

Angelo  
Bartz  
Reife  
Judge  
McCoy

SSB-1170  
Local Government  
Succeeded  
SF/HF 351

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON LOCAL  
GOVERNMENT BILL BY CHAIRPERSON  
ANGELO)

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

**A BILL FOR**

1 An Act relating to the exercise of the power of eminent domain  
2 and to condemnation proceedings and providing for the Act's  
3 applicability.

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

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1 Section ~~1.~~ NEW SECTION. 6A.21 CONDEMNATION OF  
2 AGRICULTURAL LAND -- DEFINITIONS.

3 1. Except as otherwise provided, for purposes of this  
4 chapter and chapter 6B:

5 a. "Agricultural land" means real property that is used  
6 for the production of agricultural commodities and from which  
7 one thousand dollars or more of agricultural commodities were  
8 sold or normally would be sold during the year. Such use of  
9 property includes, but is not limited to, the raising,  
10 harvesting, handling, drying, or storage of crops used for  
11 feed, food, seed, or fiber; the care or feeding of livestock;  
12 the handling or transportation of crops or livestock; the  
13 storage, treatment, or disposal of livestock manure; and the  
14 application of fertilizers, soil conditioners, pesticides, and  
15 herbicides on crops. Agricultural land includes land on which  
16 is located farm residences or outbuildings used for  
17 agricultural purposes and land on which is located facilities,  
18 structures, or equipment for agricultural purposes.  
19 Agricultural land includes land taken out of agricultural  
20 production for purposes of environmental protection or  
21 preservation.

22 b. "Private development purposes" means the construction  
23 of, or improvement related to, recreational trails,  
24 recreational development paid for primarily with private  
25 funds, housing and residential development, or commercial or  
26 industrial enterprise development.

27 c. "Public use" or "public purpose" or "public  
28 improvement" does not include the authority to condemn  
29 agricultural land for private development purposes unless the  
30 owner of the agricultural land consents to the condemnation.

31 2. The limitation on the definition of public use, public  
32 purpose, or public improvement does not apply to a slum area  
33 or blighted area as defined in section 403.17, or to an  
34 industrial enterprise if the economic development board has  
35 approved the use of eminent domain under section 15.104,

1 subsection 9, or to the establishment, relocation, or  
 2 improvement of a road pursuant to chapter 306, or to an  
 3 airport as defined in section 328.1, or to land acquired in  
 4 order to replace or mitigate land used in a road project when  
 5 federal law requires replacement or mitigation. This  
 6 limitation also does not apply to utilities or persons under  
 7 the jurisdiction of the Iowa utilities board in the department  
 8 of commerce or to any other utility conferred the right by  
 9 statute to condemn private property or to otherwise exercise  
 10 the power of eminent domain.

11 Sec. 2. NEW SECTION. 6B.2A NOTICE OF PROPOSED PUBLIC  
 12 IMPROVEMENT.

13 1. An acquiring agency shall provide written notification  
 14 to each owner of record of private property that may be the  
 15 subject of condemnation. The authority under this chapter is  
 16 not conferred and condemnation proceedings shall not begin  
 17 unless a good faith effort is made to serve the notice as  
 18 provided in this section on the owner of record of the  
 19 property subject to condemnation. The notice shall be mailed  
 20 by ordinary mail to the owner of record's last known address  
 21 no less than thirty days before adoption of the ordinance,  
 22 resolution, motion, or other declaration of intent to proceed  
 23 with the public improvement and the acquisition or  
 24 condemnation, if necessary, of the property. If the location  
 25 of the public improvement is changed or expanded after the  
 26 decision has been made to proceed with the public improvement,  
 27 a notice shall be mailed by ordinary mail no less that thirty  
 28 days before the adoption of the ordinance, resolution, motion,  
 29 or other declaration of intent to proceed with a change in the  
 30 location of the public improvement to the owner of record of  
 31 the land to be acquired or condemned, if necessary, in the new  
 32 location of the public improvement affected by the change.  
 33 The notice shall include the statement of individual rights  
 34 required under section 6B.2B. The notice shall, at a minimum,  
 35 include the following information:

- 1 a. The general nature of the public improvement.
- 2 b. The acquiring agency's intended use of the private  
3 property for the public improvement.
- 4 c. The process to be followed by the acquiring agency in  
5 making the decision to proceed with the public improvement and  
6 the acquisition or condemnation, if necessary, of the  
7 property.
- 8 d. The time, place, and manner at which an opportunity is  
9 provided for public input into the decision to proceed with  
10 the public improvement and the acquisition or condemnation, if  
11 necessary, of the property.
- 12 e. The current status in the planning process for the  
13 public improvement, including meetings held and decisions  
14 made.

15 2. The authority to condemn is not conferred until the  
16 appropriate authority approves the public improvement,  
17 including the approval of any permits required by state or  
18 federal law which permits are necessary for commencement of  
19 the project. This subsection does not apply to land condemned  
20 for public improvements undertaken pursuant to section 306.19.

21 3. If, after making a good faith effort, an acquiring  
22 agency is unable to ascertain the owner of record's last known  
23 address, or the identity of the owner of record is uncertain,  
24 or the mail is returned as undeliverable or is refused, the  
25 acquiring agency shall cause a notice to be published once in  
26 a newspaper of general circulation in the county or city where  
27 the private property is located.

28 Sec. 3. NEW SECTION. 6B.2B ACQUISITION NEGOTIATION  
29 STATEMENT OF RIGHTS.

30 1. The acquiring agency shall make a good faith effort to  
31 negotiate with the owner to purchase the private property  
32 before filing an application for condemnation or otherwise  
33 proceed with the condemnation process.

34 2. The acquiring agency shall provide the owner of record  
35 of the private property with a statement of their individual

1 rights to be included with the notice required under section  
2 6B.2A. The attorney general shall adopt rules pursuant to  
3 chapter 17A prescribing a statement of rights which may be  
4 used in substantial form by any person required to provide the  
5 statement by this section.

6 Sec. 4. Section 6B.3, Code 1999, is amended to read as  
7 follows:

8 6B.3 APPLICATION -- RECORDING -- NOTICE -- TIME FOR  
9 APPRAISEMENT -- NEW PROCEEDINGS.

10 1. Such The proceedings shall be instituted by a written  
11 application filed with the chief judge of the judicial  
12 district of the county in which the land sought to be  
13 condemned is located. Said The application shall set forth:

14 1 a. A description of all the property in the county,  
15 affected or sought to be condemned, by its congressional  
16 numbers, in tracts not exceeding one-sixteenth of a section,  
17 or, if the land consists of lots, by the numbers of the lot  
18 and block, and plat designation.

19 2 b. A plat showing the location of the right-of-way or  
20 other property sought to be condemned with reference to such  
21 description.

22 3 c. The names of all record owners of the different  
23 tracts of land sought to be condemned, or otherwise affected  
24 by such proceedings, and of all record holders of liens and  
25 encumbrances on such lands; also the place of residence of all  
26 such persons so far as known to the applicant.

27 4 d. The purpose for which condemnation is sought.

28 5 e. A request for the appointment of a commission to  
29 appraise the damages.

30 6 f. If the damages are to be paid by the state and the  
31 land to be condemned is within an agricultural area as  
32 provided in chapter 352, a statement disclosing whether any of  
33 that land is classified as class I or class II land under the  
34 United States department of agriculture natural resources  
35 conservation service land capability classification system

1 contained in the agriculture handbook number 210, 1961 edition  
2 and, if so classified, stating that the class I or class II  
3 land is reasonably necessary for the work of internal  
4 improvement for which condemnation is sought.

5 g. A showing of the minimum amount of land necessary to  
6 achieve the public purpose and the amount of land to be  
7 acquired by condemnation for the public improvement. Any land  
8 to be acquired by condemnation beyond the necessary minimum to  
9 complete the project shall be presumed not to be necessary for  
10 a public use or public purpose unless the applicant can show  
11 that a substantial need exists for the additional property to  
12 achieve the public use or public purpose, or that the land in  
13 question is of little or no value or utility to the owner, or  
14 that the owner consents to the condemnation.

15 h. A statement indicating the efforts made by the  
16 applicant to negotiate in good faith with the owner to acquire  
17 the private property sought to be condemned.

18 2. The applicant shall mail a copy of the application by  
19 certified mail to the owner at the owner's last known address  
20 and to any mortgagee of record at the mortgagee's last known  
21 address and to any other record lienholder or encumbrancer of  
22 the land at the lienholder's or encumbrancer's last known  
23 address. If service of notice by certified mail cannot be  
24 made in the manner prescribed in this section, the applicant  
25 shall cause a notice to be published once in a newspaper of  
26 general circulation in the county. If service of notice is  
27 made by publication, an affidavit shall be filed with the  
28 county recorder along with the application. The affidavit  
29 shall state the reason why service of notice by certified mail  
30 could not be made, the name of the publication, and the date  
31 of the publication. Service of notice by publication shall be  
32 deemed complete on the day of publication.

