials,
19 service, or transportation who has filed a claim or the surety
20 on any bond given for performance of the contract, at any time
21 after the expiration of 30 days, and not later than 60 days
22 after the completion of 95 percent of the contract, may bring
23 an action in equity in the county where the public improvement
24 is located to determine rights to moneys contained in the fund
25 or to enforce liability on the bond.

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HOUSE FILE 2419

AN ACT

RELATING TO TRANSPORTATION BY GRANTING THE STATE DEPARTMENT OF TRANSPORTATION CONDEMNATION RIGHTS FOR UTILITY FACILITY REPLACEMENT, REQUIRING CERTAIN CRITERIA BE ADOPTED BY ADMINISTRATIVE RULE, PROVIDING FOR ENTRY ONTO PRIVATE PROPERTY FOR SOUNDING AND DRILLING, RELATING TO THE PROCESS FOR DISPOSAL OF ABANDONED VEHICLES, AND PROVIDING FOR RELEASE OF RETAINED FUNDS FOR PUBLIC IMPROVEMENTS.

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

Section 1. Section 306.19, subsection 6, Code Supplement 1995, is amended to read as follows:

6. If the agency determines that it is necessary to relocate ~~an interstate hazardous liquid pipeline as defined by the federal Hazardous Liquid Pipeline Safety Act of 1979, 49 U.S.C. § 20017, et seq.~~ a utility facility, the agency shall have the authority to institute and maintain proceedings on behalf of the pipeline-company owner of the utility facility for the condemnation of replacement property rights. The replacement property rights shall be equal in substance to the pipeline-company's existing rights of the owner of the utility facility, except that ~~if the issue of width was not addressed,~~ the replacement property rights shall be for a width and location deemed appropriate and necessary for the needs of the pipeline-company owner of the utility facility, as determined by the agency and the owner of the facility. The replacement property rights of the pipeline-company owner of the utility facility shall be subordinate to the rights of the agency only to the extent necessary for the construction and maintenance of the designated road. Within a reasonable time after completion of the pipeline-replacement relocation, all previously owned property rights of the pipeline-company owner of the utility facility no longer required for operation and

maintenance of the pipeline utility facility shall be released or conveyed to the appropriate parties. The authority of the agency under this subsection may only be exercised upon execution of a relocation agreement between the agency and the pipeline-company owner of the utility facility. For purposes of this subsection, "utility facility" means an electric, gas, water, steam power, or materials transmission or distribution system; a transportation system; a communications system, including cable television; and fixtures, equipment, or other property associated with the operation, maintenance, or repair of the system. A utility facility may be publicly, privately, or cooperatively owned.

Sec. 2. Section 307A.2, subsection 13, Code 1995, is amended to read as follows:

13. The criteria used by the commission for allocating funds as a result of any long-range planning process shall be adopted in accordance with the provisions of chapter 17A. The commission shall adopt such rules and regulations in accordance with the provisions of chapter 17A as it may deem necessary to transact its business and for the administration and exercise of its powers and duties.

Sec. 3. Section 314.9, Code 1995, is amended to read as follows:

314.9 ENTERING PRIVATE LAND PROPERTY.

The agency in control of ~~any a highway or highway system or the engineer, or any other authorized person employed by said agency,~~ may after thirty days' written notice by restricted certified mail addressed to the owner and also to the occupant, enter upon private ~~land~~ property for the purpose of making surveys, soundings, drillings, appraisals, and examinations as ~~it~~ the agency deems appropriate or necessary to determine the advisability or practicability of locating and constructing a highway ~~thereon on the property~~ or for the purpose of determining whether gravel or other material exists on ~~said land~~ the property of suitable quality and in sufficient quantity to warrant the purchase or condemnation of

~~said land or part thereof~~ the property. ~~Such~~ The entry, after notice, shall not be deemed a trespass, and the agency may be aided by injunction to insure peaceful entry. The agency shall pay actual damages caused by ~~such~~ the entry, surveys, soundings, drillings, appraisals, or examinations.

Any damage caused by ~~such~~ the entry, surveys, soundings, drillings, appraisals, or examinations shall be determined by agreement or in the manner provided for the award of damages in condemnation of ~~land~~ the property for highway purposes. ~~No such soundings~~ Soundings or drillings shall not be done within ~~twenty rods~~ one hundred fifty feet of the dwelling house or ~~within fifty feet of other buildings on said land~~ without written consent of the owner.

Sec. 4. Section 321.89, Code Supplement 1995, is amended to read as follows:

321.89 ABANDONED VEHICLES.

1. DEFINITIONS. As used in this section and sections 321.90 and 321.91 unless the context otherwise requires:

a. "Police authority" means the Iowa highway safety patrol, any law enforcement agency of a county or city or any special security officer employed by the state board of regents under section 262.13.

b. "Abandoned vehicle" means any of the following:

(1) A vehicle that has been left unattended on public property for more than ~~forty-eight~~ twenty-four hours and lacks current registration plates or two or more wheels or other parts which renders the vehicle totally inoperable ~~or~~.

