

Substituted by HF 2419  
3/22/96 (P. 1076)

FILED FEB 28 1996

WITHDRAWN

SENATE FILE 2349  
BY COMMITTEE ON TRANSPORTATION

(SUCCESSOR TO SSB 2038)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to transportation by granting the state  
2 department of transportation condemnation rights for utility  
3 facility replacement, providing for entry onto private  
4 property for sounding and drilling, and providing for release  
5 of retained funds for public improvements.

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

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S.F. 2349

WITHDRAWN

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

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

1 Sec. 2. Section 314.9, Code 1995, is amended to read as  
2 follows:

3 314.9 ENTERING PRIVATE LAND PROPERTY.

4 The agency in control of ~~any a highway or-highway-system-or~~  
5 ~~the-engineer,-or-any-other-authorized-person-employed-by-said~~  
6 ~~agency,~~ may after thirty days' written notice by restricted  
7 certified mail addressed to the owner and also to the  
8 occupant, enter upon private land property for the purpose of  
9 making surveys, soundings, drillings, appraisals, and  
10 examinations as ~~it~~ the agency deems appropriate or necessary  
11 to determine the advisability or practicability of locating  
12 and constructing a highway ~~thereon~~ on the property or for the  
13 purpose of determining whether gravel or other material exists  
14 on ~~said-land~~ the property of suitable quality and in  
15 sufficient quantity to warrant the purchase or condemnation of  
16 ~~said-land-or-part-thereof~~ the property. ~~Such~~ The entry, ~~after~~  
17 ~~notice,~~ shall not be deemed a trespass, and the agency may be  
18 aided by injunction to insure peaceful entry. The agency  
19 shall pay actual damages caused by ~~such~~ the entry, surveys,  
20 soundings, drillings, appraisals, or examinations.

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

28 Sec. 3. Section 321.285, subsection 6, Code 1995, is  
29 amended to read as follows:

30 6. Notwithstanding any other speed restrictions, the speed  
31 limit for all vehicular traffic on fully controlled-access,  
32 divided, multilaned highways including the national system of  
33 interstate highways designated by the federal highway  
34 administration and this state (23 U.S.C. § 103 (e)) is sixty-  
35 five miles per hour. However, the department or cities with

1 the approval of the department may establish a lower speed  
2 limit upon such highways located within the corporate limits  
3 of a city. For the purposes of this subsection a fully  
4 controlled-access highway is a highway that gives preference  
5 to through traffic by providing access connections with  
6 selected public roads only and by prohibiting crossings at  
7 grade or direct private driveway connections. A minimum speed  
8 ~~of forty miles per hour, road conditions permitting, is~~ may be  
9 established by the department on the highways referred to in  
10 this subsection if warranted by engineering and traffic  
11 investigations.

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

16 Sec. 4. NEW SECTION. 573.15A EARLY RELEASE OF RETAINED  
17 FUNDS.

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

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

34 2. The fund, as provided in section 573.13, shall be  
35 retained by the public corporation for a period of thirty days

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

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

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

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#### EXPLANATION

26 The amendment to section 306.19 gives the state department  
27 of transportation authority to institute and maintain  
28 proceedings on behalf of the owner of a utility facility for  
29 the condemnation of replacement property rights when the  
30 construction or maintenance of a road requires condemnation of  
31 the property on which the utility facility is located. The  
32 replacement rights must be equal to the existing rights that  
33 the owner of the utility facility possessed. "Utility  
34 facility" is defined in the bill to mean any electric, gas,  
35 water, steam power, or materials transmission or distribution

1 system; a transportation system; a communications system,  
2 including cable television; and fixtures, equipment, or other  
3 property associated with the operation, maintenance, or repair  
4 of the system. A utility facility may be publicly, privately,  
5 or cooperatively owned.