33 7 3. The applicant shall promptly certify that its  
34 application for condemnation has been approved by the chief  
35 judge and shall file the original approved application with

1 the county recorder in the manner required under section  
 2 6B.37. The county recorder shall file and index the  
 3 application in the record of deeds and preserve the  
 4 application as required by sections 6B.38 and 558.55. The  
 5 filing and indexing constitute constructive notice to all  
 6 parties that a proceeding to condemn the property is pending  
 7 and that the applicant has the right to acquire the property  
 8 from all owners, lienholders, and encumbrancers whose  
 9 interests are of record at the time of the filing. When  
 10 indexed, the proceeding is considered pending so as to charge  
 11 all persons not having an interest in the property with notice  
 12 of its pendency, and while pending no interest can be acquired  
 13 by the third parties in the property against the rights of the  
 14 applicant. If the appraisal of damages is not made within  
 15 one hundred twenty days, the proceedings instituted under this  
 16 section are terminated and all rights and interests of the  
 17 applicant arising out of the application for condemnation  
 18 terminate. The applicant may reinstitute a new condemnation  
 19 proceeding at any time. The reinstated proceedings are  
 20 entirely new proceedings and not a revival of the terminated  
 21 proceeding.

22 Sec. 5. Section 6B.4, unnumbered paragraph 2, Code 1999,  
 23 is amended to read as follows:

24 The chief judge of the judicial district shall select by  
 25 lot six persons from the list, two persons who are owner-  
 26 operators of agricultural property when the property to be  
 27 condemned is agricultural property; two persons who are owners  
 28 of city property when the property to be condemned is other  
 29 than agricultural property; and two persons from each of the  
 30 remaining two representative groups, who shall constitute a  
 31 compensation commission to assess the damages to all property  
 32 to be taken by the applicant and located in the county, and  
 33 shall name a chairperson from the persons selected. No A  
 34 person shall not be selected as a member of the compensation  
 35 commission ~~selected-shall-possess~~ if the person possesses any

1 interest in the proceeding which would cause ~~such~~ the person  
2 to render a biased decision. The clerk of the district court  
3 shall send, by regular mail, a list of those persons selected  
4 to the applicant and to the owner of the property at the  
5 owner's last known address. The list shall be provided prior  
6 to the mailing, by any party, of a notice of assessment under  
7 section 6B.8. If the clerk of the district court is unable to  
8 locate an address for the owner of the property, the list  
9 shall be published once in a newspaper of general circulation  
10 in the county. The applicant shall reimburse the clerk of the  
11 district court for the cost of mailing and publication.

12 Sec. 6. Section 6B.7, Code 1999, is amended to read as  
13 follows:

14 6B.7 COMMISSIONERS TO QUALIFY.

15 Before proceeding with the assessment all commissioners  
16 shall qualify by filing with the sheriff a written oath that  
17 they will to the best of their ability faithfully and  
18 impartially assess ~~said~~ damages and make a written report to  
19 the sheriff. The applicant or the owner may challenge one  
20 commissioner without stating cause. A challenge to the  
21 appointment of a commissioner must be made to the chief judge  
22 of the judicial district no less than seventy-two hours before  
23 the condemnation jury is set to meet. A commissioner shall be  
24 appointed to fill a vacancy resulting from a challenge no less  
25 than twenty-four hours before the jury is set to meet.

26 Sec. 7. Section 6B.8, Code 1999, is amended to read as  
27 follows:

28 6B.8 NOTICE OF ASSESSMENT.

29 The applicant, or the owner or any lienholder or  
30 encumbrancer of any land described in the application, may, at  
31 any time after the appointment of the commissioners, have the  
32 damages to the lands of any such owner assessed by giving the  
33 other party, if a resident of this state, ~~ten~~ thirty days'  
34 notice, in writing. Such The notice shall specify the day and  
35 the hour when the commissioners will view the premises, and

1 shall be personally served in the same manner as original  
2 notices.

3 Service of the notice to a person not a resident of this  
4 state shall be by certified mail to the person's last known  
5 address. At the same time, the applicant shall cause a notice  
6 to be published once in a newspaper of general circulation in  
7 the county prior to the day fixed for the appraisalment, which  
8 day shall be at least thirty days after publication. Service  
9 of notice in this manner shall be deemed complete on the day  
10 of publication.

11 Sec. 8. Section 6B.12, Code 1999, is amended to read as  
12 follows:

13 6B.12 NOTICE ~~TO~~-NONRESIDENTS WHEN RESIDENCE UNKNOWN.

14 ~~If the owner of such lands or any person interested therein~~  
15 ~~is a nonresident of this state, or if~~ If the person's  
16 residence is unknown after a good faith effort is made to find  
17 the person's last known address, no demand for the land for  
18 ~~the purposes sought shall be necessary, but~~ the notice  
19 ~~aforsaid~~ required in section 6B.8 shall be published in some  
20 a newspaper of general circulation in the county and of  
21 ~~general circulation therein,~~ once each week for at least four  
22 successive weeks prior to the day fixed for the appraisalment,  
23 which day shall be at least thirty days after the first  
24 publication of the notice.

25 Sec. 9. Section 6B.14, unnumbered paragraph 3, Code 1999,  
26 is amended to read as follows:

27 ~~In addition to all other damages provided by law, except~~  
28 ~~moving expenses paid or required to be paid under relocation~~  
29 ~~assistance programs, an~~ An owner or tenant occupying land  
30 which is proposed to be acquired by condemnation shall be  
31 awarded a sum sufficient to remove such owner's or tenant's  
32 personal property from the land to be acquired, which sum  
33 shall represent reasonable costs of moving ~~said~~ the personal  
34 property from the ~~said~~ land to be acquired to a point no  
35 greater than ~~twenty-five~~ fifty miles therefrom; but in any

1 event, ~~said~~ damages awarded under this section for moving  
2 shall not exceed five hundred thousand dollars for each owner  
3 or tenant occupying land ~~so~~ proposed to be condemned. An  
4 owner or tenant may apply for an award pursuant to this  
5 section only if all other damages provided by law have been  
6 awarded and such amount awarded is insufficient to pay the  
7 owner's reasonable costs of moving.

8 Sec. 10. Section 6B.26, Code 1999, is amended to read as  
9 follows:

10 6B.26 DISPOSSESSION OF OWNER.

11 A landowner shall not be dispossessed, under condemnation  
12 proceedings, of the landowner's residence, dwelling house,  
13 outhouse outbuildings if the residence or dwelling house is  
14 also acquired, orchard, or garden, until the damages thereto  
15 have been finally determined and paid. However, if the  
16 property described in this section is condemned for highway  
17 purposes by the state department of transportation, the  
18 condemning authority may take possession of the property  
19 either after the damages have been finally determined and paid  
20 or one hundred eighty days after the compensation commission  
21 has determined and filed its award, in which event all of the  
22 appraisal of damages shall be paid to the property owner  
23 before the dispossession can take place. This section shall  
24 not apply to condemnation proceedings for drainage or levee  
25 improvements, or for public school purposes. For the purposes  
26 of this section, "outbuildings" means structures and  
27 improvements located in proximity to the landowner's  
28 residence.

29 Sec. 11. Section 6B.33, Code 1999, is amended to read as  
30 follows:

31 6B.33 COSTS AND ATTORNEY FEES.

32 The applicant shall pay all costs of the assessment made by  
33 the commissioners and reasonable attorney fees and costs  
34 incurred by the condemnee as determined by the commissioners  
35 if the award of the commissioners exceeds one hundred ten

1 percent of the final offer of the applicant prior to  
 2 condemnation. The applicant shall file with the sheriff an  
 3 affidavit setting forth the most recent offer made to the  
 4 person whose property is sought to be condemned. Members of  
 5 such commissions shall receive a per diem of fifty dollars and  
 6 actual and necessary expenses incurred in the performance of  
 7 their official duties. The applicant shall reimburse the  
 8 county sheriff for the per diem and expense amounts paid by  
 9 the sheriff to the members. The applicant shall reimburse the  
 10 owner for the expenses the owner incurred for recording fees,  
 11 penalty costs for full or partial prepayment of any  
 12 preexisting recorded mortgage entered into in good faith  
 13 encumbering the property, and for similar expenses incidental  
 14 to conveying the property to the applicant. The applicant  
 15 shall also pay all costs occasioned by the appeal, including  
 16 reasonable attorney fees to be taxed by the court, unless on  
 17 the trial thereof the same or a less amount of damages is  
 18 awarded than was allowed by the tribunal from which the appeal  
 19 was taken.

20 Sec. 12. Section 6B.42, Code 1999, is amended to read as  
 21 follows:

22 6B.42 EMINENT DOMAIN -- PAYMENT TO DISPLACED PERSONS.

23 1. a. The acquiring agency shall provide to the person,  
 24 in addition to any other sums of money in payment of just  
 25 compensation, the payments and assistance required by law, in  
 26 accordance with chapter 316.

27 b. A person aggrieved by a determination made as to  
 28 eligibility for relocation assistance, a payment, or the  
 29 amount of the payment, upon application, may have the matter  
 30 reviewed by the appropriate acquiring agency.

31 c. An acquiring agency subject to this section that  
 32 proposes to displace a person shall inform the person of the  
 33 person's right to receive relocation assistance and payments,  
 34 and of an aggrieved person's right to appeal a determination  
 35 as to assistance and payments.

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

10 ~~2-~~ b. A person aggrieved by a determination made by a  
11 utility as to eligibility for relocation assistance, a  
12 payment, or the amount of the payment, upon application, may  
13 have the matter reviewed by the utilities division of the  
14 department of commerce.