(2) A vehicle that has remained illegally on public property for more than ~~seventy-two~~ twenty-four hours ~~or~~.

(3) A vehicle that has been unlawfully parked on private property or has been placed on private property without the consent of the owner or person in control of the property for more than twenty-four hours ~~or~~.

(4) A vehicle that has been legally impounded by order of a police authority and has not been reclaimed for a period of ten days ~~or~~. However, a police authority may declare the

vehicle abandoned within the ten-day period by commencing the notification process in subsection 3.

(5) Any vehicle parked on the highway determined by a police authority to create a hazard to other vehicle traffic.

(6) A vehicle that has been impounded pursuant to section 321J.4B by order of the court and whose owner has not paid the impoundment fees after notification by the person or agency responsible for carrying out the impoundment order.

~~However, a vehicle shall not be considered abandoned for a period of five days if its owner or operator is unable to move the vehicle and notifies the police authority responsible for the geographical location of the vehicle and requests assistance in the removal of the vehicle.~~

c. "Demolisher" means any city or public agency organized for the disposal of solid waste, or any person whose business it is to convert a vehicle to junk, processed scrap or scrap metal, or otherwise to wreck, or dismantle vehicles.

2. AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES. A police authority ~~may~~ and on, upon the authority's own initiative or upon the request of any other authority having the duties of control of highways or traffic, shall take into custody any an abandoned vehicle on public property and may take into custody any an abandoned vehicle on private property. A police authority taking into custody an abandoned vehicle which has been determined to create a traffic hazard shall report the reasons constituting the hazard in writing to the appropriate authority having duties of control of the highway. The police authority may employ its own personnel, equipment, and facilities, or hire ~~other personnel~~ a private entity, equipment and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles. If a police authority employs a private entity to dispose of abandoned vehicles, the police authority shall provide the private entity with the names and addresses of the registered owners, all lienholders of record, and any other known claimant to the vehicle or the personal property found in the

vehicle. The owners, lienholders, or other claimants of the abandoned vehicle shall not have a cause of action against a private entity for action taken under this section, if the private entity provides notice as required by subsection 3, paragraph "a", to those persons whose names were provided by the police authority.

3. NOTIFICATION OF OWNER, LIENHOLDERS, AND OTHER CLAIMANTS.

a. A police authority or private entity which takes into custody an abandoned vehicle shall notify, within twenty days, by certified mail, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to their last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall describe the year, make, model, and serial number of the vehicle, describe the personal property found in the vehicle, set forth the location of the facility where the vehicle is being held, and inform the persons receiving the notice of their right to reclaim the vehicle and personal property within twenty-one ten days after the effective date of the notice upon payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody and upon payment of the costs of notice required pursuant to this subsection. The notice shall also state that the failure of the owner, or lienholders, or claimants to exercise their right to reclaim the vehicle or personal property within the time provided shall be deemed a waiver by the owner, and ~~all~~ lienholders, and claimants of all right, title, claim, and interest in the vehicle or personal property and that failure to reclaim the vehicle or personal property is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher and to disposal of the personal property by sale or destruction. The notice shall state that any person claiming rightful possession of the vehicle or

personal property who disputes the planned disposition of the vehicle or property by the police authority or private entity or of the assessment of fees and charges provided by this section may ask for an evidentiary hearing before the police authority to contest those matters. If the persons receiving the notice do not ask for a hearing or exercise their right to reclaim the vehicle or personal property within the twenty-one-day ten-day reclaiming period, the owner, and lienholders, or claimants shall no longer have any right, title, claim, or interest in or to the vehicle or the personal property. No A court in any case in law or equity shall not recognize any right, title, claim, or interest of the owner, and lienholders, or claimants, after the expiration of the twenty-one-day ten-day reclaiming period.

b. If the identity of the last registered owner cannot be determined, or if the registration contains no address for the owner, or if it is impossible to determine with reasonable certainty the identity and addresses of all lienholders, notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned shall be sufficient to meet all requirements of notice under this section. The published notice may contain multiple listings of abandoned vehicles and personal property but shall be published within the same time requirements and contain the same information as prescribed for mailed notice in subsection 3, paragraph "a" of this section.

c. The owner, or any lienholders, or claimants may, by written request delivered to the police authority or private entity prior to the expiration of the twenty-one-day ten-day reclaiming period, obtain an additional fourteen five days within which the vehicle or personal property may be reclaimed.

