

FILED FEB 25 1938

COMMERCE

SENATE FILE 2326

BY DELUHERY

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

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

Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to intrastate pipelines, interstate natural gas  
2 pipelines, and hazardous liquid pipelines, and agricultural  
3 land restoration, making penalties applicable, and providing  
4 an effective date.

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

- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

S.F. 2326

1 Section 1. Section 479.29, Code 1997, is amended to read  
2 as follows:

3 479.29 ~~CONSTRUCTION-STANDARDS~~ LAND RESTORATION.

4 1. The board shall, pursuant to chapter 17A, adopt rules  
5 establishing standards ~~for-the-protection-of-underground~~  
6 ~~improvements-during-the-construction-of-pipelines,-to-protect~~  
7 ~~soil-conservation-and-drainage-structures-from-being~~  
8 ~~permanently-damaged-by-pipeline-construction-and~~ for the  
9 restoration of agricultural lands after pipeline construction.

10 ~~To-ensure-that-all-interested-persons-are-informed-of-this~~  
11 ~~rulemaking-procedure-and-are-afforded-a-right-to-participate,~~  
12 ~~the-board-shall-schedule-an-opportunity-for-oral-presentations~~  
13 ~~on-the-proposed-rulemaking,-and,-in~~ In addition to the

14 requirements of section 17A.4, the board shall distribute  
15 copies of the notice of intended action and opportunity for  
16 oral presentations to each county board of supervisors. Any  
17 county board of supervisors may, under the provisions of  
18 chapter 17A, and subsequent to the rulemaking proceedings,  
19 petition under those provisions for additional rulemaking to  
20 establish standards ~~to-protect-soil-conservation-practices,~~

21 ~~structures-and-drainage-structures~~ for land restoration after  
22 pipeline construction within that county. Upon the request of

23 the petitioning county the board shall schedule a hearing to  
24 consider the merits of the petition. ~~Rules-adopted-under-this~~

25 ~~section-shall-not-apply-within-the-boundaries-of-a-city,~~  
26 ~~unless-the-land-is-used-for-agricultural-purposes-~~ Rules

27 adopted under this section shall not apply to land located  
28 within city boundaries, unless the land is used for

29 agricultural purposes. Rules adopted under this section shall  
30 address, but are not limited to, all of the following subject

31 matters:

- 32 a. Topsoil separation and replacement.
- 33 b. Temporary and permanent repair to drain tile.
- 34 c. Removal of rocks and debris from the right-of-way.
- 35 d. Restoration of areas of soil compaction.

1 e. Restoration of terraces, waterways, and other erosion  
2 control structures.

3 f. Revegetation of untilled land.

4 g. Future installation of drain tile or soil conservation  
5 structures.

6 h. Restoration of land slope and contour.

7 i. Restoration of areas used for field entrances and  
8 temporary roads.

9 j. Construction in wet conditions.

10 k. Designation of a pipeline company point of contact for  
11 landowner inquiries or claims.

12 2. The county board of supervisors shall cause an on-site  
13 inspection for compliance with the standards adopted under  
14 this section to be performed at any pipeline construction  
15 project in the county. A licensed professional engineer  
16 familiar with the standards adopted under this section and  
17 registered under chapter 542B shall be in responsible charge  
18 of the inspection. A county board of supervisors may contract  
19 for the services of a licensed professional engineer for the  
20 purposes of the inspection. The reasonable costs of the  
21 inspection shall be borne by the pipeline company.

22 3. If the inspector determines that there has been a  
23 violation of the standards adopted under this section, of the  
24 land restoration plan, or of an independent agreement on land  
25 restoration or line location executed in accordance with  
26 subsection 10, the inspector shall give oral notice, followed  
27 by written notice, to the pipeline company and the contractor  
28 operating for the pipeline company and order corrective action  
29 to be taken in compliance with the standards. The costs of  
30 the corrective action shall be borne by the contractor  
31 operating for the pipeline company.

32 ~~4. As a part of the inspection process, the inspector~~  
33 ~~shall ascertain that the trench excavation has been filled in~~  
34 ~~a manner to provide that the topsoil has been replaced on top~~  
35 ~~and rocks and debris have been removed from the topsoil of the~~

1 easement-area.--An-existing-topsoil-layer-extending-at-least  
2 one-foot-in-width-on-either-side-of-the-pipeline-excavation-at  
3 a-maximum-depth-of-twelve-inches-shall-be-removed-separately  
4 and-shall-be-stockpiled-and-preserved-separately-during  
5 subsequent-construction-operations,-unless-other-means-for  
6 separating-the-topsoil-are-provided-in-the-easement.--The  
7 topsoil-shall-be-replaced-so-the-upper-portion-of-the-pipeline  
8 excavation-and-the-crowned-surface-shall-contain-only-the  
9 topsoil-originally-removed-