15 ~~3-~~ c. A person aggrieved by a determination made by a  
16 railroad as to eligibility for relocation assistance, a  
17 payment, or the amount of the payment, upon application, may  
18 have the matter reviewed by the state department of  
19 transportation.

20 ~~4-~~ d. A utility or railroad subject to this section that  
21 proposes to displace a person shall inform the person of the  
22 person's right to receive relocation assistance and payments,  
23 and of an aggrieved person's right to appeal to the utilities  
24 division of the department of commerce or the state department  
25 of transportation.

26 Sec. 13. Section 6B.45, Code 1999, is amended to read as  
27 follows:

28 ~~6B.45 CONDEMNATION-FOR-ROAD-OR-STREET---~~ MAILING COPY OF  
29 APPRAISAL.

30 When any real property or interest therein in real property  
31 is to be purchased, or in lieu thereof to be condemned for  
32 ~~highway, street or road purposes,~~ the ~~purchasing-state~~  
33 acquiring ~~agency, county or city~~ or their its agent shall  
34 submit to the person, corporation, or entity whose property or  
35 interest therein in the property is to be taken, by ordinary

1 mail, at least ten days prior to the date of contact, a copy  
 2 of the appraisal in its entirety upon such real property or  
 3 interest therein in such real property prepared for the  
 4 acquiring agency or its agent, which shall include, at ~~least~~ a  
 5 minimum, an itemization of the appraised value of the real  
 6 property or interest therein in the property, any buildings  
 7 thereon on the property, all other improvements including  
 8 fences, severance damages, and loss of access. The appraisal  
 9 sent to the condemnee shall be that appraisal upon which the  
 10 condemnor will rely to establish an amount which the condemnor  
 11 believes to be just compensation for the real property. All  
 12 other appraisals made on the property as a result of the  
 13 condemnation proceeding shall be made available to the  
 14 condemnee upon request. In lieu of an appraisal, a utility or  
 15 person under the jurisdiction of the utilities board of the  
 16 department of commerce, or any other utility conferred the  
 17 right by statute to condemn private property, shall provide in  
 18 writing by certified mail to the owner of record thirty days  
 19 prior to negotiations, the methods and factors used in  
 20 arriving at an offered price for voluntary easements including  
 21 the range of cash amount of each component.

22 Sec. 14. Section 6B.54, unnumbered paragraph 1, Code 1999,  
 23 is amended to read as follows:

24 ~~If-a~~ For any project or displacing activity that has  
 25 received or will receive federal financial assistance as  
 26 defined in section 316.1, for any state-funded projects, or  
 27 for any other public improvement for which condemnation is  
 28 sought, an acquiring agency shall be-guided-by, at a minimum,  
 29 satisfy the following policies:

30 Sec. 15. Section 6B.54, subsections 2, 3, 8, and 9, Code  
 31 1999, are amended to read as follows:

32 2. Real property shall be appraised as required by section  
 33 6B.45 before the initiation of negotiations, and the owner or  
 34 the owner's designated representative shall be given an  
 35 opportunity to accompany at least one appraiser of the

1 acquiring agency during an inspection of the property, except  
2 that ~~the state department of transportation~~ an acquiring  
3 agency may prescribe a procedure to waive the appraisal in  
4 cases involving the acquisition of property with a low fair  
5 market value. In lieu of an appraisal, a utility or person  
6 under the jurisdiction of the utilities board of the  
7 department of commerce, or any other utility conferred the  
8 right by statute to condemn private property, shall provide in  
9 writing by certified mail to the owner of record thirty days  
10 before negotiations, the methods and factors used in arriving  
11 at an offered price for voluntary easements including the  
12 range of cash amount of each component.

13 3. Before the initiation of negotiations for real  
14 property, the acquiring agency shall establish an amount which  
15 it believes to be just compensation for the real property, and  
16 shall make a prompt offer to acquire the property for the full  
17 amount established by the agency. In no event shall the  
18 amount be less than the ~~agency's approved~~ lowest appraisal of  
19 the fair market value of the property. In the case of a  
20 utility or person under the jurisdiction of the utilities  
21 board of the department of commerce, or any other utility  
22 conferred the right by statute to condemn private property,  
23 the amount shall not be less than the amount indicated by the  
24 methods and factors used in arriving at an offered price for a  
25 voluntary easement.

26 8. If the acquisition of only a portion of property would  
27 leave the owner with an uneconomical remnant, the ~~head-of-the~~  
28 acquiring agency concerned shall offer to acquire that  
29 remnant. For the purposes of this chapter, an "uneconomical  
30 remnant" is a parcel of real property in which the owner is  
31 left with an interest after the partial acquisition of the  
32 owner's property, where the ~~head-of-the~~ acquiring agency  
33 concerned determines that the parcel has little or no value or  
34 utility to the owner.

35 9. A person whose real property is being acquired in

1 accordance with this chapter, after the person has been fully  
2 informed of the person's right to receive just compensation  
3 for the property, may donate the property, any part of the  
4 property, any interest in the property, or any compensation  
5 paid for it ~~to-any-agency~~ as the person may determine.

6 Sec. 16. Section 6B.55, unnumbered paragraph 1, Code 1999,  
7 is amended to read as follows:

8 ~~If-a~~ For any program or project that has received or will  
9 receive federal financial assistance as defined in section  
10 316.1, for any state-funded projects, or for any other public  
11 improvement for which condemnation is sought, an acquiring  
12 agency shall ~~be-guided-by~~ at a minimum satisfy the following  
13 policies:

14 Sec. 17. NEW SECTION. 6B.57 PROCEDURAL COMPLIANCE.

15 If a city makes a good faith effort to serve, send, or  
16 provide the notices or documents required under this chapter  
17 to the owner of private property that is or may be the subject  
18 of condemnation, but fails to provide the notice or documents  
19 to the owner, such failure shall not constitute grounds for  
20 invalidation of the condemnation proceeding if the chief judge  
21 of the judicial district determines that such failure can be  
22 corrected by delaying the condemnation proceedings to allow  
23 compliance with the requirement and such failure does not  
24 unreasonably prejudice the owner.

25 Sec. 18. NEW SECTION. 6B.58 ACQUIRING AGENCY --  
26 DEFINITION.

27 For purposes of this chapter, an "acquiring agency" means  
28 the state of Iowa or any person or entity conferred the right  
29 by statute to condemn private property or to otherwise  
30 exercise the power of eminent domain.

31 Sec. 19. Section 15.104, Code 1999, is amended by adding  
32 the following new subsection:

33 NEW SUBSECTION. 9. Review all applications submitted by  
34 cities requesting approval for the city to exercise eminent  
35 domain authority over agricultural land and determine whether

1 the use of such authority is necessary for the placement of an  
2 industrial enterprise in the community. The application may  
3 only include land located for at least three years within the  
4 incorporated boundaries of the city.

5 Approval of an application by a city to exercise the right  
6 of eminent domain to acquire agricultural land for an  
7 industrial enterprise may be granted for a specific land area  
8 upon a finding of public necessity. When making a  
9 determination of public necessity, the board shall consider  
10 all of the following:

11 a. The feasibility of acquiring the agricultural land by  
12 methods other than condemnation.

13 b. The public cost and public benefit from locating the  
14 industrial enterprise on the agricultural land.

15 c. The existence of willing sellers at other feasible  
16 locations in the state.

17 d. The ability to adapt the industrial development plans  
18 to avoid the use of condemnation.

19 e. The existence of a specific industrial enterprise to be  
20 located on the agricultural land.

21 f. The amount of land requested to be condemned compared  
22 to the total amount of land needed for the project.

23 If a city acquires property by condemnation, or by  
24 otherwise exercising the power of eminent domain, and that  
25 property is later sold by the city for more than the  
26 acquisition price paid to the landowner, the city shall pay to  
27 the landowner the difference between the price at which it was  
28 acquired and the price at which it was sold by the city less  
29 the cost of any improvements made to the land by the city.

30 Sec. 19. Section 306.19, subsection 3, Code 1999, is  
31 amended to read as follows:

32 3. None of the foregoing requirements shall prohibit the  
33 property owner and the agency from entering into a mutually  
34 acceptable agreement for the replacement, relocation,  
35 construction, or maintenance of any alternate driveway on the

1 owner's property. Compensation for any property rights taken  
2 in the establishment of any alternative temporary or permanent  
3 access shall be paid as in any other purchase or condemnation  
4 of property.

5 Sec. 20. Section 306.19, subsection 4, Code 1999, is  
6 amended to read as follows:

7 4. ~~Compensation-for-any-property-rights-taken-in-the~~  
8 ~~establishment-of-any-alternative-temporary-or-permanent-access~~  
9 ~~shall-be-paid-as-in-any-other-purchase-or-condemnation-of~~  
10 ~~property.~~ Proceedings for the condemnation of land for any  
11 highway shall be under the provisions of chapter 6A and  
12 chapter 6B. Provided that, in the condemnation of right-of-  
13 way for secondary roads that is contiguous to existing road  
14 right-of-way for the maintenance, safety improvement, or  
15 upgrade of the existing secondary road, the board of  
16 supervisors may proceed as provided in sections 306.28 to  
17 306.37.