4. AUCTION OF ABANDONED VEHICLES. If an abandoned vehicle has not been reclaimed as provided for in subsection 3, the police authority or private entity shall make a determination as to whether or not the vehicle shall be sold for use upon

the highways. If the vehicle is not sold for use upon the highways, it shall be sold for junk, or demolished and sold as scrap. The police authority or private entity shall sell the vehicle at public auction. Notwithstanding any other provision of this section, any a police authority or private entity, which has taken into possession any abandoned vehicle which lacks an engine, or two or more wheels, or another part which renders the vehicle totally inoperable, or which has a fair market value of less than five hundred dollars as determined by the police authority or private entity, may dispose of the vehicle to a demolisher for junk without public auction after complying with the notification procedures enumerated in subsection 3 ~~and without public auction~~. The purchaser of the vehicle takes title free and clear of all liens and claims of ownership, shall receive a sales receipt from the police authority or private entity, and is entitled to register the vehicle and receive a certificate of title if sold for use upon the highways. If the vehicle is sold or disposed of to a demolisher for junk, the demolisher shall make application for a junking certificate to the county treasurer within fifteen days of purchase and shall surrender the sales receipt in lieu of the certificate of title.

From the proceeds of the sale of an abandoned vehicle the police authority, if the police authority did not hire a private entity, shall reimburse itself for the expenses of the auction, the costs of towing, preserving, and storing which resulted from placing the abandoned vehicle in custody, all notice and publication costs incurred pursuant to subsection 3, the cost of inspection, and any other costs incurred except costs of bookkeeping and other administrative costs. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lienholder for ninety days, and shall then be deposited in the road use tax fund. The costs to police authorities of auction, towing, preserving, storage, and all notice and publication costs, and all other costs which result from placing abandoned vehicles in custody,

whenever the proceeds from a sale of the abandoned vehicles are insufficient to meet these expenses and costs, shall be paid from the road use tax fund and are the obligation of the last owner or owners, jointly and severally.

The director of transportation shall establish by rule a claims procedure to be followed by police authorities in obtaining expenses and costs from the fund. If a private entity has been hired, the police authority may file a claim with the department for reimbursement of towing fees which shall be paid from the road use tax fund.

Sec. 5. Section 321.285, subsection 6, Code 1995, is amended to read as follows:

6. Notwithstanding any other speed restrictions, the speed limit for all vehicular traffic on fully controlled-access, divided, multilaned highways including the national system of interstate highways designated by the federal highway administration and this state (23 U.S.C. § 103(e)) is sixty-five miles per hour. However, the department or cities with the approval of the department may establish a lower speed limit upon such highways located within the corporate limits of a city. For the purposes of this subsection a fully controlled-access highway is a highway that gives preference to through traffic by providing access connections with selected public roads only and by prohibiting crossings at grade or direct private driveway connections. A minimum speed of forty miles per hour, road conditions permitting, is may be established by the department on the highways referred to in this subsection if warranted by engineering and traffic investigations.

It is further provided that any kind of vehicle, implement, or conveyance incapable of attaining and maintaining a speed of forty miles per hour shall be prohibited from using the interstate system.

Sec. 6. NEW SECTION. 573.15A EARLY RELEASE OF RETAINED FUNDS.

Notwithstanding section 573.14, a public corporation may release retained funds upon completion of ninety-five percent of the contract in accordance with the following:

1. Any person, firm, or corporation who has, under contract with the principal contractor or with subcontractors, performed labor, or furnished materials, service, or transportation, in the construction of the public improvement, may file with the public corporation an itemized, sworn, written statement of the claim for the labor, or materials, service, or transportation. The claim shall be filed with the public corporation either before the expiration of the thirty days after completion of ninety-five percent of the contract or at any time after the thirty-day period if the public corporation has not paid the full contract price and no action is pending to adjudicate rights in and to the unpaid portion of the contract price.

2. The fund, as provided in section 573.13, shall be retained by the public corporation for a period of thirty days after ninety-five percent of the contract has been completed. If at the end of the thirty-day period, a claim has been filed, in accordance with this section, the public corporation shall continue to retain from the unpaid funds, a sum equal to double the total amount of all claims on file. The remaining balance of the unpaid fund, or if there are no claims on file, the entire unpaid fund, may be released and paid to the contractor.

3. The public corporation, the principal contractor, or any claimant for labor or materials, service, or transportation, who has filed a claim or the surety on any bond given for performance of the contract, at any time after the expiration of thirty days, and not later than sixty days after the completion of ninety-five percent of the contract, may bring an action in equity in the county where the public improvement is located to determine rights to moneys contained in the fund or to enforce liability on the bond. The action shall be brought in accordance with sections 573.16 through

573.18, with the completion of ninety-five percent of the contract taking the place of the date of final acceptance.

4. A public corporation that releases funds at the completion of ninety-five percent of the contract, in accordance with this section, shall not be required to retain additional funds.

RON J. CORBETT
Speaker of the House

LEONARD L. BOSWELL
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2419, Seventy-sixth General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved 4/17, 1996

TERRY E. BRANSTAD
Governor