10 5- 4. Adequate-inspection-of The inspector shall  
11 adequately inspect underground improvements altered during  
12 construction of pipeline. The inspection shall be conducted  
13 at the time of the replacement or repair of the underground  
14 improvements. An The inspector shall be present on the site  
15 at all times at each phase and separate activity of the  
16 opening of the trench, the restoration of underground  
17 improvements, and backfilling. The pipeline company and its  
18 contractor shall keep all county inspectors continually  
19 informed of the work schedule and any schedule changes. If  
20 proper notice is given, construction shall not be delayed due  
21 to the inspector's failure to be present on the site.

22 6- 5. If the pipeline company or its contractor does not  
23 comply with the orders of the inspector for compliance with  
24 the standards, with the land restoration plan, or with an  
25 independent agreement on land restoration or line location  
26 executed in accordance with subsection 10, the county board of  
27 supervisors may ~~direct-the-county-attorney-to-petition-the~~  
28 ~~district-court~~ petition the board for an order requiring  
29 corrective action to be taken in compliance with the standards  
30 adopted under this section. In addition, the county board of  
31 supervisors may file a complaint with the board seeking  
32 imposition of civil penalties pursuant to section 479.31.

33 7- 6. The pipeline company shall allow landowners and  
34 inspectors to view the proposed center line of the pipeline  
35 prior to commencing trenching operations to insure that

1 construction takes place in its proper location.

2 ~~8- 7.~~ An inspector may temporarily halt the construction  
3 if the construction is not in compliance with the law and the  
4 standards adopted pursuant to law, the land restoration plan,  
5 or the terms of the an independent agreement with the pipeline  
6 company regarding ~~topsoil-removal-and-replacement,-drainage~~  
7 ~~structures,-soil-moisture-conditions-or-the-location-of~~  
8 construction line location or land restoration. executed in  
9 accordance with subsection 10, until the inspector consults  
10 with the supervisory personnel of the pipeline company. ~~If~~  
11 ~~the-construction-is-then-continued-over-the-inspector's~~  
12 ~~objection-and-is-found-to-not-be-in-compliance-with-the-law-or~~  
13 ~~agreement-and-is-found-to-cause-damage,-any-civil-penalty~~  
14 ~~recovered-under-section-479.31-as-a-result-of-that-violation~~  
15 ~~shall-be-paid-to-the-landowner.~~

16 ~~9- 8.~~ The board shall instruct inspectors appointed by the  
17 board of supervisors regarding the content of the statutes and  
18 rules and the inspector's responsibility to require  
19 construction conforming with the standards provided by this  
20 chapter.

21 ~~10- 9.~~ ~~Any-underground-drain-tile-damaged,-cut,-or-removed~~  
22 ~~shall-be-temporarily-repaired-and-maintained-as-necessary-to~~  
23 ~~allow-for-its-proper-function-during-construction-of-the~~  
24 ~~pipeline.--if-temporary-repair-is-not-determined-to-be~~  
25 ~~necessary,-the-exposed-line-will-nonetheless-be-screened-or~~  
26 ~~otherwise-protected-to-prevent-the-entry-of-any-foreign~~  
27 ~~material,-small-animals,-etc.--into-the-tile-line-system.~~  
28 Petitioners for a permit for pipeline construction shall file  
29 with the petition a written land restoration plan showing how  
30 the requirements of this section, and of rules adopted  
31 pursuant to this section, will be met. The petitioners shall  
32 provide copies of the plan to all landowners of property that  
33 will be disturbed by the construction.

34 10. This section does not preclude the application of  
35 provisions for protecting or restoring property that are

1 different than those prescribed in this section, in rules  
2 adopted pursuant to this section, or in the land restoration  
3 plan, if the alternative provisions are contained in  
4 agreements independently executed by the pipeline company and  
5 landowner, and if the alternative provisions are not  
6 inconsistent with state law or with rules adopted by the  
7 board. Independent agreements on land restoration or line  
8 location between the landowner and pipeline company shall be  
9 in writing and a copy provided to the county inspector.

10 11. For purposes of this section, "construction" includes  
11 the removal of a previously constructed pipeline.

12 12. The requirements of this section shall apply only to  
13 pipeline construction projects commenced on or after June 1,  
14 1998.

15 Sec. 2. Section 479.45, Code 1997, is amended to read as  
16 follows:

17 479.45 PARTICULAR DAMAGE CLAIMS.