18 Sec. 21. Section 306.27, Code 1999, is amended to read as  
19 follows:

20 306.27 CHANGES FOR SAFETY, ECONOMY, AND UTILITY.

21 The state department of transportation as to primary roads  
22 and the boards of supervisors as to secondary roads on their  
23 own motion may change the course of any part of any road or  
24 stream, watercourse, or dry run and may pond water in order to  
25 avoid the construction and maintenance of bridges, or to avoid  
26 grades, or railroad crossings, or to straighten a road, or to  
27 cut off dangerous corners, turns or intersections on the  
28 highway, or to widen a road above statutory width, or for the  
29 purpose of preventing the encroachment of a stream,  
30 watercourse, or dry run upon the highway. The department and  
31 the board of supervisors shall conduct ~~its~~ their proceedings  
32 in the manner and form prescribed in chapter 6B, and except  
33 that the board of supervisors ~~shall~~ may use the form  
34 prescribed in sections 306.28 to 306.37 ~~or-as-provided-in~~  
35 chapter-6B for the condemnation of right-of-way that is

1 contiguous to existing road right-of-way and necessary for the  
2 maintenance, safety improvement, or upgrade of the existing  
3 secondary road. Changes are subject to chapter 455B.

4 Sec. 22. Section 306.28, Code 1999, is amended by striking  
5 the section and inserting in lieu thereof the following:

6 306.28 APPRAISERS.

7 If the board is unable, by agreement with the owner, to  
8 acquire the necessary right of way to effect such change, a  
9 compensation commission shall be selected pursuant to section  
10 6B.4, to appraise the damages consequent on the taking of the  
11 right of way.

12 Sec. 23. Section 306.29, unnumbered paragraph 2, Code  
13 1999, is amended to read as follows:

14 To whom it may concern: Notice is given that the board of  
15 supervisors of ..... county, Iowa, propose to condemn for  
16 road purposes the following described real estate in said  
17 county: (Here describe the right of way, and the tract or  
18 tracts from which such right of way will be taken.) The  
19 damages caused by said condemnation will be assessed by three  
20 appraisers a compensation commission appointed as provided by  
21 law for the purpose of appraising the damages. Notice-is  
22 ~~hereby-given-that-the-owner-or-owners-of-said-real-estate-may,~~  
23 ~~on-or-before-the---day-of-----, appoint-one-of-said~~  
24 ~~appraisers-and-that-in-case-such-right-be-not-exercised, or-if~~  
25 ~~exercised-and-the-said-appointee-fails-to-appear-and-qualify,~~  
26 ~~the-said-three-appraisers-will-be-otherwise-appointed-as~~  
27 ~~provided-by-law.~~ All parties interested are further notified  
28 that ~~said-three-appraisers~~ the compensation commission will,  
29 when duly appointed, proceed to appraise said the damages,  
30 will report said the appraisement to the said board of  
31 supervisors and that ~~said-latter~~ the board will pass thereon  
32 as provided by law, and that at all such times and places you  
33 may be present ~~if-you-be-so-minded.~~ You are further notified  
34 that at said the hearing before the said supervisors you may  
35 file objections to the use of said the land for road purposes

1 and that all such objections not so made will be deemed  
2 waived.

3 .....  
4 County Auditor.

5 Sec. 24. Section 306.31, Code 1999, is amended to read as  
6 follows:

7 306.31 QUALIFICATION-AND ASSESSMENT.

8 ~~Upon the appointment of three appraisers, the county~~  
9 ~~auditor shall cause them to appear before the auditor and to~~  
10 ~~take oath that they will faithfully and impartially assess the~~  
11 ~~damages claimed. Said~~ The appraisers shall forthwith proceed  
12 to the assessment of said damages and shall make written  
13 report thereof of the damages to the board of supervisors.

14 Sec. 25. Section 316.1, subsection 5, paragraphs a and b,  
15 Code 1999, are amended to read as follows:

16 a. A person who moves from real property or moves the  
17 person's personal property from real property in either any of  
18 the following circumstances:

19 (1) As a direct result of a written notice of intent to  
20 acquire, the initiation of negotiations for, or the  
21 acquisition of, the real property in whole or in part for a  
22 program or project undertaken with federal financial  
23 assistance.

24 (2) The person moved or moved the person's personal  
25 property from real property on which the person is either a  
26 residential tenant or conducts a small business, a farm  
27 operation, or a business as defined in subsection 2, paragraph  
28 "d", as a direct result of rehabilitation or demolition for a  
29 program or project undertaken with federal financial  
30 assistance in a case in which the head of the displacing  
31 agency determines that the displacement is permanent.

32 (3) As a direct result of a written notice of intent to  
33 acquire by condemnation, the initiation of negotiations for,  
34 or the acquisition of, the real property in whole or in part  
35 by the state of Iowa or by an entity or person conferred the

1 right to condemn private property.

2 b. For purposes of section 316.4, subsections 1 and 2, and  
3 section 316.7, a person who moves from real property, or moves  
4 the person's personal property from real property in either  
5 any of the following circumstances:

6 (1) As a direct result of a written notice of intent to  
7 acquire, the initiation of negotiations for, or the  
8 acquisition of, other real property in whole or in part if the  
9 person conducts a business or farm operation on the other real  
10 property for a program or project undertaken with federal  
11 financial assistance.

12 (2) As a direct result of rehabilitation or demolition of  
13 other real property on which the person conducts a business or  
14 a farm operation for a program or project undertaken with  
15 federal financial assistance in a case in which the head of  
16 the displacing agency determines that the displacement is  
17 permanent.

18 (3) As a direct result of a written notice of intent to  
19 acquire by condemnation, the initiation of negotiations for,  
20 or the acquisition of, other real property in whole or in part  
21 by the state of Iowa or by an entity or person conferred the  
22 right to condemn private property if the person conducts a  
23 business or farm operation on the other real property.

24 Sec. 26. Section 331.304, subsection 8, Code 1999, is  
25 amended to read as follows:

26 8. The power to take private property for public use shall  
27 only be exercised by counties for public purposes which are  
28 reasonable and necessary as an incident to the powers and  
29 duties conferred upon counties, and in accordance with  
30 chapters 6A and 6B. Sections Section 306.19 and-306-28-to  
31 306-37-are is also applicable to condemnation of right of way  
32 for secondary roads. Sections 306.27 through 306.37 are  
33 applicable to the condemnation of right of way that is  
34 contiguous to existing road right of way and necessary for the  
35 maintenance, safety improvement, or upgrade of the existing

1 secondary road.

2 Sec. 27. Section 403.5, subsection 4, Code 1999, is  
3 amended by adding the following new unnumbered paragraph:

4 NEW UNNUMBERED PARAGRAPH. A municipality shall not condemn  
5 agricultural land included within an economic development area  
6 unless the owner of the agricultural land consents to  
7 condemnation or unless the economic development board approves  
8 the use of condemnation under section 15.104, subsection 9,  
9 for the purposes of locating an industrial enterprise. This  
10 paragraph shall not apply to land necessary or useful for the  
11 operation of a city utility as defined in section 362.2, for  
12 the operation of a city franchise conferred the authority to  
13 condemn private property under section 364.2, or a combined  
14 utility system as defined in section 384.80.

15 Sec. 28. Section 403.7, unnumbered paragraph 1, Code 1999,  
16 is amended to read as follows:

17 A municipality shall have the right to acquire by  
18 condemnation any interest in real property, including a fee  
19 simple title thereto, which it may deem necessary for or in  
20 connection with an urban renewal project under this chapter.  
21 However, a municipality shall not condemn agricultural land  
22 included within an economic development area unless the owner  
23 of the agricultural land consents to condemnation or unless  
24 the economic development board approves the use of  
25 condemnation under section 15.104, subsection 9, for the  
26 purposes of locating an industrial enterprise. A municipality  
27 may exercise the power of eminent domain in the manner  
28 provided in chapter 6B, and Acts amendatory to that chapter or  
29 supplementary to that chapter, or it may exercise the power of  
30 eminent domain in the manner now or which may be hereafter  
31 provided by any other statutory provisions for the exercise of  
32 the power of eminent domain. Property already devoted to a  
33 public use may be acquired in like manner. However, real  
34 property belonging to the state, or any political subdivision  
35 of this state, shall not be acquired without its consent, and

1 real property or any right or interest in the property owned  
2 by any public utility company, pipeline company, railway or  
3 transportation company vested with the right of eminent domain  
4 under the laws of this state, shall not be acquired without  
5 the consent of the company, or without first securing, after  
6 due notice to the company and after hearing, a certificate  
7 authorizing condemnation of the property from the board,  
8 commission or body having the authority to grant a certificate  
9 authorizing condemnation. In a condemnation proceeding, if a  
10 municipality proposes to take a part of a lot or parcel of  
11 real property, the municipality shall also take the remaining  
12 part of the lot or parcel if requested by the owner.