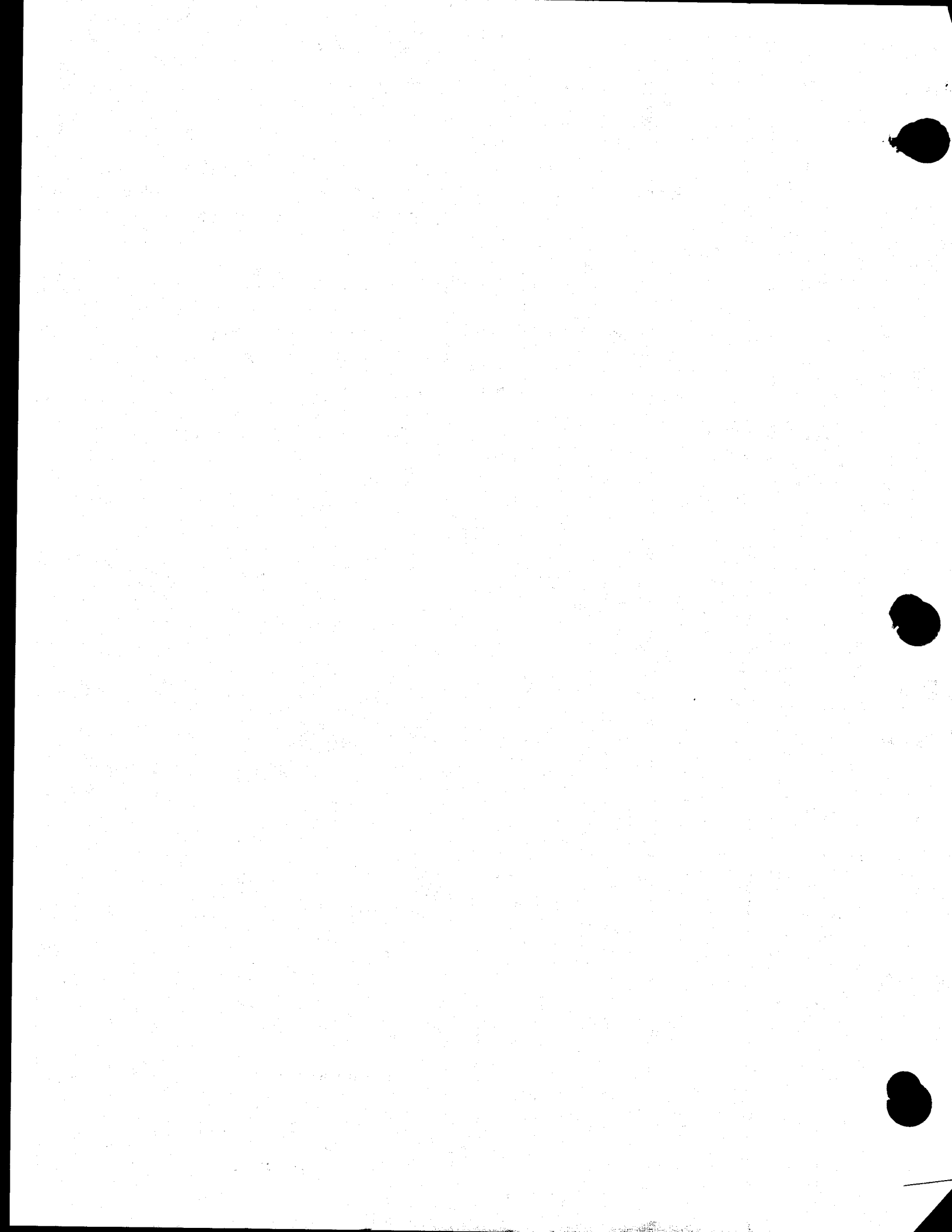
6 Section 314.9 currently allows the agency in control of any  
7 highway to enter onto private property for the purpose of  
8 making surveys, soundings, drillings, appraisals, and  
9 examination of property to determine the practicability and  
10 advisability of constructing a highway or determining whether  
11 gravel or other materials exist on the property of sufficient  
12 quantity to warrant the purchase of the property. This bill  
13 amends the prohibition on sounding and drilling from within 20  
14 rods, which is equivalent to 330 feet of the dwelling house or  
15 building to within 50 feet of the dwelling house or building  
16 without the written consent of the property owner.