18 1. Compensable losses shall include, but are not limited  
19 to, all of the following:

20 a. Loss or reduced yield of crops or forage on the  
21 pipeline right-of-way, whether caused directly by construction  
22 or from disturbance of usual farm operations.

23 b. Loss or reduced yield of crops or yield from land near  
24 the pipeline right-of-way resulting from lack of timely access  
25 to the land or other disturbance of usual farm operations,  
26 including interference with irrigation.

27 c. Fertilizer, lime, or organic material applied by the  
28 landowner to restore land disturbed by construction to full  
29 productivity.

30 d. Loss of or damage to trees of commercial or other value  
31 that occurs at the time of construction or at the time of any  
32 subsequent work by the pipeline outside of the area cleared  
33 during construction.

34 ± e. The cost of moving or relocating livestock, and the  
35 loss of gain by or the death or injury of livestock caused by

1 the interruption or relocation of normal feeding of the  
2 livestock-caused-by-the-construction-or-repair-of-a-pipeline  
3 is-a-compensable-loss-and-shall-be-recognized-as-such-by-a  
4 pipeline-company.

5 f. Erosion on lands caused by construction.

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

14 Sec. 3. NEW SECTION. 479.48 REVERSION ON NONUSE.

15 1. If a pipeline right-of-way, or any part of a pipeline  
16 right-of-way, is wholly abandoned for pipeline purposes by the  
17 relocation of the pipeline, is not used or operated for a  
18 period of five years, or if the construction of the pipeline  
19 has been commenced and work has ceased and has not in good  
20 faith resumed for five years, the right-of-way may revert as  
21 provided in this section to the person who, at the time of the  
22 abandonment or nonuse, is the owner of the tract from which  
23 such right-of-way was taken. For purposes of this section, a  
24 pipeline is not considered abandoned or unused if it is  
25 transporting product or is being actively maintained with  
26 reasonable anticipation of a future use.

27 2. To effect a reversion on nonuse of right-of-way, the  
28 owner or holder of purported fee title to such real estate  
29 shall serve notice upon the owner of such right-of-way  
30 easement and, if filed of record, successors in interest and  
31 upon any party in possession of the real estate. The written  
32 notice shall accurately describe the real estate in question,  
33 set out the facts concerning ownership of the fee, ownership  
34 of the right-of-way easement, and the period of abandonment or  
35 nonuse, and notify the parties that such reversion shall be

1 complete and final, and that the easement or other right shall  
2 be forfeited, unless the parties shall, within one hundred  
3 twenty days after the completed service of notice, file an  
4 affidavit with the county recorder of the county in which the  
5 real estate is located disputing the facts contained in the  
6 notice.

7 3. The notice shall be served in the same manner as an  
8 original notice under the Iowa rules of civil procedure,  
9 except that when notice is served by publication an affidavit  
10 shall not be required before publication. If an affidavit  
11 disputing the facts contained in the notice is not filed  
12 within one hundred twenty days, the party serving the notice  
13 may file for record in the office of the county recorder a  
14 copy of the notice with proofs of service attached and  
15 endorsed, and when so recorded, the record shall be  
16 constructive notice to all persons of the abandonment,  
17 reversion, and forfeiture of such right-of-way.

18 4. Upon reversion of the easement, the landowner may take  
19 possession of and remove any pipe or pipeline facility  
20 remaining on the property.

21 5. If a pipeline right-of-way is abandoned for pipeline  
22 use, but the pipe is not removed from the right-of-way, the  
23 pipeline company shall remain responsible for the additional  
24 costs of subsequent tiling as provided for in section 479.47,  
25 shall mark the location of the line in response to a notice of  
26 proposed excavation in accordance with chapter 480, and shall  
27 remain subject to the damage provisions of this chapter in the  
28 event access to or excavation relating to the pipe is  
29 required. The landowner shall provide reasonable access to  
30 the pipeline in order to carry out the responsibilities of  
31 this subsection.

32 Sec. 4. Section 479A.14, Code 1997, is amended to read as  
33 follows:

34 479A.14 LAND RESTORATION -- STANDARDS -- INSPECTION.

35 1. The board shall adopt rules establishing standards to

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

- 26 a. Topsoil separation and replacement.  
27 b. Temporary and permanent repair to drain tile.  
28 c. Removal of rocks and debris from the right-of-way.  
29 d. Restoration of areas of soil compaction.  
30 e. Restoration of terraces, waterways, and other erosion  
31 control structures.  
32 f. Revegetation of untilled land.  
33 g. Future installation of drain tile or soil conservation  
34 structures.  
35 h. Restoration of land slope and contour.

1 i. Restoration of areas used for field entrances and  
2 temporary roads.

3 j. Construction in wet conditions.