13 Sec. 29. Section 403.17, Code 1999, is amended by adding  
14 the following new subsection:

15 NEW SUBSECTION. 2A. "Agricultural land" means real  
16 property that is used for the production of agricultural  
17 commodities and from which one thousand dollars or more of  
18 agricultural commodities were sold or normally would be sold  
19 during the year. Such use of property includes, but is not  
20 limited to, the raising, harvesting, handling, drying, or  
21 storage of crops used for feed, food, seed, or fiber; the care  
22 or feeding of livestock; the handling or transportation of  
23 crops or livestock; the storage, treatment, or disposal of  
24 livestock manure; and the application of fertilizers, soil  
25 conditioners, pesticides, and herbicides on crops.

26 Agricultural land includes land on which is located farm  
27 residences or outbuildings used for agricultural purposes and  
28 land on which is located facilities, structures, or equipment  
29 for agricultural purposes. Agricultural land includes land  
30 taken out of agricultural production for purposes of  
31 environmental protection or preservation.

32 Sec. 30. Section 403.17, subsection 9, Code 1999, is  
33 amended to read as follows:

34 9. "Economic development area" means an area of a  
35 municipality designated by the local governing body as

1 appropriate for commercial and industrial enterprises, public  
 2 improvements related to housing and residential development,  
 3 or construction of housing and residential development for low  
 4 and moderate income families, including single or multifamily  
 5 housing. If an urban renewal plan for an urban renewal area  
 6 is based upon a finding that the area is an economic  
 7 development area and that no part contains slum or blighted  
 8 conditions, then the division of revenue provided in section  
 9 403.19 and stated in the plan shall be limited to twenty years  
 10 from the calendar year following the calendar year in which  
 11 the city first certifies to the county auditor the amount of  
 12 any loans, advances, indebtedness, or bonds which qualify for  
 13 payment from the division of revenue provided in section  
 14 403.19. Such designated area shall not include agricultural  
 15 land, including land which is part of a century farm, unless  
 16 the owner of the agricultural land or century farm agrees to  
 17 include the agricultural land or century farm in the urban  
 18 renewal area. For the purposes of this subsection, "century  
 19 farm" means a farm in which at least forty acres of such farm  
 20 have been held in continuous ownership by the same family for  
 21 one hundred years or more.

22 Sec. 31. APPLICABILITY. Sections 1, 27, 28, and 29 of  
 23 this Act, enacting section 6A.21, amending sections 403.5 and  
 24 403.7, and enacting section 403.17, subsection 2A, apply to  
 25 urban renewal areas established before, on, or after the  
 26 effective date of this Act and to amendments to such urban  
 27 renewal areas.

28 Section 30 of this Act, amending section 403.17, subsection  
 29 9, applies to urban renewal areas established on or after the  
 30 effective date of this Act. Section 30 of this Act also  
 31 applies to agricultural land included in an urban renewal area  
 32 established before the effective date of this Act if the  
 33 agricultural land is included in the urban renewal area by  
 34 virtue of an amendment to the urban renewal plan, which  
 35 amendment is adopted on or after the effective date of this

1 Act.

2 Sec. 32. EFFECTIVE DATE. This Act applies to state  
3 highway construction projects approved for commencement by the  
4 transportation commission on or after July 1, 1999. This Act  
5 applies to all other condemnation proceedings in which the  
6 application for condemnation is filed on or after July 1,  
7 1999.

8 EXPLANATION

9 This bill makes several changes to the law relating to the  
10 power of eminent domain and the procedures by which the state  
11 of Iowa and other entities and persons are allowed to condemn  
12 private property. The bill defines "acquiring agency" to mean  
13 entities or persons conferred the right by law to condemn  
14 private property. "Acquiring agency" under the bill includes  
15 counties, cities, owners of land without a way to the land,  
16 owners of mineral lands, cemetery associations, subdistricts  
17 of soil and water conservation districts, and utilities.

18 The bill defines "public use", "public purpose", or "public  
19 improvement" to exclude the condemnation of agricultural land  
20 without the consent of the owner. The bill defines  
21 "agricultural land" as real property used for production of  
22 certain agricultural commodities and from which \$1,000 or more  
23 of commodities were sold in a year. The bill defines "private  
24 development purposes" as the construction of, or improvement  
25 related to, recreational trails, recreational development paid  
26 for primarily with private funds, housing and residential  
27 development, or commercial or industrial enterprise  
28 development.

29 The bill requires a condemning authority to send a notice  
30 of a proposed public improvement to the owner of property for  
31 which condemnation is being considered for the public  
32 improvement. The notice must be mailed by ordinary mail no  
33 less than 30 days before adoption of the declaration of intent  
34 relating to the public improvement and the acquisition or  
35 condemnation of the property. The notice, at a minimum,

1 should include information on the general nature of the public  
2 improvement, the intended use of the property, the process  
3 relating to the public improvement, and opportunity for public  
4 input relating to the public improvement if the law requires  
5 public input.

6 The bill requires a condemning authority to make a good  
7 faith effort to negotiate with the owner to purchase the  
8 private property before filing an application for  
9 condemnation. The condemning authority is required to provide  
10 the owner of the property with a statement of rights. The  
11 statement is to be included with the notice of proposed public  
12 improvement. The bill provides that condemnation may not  
13 proceed until the notice of proposed public improvement  
14 containing the statement of individual rights is provided to  
15 the owner.

16 The bill requires a condemning authority to mail a copy of  
17 the condemnation application filed with the district court to  
18 the owner of the property. The bill also requires that the  
19 condemnation application provide information on the minimum  
20 amount of land necessary for the public improvement and the  
21 amount of land to be acquired by condemnation. Current law  
22 requires the applicant to pay the expenses of the compensation  
23 commission and of the landowner if the award of the commission  
24 is 110 percent or more of the final offer of the applicant  
25 prior to condemnation. The condemnation application must also  
26 include a statement of the efforts made by the condemning  
27 authority to negotiate with the owner for the sale of the  
28 property prior to filing the application.

29 The bill requires that a list of the persons selected to  
30 serve on the compensation commission for condemnation  
31 proceedings be provided to the condemnation applicant and to  
32 the owner of the property. The bill allows the applicant and  
33 the owner to each dismiss one commissioner without stating  
34 cause.

35 The bill increases from 10 days to 30 days the amount of

1 notice given of an assessment of the property. The bill  
2 provides that service of notice of assessment shall be mailed  
3 by certified mail to applicants or owners or persons in  
4 interest, any of whom are not residents of the state. The  
5 bill also requires that the notice to nonresidents be  
6 published once 30 days before the assessment.

7 The bill increases the amount to be paid in moving expenses  
8 from \$500 to \$5,000 for an owner or tenant occupying land that  
9 has been condemned. The bill also increases that distance  
10 that personal property is moved for which moving expenses are  
11 paid from 25 miles to 50 miles.

12 The bill adds outbuildings to the list of property from  
13 which a landowner may not be dispossessed by condemnation  
14 without determination and payment of damages. Outbuildings  
15 are defined as structures and improvements located in  
16 proximity to the owner's residence.

17 The bill provides that the condemnation applicant shall  
18 reimburse the county sheriff for the per diem and actual  
19 expenses paid to members of the compensation commission. The  
20 bill specifies that the applicant shall reimburse the owner of  
21 the property for expenses incurred for recording fees,  
22 mortgage penalty costs, and similar expenses incidental to the  
23 transfer of the property to the applicant.

24 The bill provides that relocation expenses for  
25 condemnations by the state of Iowa or other entity or person  
26 having the right to condemn property shall be determined and  
27 paid in the same manner as relocation expenses for  
28 condemnations involving federally funded projects.

29 The bill requires that a copy of the appraisal, on which  
30 the purchasing state agency, county, or city will base its  
31 offer of compensation, be mailed to the owner of the property.

32 The bill makes current acquisition policy guidelines for  
33 projects receiving federal financial assistance applicable to  
34 any state funded projects and to any other public improvement  
35 for which condemnation is sought.

1 The bill provides that if a city makes a good faith effort  
2 to comply with notice provisions, that failure to comply may  
3 only result in a delay of the condemnation proceeding.

4 The bill allows a city to condemn agricultural land for an  
5 industrial enterprise if the land has been located within city  
6 boundaries for at least three years and the city has applied  
7 to, and received approval from, the state economic development  
8 board.

9 The bill amends Code sections providing an alternative  
10 condemnation procedure for counties and secondary roads. The  
11 county may use the alternative procedure if the right of way  
12 to be condemned is contiguous to existing road right of way  
13 and is necessary for maintenance, safety improvement, or  
14 upgrade of the existing road. The county is also required to  
15 use the compensation commission to assess damages.

16 The bill provides that a municipality (city or county)  
17 shall not condemn agricultural land included within an urban  
18 renewal area designated as an economic development area  
19 without the consent of the owner of the agricultural land.  
20 This does not apply to city utilities or city franchises.

21 The section of the bill amending the definition of  
22 "economic development area" for purposes of urban renewal,  
23 applies to urban renewal areas established on or after the  
24 effective date of the bill. However, the amendment applies to  
25 urban renewal areas established before the effective date if  
26 they were amended to add agricultural land to the economic  
27 development urban renewal area on or after the effective date  
28 of the bill. The remaining sections of the bill which amend  
29 or reference Code chapter 403 apply to urban renewal areas  
30 established before, on, or after the effective date of the  
31 bill.

32 The bill applies to state highway construction projects  
33 approved on or after July 1, 1999. The bill applies to all  
34 other condemnation proceedings in which the application for  
35 condemnation is filed on or after July 1, 1999.