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

20 This bill creates new section 573.15A which establishes a  
21 procedure for the release of retained funds by a public  
22 corporation to a contractor after completion of 95 percent of  
23 the work contracted for a public improvement. The section  
24 provides that a person, firm, or corporation who has, under  
25 contract with the principal contractor or with subcontractors,  
26 performed labor, or furnished materials, service, or  
27 transportation, in the construction of the public improvement,  
28 may file a claim with the public corporation for the labor, or  
29 materials, service, or transportation. The fund shall be  
30 retained by the public corporation for a period of 30 days  
31 after 95 percent of the contract has been completed. If at  
32 the end of the 30-day period, a claim has been filed, the  
33 public corporation must retain from the unpaid funds, a sum  
34 equal to double the total amount of all claims on file. The  
35 remaining balance of the unpaid fund, or if there are no

1 claims on file, the entire unpaid fund, may then be released  
2 and paid to the contractor. The public corporation, the  
3 principal contractor, or any claimant for labor or materials,  
4 service, or transportation who has filed a claim on the surety  
5 on any bond given for performance of the contract, at any time  
6 after the expiration of 30 days, and not later than 60 days  
7 after the completion of 95 percent of the contract, may bring  
8 an action in equity in the county where the public improvement  
9 is located to determine rights to moneys contained in the fund  
10 or to enforce liability on the bond.

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## SENATE FILE 2349

S-5410

1 Amend Senate File 2349 as follows:

2 1. Page 1, by inserting after line 35 the  
3 following:

4 "Sec. \_\_\_\_ . NEW SECTION. 307.31 PROPERTY  
5 PAYMENTS.

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

20 Sec. \_\_\_\_ . Section 307A.2, subsection 13, Code  
21 1995, is amended to read as follows:

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

30 2. Page 2, by inserting after line 27 the  
31 following:

32 "Sec. \_\_\_\_ . Section 321.69, subsection 3, Code  
33 Supplement 1995, is amended to read as follows:

34 3. The damage disclosure statement shall be  
35 provided by the transferor to the transferee at or  
36 before the time of sale. If the transferor is not a  
37 resident of this state the transferee shall not be  
38 required to submit a damage disclosure statement from  
39 the transferor with the transferee's application for  
40 title unless the state of the transferor's residence  
41 requires a damage disclosure statement. However, the  
42 transferee shall submit a damage disclosure statement  
43 with the transferee's application for title indicating  
44 whether a salvage or rebuilt title had ever existed  
45 for the vehicle, whether the vehicle had incurred  
46 prior damage of three thousand dollars or more per  
47 incident, and the year, make, and vehicle  
48 identification number of the motor vehicle. The  
49 transferee shall not be required to indicate whether  
50 the vehicle had incurred prior damage of three

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1 thousand dollars or more per incident under this  
2 subsection if the transferor's certificate of title is  
3 from another state and if it indicates that the  
4 vehicle is salvaged and not rebuilt or is another  
5 state's salvage certificate of title.

6 Sec. \_\_\_\_ . Section 321.89, Code Supplement 1995, is  
7 amended to read as follows:

8 321.89 ABANDONED VEHICLES.

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

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

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

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

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

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

30 (4) A vehicle that has been legally impounded by  
31 order of a police authority and has not been reclaimed  
32 for a period of ten days~~-or~~. However, a police  
33 authority may declare the vehicle abandoned within the  
34 ten-day period by commencing the notification process  
35 in subsection 3.

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

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

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

50 c. "Demolisher" means any city or public agency

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1 organized for the disposal of solid waste, or any  
2 person whose business it is to convert a vehicle to  
3 junk, processed scrap or scrap metal, or otherwise to  
4 wreck, or dismantle vehicles.