4 k. Designation of a pipeline company point of contact for  
5 landowner inquiries or claims.

6 2. The county board of supervisors shall cause an on-site  
7 inspection for compliance with the standards adopted under  
8 this section to be performed at any pipeline construction  
9 project in the county. A licensed professional engineer  
10 familiar with the standards adopted under this section and  
11 registered under chapter 542B shall be placed in charge of the  
12 inspection. The reasonable costs of the inspection shall be  
13 borne by the pipeline company.

14 3. If the inspector determines that there has been a  
15 violation of the standards adopted under this section, of the  
16 land restoration plan, or of an independent agreement on land  
17 restoration executed in accordance with subsection 10, the  
18 inspector shall give oral notice, followed by written notice,  
19 to the pipeline company and the contractor operating for the  
20 pipeline company, and order corrective action to be taken in  
21 compliance with the standards. The costs of the corrective  
22 action shall be borne by the contractor operating for the  
23 pipeline company.

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

1 removed.

2 5- 4. ~~Adequate-inspection-of~~ The inspector shall  
3 adequately inspect underground improvements altered during  
4 construction of a pipeline. The inspection shall be conducted  
5 at the time of the replacement or repair of the underground  
6 improvements. ~~An~~ The inspector shall be present on the site  
7 at all times at each phase and separate activity of the  
8 opening of the trench, the restoration of underground  
9 improvements, and backfilling. The pipeline company and its  
10 contractor shall keep all county inspectors continually  
11 informed of the work schedule and any schedule changes. If  
12 proper notice is given, construction shall not be delayed due  
13 to the inspector's failure to be present on the site.

14 6- 5. If the pipeline company or its contractor does not  
15 comply with the orders of the inspector for compliance with  
16 the standards, with the land restoration plan, or with an  
17 independent agreement on land restoration executed in  
18 accordance with subsection 10, the county board of supervisors  
19 ~~may direct-the-county-attorney-to-petition-the-district-court~~  
20 petition the board for an order requiring corrective action to  
21 be taken in compliance with the standards adopted under this  
22 section. In addition, the county board of supervisors may  
23 file a complaint with the board seeking imposition of civil  
24 penalties pursuant to section 479A.16.

25 7- 6. The pipeline company shall allow landowners and  
26 inspectors to view the proposed center line of the pipeline  
27 before commencing trenching operations to ensure that  
28 construction takes place in the proper location.

29 8- 7. An inspector may temporarily halt the construction  
30 if the construction is not in compliance with this chapter and  
31 the standards adopted under ~~it~~ this chapter, the land  
32 restoration plan approved by the board, or the terms of the an  
33 independent agreement with the pipeline company regarding  
34 topsoil-removal-and-replacement, drainage-structures, soil  
35 moisture-conditions, or the location of construction, line

1 location or land restoration executed in accordance with  
2 subsection 10, until the inspector consults with the  
3 supervisory personnel of the pipeline company. If the  
4 construction is continued over the inspector's objection and  
5 is found not to be in compliance with this chapter, the  
6 standards, or the agreement, and is found to cause damage, a  
7 civil penalty recovered under section 479A:16 as a result of  
8 that violation shall be paid to the landowner.

9 9. 8. The board shall instruct inspectors appointed by the  
10 county board of supervisors regarding the content of this  
11 chapter and the standards and the inspectors' responsibility  
12 to require construction conforming with them.

13 10. 9. ~~An underground drain tile damaged, cut, or removed~~  
14 ~~shall be temporarily repaired and maintained as necessary to~~  
15 ~~allow for its proper function during construction of the~~  
16 ~~pipeline. If temporary repair is determined not to be~~  
17 ~~necessary, the exposed line shall be screened or otherwise~~  
18 ~~protected to prevent the entry of foreign material or small~~  
19 ~~animals into the tile line system. Prior to the initiation of~~  
20 construction, the pipeline company shall file a written land  
21 restoration plan with the board describing the methods and  
22 procedures by which compliance with this section and the  
23 standards adopted under this section will be achieved. The  
24 board shall review this plan to insure that the requirements  
25 of this section and rules adopted pursuant to this section are  
26 met. After board review, the pipeline company shall provide  
27 copies of the plan to all landowners of property that will be  
28 disturbed by the construction.

29 11. 10. This section does not preclude the application of  
30 provisions for protecting or restoring property that are  
31 different than those prescribed in this section, in rules  
32 adopted pursuant to this section, or in the land restoration  
33 plan if the alternative provisions are contained in agreements  
34 independently executed by the pipeline company and the  
35 landowner, and if the alternative provisions are not

1 inconsistent with state law or with rules adopted by the  
2 board. Independent agreements on land restoration or line  
3 location between the landowner and pipeline company shall be  
4 in writing and a copy provided to the county inspector.