3/31/99 Place on unfinished Business Calendar

Substituted by  
HF 476  
4-08-99  
(P. 1019)

FILED MAR 9 1999

SENATE FILE 351  
BY COMMITTEE ON LOCAL GOVERNMENT

**WITHDRAWN** (SUCCESSOR TO SSB 1170)

4-12-99  
(P. 1040)

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

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

Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to the exercise of the power of eminent domain  
2 and to condemnation proceedings and providing for the Act's  
3 applicability.

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

SF 351

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1 Section 1. NEW SECTION. 6A.21 CONDEMNATION OF  
2 AGRICULTURAL LAND -- DEFINITIONS.

3 1. Except as otherwise provided, for purposes of this  
4 chapter and chapter 6B:

5 a. "Agricultural land" means real property that is used  
6 for the production of agricultural commodities and from which  
7 one thousand dollars or more of agricultural commodities were  
8 sold or normally would be sold during the year. Such use of  
9 property includes, but is not limited to, the raising,  
10 harvesting, handling, drying, or storage of crops used for  
11 feed, food, seed, or fiber; the care or feeding of livestock;  
12 the handling or transportation of crops or livestock; the  
13 storage, treatment, or disposal of livestock manure; and the  
14 application of fertilizers, soil conditioners, pesticides, and  
15 herbicides on crops. Agricultural land includes land on which  
16 is located farm residences or outbuildings used for  
17 agricultural purposes and land on which is located facilities,  
18 structures, or equipment for agricultural purposes.  
19 Agricultural land includes land taken out of agricultural  
20 production for purposes of environmental protection or  
21 preservation.

22 b. "Private development purposes" means the construction  
23 of, or improvement related to, recreational trails,  
24 recreational development paid for primarily with private  
25 funds, housing and residential development, or commercial or  
26 industrial enterprise development.

27 c. "Public use" or "public purpose" or "public  
28 improvement" does not include the authority to condemn  
29 agricultural land for private development purposes unless the  
30 owner of the agricultural land consents to the condemnation.

31 2. The limitation on the definition of public use, public  
32 purpose, or public improvement does not apply to a slum area  
33 or blighted area as defined in section 403.17, or to an  
34 industrial enterprise if the economic development board has  
35 approved the use of eminent domain under section 15.104,

1 subsection 9, or to the establishment, relocation, or  
2 improvement of a road pursuant to chapter 306, or to an  
3 airport as defined in section 328.1, or to land acquired in  
4 order to replace or mitigate land used in a road project when  
5 federal law requires replacement or mitigation. This  
6 limitation also does not apply to utilities or persons under  
7 the jurisdiction of the Iowa utilities board in the department  
8 of commerce or to any other utility conferred the right by  
9 statute to condemn private property or to otherwise exercise  
10 the power of eminent domain.

11 Sec. 2. NEW SECTION. 6B.2A NOTICE OF PROPOSED PUBLIC  
12 IMPROVEMENT.

13 1. An acquiring agency shall provide written notification  
14 to each owner of record of private property that may be the  
15 subject of condemnation. The authority under this chapter is  
16 not conferred and condemnation proceedings shall not begin  
17 unless a good faith effort is made to serve the notice as  
18 provided in this section on the owner of record of the  
19 property subject to condemnation. The notice shall be mailed  
20 by ordinary mail to the owner of record's last known address  
21 no less than thirty days before adoption of the ordinance,  
22 resolution, motion, or other declaration of intent to proceed  
23 with the public improvement and the acquisition or  
24 condemnation, if necessary, of the property. If the location  
25 of the public improvement is changed or expanded after the  
26 decision has been made to proceed with the public improvement,  
27 a notice shall be mailed by ordinary mail no less than thirty  
28 days before the adoption of the ordinance, resolution, motion,  
29 or other declaration of intent to proceed with a change in the  
30 location of the public improvement to the owner of record of  
31 the land to be acquired or condemned, if necessary, in the new  
32 location of the public improvement affected by the change.  
33 The notice shall include the statement of individual rights  
34 required under section 6B.2B. The notice shall, at a minimum,  
35 include the following information:

1 a. The general nature of the public improvement.

2 b. The acquiring agency's intended use of the private  
3 property for the public improvement.

4 c. The process to be followed by the acquiring agency in  
5 making the decision to proceed with the public improvement and  
6 the acquisition or condemnation, if necessary, of the  
7 property.

8 d. The time, place, and manner at which an opportunity is  
9 provided for public input into the decision to proceed with  
10 the public improvement and the acquisition or condemnation, if  
11 necessary, of the property.

12 e. The current status in the planning process for the  
13 public improvement, including meetings held and decisions  
14 made.

15 2. The authority to condemn is not conferred until the  
16 appropriate authority approves the public improvement,  
17 including the approval of any permits required by state or  
18 federal law which permits are necessary for commencement of  
19 the project. This subsection does not apply to land condemned  
20 for public improvements undertaken pursuant to section 306.19.

21 3. If, after making a good faith effort, an acquiring  
22 agency is unable to ascertain the owner of record's last known  
23 address, or the identity of the owner of record is uncertain,  
24 or the mail is returned as undeliverable or is refused, the  
25 acquiring agency shall cause a notice to be published once in  
26 a newspaper of general circulation in the county or city where  
27 the private property is located.

28 Sec. 3. NEW SECTION. 6B.2B ACQUISITION NEGOTIATION  
29 STATEMENT OF RIGHTS.

30 1. The acquiring agency shall make a good faith effort to  
31 negotiate with the owner to purchase the private property  
32 before filing an application for condemnation or otherwise  
33 proceed with the condemnation process.

34 2. The acquiring agency shall provide the owner of record  
35 of the private property with a statement of their individual

1 rights to be included with the notice required under section  
2 6B.2A. The attorney general shall adopt rules pursuant to  
3 chapter 17A prescribing a statement of rights which may be  
4 used in substantial form by any person required to provide the  
5 statement by this section.

6 Sec. 4. Section 6B.3, Code 1999, is amended to read as  
7 follows:

8 6B.3 APPLICATION -- RECORDING -- NOTICE -- TIME FOR  
9 APPRAISEMENT -- NEW PROCEEDINGS.

10 1. Such The proceedings shall be instituted by a written  
11 application filed with the chief judge of the judicial  
12 district of the county in which the land sought to be  
13 condemned is located. Said The application shall set forth:

14 1 a. A description of all the property in the county,  
15 affected or sought to be condemned, by its congressional  
16 numbers, in tracts not exceeding one-sixteenth of a section,  
17 or, if the land consists of lots, by the numbers of the lot  
18 and block, and plat designation.

19 2 b. A plat showing the location of the right-of-way or  
20 other property sought to be condemned with reference to such  
21 description.

22 3 c. The names of all record owners of the different  
23 tracts of land sought to be condemned, or otherwise affected  
24 by such proceedings, and of all record holders of liens and  
25 encumbrances on such lands; also the place of residence of all  
26 such persons so far as known to the applicant.

27 4 d. The purpose for which condemnation is sought.

28 5 e. A request for the appointment of a commission to  
29 appraise the damages.

30 6 f. If the damages are to be paid by the state and the  
31 land to be condemned is within an agricultural area as  
32 provided in chapter 352, a statement disclosing whether any of  
33 that land is classified as class I or class II land under the  
34 United States department of agriculture natural resources  
35 conservation service land capability classification system

1 contained in the agriculture handbook number 210, 1961 edition  
2 and, if so classified, stating that the class I or class II  
3 land is reasonably necessary for the work of internal  
4 improvement for which condemnation is sought.

5 g. A showing of the minimum amount of land necessary to  
6 achieve the public purpose and the amount of land to be  
7 acquired by condemnation for the public improvement. Any land  
8 to be acquired by condemnation beyond the necessary minimum to  
9 complete the project shall be presumed not to be necessary for  
10 a public use or public purpose unless the applicant can show  
11 that a substantial need exists for the additional property to  
12 achieve the public use or public purpose, or that the land in  
13 question is of little or no value or utility to the owner, or  
14 that the owner consents to the condemnation.

15 h. A statement indicating the efforts made by the  
16 applicant to negotiate in good faith with the owner to acquire  
17 the private property sought to be condemned.

18 2. The applicant shall mail a copy of the application by  
19 certified mail to the owner at the owner's last known address  
20 and to any mortgagee of record at the mortgagee's last known  
21 address and to any other record lienholder or encumbrancer of  
22 the land at the lienholder's or encumbrancer's last known  
23 address. If service of notice by certified mail cannot be  
24 made in the manner prescribed in this section, the applicant  
25 shall cause a notice to be published once in a newspaper of  
26 general circulation in the county. If service of notice is  
27 made by publication, an affidavit shall be filed with the  
28 county recorder along with the application. The affidavit  
29 shall state the reason why service of notice by certified mail  
30 could not be made, the name of the publication, and the date  
31 of the publication. Service of notice by publication shall be  
32 deemed complete on the day of publication.