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

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

36 a. A police authority or private entity which  
37 takes into custody an abandoned vehicle shall notify,  
38 within twenty days, by certified mail, the last known  
39 registered owner of the vehicle, all lienholders of  
40 record, and any other known claimant to the vehicle or  
41 to personal property found in the vehicle, addressed  
42 to their last known addresses of record, that the  
43 abandoned vehicle has been taken into custody. Notice  
44 shall be deemed given when mailed. The notice shall  
45 describe the year, make, model, and serial number of  
46 the vehicle, describe the personal property found in  
47 the vehicle, set forth the location of the facility  
48 where the vehicle is being held, and inform the  
49 persons receiving the notice of their right to reclaim  
50 the vehicle and personal property within twenty-one

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

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

48 c. The owner, or any lienholders, or claimants  
49 may, by written request delivered to the police  
50 authority or private entity prior to the expiration of

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1 the twenty-one-day ten-day reclaiming period, obtain  
2 an additional fourteen five days within which the  
3 vehicle or personal property may be reclaimed.  
4 4. AUCTION OF ABANDONED VEHICLES. If an abandoned  
5 vehicle has not been reclaimed as provided for in  
6 subsection 3, the police authority or private entity  
7 shall make a determination as to whether or not the  
8 vehicle shall be sold for use upon the highways. If  
9 the vehicle is not sold for use upon the highways, it  
10 shall be sold for junk, or demolished and sold as  
11 scrap. The police authority or private entity shall  
12 sell the vehicle at public auction. Notwithstanding  
13 any other provision of this section, any a police  
14 authority or private entity, which has taken into  
15 possession any abandoned vehicle which lacks an  
16 engine, or two or more wheels, or another part which  
17 renders the vehicle totally inoperable, or which has a  
18 fair market value of less than five hundred dollars as  
19 determined by the police authority or private entity,  
20 may dispose of the vehicle to a demolisher for junk  
21 without public auction after complying with the  
22 notification procedures enumerated in subsection 3 and  
23 without public auction. The purchaser of the vehicle  
24 takes title free and clear of all liens and claims of  
25 ownership, shall receive a sales receipt from the  
26 police authority or private entity, and is entitled to  
27 register the vehicle and receive a certificate of  
28 title if sold for use upon the highways. If the  
29 vehicle is sold or disposed of to a demolisher for  
30 junk, the demolisher shall make application for a  
31 junking certificate to the county treasurer within  
32 fifteen days of purchase and shall surrender the sales  
33 receipt in lieu of the certificate of title.

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

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1 of the abandoned vehicles are insufficient to meet  
2 these expenses and costs, shall be paid from the road  
3 use tax fund and are the obligation of the last owner  
4 or owners, jointly and severally.

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

12 3. Page 3, by inserting after line 15 the  
13 following:

14 "Sec. \_\_\_\_ . Section 321.449, Code Supplement 1995,  
15 is amended by adding the following new unnumbered  
16 paragraph:

17 NEW UNNUMBERED PARAGRAPH. Notwithstanding other  
18 provisions of this section, rules adopted under this  
19 section concerning daily hours of service shall not  
20 apply to the operators of trucks hauling cement or  
21 cement products."

22 4. Title page, by striking lines 1 through 5, and  
23 inserting the following: "An Act relating to  
24 transportation by granting the state department of  
25 transportation condemnation rights for utility  
26 facility replacement, requiring sixty day property  
27 payments, requiring certain criteria be adopted by  
28 administrative rule, modifying certain damage  
29 disclosure statement requirements, providing for entry  
30 onto private property for sounding and drilling,  
31 exempting operators of trucks hauling cement from  
32 certain regulations, and relating to the disposal of  
33 abandoned vehicles, and providing for release of  
34 retained funds for public improvements."

35 5. By renumbering as necessary.