5 11. For the purposes of this section, "construction"  
6 includes the removal of a previously constructed pipeline.

7 12. The requirements of this section shall not apply to  
8 pipeline projects that have received a certificate for the  
9 federal energy regulatory commission prior to the effective  
10 date of this Act.

11 Sec. 5. Section 479A.24, subsections 1 and 2, Code 1997,  
12 are amended to read as follows:

13 1. Compensable losses shall include, but are not limited  
14 to, all of the following:

15 a. Loss or reduced yield of crops or forage on the  
16 pipeline right-of-way, whether caused directly by construction  
17 or from disturbance of usual farm operations.

18 b. Loss or reduced yield of crops or yield from land near  
19 the pipeline right-of-way resulting from lack of timely access  
20 to the land or other disturbance of usual farm operations,  
21 including interference with irrigation.

22 c. Fertilizer, lime, or organic material applied by the  
23 landowner to restore land disturbed by construction to full  
24 productivity.

25 d. Loss of or damage to trees of commercial or other value  
26 that occurs at the time of construction or at the time of any  
27 subsequent work by the pipeline outside of the area cleared  
28 during construction.

29 ± e. The cost of moving or relocating livestock, and the  
30 loss of gain by, or the death or injury of livestock caused by  
31 the interruption or relocation of normal feeding of the  
32 livestock-due-to-the-construction-or-repair-of-a-pipeline-is-a  
33 compensable-loss-and-shall-be-so-recognized-by-a-pipeline  
34 company.

35 f. Erosion on lands caused by construction.

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

9 Sec. 6. NEW SECTION. 479A.27 REVERSION ON NONUSE.

10 1. If a pipeline right-of-way, or any part of a pipeline  
11 right-of-way, is wholly abandoned for pipeline purposes by the  
12 relocation of the pipeline, is not used or operated for a  
13 period of five years, or if the construction of the pipeline  
14 has been commenced and work has ceased and has not in good  
15 faith resumed for five years, the right-of-way may revert as  
16 provided in this section to the person who, at the time of the  
17 abandonment or nonuse, is the owner of the tract from which  
18 such right-of-way was taken. Abandonment of pipeline  
19 facilities requires approval from the federal energy  
20 regulatory commission prior to this provision taking effect.

21 2. To effect a reversion on nonuse of right-of-way, the  
22 owner or holder of purported fee title to such real estate  
23 shall serve notice upon the owner of such right-of-way  
24 easement and, if filed of record, successors in interest and  
25 upon any party in possession of the real estate. The written  
26 notice shall accurately describe the real estate in question,  
27 set out the facts concerning ownership of the fee, ownership  
28 of the right-of-way easement, and the period of abandonment or  
29 nonuse, and notify the parties that such reversion shall be  
30 complete and final, and that the easement or other right shall  
31 be forfeited, unless the parties shall, within one hundred  
32 twenty days after the completed service of notice, file an  
33 affidavit with the county recorder of the county in which the  
34 real estate is located disputing the facts contained in the  
35 notice.

1 3. The notice shall be served in the same manner as an  
2 original notice under the Iowa rules of civil procedure,  
3 except that when notice is served by publication an affidavit  
4 shall not be required before publication. If an affidavit  
5 disputing the facts contained in the notice is not filed  
6 within one hundred twenty days, the party serving the notice  
7 may file for record in the office of the county recorder a  
8 copy of the notice with proofs of service attached and  
9 endorsed, and when so recorded, the record shall be  
10 constructive notice to all persons of the abandonment,  
11 reversion, and forfeiture of such right-of-way.

12 4. Upon reversion of the easement, the landowner may take  
13 possession of and remove any pipe or pipeline facility  
14 remaining on the property.

15 5. If a pipeline right-of-way is abandoned for pipeline  
16 use, but the pipe is not removed from the right-of-way, the  
17 pipeline company shall remain responsible for the additional  
18 costs of subsequent tiling as provided for in section 479A.26,  
19 shall mark the location of the line in response to a notice of  
20 proposed excavation in accordance with chapter 480, and shall  
21 remain subject to the damage provisions of this chapter in the  
22 event access to or excavation relating to the pipe is  
23 required. The landowner shall provide reasonable access to  
24 the pipeline in order to carry out the responsibilities of  
25 this subsection.

26 Sec. 7. Section 479B.20, Code 1997, is amended to read as  
27 follows:

28 479B.20 LAND RESTORATION STANDARDS.

