

5-3/23/95 Det. Rest
5-4/9/95 Amend & Do Pass

MAR 8 1995
Place On Calendar

HOUSE FILE 303
BY COMMITTEE ON COMMERCE
AND REGULATION

(SUCCESSOR TO HSB 133)

Passed House, Date 3/23/95 (p. 957)
Vote: Ayes 97 Nays 0
Approved May 26, 1995
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Vote: Ayes 49 Nays 0

(p. 2253) Passed 5-3-95-
vote 94-0

A BILL FOR

1 An Act relating to pipelines and underground storage of hazardous
2 liquids, and providing penalties and effective and retroactive
3 applicability date provisions.

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

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HF 303

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

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

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

14 306A.3 AUTHORITY TO ESTABLISH CONTROLLED-ACCESS FACILITIES
15 -- UTILITY ACCOMMODATION POLICY.

16 Cities and highway authorities having jurisdiction and
17 control over the highways of the state, as provided by chapter
18 306, acting alone or in co-operation with each other or with
19 any federal, state, or local agency or any other state having
20 authority to participate in the construction and maintenance
21 of highways, are hereby authorized to plan, designate,
22 establish, regulate, vacate, alter, improve, maintain, and
23 provide controlled-access facilities for public use ~~wherever~~
24 ~~such authority or authorities are of the opinion that if~~
25 traffic conditions, present or future, will justify such
26 special facilities; provided, that within ~~cities~~ a city such
27 authority shall be subject to ~~such~~ municipal consent as may be
28 provided by law. ~~Said cities and highway authorities, in~~ In
29 addition to the specific powers granted in this chapter,
30 cities and highway authorities shall ~~also have and may~~
31 ~~exercise, relative to controlled-access facilities,~~ any and
32 ~~all~~ additional authority ~~now or hereafter~~ vested in them
33 relative to highways or streets within their respective
34 jurisdictions. ~~Said cities~~ Cities and highway authorities may
35 regulate, restrict, or prohibit the use of ~~such~~ controlled-

1 access facilities by the various classes of vehicles or
2 traffic in a manner consistent with section 306A.2.

3 The department shall adopt rules, pursuant to chapter 17A,
4 embodying a utility accommodation policy which imposes
5 reasonable restrictions on placements occurring on or after
6 the effective date of the rules, on primary road rights-of-
7 way. The rules may require utilities to give notice to the
8 department prior to installation of a utility system on a
9 primary road right-of-way and obtain prior permission from the
10 department for the proposed installation. The rules shall
11 recognize emergency situations and the need for immediate
12 installation of service extensions subject to the standards
13 adopted by the department and the utilities board. The rules
14 shall be no less stringent than the standards adopted by the
15 utilities board pursuant to chapters 478, 479, and 479A, and
16 479B. This paragraph shall not be construed as granting the
17 department authority which has been expressly granted to the
18 utilities board to determine the route of utility
19 installations. If the department requires a utility company
20 permit, the department shall be required to act upon the
21 permit application within thirty days of its filing. In cases
22 of federal-aid highway projects on nonprimary highways, the
23 local authority with jurisdiction over the highway and the
24 department shall comply with all federal regulations and
25 statutes regarding utility accommodation.

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

28 As used in this chapter and chapters 475A, 476, 476A, 478,
29 479, and 479A, and 479B, "division" and "utilities division"
30 mean the utilities division of the department of commerce.

31 Sec. 4. Section 474.9, Code 1995, is amended to read as
32 follows:

33 474.9 GENERAL JURISDICTION OF UTILITIES BOARD.

34 The utilities board has general supervision of all
35 pipelines and all lines for the transmission, sale, and

1 distribution of electrical current for light, heat, and power
2 pursuant to chapters 476, 476A, 478, 479, and 479A, and 479B
3 and has other duties as provided by law.

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

6 479.1 PURPOSE.

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

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

22 479.2 DEFINITIONS.

23 As used in this chapter:

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

26 2. "Pipeline" as-used-in-this-chapter means a pipe, pipes,
27 or pipelines used for the transportation or transmission of a
28 solid, liquid, or gaseous substance, except water, within or
29 through this state. However, the term does not include
30 interstate pipe, pipes, or pipelines used for the
31 transportation or transmission of natural gas or hazardous
32 liquids.

33 3. "Pipeline company" as-used-in-this-chapter means a
34 person engaged in or organized for the purpose of owning,
35 operating, or controlling pipelines for the transportation or

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

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

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

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

14 479.5 APPLICATION FOR PERMIT.

15 Any A pipeline company ~~engaging in its said~~ doing business
16 in this state shall file with the board its verified petition
17 asking for a permit to construct, maintain and operate its
18 pipeline or lines along, over or across the public or private
19 highways, grounds, waters and streams of any kind of this
20 state. Any pipeline company now owning or operating a
21 pipeline in this state shall be issued a permit by the board
22 upon supplying the information as provided for in section
23 479.6.

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

33 ~~As conditions precedent to the filing of a petition with~~
34 ~~the board requesting a permit, and not less than thirty days~~
35 ~~prior to the filing of such petition, the person, company, or~~

1 ~~corporation~~ A pipeline company shall hold informational
2 meetings in each county in which real property or property
3 rights therein will be affected at least thirty days prior to
4 filing the petition for a new pipeline. A member of the
5 board, ~~the-counsel-of-the-board,-or-a-hearing-examiner~~ or a
6 person designated by the board shall serve as the presiding
7 officer at each meeting and present an agenda for ~~such~~ the
8 meeting which shall include a summary of the legal rights of
9 the affected landowners. No formal record of the meeting
10 shall be required.

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

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

27 The notice shall set forth the name of the applicant; the
28 applicant's principal place of business; the general
29 description and purpose of the proposed project; the general
30 nature of the right of way desired; a map showing the route of
31 the proposed project; that the landowner has a right to be
32 present at such meeting and to file objections with the board;
33 and a designation of the time and place of the meeting; and
34 shall be served by certified mail with return requested not
35 less than thirty days previous to the time set for the

1 meeting; and shall be published once in a newspaper of general
2 circulation in the county. ~~Such~~ The publication shall be
3 considered notice to landowners whose residence is not known
4 and to each person in possession of or residing on the
5 property provided a good faith effort to notify can be
6 demonstrated by the pipeline company.

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

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

14 479.23 EXTENSION OF PERMIT.

15 Any A pipeline company ~~owning a permit granted under this~~
16 ~~chapter desiring to acquire an extension of such permit~~ may
17 petition the board ~~in the same manner provided for the~~
18 ~~granting of such permit and the same proceeding shall be had~~
19 ~~as on an original application~~ for the extension of a permit
20 granted under this chapter by filing a petition containing the
21 information required by section 479.6, subsections 1 through
22 4, 6, and 7, and section 479.26.

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

25 479.24 EMINENT DOMAIN.

26 Any A pipeline company ~~having secured a~~ granted a pipeline
27 permit for pipelines as in under this chapter provided shall
28 thereupon be vested with the right of eminent domain to such
29 the extent as may be necessary and as prescribed and approved
30 by said the board, not exceeding seventy-five feet in width
31 for right of way and not exceeding one acre in any one
32 location in addition to right of way for the location of
33 pumps, pressure apparatus, or other stations or equipment
34 necessary to the proper operation of its said pipeline or
35 lines. The board may grant additional eminent domain rights

1 where the pipeline company has presented sufficient evidence
2 to adequately demonstrate that a greater area is required for
3 the proper construction, operation, and maintenance of the
4 pipeline or for the location of pumps, pressure apparatus, or
5 other stations or equipment necessary to the proper operation
6 of its pipeline.

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

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

33 ~~Nothing-in-this~~ This chapter ~~shall~~ does not authorize the
34 construction of a pipeline longitudinally on, over or under
35 any railroad right of way or public highway, or at other than

1 an approximate right angle to such a railroad track or public
2 highway without the consent of such the railroad company, the
3 state department of transportation, or the county board of
4 supervisors, ~~as the case may be, nor shall any provision of~~
5 and this chapter does not authorize or give the right of
6 condemnation or eminent domain for such purposes.

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

9 479.25 DAMAGES.

10 ~~Pipeline companies~~ A pipeline company operating pipelines a
11 pipeline or a gas storage area shall have reasonable access to
12 the same pipeline or gas storage area for the purpose of
13 constructing, ~~reconstructing, enlarging, repairing~~ operating,
14 maintaining, or locating their pipes, pumps, pressure
15 apparatus or other stations, wells, devices, or equipment used
16 in or upon ~~such line~~ the pipeline or gas storage area, ~~but;~~
17 shall pay to the owner of ~~such lands~~ the land for the right of
18 entry ~~thereon~~ and the owner of crops ~~thereon~~ for all damages
19 caused by entering, using, or occupying ~~said lands for said~~
20 purposes the land; and shall pay to the owner ~~or owners of~~
21 ~~said lands~~ all damages caused ~~after~~ by the completion of
22 construction of ~~said~~ the pipeline on account of due to wash or
23 erosion of the soil at or along the location of ~~said~~ the
24 ~~pipeline by reason of the construction thereof upon said lands~~
25 ~~on account of~~ and due to the settling of the soil along and
26 above ~~said~~ the pipeline, provided, that nothing herein
27 ~~contained shall.~~ However, this section shall not prevent the
28 execution of an agreement between the pipeline company and the
29 owner of ~~said~~ land or crops with reference to the use ~~thereof~~
30 of the land.

31 Sec. 11. Section 479.27, Code 1995, is amended to read as
32 follows:

33 479.27 VENUE ---SERVICE-OF-ORIGINAL-NOTICE.

34 In all cases arising under this chapter, the district court
35 of any county, ~~through~~ in which ~~said~~ property of a pipeline

1 company is located, shall have jurisdiction, and service of
2 original notice on the pipeline company therein shall be had
3 and made upon the chairperson of the board.

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

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

29 Sec. 13. Section 479.30, Code 1995, is amended to read as
30 follows:

31 479.30 ENTRY FOR LAND SURVEYS.

32 A After the informational meeting or after the filing of a
33 petition if no informational meeting is required, a pipeline
34 company may enter upon private land for the purpose of making
35 land surveys surveying and examining the land to determine the

1 direction or depth of ~~pipelines, not to exceed a depth of~~
2 ~~twenty-five feet, after receipt of a permit to construct,~~
3 ~~maintain and operate its pipeline~~ a pipeline by giving ten
4 days' written notice by restricted certified mail to the
5 landowner as defined in section 479.5 and to any person
6 residing on or in possession of the land. The entry for land
7 surveys authorized in this section shall not be deemed a
8 trespass and may be aided by injunction. The pipeline company
9 shall pay the actual damages caused by the entry, and survey,
10 and examination.

11 Sec. 14. Section 479.31, unnumbered paragraph 1, Code
12 1995, is amended to read as follows:

13 Any A person who violates ~~any provision of~~ this chapter or
14 any regulation rule or order issued pursuant to this chapter
15 shall be subject to a civil penalty ~~of~~ levied by the board not
16 to exceed ten thousand dollars for each violation. Each day
17 that the violation continues shall constitute a separate
18 offense. However, the maximum civil penalty shall not exceed
19 five hundred thousand dollars for any related series of
20 violations. Civil penalties collected pursuant to this
21 section shall be credited to and are appropriated for the Iowa
22 energy center created in section 266.39C.

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

25 479.41 ARBITRATION AGREEMENTS.

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

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

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

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

20 479.42 SUBSEQUENT PIPELINES.