By MIKE CONNOLLY

S-5410 FILED MARCH 19, 1996

*Adopted*  
*3/27/96*  
*(P. 1076)*

## SENATE FILE 2349

S-5383

1 Amend Senate File 2349 as follows:

2 1. Page 2, by inserting after line 27 the  
3 following:

4 "Sec. \_\_\_\_ Section 321.69, subsections 2 and 3,  
5 Code Supplement 1995, are amended to read as follows:

6 2. The damage disclosure statement required by  
7 this section shall, at a minimum, state the total  
8 retail dollar amount of all damage to the vehicle  
9 during the period of the transferor's ownership of the  
10 vehicle and whether the transferor knows if the  
11 vehicle was titled as a salvage or flood vehicle in  
12 this or any other state prior to the transferor's  
13 ownership of the vehicle. For the purposes of this  
14 section, "damage" refers to damage to the vehicle  
15 caused by fire, vandalism, collision, weather, falling  
16 objects, submersion in water, or flood, where the cost  
17 of repair is three five thousand dollars or more per  
18 incident, but does not include normal wear and tear,  
19 glass damage, mechanical repairs or electrical repairs  
20 that have not been caused by fire, vandalism,  
21 collision, weather, falling objects, submersion in  
22 water, or flood. "Damage" does not include the cost  
23 of repairing, replacing, or reinstalling an inflatable  
24 restraint system. A determination of the amount of  
25 damage to a vehicle shall be based on estimates of the  
26 retail cost of repairing the vehicle, including labor,  
27 parts, and other materials, if the vehicle has not  
28 been repaired or on the actual retail cost of repair,  
29 including labor, parts, and other materials, if the  
30 vehicle has been repaired. Only individual incidents  
31 in which the retail cost of repairs is three five  
32 thousand dollars or more are required to be disclosed  
33 by this section. If the vehicle has incurred damage  
34 of three five thousand dollars or more per incident in  
35 more than one incident, the damage amounts must be  
36 combined and disclosed as the total of all separate  
37 incidents.

38 3. The damage disclosure statement shall be  
39 provided by the transferor to the transferee at or  
40 before the time of sale. If the transferor is not a  
41 resident of this state the transferee shall not be  
42 required to submit a damage disclosure statement from  
43 the transferor with the transferee's application for  
44 title unless the state of the transferor's residence  
45 requires a damage disclosure statement. However, the  
46 transferee shall submit a damage disclosure statement  
47 with the transferee's application for title indicating  
48 whether a salvage or rebuilt title had ever existed  
49 for the vehicle, whether the vehicle had incurred  
50 prior damage of three five thousand dollars or more

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- 1 per incident, and the year, make, and vehicle
- 2 identification number of the motor vehicle."
- 3 2. Title page, line 3, by inserting after the
- 4 word "replacement," the following: "increasing damage
- 5 disclosure statement limits,".
- 6 3. By renumbering as necessary.

By BRAD BANKS  
DERRYL McLAREN

S-5383 FILED MARCH 18, 1996



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SSB-2038

*Transportation*

SENATE/HOUSE <sup>100</sup> FILE SE/HF 2349  
BY (PROPOSED DEPARTMENT OF  
TRANSPORTATION BILL)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to transportation by granting the state  
2 department of transportation condemnation rights for utility  
3 facility replacement, providing for entry onto private  
4 property for sounding and drilling, relating to the disposal  
5 of abandoned vehicles, transferring motorcycle rider education  
6 responsibilities, and providing for release of retained funds  
7 for public improvements.

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

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

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

1 Sec. 2. Section 314.9, Code 1995, is amended to read as  
2 follows:

3 314.9 ENTERING PRIVATE LAND PROPERTY.

4 The agency in control of ~~any a~~ highway ~~or-highway-system-or~~  
5 ~~the-engineer,-or-any-other-authorized-person-employed-by-said~~  
6 ~~agency,~~ may after thirty days' written notice by restricted  
7 certified mail addressed to the owner and also to the  
8 occupant, enter upon private land property for the purpose of  
9 making surveys, soundings, drillings, appraisals, and  
10 examinations as ~~it~~ the agency deems appropriate or necessary  
11 to determine the advisability or practicability of locating  
12 and constructing a highway ~~thereon~~ on the property or for the  
13 purpose of determining whether gravel or other material exists  
14 on ~~said-land~~ the property of suitable quality and in  
15 sufficient quantity to warrant the purchase or condemnation of  
16 ~~said-land-or-part-thereof~~ the property. ~~Such~~ The entry, ~~after~~  
17 ~~notice,~~ shall not be deemed a trespass, and the agency may be  
18 aided by injunction to insure peaceful entry. The agency  
19 shall pay actual damages caused by ~~such~~ the entry, surveys,  
20 soundings, drillings, appraisals, or examinations.