29 1. The board, pursuant to chapter 17A, shall adopt rules  
30 establishing standards for ~~the protection of underground~~  
31 ~~improvements during the construction of pipelines or~~  
32 ~~underground storage facilities, to protect soil conservation~~  
33 ~~and drainage structures from being permanently damaged by~~  
34 ~~construction of the pipeline or underground storage facility,~~  
35 and for the restoration of agricultural lands after pipeline

1 or underground storage facility construction. ~~To ensure that~~  
2 ~~all interested persons are informed of this rulemaking~~  
3 ~~procedure and are afforded a right to participate, the board~~  
4 ~~shall schedule an opportunity for oral presentations on the~~  
5 ~~proposed rulemaking, and, in~~ In addition to the requirements  
6 of section 17A.4, the board shall distribute copies of the  
7 notice of intended action and opportunity for oral  
8 presentations to each county board of supervisors. Any county  
9 board of supervisors may, under the provisions of chapter 17A,  
10 and subsequent to the rulemaking proceedings, petition under  
11 those provisions for additional rulemaking to establish  
12 ~~standards to protect soil conservation practices, structures,~~  
13 ~~and drainage structures~~ for land restoration after pipeline  
14 construction within that county. Upon the request of the  
15 petitioning county, the board shall schedule a hearing to  
16 consider the merits of the petition. ~~Rules adopted under this~~  
17 ~~section shall not apply within the boundaries of a city unless~~  
18 ~~the land is used for agricultural purposes.~~ Rules adopted  
19 under this section shall not apply to land located within city  
20 boundaries, unless the land is used for agricultural purposes.  
21 Rules adopted under this section shall address, but are not  
22 limited to, all of the following subject matters:  
23     a. Topsoil separation and replacement.  
24     b. Temporary and permanent repair to drain tile.  
25     c. Removal of rocks and debris from the right-of-way.  
26     d. Restoration of areas of soil compaction.  
27     e. Restoration of terraces, waterways, and other erosion  
28 control structures.  
29     f. Revegetation of untilled land.  
30     g. Future installation of drain tile or soil conservation  
31 structures.  
32     h. Restoration of land slope and contour.  
33     i. Restoration of areas used for field entrances and  
34 temporary roads.  
35     j. Construction in wet conditions.

1 k. Designation of a pipeline company point of contact for  
2 landowner inquiries or claims.

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 licensed professional engineer  
7 familiar with the standards adopted under this section and  
8 registered under chapter 542B shall be responsible for the  
9 inspection. A county board of supervisors may contract for  
10 the services of a licensed professional engineer for the  
11 purposes of the inspection. The reasonable costs of the  
12 inspection shall be paid by the pipeline company.

13 3. If the inspector determines that there has been a  
14 violation of the standards adopted under this section, of the  
15 land restoration plan, or of an independent agreement on land  
16 restoration executed in accordance with subsection 10, the  
17 inspector shall give oral notice, followed by written notice,  
18 to the pipeline company and the contractor operating for the  
19 pipeline company and order corrective action to be taken in  
20 compliance with the standards. The costs of the corrective  
21 action shall be borne by the contractor operating for the  
22 pipeline company.

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

1     5- 4. ~~Adequate-inspection-of~~ The inspector shall  
2 adequately inspect underground improvements altered during  
3 construction of the pipeline. The inspection shall be  
4 conducted at the time of the replacement or repair of the  
5 underground improvements. ~~An~~ The inspector shall be present  
6 on the site at all times at each phase and separate activity  
7 of the opening of the trench, the restoration of underground  
8 improvements, and backfilling. The pipeline company and its  
9 contractor shall keep all county inspectors continually  
10 informed of the work schedule and any schedule changes. If  
11 proper notice is given, construction shall not be delayed due  
12 to the inspector's failure to be present on the site.

13     6- 5. If the pipeline company or its contractor does not  
14 comply with the orders of the inspector for compliance with  
15 the standards, with the land restoration plan, or with an  
16 independent agreement on land restoration executed in  
17 accordance with subsection 10, the county board of supervisors  
18 ~~may direct-the-county-attorney-to-petition-the-district-court~~  
19 petition the board for an order requiring corrective action to  
20 be taken in compliance with the standards adopted under this  
21 section. In addition, the county board of supervisors may  
22 file a complaint with the board seeking imposition of civil  
23 penalties under section 479B.21.

24     7- 6. The pipeline company shall allow landowners and  
25 inspectors to view the proposed center line of the pipeline  
26 prior to commencing trenching operations to ensure that  
27 construction takes place in its proper location.