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

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

33 Sec. 17. Section 479.46, subsections 1, 2, and 3, Code
34 1995, are amended to read as follows:

35 1. The county board of supervisors shall determine when

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

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

15 The application shall contain the following:

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

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

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

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

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

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

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

1 commissioners.

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

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

12 479.47 SUBSEQUENT TILING.

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

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

33 479A.11 DAMAGES.

34 ~~Pipeline companies~~ A pipeline company operating pipelines
35 or underground storage shall be given reasonable access to the

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

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

18 479A.13 JURISDICTION ---~~SERVICE-OF-ORIGINAL-NOTICE.~~

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

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

26 1. The board shall adopt rules establishing standards to
27 protect underground improvements during the construction of
28 pipelines, to protect soil conservation and drainage
29 structures from being permanently damaged by pipeline
30 construction, and for the restoration of agricultural lands
31 after pipeline construction. To ensure that all interested
32 persons are informed of this rulemaking procedure and are
33 afforded a right to participate, the board shall schedule an
34 opportunity for oral presentations on the proposed rulemaking
35 and, in addition to the requirements of section 17A.4, shall

1 distribute copies of the notice of intended action and
2 opportunity for oral presentations to each county board of
3 supervisors. A county board of supervisors may, under chapter
4 17A and subsequent to the rulemaking proceedings, petition for
5 additional rulemaking to establish standards to protect soil
6 conservation practices, structures, and drainage structures
7 within that county. Upon the request of the petitioning
8 county, the board shall schedule a hearing to consider the
9 merits of the petition. Rules adopted under this section do
10 not apply within the boundaries of a city, unless the land is
11 used for agricultural purposes.

12 Sec. 22. Section 479A.15, Code 1995, is amended to read as
13 follows:

14 479A.15 ENTRY FOR LAND SURVEYS.

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

27 Sec. 23. Section 479A.16, unnumbered paragraph 1, Code
28 1995, is amended to read as follows:

29 A person who violates ~~a-provision-of~~ this chapter or a rule
30 or ~~standards~~ an order issued pursuant to this chapter is
31 subject to a civil penalty levied by the board not to exceed
32 one thousand dollars for each violation. Each day that the
33 violation continues constitutes a separate offense. However,
34 the civil penalty shall not exceed two hundred thousand
35 dollars for any related series of violations. Civil penalties

1 collected pursuant to this section shall be credited to and
2 are appropriated for the Iowa energy center created in section
3 266.39C.

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

6 479A.20 ARBITRATION AGREEMENTS.

7 Notwithstanding conflicting provisions of chapter 679A, if
8 an easement or other written agreement between a landowner and
9 a pipeline company provides for the determination through
10 arbitration of the amount of monetary damages sustained by a
11 landowner and caused by the construction, maintenance, or re-
12 pair of a pipeline, and if either person party has not
13 appointed its arbitrator or agreed to an arbitrator under the
14 agreement within thirty days after the other person party has
15 invoked the arbitration provisions of the agreement by written
16 notice to the other party by restricted certified mail, the
17 landowner or the pipeline company may petition a magistrate in
18 the county where the real property is located for the
19 appointment of an arbitrator to serve in place of the
20 arbitrator who would have been appointed or agreed to by the
21 other person party. Before filing the petition the landowner
22 or pipeline company shall give notice of the petitioning of
23 the magistrate by restricted certified mail to the other
24 person party and file proof of mailing with the petition. If,
25 after hearing, the magistrate finds that the landowner or
26 pipeline company has not been diligent in appointing or
27 reasonable in agreeing to an arbitrator, the magistrate shall
28 appoint an impartial arbitrator who shall have all of the
29 powers and duties of an arbitrator appointed or agreed to by
30 the other person party under the agreement.

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

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

1 479A.21 SUBSEQUENT PIPELINES.

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

9 Sec. 26. Section 479A.25, subsections 1, 2, and 3, Code
10 1995, are amended to read as follows:

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

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

25 The application shall contain all of the following:

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

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

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

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

1 or the landowner stating all of the following:

2 a. That a compensation commission has been appointed to
3 determine the damages caused by the installation of the pipe-
4 line.

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

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

12 ~~d. -- That the pipeline company may appear before the com-~~
13 ~~missioners.~~

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

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

24 479A.26 SUBSEQUENT TILING.

25 Additional costs of new tile construction caused by an
26 existing pipeline shall be paid by the pipeline company. The
27 ~~additional costs shall be paid by the pipeline company upon~~
28 ~~presentation of an invoice, verified by the county engineer or~~
29 ~~soil and water conservation district conservationist and~~
30 ~~specifically showing the added costs caused by the presence of~~
31 ~~the pipeline. -- A copy of the county engineer's or district~~
32 ~~conservationist's verification of additional costs shall~~
33 ~~accompany the invoice to the pipeline company. To receive~~
34 compensation under this section, the landowner or agent of the
35 landowner shall either present an invoice specifying the

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

8 Sec. 28. NEW SECTION. 479B.1 PURPOSE -- AUTHORITY.

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

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

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

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

23 2. "Hazardous liquid" means crude oil, refined petroleum
24 products, liquefied petroleum gases, anhydrous ammonia, liquid
25 fertilizers, liquefied carbon dioxide, alcohols, and coal
26 slurries.

27 3. "Pipeline" means an interstate pipe or pipeline and
28 necessary appurtenances used for the transportation or
29 transmission of hazardous liquids.

30 4. "Pipeline company" means a person engaged in or
31 organized for the purpose of owning, operating, or controlling
32 pipelines for the transportation or transmission of any
33 hazardous liquid or underground storage facilities for the
34 underground storage of any hazardous liquid.

35 5. "Underground storage" means storage of hazardous liquid

1 in a subsurface stratum or formation of the earth.

2 6. "Utilities division" means the utilities division of
3 the department of commerce.

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

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

11 Sec. 31. NEW SECTION. 479B.4 APPLICATION FOR PERMIT
12 INFORMATIONAL MEETING -- NOTICE.

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

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

32 The pipeline company shall hold informational meetings in
33 each county in which real property or property rights will be
34 affected at least thirty days prior to filing the petition for
35 a new pipeline. A member of the board, or a person designated

1 by the board, shall serve as the presiding officer at each
2 meeting and present an agenda for the meeting which shall
3 include a summary of the legal rights of the affected
4 landowners. No formal record of the meeting shall be
5 required. The meeting shall be held at a location reasonably
6 accessible to all persons who may be affected by granting the
7 permit.

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

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

35 A pipeline company seeking rights under this chapter shall

1 not negotiate or purchase an easement or other interest in
2 land in a county known to be affected by the proposed project
3 prior to the informational meeting.

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

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

6 1. The name of the individual, firm, corporation, company,
7 or association applying for the permit.

8 2. The applicant's principal office and place of business.

9 3. A legal description of the route of the proposed
10 pipeline and a map of the route.

11 4. A general description of the public or private
12 highways, grounds, waters, streams, and private lands of any
13 kind along, over, or across which the proposed pipeline will
14 pass.

15 5. If permission is sought to construct, maintain, and
16 operate facilities for the underground storage of hazardous
17 liquids the petition shall include the following additional
18 information:

19 a. A description and a map of the public or private
20 highways, grounds, waters, streams, and private lands of any
21 kind under which the storage is proposed.

22 b. Maps showing the location of proposed machinery,
23 appliances, fixtures, wells, and stations necessary for the
24 construction, maintenance, and operation of the hazardous
25 liquid storage facilities.

26 6. The possible use of alternative routes.

27 7. The relationship of the proposed project to the present
28 and future land use and zoning ordinances.

29 8. The inconvenience or undue injury which may result to
30 property owners as a result of the proposed project.

31 9. An affidavit attesting to the fact that informational
32 meetings were held in each county affected by the proposed
33 project and the time and place of each meeting.

34 Sec. 33. NEW SECTION. 479B.6 HEARING -- NOTICE.

35 After the petition is filed, the board shall fix a date for

1 a hearing and shall publish notice for two consecutive weeks,
2 in a newspaper of general circulation in each county through
3 which the proposed pipeline or hazardous liquid storage
4 facilities will extend.

5 The hearing shall not be less than ten days nor more than
6 thirty days from the date of the last publication of the
7 notice. If the pipeline exceeds five miles in length, the
8 hearing shall be held in the county seat of the county located
9 at the midpoint of the proposed pipeline or the county in
10 which the proposed hazardous liquid storage facility would be
11 located.

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

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

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

23 Sec. 35. NEW SECTION. 479B.8 EXAMINATION -- TESTIMONY.

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

29 Sec. 36. NEW SECTION. 479B.9 FINAL ORDER -- CONDITION.

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

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

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

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

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

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

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

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

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

25 Before a permit is granted under this chapter the applicant
26 must satisfy the board that the applicant has property within
27 this state other than pipelines or underground storage
28 facilities, subject to execution of a value in excess of two
29 hundred fifty thousand dollars, or the applicant must file and
30 maintain with the board a surety bond in the penal sum of two
31 hundred fifty thousand dollars with surety approved by the
32 board, conditioned that the applicant will pay any and all
33 damages legally recovered against it growing out of the
34 construction, maintenance, or operation of its pipeline or
35 underground storage facilities in this state. When the

1 pipeline company deposits with the board security satisfactory
2 to the board as a guaranty for the payment of the damages, or
3 furnishes to the board satisfactory proofs of its solvency and
4 financial ability to pay the damages, the pipeline company is
5 relieved of the provisions requiring bond.

6 Sec. 41. NEW SECTION. 479B.14 PERMITS -- LIMITATIONS --
7 SALE OR TRANSFER -- RECORDS -- EXTENSION.

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

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

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

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

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

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

1 section 479B.13.

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

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

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

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

29 A pipeline company granted a permit for underground storage
30 of hazardous liquid shall be vested with the right of eminent
31 domain to the extent necessary and as prescribed and approved
32 by the board in order to appropriate for its use for the
33 underground storage of hazardous liquid any subsurface stratum
34 or formation in any land which the board shall have found to
35 be suitable and in the public interest for the underground

1 storage of hazardous liquid, and may appropriate other
2 interests in property, as may be required adequately to
3 examine, prepare, maintain, and operate the underground
4 storage facilities.

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

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

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

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

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

35 Sec. 46. NEW SECTION. 479B.19 ORDERS -- ENFORCEMENT.

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

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

14 1. The board, pursuant to chapter 17A, shall adopt rules
15 establishing standards for the protection of underground
16 improvements during the construction of pipelines or
17 underground storage facilities, to protect soil conservation
18 and drainage structures from being permanently damaged by
19 construction of the pipeline or underground storage facility,
20 and for the restoration of agricultural lands after pipeline
21 or underground storage facility construction. To ensure that
22 all interested persons are informed of this rulemaking
23 procedure and are afforded a right to participate, the board
24 shall schedule an opportunity for oral presentations on the
25 proposed rulemaking, and, in addition to the requirements of
26 section 17A.4, shall distribute copies of the notice of
27 intended action and opportunity for oral presentations to each
28 county board of supervisors. Any county board of supervisors
29 may, under the provisions of chapter 17A, and subsequent to
30 the rulemaking proceedings, petition under those provisions
31 for additional rulemaking to establish standards to protect
32 soil conservation practices, structures, and drainage
33 structures within that county. Upon the request of the
34 petitioning county, the board shall schedule a hearing to
35 consider the merits of the petition. Rules adopted under this

1 section shall not apply within the boundaries of a city unless
2 the land is used for agricultural purposes.