21 Any damage caused by ~~such~~ the entry, surveys, soundings,  
22 drillings, appraisals, or examinations shall be determined by  
23 agreement or in the manner provided for the award of damages  
24 in condemnation of ~~land~~ the property for highway purposes. ~~No~~  
25 ~~such-soundings~~ Soundings or drillings shall not be done within  
26 ~~twenty-reds~~ thirty feet of the dwelling house or buildings on  
27 ~~said-land~~ without written consent of the owner.

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

30 321.89 ABANDONED VEHICLES.

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

33 a. "Police authority" means the Iowa highway safety  
34 patrol, any law enforcement agency of a county or city or any  
35 special security officer employed by the state board of

1 regents under section 262.13.

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

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

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

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

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

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

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

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

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

33 2. AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES. A  
34 police authority ~~may, and on,~~ upon the authority's own  
35 initiative or upon the request of any other authority having

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

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

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

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

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

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

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

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

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

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

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

30 Sec. 4. Section 321.189, subsection 7, unnumbered  
31 paragraph 1, Code Supplement 1995, is amended to read as  
32 follows:

33 A person applying for a driver's license valid for the  
34 operation of a motorcycle shall be required to successfully  
35 complete a motorcycle education course either approved and



1 established by the department of-education or from a private  
2 or commercial driver education school licensed by the  
3 department before the class M license will be issued. A  
4 public school district shall charge a student a fee which  
5 shall not exceed the actual cost of instruction minus moneys  
6 received by the school district under subsection 9.

7 Sec. 5. Section 321.189, subsection 8, paragraph a, Code  
8 Supplement 1995, is amended to read as follows:

9 a. The department may issue a driver's license valid only  
10 for operation of a motorized bicycle to a person fourteen  
11 years of age or older who has passed a vision test or who  
12 files a vision report as provided in section 321.186A which  
13 shows that the applicant's visual acuity level meets or  
14 exceeds those required by the department and who passes a  
15 written examination on the rules of the road. A person under  
16 the age of sixteen applying for a driver's license valid only  
17 for operation of a motorized bicycle shall also be required to  
18 successfully complete a motorized bicycle education course  
19 approved and established by the department of-education or  
20 successfully complete an approved motorized bicycle education  
21 course at a private or commercial driver education school  
22 licensed by the department. A public school district shall  
23 charge a student a fee which shall not exceed the actual cost  
24 of instruction. A driver's license valid only for operation  
25 of a motorized bicycle entitles the licensee to operate a  
26 motorized bicycle upon the highway while having the license in  
27 the licensee's immediate possession. The license is valid for  
28 a period not to exceed two years from the licensee's birthday  
29 anniversary in the year of issuance, subject to termination or  
30 cancellation as provided in this section.

31 Sec. 6. Section 321.189, subsection 9, Code Supplement  
32 1995, is amended to read as follows:

33 9. MOTORCYCLE RIDER EDUCATION FUND. The motorcycle rider  
34 education fund is established in the office of the treasurer  
35 of state. The moneys credited to the fund are appropriated to

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1 the department of-education to be used to establish new  
2 motorcycle rider education courses and reimburse sponsors of  
3 motorcycle rider education courses for the costs of providing  
4 motorcycle rider education courses approved and established by  
5 the department of-education. The department of-education  
6 shall adopt rules under chapter 17A providing for the  
7 distribution of moneys to sponsors of motorcycle rider  
8 education courses based upon the costs of providing the  
9 education courses.

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

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

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

33 Sec. 8. NEW SECTION. 573.15A EARLY RELEASE OF RETAINED  
34 FUNDS.

35 Notwithstanding section 573.14, a public corporation may

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

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

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

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

1 573.18, with the completion of ninety-five percent of the  
2 contract taking the place of the date of final acceptance.