28     8- 7. An inspector may temporarily halt the construction  
29 if the construction is not in compliance with the law and the  
30 standards adopted pursuant to law, the land restoration plan,  
31 or the terms of the an independent agreement with the pipeline  
32 company regarding ~~topsoil-removal-and-replacement, drainage~~  
33 ~~structures, soil-moisture-conditions, or the location of~~  
34 construction line location or land restoration executed in  
35 accordance with subsection 10, until the inspector consults

1 with the supervisory personnel of the pipeline company. If  
2 ~~the construction is then continued over the inspector's~~  
3 ~~objection and is found not to be in compliance with the law or~~  
4 ~~agreement and is found to cause damage, any civil penalty~~  
5 ~~recovered under section 479B:21 as a result of that violation~~  
6 ~~shall be paid to the landowner.~~

7 9: 8. The board shall instruct inspectors appointed by the  
8 board of supervisors regarding the content of the statutes and  
9 rules and the inspector's responsibility to require  
10 construction conforming with the standards provided by this  
11 chapter.

12 ~~10: 9. Any underground drain tile damaged, cut, or removed~~  
13 ~~shall be temporarily repaired and maintained as necessary to~~  
14 ~~allow for its proper function during construction of the~~  
15 ~~pipeline or underground storage facility. If temporary repair~~  
16 ~~is not determined to be necessary, the exposed tile shall~~  
17 ~~nonetheless be screened or otherwise protected to prevent the~~  
18 ~~entry of any foreign material or small animals into the tile~~  
19 ~~line system.~~ Petitioners for a permit for pipeline  
20 construction shall file with the petition a written land  
21 restoration plan showing how the requirements of this section,  
22 and of rules adopted pursuant to this section, will be met.  
23 The company shall provide copies of the plan to all landowners  
24 of property that will be disturbed by the construction.

25 ~~11: 10.~~ This section does not preclude the application of  
26 provisions for protecting or restoring property that are  
27 different than those prescribed in this section, in rules  
28 adopted under this section, or in the land restoration plan,  
29 if the alternative provisions are contained in agreements  
30 independently executed by the pipeline company and the  
31 landowner, and if the alternative provisions are not  
32 inconsistent with state law or with rules adopted by the  
33 board. Independent agreements on land restoration or line  
34 location between the landowner and pipeline company shall be  
35 in writing and a copy provided to the county inspector.

1 11. For the purposes of this section, "construction"  
2 includes the removal of a previously constructed pipeline.

3 12. The requirements of this section shall apply only to  
4 pipeline construction projects commenced on or after June 1,  
5 1998.

6 Sec. 8. Section 479B.29, subsection 1, Code 1997, is  
7 amended to read as follows:

8 1. Compensable losses shall include, but are not limited  
9 to, all of the following:

10 a. Loss or reduced yield of crops or forage on the  
11 pipeline right-of-way, whether caused directly by construction  
12 or from disturbance of usual farm operations.

13 b. Loss or reduced yield of crops or yield from land near  
14 the pipeline right-of-way resulting from lack of timely access  
15 to the land or other disturbance of usual farm operations,  
16 including interference with irrigation.

17 c. Fertilizer, lime, or organic material applied by the  
18 landowner to restore land disturbed by construction to full  
19 productivity.

20 d. Loss of or damage to trees of commercial or other value  
21 that occurs at the time of construction or at the time of any  
22 subsequent work by the pipeline outside of the area cleared  
23 during construction.

24 1- e. The cost of moving or relocating livestock, and the  
25 loss of gain by or the death or injury of livestock caused by  
26 the interruption or relocation of normal feeding of-the  
27 livestock-caused-by-the-construction-or-repair-of-a-pipeline  
28 or-underground-storage-facility-is-a-compensable-loss-and  
29 shall-be-recognized-by-a-pipeline-company.

30 f. Erosion on lands caused by construction.

31 Sec. 9. NEW SECTION. 479B.32 REVERSION ON NONUSE.

32 1. If a pipeline right-of-way, or any part of the pipeline  
33 right-of-way, is wholly abandoned for pipeline purposes by the  
34 relocation of the line, is not used or operated for a period  
35 of five years, or if the construction of the pipeline has been

1 commenced and work has ceased and has not in good faith  
2 resumed for five years, the right-of-way may revert as  
3 provided in this section to the person who, at the time of the  
4 abandonment or nonuse, is the owner of the tract from which  
5 such right-of-way was taken. For purposes of this section, a  
6 pipeline is not considered abandoned or unused if it is  
7 transporting product or is being actively maintained with  
8 reasonable anticipation of a future use.