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

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

21 4. As a part of the inspection process, the inspector
22 shall ascertain that the trench excavation has been filled in
23 a manner to provide that the topsoil has been replaced on top
24 and rocks and debris have been removed from the topsoil of the
25 easement area. An existing topsoil layer extending at least
26 one foot in width on either side of the pipeline excavation at
27 a maximum depth of twelve inches shall be removed separately
28 and shall be stockpiled and preserved separately during
29 subsequent construction operations, unless other means for
30 separating the topsoil are provided in the easement. The
31 topsoil shall be replaced so the upper portion of the pipeline
32 excavation and the crowned surface shall contain only the
33 topsoil originally removed.

34 5. Adequate inspection of underground improvements altered
35 during construction of the pipeline shall be conducted at the

1 time of the replacement or repair of the underground
2 improvements. An inspector shall be present on the site at
3 all times at each phase and separate activity of the opening
4 of the trench, the restoration of underground improvements,
5 and backfilling. The pipeline company and its contractor
6 shall keep all county inspectors continually informed of the
7 work schedule and any schedule changes.

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

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

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

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

34 10. Any underground drain tile damaged, cut, or removed
35 shall be temporarily repaired and maintained as necessary to

1 allow for its proper function during construction of the
2 pipeline or underground storage facility. If temporary repair
3 is not determined to be necessary, the exposed tile shall
4 nonetheless be screened or otherwise protected to prevent the
5 entry of any foreign material or small animals into the tile
6 line system.

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

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

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

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

33 Sec. 49. NEW SECTION. 479B.22 REHEARING -- JUDICIAL
34 REVIEW.

35 Rehearing procedure for any person aggrieved by actions of

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

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

5 The board may enter into agreements with and receive moneys
6 from the United States department of transportation for the
7 inspection of pipelines to determine compliance with
8 applicable standards of pipeline safety, and for enforcement
9 of the applicable standards of pipeline safety as provided by
10 49 U.S.C. § 60101 et seq.

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

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

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

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

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

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

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

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

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

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

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

30 A pipeline company shall not construct a subsequent
31 pipeline or underground storage facility upon its existing
32 easement when a damage claim from the installation of its
33 previous pipeline on that easement has not been resolved
34 unless that claim is under litigation or arbitration, or is
35 the subject of a proceeding pursuant to section 479B.30.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 a. That a compensation commission has been appointed to
30 determine the damages caused by the construction of the
31 pipeline or underground storage facility.

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

34 c. The date, time, and place when the commissioners will
35 view the premises and proceed to appraise the damages and that

1 the pipeline company or landowner may appear before the
2 commissioners.

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

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

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

30 6. The pipeline company shall pay all costs of the
31 assessment made by the commissioners and reasonable attorney
32 fees and costs incurred by the landowner as determined by the
33 commissioners if the award of the commissioners exceeds one
34 hundred ten percent of the final offer of the pipeline company
35 prior to the determination of damages; if the award does not

1 exceed one hundred ten percent, the landowners shall pay the
2 fees and costs incurred by the pipeline company. The pipeline
3 company shall file with the sheriff an affidavit setting forth
4 the most recent offer made to the landowner. Commissioners
5 shall receive a per diem of fifty dollars and actual and
6 necessary expenses incurred in the performance of their
7 official duties. The pipeline company shall also pay all
8 costs occasioned by the appeal, including reasonable attorney
9 fees to be taxed by the court, unless on the trial of the
10 appeal the same or a lesser amount of damages is awarded than
11 was allowed by the commission from which the appeal was taken.

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

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

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

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

34 Sec. 59. Section 546.7, Code 1995, is amended to read as
35 follows:

1 546.7 UTILITIES DIVISION.

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

9 Sec. 60. EFFECTIVE DATE. This Act, being deemed of
10 immediate importance, takes effect upon enactment.

11 Sec. 61. RETROACTIVE APPLICABILITY. The sections of this
12 Act which create new sections 479B.17, 479B.25, and 479B.29
13 through 479B.31 are retroactive to July 1, 1993.

14

EXPLANATION

15 This bill creates a new chapter 479B to regulate hazardous
16 liquid pipelines and amends chapter 479 regulating pipelines
17 and underground gas storage and chapter 479A regulating
18 interstate natural gas pipelines. The creation of the new
19 chapter is prompted by a United States Eighth Circuit Court
20 opinion, Kinley Corporation v. Iowa Utilities Board, 999 F.2d
21 354 (8th Circuit 1993) which held that the state was unable to
22 regulate hazardous liquid pipelines because chapter 479 was
23 invalid as it pertained to hazardous liquid pipelines.

24 The purpose of chapter 479B as stated in the Act is to
25 grant the Iowa utilities board the authority to implement
26 certain controls over hazardous liquid pipelines to protect
27 landowners and tenants from environmental or economic damages
28 which may result from the construction, operation, or
29 maintenance of a hazardous liquid pipeline or underground
30 storage facility within the state and to supervise the
31 location and route of hazardous liquid pipelines and
32 underground storage facilities and to grant eminent domain
33 rights when necessary.

34 A pipeline company is prohibited from constructing,
35 maintaining, or operating a pipeline or underground storage

1 facility without a permit issued by the board. The company
2 is required to hold informational meetings in each county
3 where property rights will be affected at least 30 days before
4 filing a petition for a new pipeline. Chapters 479 and 479A
5 are also amended to provide that informational hearings must
6 be held at least 30 days prior to filing a petition for a new
7 pipeline and to simplify the process for obtaining an
8 extension of the original permit.

9 After the company files a petition, the board sets a date
10 for a hearing. A person whose rights may be affected by the
11 permit may file written objections with the board. During the
12 hearing the board considers the petition, the objections, and
13 any other relevant testimony. The applicant must pay all the
14 costs of the meetings, hearing, and investigative work and the
15 costs of inspections conducted by the board. The bill
16 provides that if the board enters into an agreement with the
17 United States department of transportation, a pipeline company
18 must pay an annual fee of 50 cents per mile of pipeline or
19 fraction thereof for each inch of diameter of the pipeline
20 located in the state. The inspection fees are to be paid to
21 the board between January 1 and February 1 of each year. A
22 pipeline company who fails to pay the fees may be subject to
23 civil penalties or the revocation of the permit.

24 The bill requires that before a permit may be granted, the
25 applicant must satisfy the board that the applicant is in good
26 financial condition or provide a bond. Permits are limited to
27 25 years and may be sold or transferred by the permittee under
28 certain conditions.

29 After receipt of a permit, a pipeline company has the right
30 to survey and examine the proposed construction area. A
31 pipeline company issued a pipeline permit has the right of
32 eminent domain to the extent necessary and as approved by the
33 board, but not to exceed 75 feet in width for right-of-way and
34 not to exceed one acre in any one location in addition to
35 right-of-way for the location of pumps, pressure apparatus, or

1 other stations or equipment necessary to the operation of the
2 pipeline. In addition to adding these provisions to chapter
3 479B, the bill amends chapters 479 and 479A to provide that
4 the board may grant additional eminent domain rights where the
5 pipeline company has presented sufficient evidence to
6 adequately demonstrate that a greater area is required for the
7 proper construction, operation, and maintenance of the
8 pipeline or for the location of pumps, pressure apparatus, or
9 other stations or equipment necessary to the proper operation
10 of its pipeline. A pipeline company granted a permit for
11 underground storage of hazardous liquid is vested with the
12 right of eminent domain over any subsurface stratum or
13 formation in any land which the board finds to be suitable for
14 the location of an underground storage facility.

15 A pipeline company is granted reasonable access to the area
16 for the purposes of constructing, operating, maintaining, or
17 locating pipes, pumps, pressure apparatus, or other stations,
18 wells, devices, or equipment and is responsible for payment of
19 all damages to land or crops caused by the pipeline or storage
20 facility.

21 The bill gives the board the ability to adopt land
22 restoration standards to protect underground improvements
23 during the construction of a pipeline or underground storage
24 facility, soil conservation practices, and drainage structures
25 and for the restoration of agricultural lands. The county
26 board of supervisors inspects the site to ensure compliance
27 with the standards.

28 In chapter 479B, the bill provides that if an agreement for
29 damages cannot be reached 90 days after completion of the
30 installation, a landowner or pipeline company may file with
31 the board of supervisors of the county requesting that a
32 compensation commission be appointed to determine the damages
33 arising from the installation of the pipeline. Chapters 479
34 and 479A are also amended to provide that either the landowner
35 or the pipeline company may request the establishment of the

1 compensation commission and to change the time period in which
2 the petition may be filed from between 75 and 100 days from
3 installation to not less than 90 days from installation of the
4 pipeline.

5 The bill provides that the additional costs of new tile
6 construction caused by an existing pipeline must be paid by
7 the pipeline company. For chapters 479 and 479A, the bill
8 changes the way compensation may be obtained for these
9 damages. Currently, the additional costs must be verified by
10 the county engineer or soil and water conservation district
11 conservationist. The bill allows the landowner to enter into
12 an agreement as to costs with the pipeline company during the
13 planning of the tiling project.

14 The bill contains other provisions regarding cancellation
15 of the easement, arbitration agreements, and further damage
16 provisions. The bill provides that any person who violates a
17 provision of chapter 479B is subject to a civil penalty of up
18 to \$1,000 for each violation. Each day the violation
19 continues constitutes a separate violation, but the amount is
20 not to exceed \$250,000. The moneys are to be credited to the
21 Iowa energy center created in section 266.39C.

22 The bill is effective upon enactment and provisions of the
23 bill relating to damages, arbitration agreements, and
24 subsequent tiling for new chapter 479B are retroactive to July
25 1, 1993.

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HOUSE FILE 303

H-3407

1 Amend House File 303 as follows:

2 1. Page 6, by inserting after line 11 the
3 following:

4 "Sec. ____ . Section 479.8, Code 1995, is amended to
5 read as follows:

6 479.8 TIME AND PLACE.

7 The hearing shall not be less than ten days nor
8 more than thirty days from the date of the last
9 publication ~~and where the proposed new~~ of the notice.
10 If the pipeline would operate under pressure exceeding
11 one hundred fifty pounds per square inch and exceed
12 five miles in length, the hearing shall be held in the
13 county seat of the county located at the midpoint of
14 the proposed line or lines or the county in which the
15 proposed gas storage facility would be located. An
16 additional hearing shall be held in each county in
17 which the landowners representing at least twenty-five
18 percent of the landowners of property through which
19 the pipeline will extend, file a petition with the
20 board requesting that an additional hearing be held."

21 2. Page 23, line 11, by inserting after the word
22 "located." the following: "An additional hearing
23 shall be held in each county in which the landowners
24 representing at least twenty-five percent of the
25 landowners of property through which the pipeline will
26 extend, file a petition with the board requesting that
27 an additional hearing be held."

28 3. By renumbering as necessary.

By OLLIE of Clinton

H-3407 FILED MARCH 22, 1995

*Withdrawn
3/23/95 (p. 957)*

SENATE AMENDMENT TO HOUSE FILE 303

H-4216

1 Amend House File 303 as follows:

2 1. Page 37, by inserting after line 33 the
3 following:

4 "Sec. ____ . NEW SECTION. 480.9 LIABILITY FOR
5 OWNER OF FARMLAND.

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

18 2. By renumbering as necessary.

RECEIVED FROM THE SENATE

H-4216 FILED MAY 3, 1995

CONCURRED

P. 2233

HOUSE FILE 303

S-3365

1 Amend House File 303 as follows:

2 1. Page 13, by inserting after line 30 the
3 following:

4 "Sec. ____ . NEW SECTION. 479.48 LANDOWNER
5 LIABILITY FOR DAMAGES.