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

7 EXPLANATION

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

23 Section 314.9 currently allows the agency in control of any  
24 highway to enter onto private property for the purpose of  
25 making surveys, soundings, drillings, appraisals, and  
26 examination of property to determine the practicability and  
27 advisability of constructing a highway or determining whether  
28 gravel or other materials exist on the property of sufficient  
29 quantity to warrant the purchase of the property. This bill  
30 amends the prohibition on sounding and drilling from within 20  
31 rods, which is equivalent to 330 feet of the dwelling house or  
32 building to within 30 feet of the dwelling house or building  
33 without the written consent of the property owner.

34 This bill makes several changes to section 321.89 relating  
35 to the process for disposing of abandoned motor vehicles.

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

28 The amendments to section 321.189 transfer the  
29 responsibilities for approving and establishing motorcycle and  
30 motorized bicycle education courses and the use of moneys in  
31 the motorcycle rider education fund from the department of  
32 education to the state department of transportation.

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

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

27 BACKGROUND STATEMENT

28 SUBMITTED BY THE AGENCY

29 Section 1--Owners of utility facilities, e.g., electrical  
30 and communication cables, often wait until after final designs  
31 for highway improvements are made before beginning  
32 negotiations for replacement property rights. These  
33 negotiations begin after the state department of  
34 transportation has already made substantial right-of-way  
35 acquisitions associated with the improvement. This process

1 can delay projects and cause undue confusion from property  
2 owners who are approached by various representatives seeking  
3 right-of-way acquisition. Amending Code section 306.19 will  
4 authorize the department to acquire right-of-way for utilities  
5 when acquiring right-of-way for the state when implementing  
6 transportation projects.

7 Section 2--The department must determine the condition of  
8 property before acquiring it for highway improvements and  
9 maintenance facilities. Existing Code language needs updating  
10 to reflect that modern soil testing techniques are relatively  
11 unobtrusive. Amending section 314.9 to reduce the distance  
12 from a building from 20 rods (330 feet) to 30 feet before  
13 requiring property owner approval before soil testing will  
14 help the department make appropriate purchasing decisions.  
15 Written notification to the property owner prior to testing  
16 remains a requirement.

17 Section 3--The department established an abandoned vehicle  
18 task force after concerns were raised by police authorities on  
19 the cost and cumbersome process to remove abandoned vehicles  
20 from public roadways. The task force developed a process that  
21 reduces the number of steps to declare a vehicle abandoned  
22 from 19 to five and reduced the amount of paperwork from nine  
23 to four pieces. Implementing this process in all  
24 jurisdictions will provide an estimated annual savings to the  
25 road use tax fund of \$160,000 and requires amending Code  
26 section 321.89 to provide the option to move the process of  
27 abandoned vehicle disposal from public agencies to private  
28 enterprise.

29 Sections 4, 5, and 6--The requirement for motorcycle  
30 education for all who apply for a motorcycle license for the  
31 first time, regardless of age, begins May 1, 1997. The  
32 department is equipped to administer the program and the  
33 department of education has agreed to the transfer. Amending  
34 this section transfers the motorcycle education program from  
35 the department of education to the state department of

1 transportation.

2 Section 7--Current Code language regarding minimum speed  
3 limits on noninterstate, fully controlled-access highways does  
4 not allow flexibility for some highway sections where a slower  
5 minimum speed limit would be safe and accommodate certain  
6 agricultural-related traffic. Amending section 321.285,  
7 subsection 6, will authorize the department to set minimum  
8 speed limits based on engineering and safety criteria.

9 Section 8--The department retains 3 percent of a  
10 contractor's payment for public improvements until a project  
11 completes a final acceptance process. The department pays  
12 interest on the retained portion of the contract. The  
13 department can release these retained funds when a project is  
14 95 percent complete by entering into a supplemental contract.  
15 This can eliminate interest expense for the department and  
16 allow for better cash flow for the contractor. However, a  
17 supplemental contract is extra paperwork and the new national  
18 contract management system will not accommodate supplemental  
19 contracts. The new section 573.15A will authorize the  
20 department to release a contractor's retained funds without a  
21 supplemental contract.

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