33 7 3. The applicant shall promptly certify that its  
34 application for condemnation has been approved by the chief  
35 judge and shall file the original approved application with

1 the county recorder in the manner required under section  
2 6B.37. The county recorder shall file and index the  
3 application in the record of deeds and preserve the  
4 application as required by sections 6B.38 and 558.55. The  
5 filing and indexing constitute constructive notice to all  
6 parties that a proceeding to condemn the property is pending  
7 and that the applicant has the right to acquire the property  
8 from all owners, lienholders, and encumbrancers whose  
9 interests are of record at the time of the filing. When  
10 indexed, the proceeding is considered pending so as to charge  
11 all persons not having an interest in the property with notice  
12 of its pendency, and while pending no interest can be acquired  
13 by the third parties in the property against the rights of the  
14 applicant. If the appraisal of damages is not made within  
15 one hundred twenty days, the proceedings instituted under this  
16 section are terminated and all rights and interests of the  
17 applicant arising out of the application for condemnation  
18 terminate. The applicant may reinstitute a new condemnation  
19 proceeding at any time. The reinstated proceedings are  
20 entirely new proceedings and not a revival of the terminated  
21 proceeding.

22 Sec. 5. Section 6B.4, unnumbered paragraph 2, Code 1999,  
23 is amended to read as follows:

24 The chief judge of the judicial district shall select by  
25 lot six persons from the list, two persons who are owner-  
26 operators of agricultural property when the property to be  
27 condemned is agricultural property; two persons who are owners  
28 of city property when the property to be condemned is other  
29 than agricultural property; and two persons from each of the  
30 remaining two representative groups, who shall constitute a  
31 compensation commission to assess the damages to all property  
32 to be taken by the applicant and located in the county, and  
33 shall name a chairperson from the persons selected. No A  
34 person shall not be selected as a member of the compensation  
35 commission ~~selected-shall-possess~~ if the person possesses any

1 interest in the proceeding which would cause ~~such~~ the person  
2 to render a biased decision. The clerk of the district court  
3 shall send, by regular mail, a list of those persons selected  
4 to the applicant and to the owner of the property at the  
5 owner's last known address. The list shall be provided prior  
6 to the mailing, by any party, of a notice of assessment under  
7 section 6B.8. If the clerk of the district court is unable to  
8 locate an address for the owner of the property, the list  
9 shall be published once in a newspaper of general circulation  
10 in the county. The applicant shall reimburse the clerk of the  
11 district court for the cost of mailing and publication.

12 Sec. 6. Section 6B.4, Code 1999, is amended by adding the  
13 following new unnumbered paragraph:

14 NEW UNNUMBERED PARAGRAPH. A compensation commission  
15 appointed pursuant to this section is a governmental body as  
16 defined in section 21.2 and its meetings shall be conducted in  
17 compliance with chapter 21. Notice published by the sheriff  
18 pursuant to section 6B.11 shall constitute public notice of  
19 the meeting pursuant to section 21.4.

20 Sec. 7. Section 6B.7, Code 1999, is amended to read as  
21 follows:

22 6B.7 COMMISSIONERS TO QUALIFY.

23 Before proceeding with the assessment all commissioners  
24 shall qualify by filing with the sheriff a written oath that  
25 they will to the best of their ability faithfully and  
26 impartially assess ~~said~~ damages and make a written report to  
27 the sheriff. The applicant or the owner may challenge one  
28 commissioner without stating cause. A challenge to the  
29 appointment of a commissioner must be made to the chief judge  
30 of the judicial district no less than seventy-two hours before  
31 the condemnation jury is set to meet. A commissioner shall be  
32 appointed to fill a vacancy resulting from a challenge no less  
33 than twenty-four hours before the jury is set to meet.

34 Sec. 8. Section 6B.8, Code 1999, is amended to read as  
35 follows:

## 1 6B.8 NOTICE OF ASSESSMENT.

2 The applicant, or the owner or any lienholder or  
3 encumbrancer of any land described in the application, may, at  
4 any time after the appointment of the commissioners, have the  
5 damages to the lands of any such owner assessed by giving the  
6 other party, if a resident of this state, ten thirty days'  
7 notice, in writing. Such The notice shall specify the day and  
8 the hour when the commissioners will view the premises, and  
9 shall be personally served in the same manner as original  
10 notices.

11 Service of the notice to a person not a resident of this  
12 state shall be by certified mail to the person's last known  
13 address. At the same time, the applicant shall cause a notice  
14 to be published once in a newspaper of general circulation in  
15 the county prior to the day fixed for the appraisalment, which  
16 day shall be at least thirty days after publication. Service  
17 of notice in this manner shall be deemed complete on the day  
18 of publication.

19 Sec. 9. Section 6B.11, Code 1999, is amended to read as  
20 follows:

## 21 6B.11 FILING OF NOTICES AND RETURN OF SERVICE.

22 Notices, immediately after the service thereof, shall, with  
23 proper return of service endorsed thereon or attached thereto,  
24 be filed with the sheriff. The sheriff shall at once cause  
25 the commissioners to be notified of the day and hour when they  
26 will be required to proceed with the appraisalment. The notice  
27 to the commissioners shall also be published by the sheriff  
28 pursuant to section 331.305.

29 Sec. 10. Section 6B.12, Code 1999, is amended to read as  
30 follows:

31 6B.12 NOTICE TO-NONRESIDENTS WHEN RESIDENCE UNKNOWN.

32 ~~If the owner of such lands or any person interested therein~~  
33 ~~is a nonresident of this state, or if~~ If the person's  
34 residence is unknown after a good faith effort is made to find  
35 the person's last known address, no demand for the land for

1 ~~the purposes sought shall be necessary, but~~ the notice  
2 ~~aforsaid~~ required in section 6B.8 shall be published in some  
3 a newspaper of general circulation in the county and of  
4 ~~general-circulation-therein~~, once each week for at least four  
5 successive weeks prior to the day fixed for the appraisalment,  
6 which day shall be at least thirty days after the first  
7 publication of the notice.

8 Sec. 11. Section 6B.14, unnumbered paragraph 3, Code 1999,  
9 is amended to read as follows:

10 ~~In-addition-to-all-other-damages-provided-by-law, except~~  
11 ~~moving-expenses-paid-or-required-to-be-paid-under-relocation~~  
12 ~~assistance-programs, an~~ An owner or tenant occupying land  
13 which is proposed to be acquired by condemnation shall be  
14 awarded a sum sufficient to remove such owner's or tenant's  
15 personal property from the land to be acquired, which sum  
16 shall represent reasonable costs of moving ~~said~~ the personal  
17 property from the ~~said~~ land to be acquired to a point no  
18 greater than ~~twenty-five~~ fifty miles ~~therefrom~~; but in any  
19 event, ~~said~~ damages awarded under this section for moving  
20 shall not exceed five hundred thousand dollars for each owner  
21 or tenant occupying land ~~so~~ proposed to be condemned. An  
22 owner or tenant may apply for an award pursuant to this  
23 section only if all other damages provided by law have been  
24 awarded and such amount awarded is insufficient to pay the  
25 owner's reasonable costs of moving.

26 Sec. 12. Section 6B.26, Code 1999, is amended to read as  
27 follows:

28 6B.26 DISPOSSESSION OF OWNER.

29 A landowner shall not be dispossessed, under condemnation  
30 proceedings, of the landowner's residence, dwelling house,  
31 outhouse outbuildings if the residence or dwelling house is  
32 also acquired, orchard, or garden, until the damages thereto  
33 have been finally determined and paid. However, if the  
34 property described in this section is condemned for highway  
35 purposes by the state department of transportation, the

1 condemning authority may take possession of the property  
2 either after the damages have been finally determined and paid  
3 or one hundred eighty days after the compensation commission  
4 has determined and filed its award, in which event all of the  
5 appraisement of damages shall be paid to the property owner  
6 before the dispossession can take place. This section shall  
7 not apply to condemnation proceedings for drainage or levee  
8 improvements, or for public school purposes. For the purposes  
9 of this section, "outbuildings" means structures and  
10 improvements located in proximity to the landowner's  
11 residence.

12 Sec. 13. Section 6B.33, Code 1999, is amended to read as  
13 follows:

14 6B.33 COSTS AND ATTORNEY FEES.

15 The applicant shall pay all costs of the assessment made by  
16 the commissioners and reasonable attorney fees and costs  
17 incurred by the condemnee as determined by the commissioners  
18 if the award of the commissioners exceeds one hundred ten  
19 percent of the final offer of the applicant prior to  
20 condemnation. The applicant shall file with the sheriff an  
21 affidavit setting forth the most recent offer made to the  
22 person whose property is sought to be condemned. Members of  
23 such commissions shall receive a per diem of fifty dollars and  
24 actual and necessary expenses incurred in the performance of  
25 their official duties. The applicant shall reimburse the  
26 county sheriff for the per diem and expense amounts paid by  
27 the sheriff to the members. The applicant shall reimburse the  
28 owner for the expenses the owner incurred for recording fees,  
29 penalty costs for full or partial prepayment of any  
30 preexisting recorded mortgage entered into in good faith  
31 encumbering the property, and for similar expenses incidental  
32 to conveying the property to the applicant. The applicant  
33 shall also pay all costs occasioned by the appeal, including  
34 reasonable attorney fees to be taxed by the court, unless on  
35 the trial thereof the same or a less amount of damages is

1 awarded than was allowed by the tribunal from which the appeal  
2 was taken.