6 A landowner shall not be held responsible for any
7 damages to a pipeline under this chapter if the
8 damages occurred in the normal course of doing
9 business on the landowner's property, unless the
10 landowner intentionally damaged the pipeline or acted
11 with wanton disregard or recklessness in causing the
12 damage to the pipeline. For purposes of this section,
13 "landowner" means the owner of the property, a family
14 member or employee of the owner of the property, or a
15 tenant of the owner of the property."

16 2. Page 19, by inserting after line 7 the
17 following:

18 "Sec. ____ . NEW SECTION. 479A.27 LANDOWNER
19 LIABILITY FOR DAMAGES.

20 A landowner shall not be held responsible for any
21 damages to a pipeline under this chapter if the
22 damages occurred in the normal course of doing
23 business on the landowner's property, unless the
24 landowner intentionally damaged the pipeline or acted
25 with wanton disregard or recklessness in causing the
26 damage to the pipeline. For purposes of this section,
27 "landowner" means the owner of the property, a family
28 member or employee of the owner of the property, or a
29 tenant of the owner of the property."

30 3. Page 37, by inserting after line 33 the
31 following:

32 "Sec. ____ . NEW SECTION. 479B.32 LANDOWNER
33 LIABILITY FOR DAMAGES.

34 A landowner shall not be held responsible for any
35 damages to a pipeline under this chapter if the
36 damages occurred in the normal course of doing
37 business on the landowner's property, unless the
38 landowner intentionally damaged the pipeline or acted
39 with wanton disregard or recklessness in causing the
40 damage to the pipeline. For purposes of this section,
41 "landowner" means the owner of the property, a family
42 member or employee of the owner of the property, or a
43 tenant of the owner of the property.

44 Sec. ____ . NEW SECTION. 480.9 LANDOWNER LIABILITY
45 FOR DAMAGES.

46 A landowner who complies with the requirements of
47 this chapter, shall not be held responsible for any
48 damages to an underground facility, including fiber
49 optic cable, if the damages occurred in the normal
50 course of doing business on the landowner's property,

S-3365

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S-3365

Page 2

1 unless the landowner intentionally damaged the
2 underground facility or acted with wanton disregard or
3 recklessness in causing the damage to the underground
4 facility. For purposes of this section, "landowner"
5 means the owner of the property, a family member or
6 employee of the owner of the property, or a tenant of
7 the owner of the property."

8 4. By renumbering as necessary.

By COMMITTEE ON NATURAL RESOURCES,
ENVIRONMENT, AND ENERGY
BILL FINK, Chairperson

S-3365 FILED APRIL 6, 1995

Adopted
(P. 1515) 5/3/95

HOUSE FILE 303

S-3399

1 Amend the amendment, S-3365, to House File 303, as
2 passed by the House, as follows:

3 1. Page 1, by striking lines 2 through 29.

4 2. By striking page 1, line 32 through page 2,
5 line 7 and inserting the following:

6 ""Sec. ____ . NEW SECTION. 480.9 LIABILITY FOR
7 OWNER OF FARMLAND.

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

adopted 5/3/95 P. 1594 By MICHAEL GRONSTAL

S-3399 FILED APRIL 12, 1995

HOUSE FILE 303

S-3411

- 1 Amend House File 303, as passed by the House, as
2 follows:
- 3 1. Page 10, by inserting after line 22 the
4 following:
5 "Sec. ____ . NEW SECTION. 479.35 TERM OF YEARS.
6 An easement or other written agreement between a
7 landowner and a pipeline company which grants a
8 pipeline company a property interest in the property
9 or allows a pipeline company to cross the property,
10 upon which the pipeline is located, which is entered
11 into on or after July 1, 1995, shall be effective for
12 no longer than a twenty-year time period. The parties
13 may renegotiate the terms of the agreement following
14 the twenty-year time period and enter into another
15 agreement which shall also be limited to a twenty-year
16 term."
- 17 2. Page 16, by inserting after line 3 the
18 following:
19 "Sec. ____ . NEW SECTION. 479A.19A TERM OF YEARS.
20 An easement or other written agreement between a
21 landowner and a pipeline company which grants a
22 pipeline company a property interest in the property
23 or allows a pipeline company to cross the property,
24 upon which the pipeline is located, which is entered
25 into on or after July 1, 1995, shall be effective for
26 no longer than a twenty-year time period. The parties
27 may renegotiate the terms of the agreement following
28 the twenty-year time period and enter into another
29 agreement which shall also be limited to a twenty-year
30 term."
- 31 3. Page 32, by inserting after line 34 the
32 following:
33 "Sec. ____ . NEW SECTION. 479B.24A TERM OF YEARS.
34 An easement or other written agreement between a
35 landowner and a pipeline company which grants a
36 pipeline company a property interest in the property
37 or allows a pipeline company to cross the property,
38 upon which the pipeline is located, which is entered
39 into on or after July 1, 1995, shall be effective for
40 no longer than a twenty-year time period. The parties
41 may renegotiate the terms of the agreement following
42 the twenty-year time period and enter into another
43 agreement which shall also be limited to a twenty-year
44 term."
- 45 4. By renumbering as necessary.

By EUGENE FRAISE

S-3411 FILED APRIL 13, 1995

*Lost 5/3/95**(P 1595)*

HOUSE FILE 303

S-3439

1 Amend House File 303, as passed by the House, as
 2 follows:
 3 1. Page 3, by inserting after line 3 the
 4 following:
 5 "Sec. ____ . NEW SECTION. 476.78A PUBLIC UTILITY
 6 -- SEPARATE AFFILIATE REQUIRED.
 7 A rate-regulated utility, as defined in section
 8 476.1, which engages in the business of selling
 9 plumbing, heating, or cooling systems, or which
 10 engages in the business of servicing or installing
 11 plumbing, heating, or cooling systems, or which
 12 performs electrical contracting services, shall
 13 establish a separate affiliate business entity for the
 14 purpose of engaging in such business or performing
 15 such assessments."
 16 2. By renumbering as necessary.

By JIM LIND
 TOM FLYNN

WITHDRAWN

DONALD B. REDFERN
 MARY A. LUNDBY

S-3439 FILED APRIL 13, 1995

WITHDRAWN
 5/3/95

HOUSE FILE 303

S-3457

1 Amend the amendment, S-3439, to House File 303, as
 2 passed by the House, as follows:
 3 1. Page 1, line 15, by inserting after the word
 4 "assessments." the following: "For purposes of this
 5 section, "electrical contracting services" does not
 6 include the transmission of electricity to the
 7 customers of a public utility."

By JIM LIND

S-3457 FILED APRIL 18, 1995

Out of Order
 5-3-95
 (P. 1595)

HSB 133

Renken, Chair
Sukup
Nelson

COMMERCE - REGULATION

HOUSE FILE 303

BY (PROPOSED COMMITTEE ON
COMMERCE AND REGULATION
BILL BY CHAIRPERSON METCALF)

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

A BILL FOR

1 An Act relating to pipelines and underground storage of hazardous
2 liquids, and providing penalties and effective and retroactive
3 applicability date provisions.

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

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

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

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

14 306A.3 AUTHORITY TO ESTABLISH CONTROLLED-ACCESS FACILITIES
15 -- UTILITY ACCOMMODATION POLICY.

16 Cities and highway authorities having jurisdiction and
17 control over the highways of the state, as provided by chapter
18 306, acting alone or in co-operation with each other or with
19 any federal, state, or local agency or any other state having
20 authority to participate in the construction and maintenance
21 of highways, are hereby authorized to plan, designate,
22 establish, regulate, vacate, alter, improve, maintain, and
23 provide controlled-access facilities for public use wherever
24 ~~such-authority-or-authorities-are-of-the-opinion-that if~~
25 traffic conditions, present or future, will justify such
26 special facilities; provided, that within cities a city such
27 authority shall be subject to such municipal consent as may be
28 provided by law. ~~Said-cities-and-highway-authorities,-in~~ In
29 addition to the specific powers granted in this chapter,
30 cities and highway authorities shall also have and may
31 ~~exercise,-relative-to-controlled-access-facilities,~~ any and
32 ~~all~~ additional authority ~~now-or-hereafter~~ vested in them
33 relative to highways or streets within their respective
34 jurisdictions. ~~Said-cities~~ Cities and highway authorities may
35 regulate, restrict, or prohibit the use of such controlled-

1 access facilities by the various classes of vehicles or
2 traffic in a manner consistent with section 306A.2.

3 The department shall adopt rules, pursuant to chapter 17A,
4 embodying a utility accommodation policy which imposes
5 reasonable restrictions on placements occurring on or after
6 the effective date of the rules, on primary road rights-of-
7 way. The rules may require utilities to give notice to the
8 department prior to installation of a utility system on a
9 primary road right-of-way and obtain prior permission from the
10 department for the proposed installation. The rules shall
11 recognize emergency situations and the need for immediate
12 installation of service extensions subject to the standards
13 adopted by the department and the utilities board. The rules
14 shall be no less stringent than the standards adopted by the
15 utilities board pursuant to chapters 478, 479, and 479A, and
16 479B. This paragraph shall not be construed as granting the
17 department authority which has been expressly granted to the
18 utilities board to determine the route of utility
19 installations. If the department requires a utility company
20 permit, the department shall be required to act upon the
21 permit application within thirty days of its filing. In cases
22 of federal-aid highway projects on nonprimary highways, the
23 local authority with jurisdiction over the highway and the
24 department shall comply with all federal regulations and
25 statutes regarding utility accommodation.

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

28 As used in this chapter and chapters 475A, 476, 476A, 478,
29 479, and 479A, and 479B, "division" and "utilities division"
30 mean the utilities division of the department of commerce.

31 Sec. 4. Section 474.9, Code 1995, is amended to read as
32 follows:

33 474.9 GENERAL JURISDICTION OF UTILITIES BOARD.

34 The utilities board has general supervision of all
35 pipelines and all lines for the transmission, sale, and

1 distribution of electrical current for light, heat, and power
2 pursuant to chapters 476, 476A, 478, 479, and 479A, and 479B
3 and has other duties as provided by law.

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

6 479.1 PURPOSE.

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

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

22 479.2 DEFINITIONS.

23 As used in this chapter:

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

26 2. "Pipeline" as-used-in-this-chapter means a pipe, pipes,
27 or pipelines used for the transportation or transmission of a
28 solid, liquid, or gaseous substance, except water, within or
29 through this state. However, the term does not include
30 interstate pipe, pipes, or pipelines used for the
31 transportation or transmission of natural gas or hazardous
32 liquids.

33 3. "Pipeline company" as-used-in-this-chapter means a
34 person engaged in or organized for the purpose of owning,
35 operating, or controlling pipelines for the transportation or

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

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

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

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

14 479.5 APPLICATION FOR PERMIT.

15 Any A pipeline company ~~engaging in its said~~ doing business
16 in this state shall file with the board its verified petition
17 asking for a permit to construct, maintain and operate its
18 pipeline or lines along, over or across the public or private
19 highways, grounds, waters and streams of any kind of this
20 state. Any pipeline company now owning or operating a
21 pipeline in this state shall be issued a permit by the board
22 upon supplying the information as provided for in section
23 479.6.

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

33 ~~As conditions precedent to the filing of a petition with~~
34 ~~the board requesting a permit, and not less than thirty days~~
35 ~~prior to the filing of such petition, the person, company, or~~

1 ~~corporation~~ A pipeline company shall hold informational
2 meetings in each county in which real property or property
3 rights therein will be affected at least thirty days prior to
4 filing the petition for a new pipeline. A member of the
5 board, the counsel of the board, or a hearing examiner
6 designated by the board shall serve as the presiding officer
7 at each meeting and present an agenda for such the meeting
8 which shall include a summary of the legal rights of the
9 affected landowners. No formal record of the meeting shall be
10 required.