9 2. To effect a reversion on nonuse of right-of-way, the  
10 owner or holder of purported fee title to such real estate  
11 shall serve notice upon the owner of such right-of-way  
12 easement and, if filed of record, successors in interest and  
13 upon any party in possession of the real estate. The written  
14 notice shall accurately describe the real estate in question,  
15 set out the facts concerning ownership of the fee, ownership  
16 of the right-of-way easement, and the period of abandonment or  
17 nonuse, and notify the parties that such reversion shall be  
18 complete and final, and that the easement or other right shall  
19 be forfeited, unless the parties shall, within one hundred  
20 twenty days after the completed service of notice, file an  
21 affidavit with the county recorder of the county in which the  
22 real estate is located disputing the facts contained in the  
23 notice.

24 3. The notice shall be served in the same manner as an  
25 original notice under the Iowa rules of civil procedure,  
26 except that when notice is served by publication an affidavit  
27 shall not be required before publication. If an affidavit  
28 disputing the facts contained in the notice is not filed  
29 within one hundred twenty days, the party serving the notice  
30 may file for record in the office of the county recorder a  
31 copy of the notice with proofs of service attached and  
32 endorsed, and when so recorded, the record shall be  
33 constructive notice to all persons of the abandonment,  
34 reversion, and forfeiture of such right-of-way.

35 4. Upon reversion of the easement, the landowner may take

1 possession of and remove any pipe or pipeline facility  
2 remaining on the property.

3 5. If a pipeline right-of-way is abandoned for pipeline  
4 use, but the pipe is not removed from the right-of-way, the  
5 pipeline company shall remain responsible for the additional  
6 costs of subsequent tiling as provided for in section 479B.31,  
7 shall mark the location of the line in response to a notice of  
8 proposed excavation in accordance with chapter 480, and shall  
9 remain subject to the damage provisions of this chapter in the  
10 event access to or excavation relating to the pipe is  
11 required. The landowner shall provide reasonable access to  
12 the pipeline in order to carry out the responsibilities of  
13 this subsection.

14 Sec. 10. EFFECTIVE DATE. This Act takes effect on June 1,  
15 1998.

16 EXPLANATION

17 This bill amends similar Code sections in Code chapters  
18 479, 479A, and 479B relating to pipelines, natural gas  
19 pipelines, and hazardous liquid pipelines.

20 The bill requires the utilities board to establish  
21 standards for the restoration of agricultural lands after  
22 pipeline construction. The bill provides a number of  
23 specified areas for which rules shall be provided and the  
24 rules adopted shall not apply to land located within city  
25 boundaries, unless the land is used for agricultural purposes.  
26 The bill allows county boards of supervisors to petition for  
27 rulemaking to establish standards for land restoration after  
28 pipeline construction within that county.

29 The bill requires that inspections for compliance with  
30 standards shall be conducted by licensed professional  
31 engineers. The inspector shall inspect for violations of  
32 standards adopted by the board, standards of a land  
33 restoration plan, and standards of an independent agreement.  
34 The bill requires the inspector to adequately inspect and to  
35 be present on the site at certain times. The bill provides

1 that if proper notice is given, construction shall not be  
2 delayed due to the inspector's failure to be present on the  
3 site. The bill provides that if a pipeline company or its  
4 contractor fail to comply with orders of the inspector, the  
5 county board of supervisors may petition the utilities board  
6 for an order requiring corrective action and the county board  
7 of supervisors may file a complaint with the utilities board  
8 seeking imposition of civil penalties. An inspector may  
9 temporarily halt construction if construction is not in  
10 compliance.

11 The bill provides that petitioners for a permit for  
12 pipeline construction shall file with the petition a written  
13 land restoration plan showing how compliance will be met. The  
14 bill allows for the application of provisions for protecting  
15 or restoring property that are different than those prescribed  
16 by law, rules, or in a land restoration plan which are  
17 contained in an agreement independently executed by the  
18 pipeline company and landowner if the alternative provisions  
19 are not inconsistent with state law or rule.

20 The bill provides for a list of compensable losses  
21 including loss or reduced yield of crops or forage, material  
22 applied by the landowner to restore land, loss of or damage to  
23 trees, the cost of moving or relocating livestock, and erosion  
24 of land.

25 The bill provides a method for the reversion of a right-of-  
26 way to the owner of the tract of land from which the right-of-  
27 way was taken when the pipeline right-of-way is wholly  
28 abandoned for pipeline purposes. The bill provides notice  
29 requirements and the method of service of notice to effect a  
30 reversion on nonuse of a right-of-way. Upon reversion of the  
31 easement, the landowner may take possession of and remove any  
32 pipe or pipeline facility remaining on the property. The  
33 pipeline company is responsible for certain costs when the  
34 pipeline right-of-way is abandoned for pipeline use, but the  
35 pipe is not removed.

1 The bill takes effect June 1, 1998.

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35