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

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

27 The notice shall set forth the name of the applicant; the
28 applicant's principal place of business; the general
29 description and purpose of the proposed project; the general
30 nature of the right of way desired; a map showing the route of
31 the proposed project; that the landowner has a right to be
32 present at such meeting and to file objections with the board;
33 and a designation of the time and place of the meeting; and
34 shall be served by certified mail with return requested not
35 less than thirty days previous to the time set for the

1 meeting; and shall be published once in a newspaper of general
2 circulation in the county. Such The publication shall be
3 considered notice to landowners whose residence is not known
4 and to each person in possession of or residing on the
5 property provided a good faith effort to notify can be
6 demonstrated by the pipeline company.

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

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

14 479.23 EXTENSION OF PERMIT.

15 ~~Any A pipeline company owning a permit granted under this~~
16 ~~chapter desiring to acquire an extension of such permit~~ may
17 petition the board ~~in the same manner provided for the~~
18 ~~granting of such permit and the same proceeding shall be had~~
19 ~~as on an original application~~ for the extension of a permit
20 granted under this chapter by filing a petition containing the
21 information required by section 479.6, subsections 1 through
22 4, 6, and 7, and section 479.26.

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

25 479.24 EMINENT DOMAIN.

26 ~~Any A pipeline company having secured a granted a pipeline~~
27 ~~permit for pipelines as in~~ under this chapter provided shall
28 thereupon be vested with the right of eminent domain to such
29 the extent as may be necessary and as prescribed and approved
30 by said the board, not exceeding seventy-five feet in width
31 for right of way and not exceeding one acre in any one
32 location in addition to right of way for the location of
33 pumps, pressure apparatus, or other stations or equipment
34 necessary to the proper operation of its said pipeline or
35 lines. The board may grant additional eminent domain rights

1 where the pipeline company has presented sufficient evidence
2 to adequately demonstrate that a greater area is required for
3 the proper construction, operation, and maintenance of the
4 pipeline or for the location of pumps, pressure apparatus, or
5 other stations or equipment necessary to the proper operation
6 of its pipeline.

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

28 ~~If-agreement-cannot-be-made-with-the-private-owner-of-lands~~
29 ~~as-to-damages-caused-by-the-construction-of-said-pipeline-or~~
30 ~~gas-storage-facilities,-the-same-proceedings-shall-be-taken-as~~
31 ~~provided-for-taking-private-property-for-works-of-interna~~
32 ~~l-improvement.~~

33 ~~Nothing-in-this~~ This chapter shall ~~does not~~ authorize the
34 construction of a pipeline longitudinally on, over or under
35 any railroad right of way or public highway, or at other than

1 an approximate right angle to such a railroad track or public
2 highway without the consent of such the railroad company, the
3 state department of transportation, or the county board of
4 supervisors, ~~as-the-case-may-be,-nor-shall-any-provision-of~~
5 and this chapter does not authorize or give the right of
6 condemnation or eminent domain for such purposes.

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

9 479.25 DAMAGES.

10 ~~Pipeline-companies~~ A pipeline company operating pipelines a
11 pipeline or a gas storage area shall have reasonable access to
12 the ~~same~~ pipeline or gas storage area for the purpose of
13 ~~constructing, reconstructing,-enlarging,-repairing~~ operating,
14 maintaining, or locating their pipes, pumps, pressure
15 apparatus or other stations, wells, devices, or equipment used
16 in or upon ~~such-line~~ the pipeline or gas storage area; ~~but;~~
17 shall pay to the owner of ~~such-lands~~ the land for the right of
18 entry thereon and the owner of crops ~~thereon~~ for all damages
19 caused by entering, using, or occupying ~~said-lands-for-said~~
20 purposes the land; and shall pay to the owner ~~or-owners-of~~
21 ~~such-lands~~ all damages caused ~~after~~ by the completion of
22 construction of ~~said~~ the pipeline ~~on-account-of~~ due to wash or
23 erosion of the soil at or along the location of ~~said~~ the
24 ~~pipeline by-reason-of-the-construction-thereof-upon-said-lands~~
25 ~~on-account-of~~ and due to the settling of the soil along and
26 above ~~said~~ the pipeline; ~~provided,-that-nothing-herein~~
27 ~~contained-shall.~~ However, this section shall not prevent the
28 execution of an agreement between the pipeline company and the
29 owner of ~~said~~ land or crops with reference to the use thereof
30 of the land.

31 Sec. 11. Section 479.27, Code 1995, is amended to read as
32 follows:

33 479.27 VENUE ---SERVICE-OF-ORIGINAL-NOTICE.

34 In all cases arising under this chapter, the district court
35 of any county; ~~through~~ in which ~~said~~ property of a pipeline

1 company is located, shall have jurisdiction, and service of
2 original notice on the pipeline company therein shall be had
3 and made upon the chairperson of the board.

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

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

29 Sec. 13. Section 479.30, Code 1995, is amended to read as
30 follows:

31 479.30 ENTRY FOR LAND SURVEYS.

32 A After the informational meeting or after the filing of a
33 petition if no informational meeting is required, a pipeline
34 company may enter upon private land for the purpose of making
35 land surveys surveying and examining the land to determine the

1 direction or depth of pipelines, ~~not to exceed a depth of~~
2 ~~twenty-five feet, after receipt of a permit to construct,~~
3 ~~maintain and operate its pipeline~~ a pipeline by giving ten
4 days' written notice by restricted certified mail to the
5 landowner as defined in section 479.5 and to any person
6 residing on or in possession of the land. The entry for land
7 surveys authorized in this section shall not be deemed a
8 trespass and may be aided by injunction. The pipeline company
9 shall pay the actual damages caused by the entry, and survey,
10 and examination.

11 Sec. 14. Section 479.31, unnumbered paragraph 1, Code
12 1995, is amended to read as follows:

13 Any A person who violates ~~any provision of~~ this chapter or
14 ~~any regulation rule or order~~ issued pursuant to this chapter
15 shall be subject to a civil penalty ~~of~~ levied by the board not
16 to exceed ten thousand dollars for each violation. Each day
17 that the violation continues shall constitute a separate
18 offense. However, the maximum civil penalty shall not exceed
19 five hundred thousand dollars for any related series of
20 violations. Civil penalties collected pursuant to this
21 section shall be credited to the Iowa energy center created in
22 section 266.39C.

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

25 479.41 ARBITRATION AGREEMENTS.

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

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

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

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

20 479.42 SUBSEQUENT PIPELINES.

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

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

33 Sec. 17. Section 479.46, subsections 1, 2, and 3, Code
34 1995, are amended to read as follows:

35 1. The county board of supervisors shall determine when

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

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

15 The application shall contain the following:

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

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

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

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

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

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

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

1 commissioners.

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

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

12 479.47 SUBSEQUENT TILING.

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

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

33 479A.11 DAMAGES.

34 ~~Pipeline companies~~ A pipeline company operating pipelines
35 or underground storage shall be given reasonable access to the

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

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

18 479A.13 JURISDICTION ---~~SERVICE-OF-ORIGINAL-NOTICE.~~

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

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

26 1. The board shall adopt rules establishing standards to
27 protect underground improvements during the construction of
28 pipelines, to protect soil conservation and drainage
29 structures from being permanently damaged by pipeline
30 construction, and for the restoration of agricultural lands
31 after pipeline construction. To ensure that all interested
32 persons are informed of this rulemaking procedure and are
33 afforded a right to participate, the board shall schedule an
34 opportunity for oral presentations on the proposed rulemaking
35 and, in addition to the requirements of section 17A.4, shall

1 distribute copies of the notice of intended action and
2 opportunity for oral presentations to each county board of
3 supervisors. A county board of supervisors may, under chapter
4 17A and subsequent to the rulemaking proceedings, petition for
5 additional rulemaking to establish standards to protect soil
6 conservation practices, structures, and drainage structures
7 within that county. Upon the request of the petitioning
8 county, the board shall schedule a hearing to consider the
9 merits of the petition. Rules adopted under this section do
10 not apply within the boundaries of a city, unless the land is
11 used for agricultural purposes.

12 Sec. 22. Section 479A.15, Code 1995, is amended to read as
13 follows:

14 479A.15 ENTRY FOR LAND SURVEYS.

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

27 Sec. 23. Section 479A.16, unnumbered paragraph 1, Code
28 1995, is amended to read as follows:

29 A person who violates a provision of this chapter or a rule
30 or standards issued pursuant to this chapter is subject to a
31 civil penalty levied by the board not to exceed one thousand
32 dollars for each violation. Each day that the violation
33 continues constitutes a separate offense. However, the civil
34 penalty shall not exceed two hundred thousand dollars for any
35 related series of violations.

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

3 479A.20 ARBITRATION AGREEMENTS.

4 Notwithstanding conflicting provisions of chapter 679A, if
5 an easement or other written agreement between a landowner and
6 a pipeline company provides for the determination through
7 arbitration of the amount of monetary damages sustained by a
8 landowner and caused by the construction, maintenance, or re-
9 pair of a pipeline, and if either person party has not
10 appointed its arbitrator or agreed to an arbitrator under the
11 agreement within thirty days after the other person party has
12 invoked the arbitration provisions of the agreement by written
13 notice to the other party by restricted certified mail, the
14 landowner or the pipeline company may petition a magistrate in
15 the county where the real property is located for the
16 appointment of an arbitrator to serve in place of the
17 arbitrator who would have been appointed or agreed to by the
18 other person party. Before filing the petition the landowner
19 or pipeline company shall give notice of the petitioning of
20 the magistrate by restricted certified mail to the other
21 person party and file proof of mailing with the petition. If,
22 after hearing, the magistrate finds that the landowner or
23 pipeline company has not been diligent in appointing or
24 reasonable in agreeing to an arbitrator, the magistrate shall
25 appoint an impartial arbitrator who shall have all of the
26 powers and duties of an arbitrator appointed or agreed to by
27 the other person party under the agreement.

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

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

33 479A.21 SUBSEQUENT PIPELINES.

34 A pipeline company shall not install a subsequent pipeline
35 upon its existing easement when a damage claim from the

1 installation of its previous pipeline on that easement has not
2 ~~been determined-by-negotiation, arbitration, or action of the~~
3 ~~courts.--However, this section does not apply if the damage~~
4 resolved unless that claim is under litigation or arbitration
5 or is the subject of a proceeding pursuant to section 479A.25.

6 Sec. 26. Section 479A.25, subsections 1, 2, and 3, Code
7 1995, are amended to read as follows:

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

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

22 The application shall contain all of the following:

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

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

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

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

34 a. That a compensation commission has been appointed to
35 determine the damages caused by the installation of the pipe-

1 line.

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

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

9 ~~d.--That-the-pipeline-company-may-appear-before-the-com-~~
10 ~~missioners.~~

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

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

21 479A.26 SUBSEQUENT TILING.

22 Additional costs of new tile construction caused by an
23 existing pipeline shall be paid by the pipeline company. ~~The~~
24 ~~additional-costs-shall-be-paid-by-the-pipeline-company-upon~~
25 ~~presentation-of-an-invoice,verified-by-the-county-engineer-or~~
26 ~~soil-and-water-conservation-district-conservationist-and~~
27 ~~specifically-showing-the-added-costs-caused-by-the-presence-of~~
28 ~~the-pipeline.--A-copy-of-the-county-engineer's-or-district~~
29 ~~conservationist's-verification-of-additional-costs-shall~~
30 ~~accompany-the-invoice-to-the-pipeline-company.~~ To receive
31 compensation under this section, the landowner or agent of the
32 landowner shall either present an invoice specifying the
33 additional costs caused by the presence of the pipeline which
34 is accompanied by a written verification of the additional
35 costs by the county engineer or soil and water conservation

1 district conservationist or reach an agreement with the
2 pipeline company on the project design and share of the cost
3 to be paid by the pipeline company during the planning of the
4 tiling project.

5 Sec. 28. NEW SECTION. 479B.1 PURPOSE -- AUTHORITY.

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

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

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

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

20 2. "Hazardous liquid" means crude oil, refined petroleum
21 products, liquefied petroleum gases, anhydrous ammonia, liquid
22 fertilizers, liquefied carbon dioxide, alcohols, and coal
23 slurries.

24 3. "Pipeline" means an interstate pipe or pipeline and
25 necessary appurtenances used for the transportation or
26 transmission of hazardous liquids.

27 4. "Pipeline company" means a person engaged in or
28 organized for the purpose of owning, operating, or controlling
29 pipelines for the transportation or transmission of any
30 hazardous liquid or underground storage facilities for the
31 underground storage of any hazardous liquid.

32 5. "Underground storage" means storage of hazardous liquid
33 in a subsurface stratum or formation of the earth.

34 6. "Utilities division" means the utilities division of
35 the department of commerce.

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

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

8 Sec. 31. NEW SECTION. 479B.4 APPLICATION FOR PERMIT
9 INFORMATIONAL MEETING -- NOTICE.

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

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

28 The pipeline company shall hold informational meetings in
29 each county in which real property or property rights will be
30 affected at least thirty days prior to filing the petition for
31 a new pipeline. A member of the board, or a person designated
32 by the board, shall serve as the presiding officer at each
33 meeting and present an agenda for the meeting which shall
34 include a summary of the legal rights of the affected
35 landowners. No formal record of the meeting shall be

1 required. The meeting shall be held at a location reasonably
2 accessible to all persons who may be affected by granting the
3 permit.

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

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

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

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

1 A petition for a permit shall state all of the following:
2 1. The name of the individual, firm, corporation, company,
3 or association applying for the permit.
4 2. The applicant's principal office and place of business.
5 3. A legal description of the route of the proposed
6 pipeline and a map of the route.
7 4. A general description of the public or private
8 highways, grounds, waters, streams, and private lands of any
9 kind along, over, or across which the proposed pipeline will
10 pass.
11 5. If permission is sought to construct, maintain, and
12 operate facilities for the underground storage of hazardous
13 liquids the petition shall include the following additional
14 information:
15 a. A description and a map of the public or private
16 highways, grounds, waters, streams, and private lands of any
17 kind under which the storage is proposed.
18 b. Maps showing the location of proposed machinery,
19 appliances, fixtures, wells, and stations necessary for the
20 construction, maintenance, and operation of the hazardous
21 liquid storage facilities.
22 6. The possible use of alternative routes.
23 7. The relationship of the proposed project to the present
24 and future land use and zoning ordinances.
25 8. The inconvenience or undue injury which may result to
26 property owners as a result of the proposed project.
27 9. An affidavit attesting to the fact that informational
28 meetings were held in each county affected by the proposed
29 project and the time and place of each meeting.
30 Sec. 33. NEW SECTION. 479B.6 HEARING -- NOTICE.
31 After the petition is filed, the board shall fix a date for
32 a hearing and shall publish notice for two consecutive weeks,
33 in a newspaper of general circulation in each county through
34 which the proposed pipeline or hazardous liquid storage
35 facilities will extend.

1 The hearing shall not be less than ten days nor more than
2 thirty days from the date of the last publication of the
3 notice. If the pipeline exceeds five miles in length, the
4 hearing shall be held in the county seat of the county located
5 at the midpoint of the proposed pipeline or the county in
6 which the proposed hazardous liquid storage facility would be
7 located.

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

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

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

19 Sec. 35. NEW SECTION. 479B.8 EXAMINATION -- TESTIMONY.

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

25 Sec. 36. NEW SECTION. 479B.9 FINAL ORDER -- CONDITION.

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

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

33 The applicant shall pay all costs of the informational
34 meetings, hearing, and necessary preliminary investigation
35 including the cost of publishing notice of hearing, and shall

1 pay the actual unrecovered costs directly attributable to
2 inspections conducted by the board.

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

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

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

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

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

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

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

1 relieved of the provisions requiring bond.

2 Sec. 41. NEW SECTION. 479B.14 PERMITS -- LIMITATIONS --
3 SALE OR TRANSFER -- RECORDS -- EXTENSION.

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

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

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

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

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

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

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

34 After the informational meeting or after the filing of a
35 petition if no informational meeting is required, a pipeline

1 company may enter upon private land for the purpose of
2 surveying and examining the land to determine direction or
3 depth of pipelines by giving ten days' written notice by
4 restricted certified mail to the landowner as defined in
5 section 479B.4 and to any person residing on or in possession
6 of the land. The entry for land surveys shall not be deemed a
7 trespass and may be aided by injunction. The pipeline company
8 shall pay the actual damages caused by the entry, survey, and
9 examination.

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

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

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

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

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

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

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

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

31 Sec. 46. NEW SECTION. 479B.19 ORDERS -- ENFORCEMENT.

32 If the pipeline company fails to obey an order within the
33 period of time determined by the board, the board may commence
34 an equitable action in the district court of the county where
35 the pipeline, device, apparatus, equipment, or underground

1 storage facility is located to compel compliance with its
2 order. If, after trial, the court finds that the order is
3 reasonable, equitable, and just, the court shall decree a
4 mandatory injunction compelling obedience to and compliance
5 with the order and may grant other relief as may be just and
6 proper. Appeal from the decree may be taken in the same
7 manner as in other actions.

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

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

34 2. The county board of supervisors shall cause an on-site
35 inspection for compliance with the standards adopted under

1 this section to be performed at any pipeline construction
2 project in the county. A professional engineer familiar with
3 the standards adopted under this section and registered under
4 chapter 542B shall be responsible for the inspection. A
5 county board of supervisors may contract for the services of a
6 professional engineer for the purposes of the inspection. The
7 reasonable costs of the inspection shall be paid by the
8 pipeline company.

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

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

30 5. Adequate inspection of underground improvements altered
31 during construction of the pipeline shall be conducted at the
32 time of the replacement or repair of the underground
33 improvements. An inspector shall be present on the site at
34 all times at each phase and separate activity of the opening
35 of the trench, the restoration of underground improvements,

1 and backfilling. The pipeline company and its contractor
2 shall keep all county inspectors continually informed of the
3 work schedule and any schedule changes.

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

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

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

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

30 10. Any underground drain tile damaged, cut, or removed
31 shall be temporarily repaired and maintained as necessary to
32 allow for its proper function during construction of the
33 pipeline or underground storage facility. If temporary repair
34 is not determined to be necessary, the exposed tile shall
35 nonetheless be screened or otherwise protected to prevent the

1 entry of any foreign material or small animals into the tile
2 line system.

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

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

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

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

29 Sec. 49. NEW SECTION. 479B.22 REHEARING -- JUDICIAL
30 REVIEW.

31 Rehearing procedure for any person aggrieved by actions of
32 the board under this chapter shall be as provided in section
33 476.12. Judicial review may be sought in accordance with the
34 terms of chapter 17A.

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

1 The board may enter into agreements with and receive moneys
2 from the United States department of transportation for the
3 inspection of pipelines to determine compliance with
4 applicable standards of pipeline safety, and for enforcement
5 of the applicable standards of pipeline safety as provided by
6 49 U.S.C. § 60101 et seq.

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

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

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

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

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

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

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

32 If an easement or other written agreement between a
33 landowner and a pipeline company provides for the
34 determination through arbitration of the amount of monetary
35 damages sustained by a landowner and caused by the

1 construction, maintenance, or repair of a pipeline or
2 underground storage facility, and if either party has not
3 appointed its arbitrator or agreed to an arbitrator under the
4 agreement within thirty days after the other party has invoked
5 the arbitration provisions of the agreement by written notice
6 to the other party by restricted certified mail, the landowner
7 or the pipeline company may petition a magistrate in the
8 county where the real property is located for the appointment
9 of an arbitrator to serve in the stead of the arbitrator who
10 would have been appointed or agreed to by the other party.
11 Before filing the petition the landowner or pipeline company
12 shall give notice of the petitioning of the magistrate by
13 restricted certified mail to the other party and file proof of
14 mailing with the petition.

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

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

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

26 A pipeline company shall not construct a subsequent
27 pipeline or underground storage facility upon its existing
28 easement when a damage claim from the installation of its
29 previous pipeline on that easement has not been resolved
30 unless that claim is under litigation or arbitration, or is
31 the subject of a proceeding pursuant to section 479B.30.

32 With the exception of claims for damage to drain tile and
33 future crop deficiency, for this section to apply, landowners
34 and tenants must submit their claims in writing for damages
35 caused by construction of the pipeline or underground storage

1 facility within one year of final cleanup on the real property
2 by the pipeline company.

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

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

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

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

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

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

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

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

34 1. The county board of supervisors shall determine when
35 construction of a pipeline or underground storage facility has

S.F. _____ H.F. _____

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

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

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

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

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

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

25 a. That a compensation commission has been appointed to
26 determine the damages caused by the construction of the
27 pipeline or underground storage facility.

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

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

34 Sections 6B.10 to 6B.13 apply to this notice. If more than
35 one landowner petitions the county board of supervisors, the

1 application to the chief judge, notice to the pipeline
2 company, and appraisalment of damages shall be consolidated
3 into one application, notice, and appraisalment. The county
4 attorney may assist in coordinating the consolidated
5 application and notice, but does not become an attorney for
6 the landowners by doing so.

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

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

26 6. The pipeline company shall pay all costs of the
27 assessment made by the commissioners and reasonable attorney
28 fees and costs incurred by the landowner as determined by the
29 commissioners if the award of the commissioners exceeds one
30 hundred ten percent of the final offer of the pipeline company
31 prior to the determination of damages; if the award does not
32 exceed one hundred ten percent, the landowners shall pay the
33 fees and costs incurred by the pipeline company. The pipeline
34 company shall file with the sheriff an affidavit setting forth
35 the most recent offer made to the landowner. Commissioners

1 shall receive a per diem of fifty dollars and actual and
2 necessary expenses incurred in the performance of their
3 official duties. The pipeline company shall also pay all
4 costs occasioned by the appeal, including reasonable attorney
5 fees to be taxed by the court, unless on the trial of the
6 appeal the same or a lesser amount of damages is awarded than
7 was allowed by the commission from which the appeal was taken.

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

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

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

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

30 Sec. 59. Section 546.7, Code 1995, is amended to read as
31 follows:

32 546.7 UTILITIES DIVISION.

33 The utilities division shall regulate and supervise public
34 utilities operating in the state. The division shall enforce
35 and implement chapters 476, 476A, 477C, 478, 479, and 479A,

1 and 479B and shall perform other duties assigned to it by law.
2 The division is headed by the administrator of public
3 utilities who shall be appointed by the governor pursuant to
4 section 474.1.

5 Sec. 60. EFFECTIVE DATE. This Act, being deemed of
6 immediate importance, takes effect upon enactment.

7 Sec. 61. RETROACTIVE APPLICABILITY. The sections of this
8 Act which create new sections 479B.17, 479B.25, and 479B.29
9 through 479B.31 are retroactive to July 1, 1993.

10

EXPLANATION

11 This bill creates a new chapter 479B to regulate hazardous
12 liquid pipelines and amends chapter 479 regulating pipelines
13 and underground gas storage and chapter 479A regulating
14 interstate natural gas pipelines. The creation of the new
15 chapter is prompted by a United States Eighth Circuit Court
16 opinion, Kinley Corporation v. Iowa Utilities Board, 999 F.2d
17 354 (8th Circuit 1993) which held that the state was unable to
18 regulate hazardous liquid pipelines because chapter 479 was
19 invalid as it pertained to hazardous liquid pipelines.

20 The purpose of chapter 479B as stated in the Act is to
21 grant the Iowa utilities board the authority to implement
22 certain controls over hazardous liquid pipelines to protect
23 landowners and tenants from environmental or economic damages
24 which may result from the construction, operation, or
25 maintenance of a hazardous liquid pipeline or underground
26 storage facility within the state and to supervise the
27 location and route of hazardous liquid pipelines and
28 underground storage facilities and to grant eminent domain
29 rights when necessary.

30 A pipeline company is prohibited from constructing,
31 maintaining, or operating a pipeline or underground storage
32 facility without a permit issued by the board. The company
33 is required to hold informational meetings in each county
34 where property rights will be affected at least 30 days before
35 filing a petition for a new pipeline. Chapters 479 and 479A

1 are also amended to provide that informational hearings must
2 be held at least 30 days prior to filing a petition for a new
3 pipeline and to simplify the process for obtaining an
4 extension of the original permit.

5 After the company files a petition, the board sets a date
6 for a hearing. A person whose rights may be affected by the
7 permit may file written objections with the board. During the
8 hearing the board considers the petition, the objections, and
9 any other relevant testimony. The applicant must pay all the
10 costs of the meetings, hearing, and investigative work and the
11 costs of inspections conducted by the board. The bill
12 provides that if the board enters into an agreement with the
13 United States department of transportation, a pipeline company
14 must pay an annual fee of 50 cents per mile of pipeline or
15 fraction thereof for each inch of diameter of the pipeline
16 located in the state. The inspection fees are to be paid to
17 the board between January 1 and February 1 of each year. A
18 pipeline company who fails to pay the fees may be subject to
19 civil penalties or the revocation of the permit.

20 The bill requires that before a permit may be granted, the
21 applicant must satisfy the board that the applicant is in good
22 financial condition or provide a bond. Permits are limited to
23 25 years and may be sold or transferred by the permittee under
24 certain conditions.

25 After receipt of a permit, a pipeline company has the right
26 to survey and examine the proposed construction area. A
27 pipeline company issued a pipeline permit has the right of
28 eminent domain to the extent necessary and as approved by the
29 board, but not to exceed 75 feet in width for right-of-way and
30 not to exceed one acre in any one location in addition to
31 right-of-way for the location of pumps, pressure apparatus, or
32 other stations or equipment necessary to the operation of the
33 pipeline. In addition to adding these provisions to chapter
34 479B, the bill amends chapters 479 and 479A to provide that
35 the board may grant additional eminent domain rights where the

1 pipeline company has presented sufficient evidence to
2 adequately demonstrate that a greater area is required for the
3 proper construction, operation, and maintenance of the
4 pipeline or for the location of pumps, pressure apparatus, or
5 other stations or equipment necessary to the proper operation
6 of its pipeline. A pipeline company granted a permit for
7 underground storage of hazardous liquid is vested with the
8 right of eminent domain over any subsurface stratum or
9 formation in any land which the board finds to be suitable for
10 the location of an underground storage facility.

11 A pipeline company is granted reasonable access to the area
12 for the purposes of constructing, operating, maintaining, or
13 locating pipes, pumps, pressure apparatus, or other stations,
14 wells, devices, or equipment and is responsible for payment of
15 all damages to land or crops caused by the pipeline or storage
16 facility.

17 The bill gives the board the ability to adopt land
18 restoration standards to protect underground improvements
19 during the construction of a pipeline or underground storage
20 facility, soil conservation practices, and drainage structures
21 and for the restoration of agricultural lands. The county
22 board of supervisors inspects the site to ensure compliance
23 with the standards.

24 In chapter 479B, the bill provides that if an agreement for
25 damages cannot be reached 90 days after completion of the
26 installation, a landowner or pipeline company may file with
27 the board of supervisors of the county requesting that a
28 compensation commission be appointed to determine the damages
29 arising from the installation of the pipeline. Chapters 479
30 and 479A are also amended to provide that either the landowner
31 or the pipeline company may request the establishment of the
32 compensation commission and to change the time period in which
33 the petition may be filed from between 75 and 100 days from
34 installation to not less than 90 days from installation of the
35 pipeline.

1 The bill provides that the additional costs of new tile
2 construction caused by an existing pipeline must be paid by
3 the pipeline company. For chapters 479 and 479A, the bill
4 changes the way compensation may be obtained for these
5 damages. Currently, the additional costs must be verified by
6 the county engineer or soil and water conservation district
7 conservationist. The bill allows the landowner to enter into
8 an agreement as to costs with the pipeline company during the
9 planning of the tiling project.

10 The bill contains other provisions regarding cancellation
11 of the easement, arbitration agreements, and further damage
12 provisions. The bill provides that any person who violates a
13 provision of chapter 479B is subject to a civil penalty of up
14 to \$1,000 for each violation. Each day the violation
15 continues constitutes a separate violation, but the amount is
16 not to exceed \$250,000. The moneys are to be credited to the
17 Iowa energy center created in section 266.39C.

18 The bill is effective upon enactment and provisions of the
19 bill relating to damages, arbitration agreements, and
20 subsequent tiling for new chapter 479B are retroactive to July
21 1, 1993.

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AN ACT

RELATING TO PIPELINES AND UNDERGROUND STORAGE OF HAZARDOUS LIQUIDS, AND PROVIDING PENALTIES AND EFFECTIVE AND RETROACTIVE APPLICABILITY DATE PROVISIONS.

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

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

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

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

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

Cities and highway authorities having jurisdiction and control over the highways of the state, as provided by chapter 306, acting alone or in co-operation with each other or with any federal, state, or local agency or any other state having

authority to participate in the construction and maintenance of highways, are hereby authorized to plan, designate, establish, regulate, vacate, alter, improve, maintain, and provide controlled-access facilities for public use wherever ~~such authority or authorities are of the opinion that~~ if traffic conditions, present or future, will justify such special facilities; provided, that within ~~cities~~ a city such authority shall be subject to such municipal consent as may be provided by law. ~~Said cities and highway authorities, in~~ In addition to the specific powers granted in this chapter, ~~cities and highway authorities~~ shall also have ~~and may~~ exercise, relative to controlled-access facilities, any and ~~all~~ additional authority ~~now or hereafter~~ vested in them relative to highways or streets within their respective jurisdictions. ~~Said cities~~ Cities and highway authorities may regulate, restrict, or prohibit the use of such controlled-access facilities by the various classes of vehicles or traffic in a manner consistent with section 306A.2.

The department shall adopt rules, pursuant to chapter 17A, embodying a utility accommodation policy which imposes reasonable restrictions on placements occurring on or after the effective date of the rules, on primary road rights-of-way. The rules may require utilities to give notice to the department prior to installation of a utility system on a primary road right-of-way and obtain prior permission from the department for the proposed installation. The rules shall recognize emergency situations and the need for immediate installation of service extensions subject to the standards adopted by the department and the utilities board. The rules shall be no less stringent than the standards adopted by the utilities board pursuant to chapters 478, 479, and 479A, and 479B. This paragraph shall not be construed as granting the department authority which has been expressly granted to the utilities board to determine the route of utility installations. If the department requires a utility company

permit, the department shall be required to act upon the permit application within thirty days of its filing. In cases of federal-aid highway projects on nonprimary highways, the local authority with jurisdiction over the highway and the department shall comply with all federal regulations and statutes regarding utility accommodation.

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

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

Sec. 4. Section 474.9, Code 1995, is amended to read as follows:

474.9 GENERAL JURISDICTION OF UTILITIES BOARD.

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

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

479.1 PURPOSE.

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

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

479.2 DEFINITIONS.

As used in this chapter:

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

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

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

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

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

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

479.5 APPLICATION FOR PERMIT.

Any A pipeline company ~~engaging in its said~~ doing business in this state shall file with the board its verified petition asking for a permit to construct, maintain and operate its pipeline or lines along, over or across the public or private highways, grounds, waters and streams of any kind of this

state. Any pipeline company now owning or operating a pipeline in this state shall be issued a permit by the board upon supplying the information as provided for in section 479.6.

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

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

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

The person pipeline company seeking the permit for a new pipeline shall give notice of the informational meeting to each person determined to be a landowner affected by the proposed project and each person in possession of or residing on the property. For the purposes of the informational meeting, "landowner" means a person listed on the tax

assessment rolls as responsible for the payment of real estate taxes imposed on the property and "pipeline" means a line transporting a solid, liquid, or gaseous substance, except water, under pressure in excess of one hundred fifty pounds per square inch and extending a distance of not less than five miles or having a future anticipated extension of an overall distance of five miles.

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

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

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

479.23 EXTENSION OF PERMIT.

~~Any A pipeline company owning a permit granted under this chapter desiring to acquire an extension of such permit~~ may petition the board ~~in the same manner provided for the granting of such permit and the same proceeding shall be had as on an original application~~ for the extension of a permit

granted under this chapter by filing a petition containing the information required by section 479.6, subsections 1 through 4, 6, and 7, and section 479.26.

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

479.24 EMINENT DOMAIN.

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

Any A pipeline company having secured a permit for underground storage of gas ~~as-in-this-chapter-provided~~ shall be vested with the right of eminent domain to such the extent ~~as-may-be~~ necessary and as prescribed and approved by ~~said~~ the board in order to appropriate for its use for the underground storage of gas any subsurface stratum or formation in any land which the board shall have found to be suitable and in the public interest for the underground storage of gas, and ~~in connection-there-with~~ may appropriate such other interests in property, as may be required to adequately to examine, prepare, maintain, and operate such the underground gas storage facilities. ~~The-right-of-appropriation-hereby-granted shall-be-without-prejudice-to-the-rights-of-the-owner-of-said~~

~~lands-or-of-other-rights-or-interests-therein-to-drill-or-bore through-the-underground-stratum-or-formation-so-appropriated in-such-manner-as-shall-comply-with-orders,-rules-of-the-board issued-for-the-purpose-of-protecting-underground-storage strata-or-formations-against-pollution-and-against-the-escape of-gas-therefrom-and-shall-be-without-prejudice-to-the-rights of-the-owner-of-said-lands-or-other-rights-or-interest-therein as-to-all-other-uses-thereof.~~

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

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

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

479.25 DAMAGES.

~~Pipeline-companies~~ A pipeline company operating pipelines a pipeline or a gas storage area shall have reasonable access to the same pipeline or gas storage area for the purpose of constructing, ~~reconstructing,-enlarging,-repairing~~ operating, maintaining, or locating their pipes, pumps, pressure apparatus or other stations, wells, devices, or equipment used in or upon ~~such-line~~ the pipeline or gas storage area; ~~but;~~ shall pay to the owner of ~~such-lands~~ the land for the right of entry thereon and the owner of crops thereon for all damages caused by entering, using, or occupying ~~said-lands-for-said~~

purposes the land; and shall pay to the owner ~~or-owners-of~~ such-lands all damages caused ~~after~~ by the completion of construction of ~~said~~ the pipeline on-account-of due to wash or erosion of the soil at or along the location of ~~said~~ the pipeline by-reason-of-the-construction-thereof-upon-said-lands on-account-of and due to the settling of the soil along and above ~~said~~ the pipeline~~7-provided7-that-nothing-herein contained-shall~~. However, this section shall not prevent the execution of an agreement between the pipeline company and the owner of said land or crops with reference to the use thereof of the land.

Sec. 11. Section 479.27, Code 1995, is amended to read as follows:

479.27 VENUE ---SERVICE-OF-ORIGINAL-NOTICE.

In all cases arising under this chapter, the district court of any county~~7-through~~ in which said property of a pipeline company is located~~7~~ shall have jurisdiction~~7-and-service-of original-notice-on-the-pipeline-company-therein-shall-be-had and-made-upon-the-chairperson-of-the-board~~.

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

1. The board shall, pursuant to chapter 17A, adopt rules establishing standards for the protection of underground improvements during the construction of pipelines, to protect soil conservation and drainage structures from being permanently damaged by pipeline construction and for the restoration of agricultural lands after pipeline construction. To ensure that all interested persons are informed of this rule-making procedure and are afforded a right to participate, the board shall schedule an opportunity for oral presentations on the proposed rule making, and, in addition to the requirements of section 17A.4, shall distribute copies of the notice of intended action and opportunity for oral presentations to each county board of supervisors. Any county board of supervisors may, under the provisions of chapter 17A,

and subsequent to the rule-making proceedings, petition under those provisions for additional rule making to establish standards to protect soil conservation practices, structures and drainage structures within that county. Upon the request of the petitioning county the board shall schedule a hearing to consider the merits of the petition. ~~These rules~~ Rules adopted under this section shall not apply within the boundaries of a city, unless the land is used for agricultural purposes.

Sec. 13. Section 479.30, Code 1995, is amended to read as follows:

479.30 ENTRY FOR LAND SURVEYS.

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

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

~~Any~~ A person who violates ~~any-provision-of~~ this chapter or any ~~regulation rule or order~~ issued pursuant to this chapter shall be subject to a civil penalty ~~of~~ levied by the board not to exceed ten thousand dollars for each violation. Each day that the violation continues shall constitute a separate offense. However, the maximum civil penalty shall not exceed five hundred thousand dollars for any related series of

violations. Civil penalties collected pursuant to this section shall be credited to and are appropriated for the Iowa energy center created in section 266.39C.

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

479.41 ARBITRATION AGREEMENTS.

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

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

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

479.42 SUBSEQUENT PIPELINES.

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

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

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

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

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

The application shall contain the following:

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

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

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

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

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

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

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

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

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

479.47 SUBSEQUENT TILING.

All additional costs of new tile construction caused by an existing pipeline shall be paid by the pipeline company. ~~The additional costs shall be paid by the pipeline company upon presentation of an invoice, verified by the county engineer or soil and water conservation district conservationist and specifically showing the added costs caused by the presence of the pipeline. A copy of the county engineer's or district conservationist's verification of additional costs shall~~

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

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

479A.11 DAMAGES.

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

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

479A.13 JURISDICTION ---SERVICE-OF-ORIGINAL-NOTICE.

In all cases arising under this chapter, the district court of any county in which property of a pipeline company is

located, has jurisdiction of a case involving that company, ~~and service of original notice on the pipeline company may be made by serving the chairperson of the board.~~

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

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

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

479A.15 ENTRY FOR LAND SURVEYS.

A pipeline company may enter upon private land for the purpose of ~~making land surveys~~ surveying and examining the land to determine direction or depth of ~~pipelines~~ a pipeline by giving ten days' written notice by restricted certified mail to the landowner and to any person residing on or in possession of the land. For purposes of this section only,

"landowner" means a person listed on the tax assessment rolls as responsible for the payment of real estate taxes imposed on the property. The entry for land surveys authorized in this section is not a trespass and may be aided by injunction. The pipeline company shall pay the actual damages caused by the entry and survey.

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

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

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

479A.20 ARBITRATION AGREEMENTS.

Notwithstanding conflicting provisions of chapter 679A, if an easement or other written agreement between a landowner and a pipeline company provides for the determination through arbitration of the amount of monetary damages sustained by a landowner and caused by the construction, maintenance, or repair of a pipeline, and if either person party has not appointed its arbitrator or agreed to an arbitrator under the agreement within thirty days after the other person party has invoked the arbitration provisions of the agreement by written notice to the other party by restricted certified mail, the landowner or the pipeline company may petition a magistrate in the county where the real property is located for the appointment of an arbitrator to serve in place of the arbitrator who would have been appointed or agreed to by the

other person party. Before filing the petition the landowner or pipeline company shall give notice of the petitioning of the magistrate by restricted certified mail to the other person party and file proof of mailing with the petition. If, after hearing, the magistrate finds that the landowner or pipeline company has not been diligent in appointing or reasonable in agreeing to an arbitrator, the magistrate shall appoint an impartial arbitrator who shall have all of the powers and duties of an arbitrator appointed or agreed to by the other person party under the agreement.

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

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

479A.21 SUBSEQUENT PIPELINES.

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

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

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

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

The application shall contain all of the following:

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

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

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

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

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

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

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

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

Sections 6B.10 to 6B.13 apply to this notice. If more than one landowner petitions the county board of supervisors, the application to the chief judge, notice to the pipeline company, and appraisal of damages shall be consolidated into one application, notice, and appraisal. The county attorney may assist in coordinating the consolidated

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

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

479A.26 SUBSEQUENT TILING.

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

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

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

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

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

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

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

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

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

A pipeline company doing business in this state shall file a verified petition with the board asking for a permit to construct, maintain, and operate a new pipeline along, over, or across the public or private highways, grounds, waters, and streams of any kind in this state. Any pipeline company now owning or operating a pipeline or underground storage facility

in this state shall be issued a permit by the board upon supplying the information as provided for in section 479B.5, subsections 1 through 5, and meeting the requirements of section 479B.13.

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

The pipeline company shall hold informational meetings in each county in which real property or property rights will be affected at least thirty days prior to filing the petition for a new pipeline. A member of the board, or a person designated by the board, shall serve as the presiding officer at each meeting and present an agenda for the meeting which shall include a summary of the legal rights of the affected landowners. No formal record of the meeting shall be required. The meeting shall be held at a location reasonably accessible to all persons who may be affected by granting the permit.

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

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

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

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

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

1. The name of the individual, firm, corporation, company, or association applying for the permit.
2. The applicant's principal office and place of business.
3. A legal description of the route of the proposed pipeline and a map of the route.
4. A general description of the public or private highways, grounds, waters, streams, and private lands of any kind along, over, or across which the proposed pipeline will pass.
5. If permission is sought to construct, maintain, and operate facilities for the underground storage of hazardous liquids the petition shall include the following additional information:

a. A description and a map of the public or private highways, grounds, waters, streams, and private lands of any kind under which the storage is proposed.

b. Maps showing the location of proposed machinery, appliances, fixtures, wells, and stations necessary for the construction, maintenance, and operation of the hazardous liquid storage facilities.

6. The possible use of alternative routes.

7. The relationship of the proposed project to the present and future land use and zoning ordinances.

8. The inconvenience or undue injury which may result to property owners as a result of the proposed project.

9. An affidavit attesting to the fact that informational meetings were held in each county affected by the proposed project and the time and place of each meeting.

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

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

The hearing shall not be less than ten days nor more than thirty days from the date of the last publication of the notice. If the pipeline exceeds five miles in length, the hearing shall be held in the county seat of the county located at the midpoint of the proposed pipeline or the county in which the proposed hazardous liquid storage facility would be located.

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

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

All objections shall be on file with the board not less than five days before the date of hearing on the application.

However, the board may permit the filing of the objections later than five days before the hearing, in which event the applicant must be granted a reasonable time to meet the objections.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A pipeline company granted a pipeline permit shall be vested with the right of eminent domain, to the extent necessary and as prescribed and approved by the board, not exceeding seventy-five feet in width for right-of-way and not

exceeding one acre in any one location in addition to right-of-way for the location of pumps, pressure apparatus, or other stations or equipment necessary to the proper operation of its pipeline. The board may grant additional eminent domain rights where the pipeline company has presented sufficient evidence to adequately demonstrate that a greater area is required for the proper construction, operation, and maintenance of the pipeline or for the location of pumps, pressure apparatus, or other stations or equipment necessary to the proper operation of its pipeline.

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

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

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

A pipeline company operating a pipeline or an underground storage facility shall have reasonable access to the pipeline or underground storage facility for the purpose of constructing, operating, maintaining, or locating pipes, pumps, pressure apparatus, or other stations, wells, devices,

or equipment used in or upon the pipeline or underground storage facility. A pipeline company shall pay the owner of the land for the right of entry and the owner of crops for all damages caused by entering, using, or occupying the lands and shall pay to the owner all damages caused by the completion of construction of the pipeline due to wash or erosion of the soil at or along the location of the pipeline and due to the settling of the soil along and above the pipeline. However, this section does not prevent the execution of an agreement between the pipeline company and the owner of the land or crops with reference to the use of the land.

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

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

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

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

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

1. The board, pursuant to chapter 17A, shall adopt rules establishing standards for the protection of underground improvements during the construction of pipelines or underground storage facilities, to protect soil conservation and drainage structures from being permanently damaged by

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

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

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

action shall be borne by the contractor operating for the pipeline company.

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

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

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

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

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

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

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

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

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

A person who violates this chapter or any rule or order issued pursuant to this chapter shall be subject to a civil penalty levied by the board in an amount not to exceed one thousand dollars for each violation. Each day that the violation continues shall constitute a separate offense.

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

A civil penalty may be compromised by the board. In determining the amount of the penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the pipeline company charged, the gravity of the violation, and the good faith of the person charged in attempting to achieve compliance, after notification of a violation, shall be considered. The amount of the penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owed by the state to the person charged, or may be recovered in a civil action.

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

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

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

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

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

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

1. Allow the landowner or a person serving in a fiduciary capacity on the landowner's behalf to cancel an agreement

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

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

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

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

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

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

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

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

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

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

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

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

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

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

In lieu of a one-time lump sum payment for an easement or other property interest allowing a pipeline to cross property or allowing underground storage of hazardous liquids, a landowner and the pipeline company may negotiate an annual

fee, to be paid over a fixed number of years. Unless the easement provides otherwise, the annual fee shall run with the land and shall be payable to the owner of record.

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

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

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

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

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

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

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

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

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

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

a. That a compensation commission has been appointed to determine the damages caused by the construction of the pipeline or underground storage facility.

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

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

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

4. The commissioners shall view the land at the time provided in the notice and assess the damages sustained by the landowner by reason of the construction of the pipeline or underground storage facility and they shall file their report with the sheriff. The appraisal of damages returned by the commissioners is final unless appealed. After the appraisal of damages has been delivered to the sheriff by the compensation commission, the sheriff shall give written

notice by ordinary mail to the pipeline company and the landowner of the date the appraisal of damages was made, the amount of the appraisal, and that any interested party may appeal to the district court within thirty days of the date of mailing. The sheriff shall endorse the date of mailing of notice on the original appraisal of damages. At the time of appeal, the appealing party shall give written notice to the adverse party or the party's attorney and the sheriff.

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

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

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

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

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

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

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

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

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

546.7 UTILITIES DIVISION.

The utilities division shall regulate and supervise public utilities operating in the state. The division shall enforce and implement chapters 476, 476A, 477C, 478, 479, and 479A, and 479B and shall perform other duties assigned to it by law.

The division is headed by the administrator of public utilities who shall be appointed by the governor pursuant to section 474.1.

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

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

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 303, Seventy-sixth General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved May 26, 1995

TERRY E. BRANSTAD
Governor