3 Sec. 14. Section 6B.42, Code 1999, is amended to read as  
4 follows:

5 6B.42 EMINENT DOMAIN -- PAYMENT TO DISPLACED PERSONS.

6 1. a. The acquiring agency shall provide to the person,  
7 in addition to any other sums of money in payment of just  
8 compensation, the payments and assistance required by law, in  
9 accordance with chapter 316.

10 b. A person aggrieved by a determination made as to  
11 eligibility for relocation assistance, a payment, or the  
12 amount of the payment, upon application, may have the matter  
13 reviewed by the appropriate acquiring agency.

14 c. An acquiring agency subject to this section that  
15 proposes to displace a person shall inform the person of the  
16 person's right to receive relocation assistance and payments,  
17 and of an aggrieved person's right to appeal a determination  
18 as to assistance and payments.

19 ~~1.~~ 2. a. A utility or railroad subject to section 327C.2,  
20 or chapters 476, 478, 479, and 479A, and 479B, authorized by  
21 law to acquire property by condemnation, which acquires the  
22 property of a person or displaces a person for a program or  
23 project which has received or will receive federal financial  
24 assistance as defined in section 316.1, shall provide to the  
25 person, in addition to any other sums of money in payment of  
26 just compensation, the payments and assistance required by  
27 law, in accordance with chapter 316.

28 ~~2.~~ b. A person aggrieved by a determination made by a  
29 utility as to eligibility for relocation assistance, a  
30 payment, or the amount of the payment, upon application, may  
31 have the matter reviewed by the utilities division of the  
32 department of commerce.

33 ~~3.~~ c. A person aggrieved by a determination made by a  
34 railroad as to eligibility for relocation assistance, a  
35 payment, or the amount of the payment, upon application, may

1 have the matter reviewed by the state department of  
2 transportation.

3 4- d. A utility or railroad subject to this section that  
4 proposes to displace a person shall inform the person of the  
5 person's right to receive relocation assistance and payments,  
6 and of an aggrieved person's right to appeal to the utilities  
7 division of the department of commerce or the state department  
8 of transportation.

9 Sec. 15. Section 6B.45, Code 1999, is amended to read as  
10 follows:

11 6B.45 CONDEMNATION-FOR-ROAD-OR-STREET--- MAILING COPY OF  
12 APPRAISAL.

13 When any real property or interest therein in real property  
14 is to be purchased, or in lieu thereof to be condemned for  
15 highway,--street-or-road-purposes, the purchasing-state  
16 acquiring agency,--county-or-city or their its agent shall  
17 submit to the person, corporation, or entity whose property or  
18 interest therein in the property is to be taken, by ordinary  
19 mail, at least ten days prior to the date of contact, a copy  
20 of the appraisal in its entirety upon such real property or  
21 interest therein in such real property prepared for the  
22 acquiring agency or its agent, which shall include, at least a  
23 minimum, an itemization of the appraised value of the real  
24 property or interest therein in the property, any buildings  
25 thereon on the property, all other improvements including  
26 fences, severance damages, and loss of access. The appraisal  
27 sent to the condemnee shall be that appraisal upon which the  
28 condemnor will rely to establish an amount which the condemnor  
29 believes to be just compensation for the real property. All  
30 other appraisals made on the property as a result of the  
31 condemnation proceeding shall be made available to the  
32 condemnee upon request. In lieu of an appraisal, a utility or  
33 person under the jurisdiction of the utilities board of the  
34 department of commerce, or any other utility conferred the  
35 right by statute to condemn private property, shall provide in

1 writing by certified mail to the owner of record thirty days  
2 prior to negotiations, the methods and factors used in  
3 arriving at an offered price for voluntary easements including  
4 the range of cash amount of each component.

5 Sec. 16. Section 6B.54, unnumbered paragraph 1, Code 1999,  
6 is amended to read as follows:

7 ~~If-a~~ For any project or displacing activity that has  
8 received or will receive federal financial assistance as  
9 defined in section 316.1, for any state-funded projects, or  
10 for any other public improvement for which condemnation is  
11 sought, an acquiring agency shall be-guided-by, at a minimum,  
12 satisfy the following policies:

13 Sec. 17. Section 6B.54, subsections 2, 3, 8, and 9, Code  
14 1999, are amended to read as follows:

15 2. Real property shall be appraised as required by section  
16 6B.45 before the initiation of negotiations, and the owner or  
17 the owner's designated representative shall be given an  
18 opportunity to accompany at least one appraiser of the  
19 acquiring agency during an inspection of the property, except  
20 that ~~the-state-department-of-transportation an acquiring~~  
21 agency may prescribe a procedure to waive the appraisal in  
22 cases involving the acquisition of property with a low fair  
23 market value. In lieu of an appraisal, a utility or person  
24 under the jurisdiction of the utilities board of the  
25 department of commerce, or any other utility conferred the  
26 right by statute to condemn private property, shall provide in  
27 writing by certified mail to the owner of record thirty days  
28 before negotiations, the methods and factors used in arriving  
29 at an offered price for voluntary easements including the  
30 range of cash amount of each component.

31 3. Before the initiation of negotiations for real  
32 property, the acquiring agency shall establish an amount which  
33 it believes to be just compensation for the real property, and  
34 shall make a prompt offer to acquire the property for the full  
35 amount established by the agency. In no event shall the

1 amount be less than the ~~agency's-approved~~ lowest appraisal of  
 2 the fair market value of the property. In the case of a  
 3 utility or person under the jurisdiction of the utilities  
 4 board of the department of commerce, or any other utility  
 5 conferred the right by statute to condemn private property,  
 6 the amount shall not be less than the amount indicated by the  
 7 methods and factors used in arriving at an offered price for a  
 8 voluntary easement.

9 8. If the acquisition of only a portion of property would  
 10 leave the owner with an uneconomical remnant, the ~~head-of-the~~  
 11 acquiring agency concerned shall offer to acquire that  
 12 remnant. For the purposes of this chapter, an "uneconomical  
 13 remnant" is a parcel of real property in which the owner is  
 14 left with an interest after the partial acquisition of the  
 15 owner's property, where the ~~head-of-the~~ acquiring agency  
 16 concerned determines that the parcel has little or no value or  
 17 utility to the owner.

18 9. A person whose real property is being acquired in  
 19 accordance with this chapter, after the person has been fully  
 20 informed of the person's right to receive just compensation  
 21 for the property, may donate the property, any part of the  
 22 property, any interest in the property, or any compensation  
 23 paid for it ~~to-any-agency~~ as the person may determine.

24 Sec. 18. Section 6B.55, unnumbered paragraph 1, Code 1999,  
 25 is amended to read as follows:

26 ~~If-a~~ For any program or project that has received or will  
 27 receive federal financial assistance as defined in section  
 28 316.1, for any state-funded projects, or for any other public  
 29 improvement for which condemnation is sought, an acquiring  
 30 agency shall ~~be-guided-by~~ at a minimum satisfy the following  
 31 policies:

32 Sec. 19. NEW SECTION. 6B.57 PROCEDURAL COMPLIANCE.

33 If a city makes a good faith effort to serve, send, or  
 34 provide the notices or documents required under this chapter  
 35 to the owner of private property that is or may be the subject

1 of condemnation, but fails to provide the notice or documents  
2 to the owner, such failure shall not constitute grounds for  
3 invalidation of the condemnation proceeding if the chief judge  
4 of the judicial district determines that such failure can be  
5 corrected by delaying the condemnation proceedings to allow  
6 compliance with the requirement and such failure does not  
7 unreasonably prejudice the owner.

8 Sec. 20. NEW SECTION. 6B.58 ACQUIRING AGENCY --  
9 DEFINITION.

10 For purposes of this chapter, an "acquiring agency" means  
11 the state of Iowa or any person or entity conferred the right  
12 by statute to condemn private property or to otherwise  
13 exercise the power of eminent domain.

14 Sec. 21. Section 15.104, Code 1999, is amended by adding  
15 the following new subsection:

16 NEW SUBSECTION. 9. Review all applications submitted by  
17 cities requesting approval for the city to exercise eminent  
18 domain authority over agricultural land and determine whether  
19 the use of such authority is necessary for the placement of an  
20 industrial enterprise in the community. The application may  
21 only include land located for at least three years within the  
22 incorporated boundaries of the city.

23 Approval of an application by a city to exercise the right  
24 of eminent domain to acquire agricultural land for an  
25 industrial enterprise may be granted for a specific land area  
26 upon a finding of public necessity. When making a  
27 determination of public necessity, the board shall consider  
28 all of the following:

29 a. The feasibility of acquiring the agricultural land by  
30 methods other than condemnation.

31 b. The public cost and public benefit from locating the  
32 industrial enterprise on the agricultural land.

33 c. The existence of willing sellers at other feasible  
34 locations in the state.

35 d. The ability to adapt the industrial development plans

1 to avoid the use of condemnation.

2 e. The existence of a specific industrial enterprise to be  
3 located on the agricultural land.

4 f. The amount of land requested to be condemned compared  
5 to the total amount of land needed for the project.

6 If a city acquires property by condemnation, or by  
7 otherwise exercising the power of eminent domain, and that  
8 property is later sold by the city for more than the  
9 acquisition price paid to the landowner, the city shall pay to  
10 the landowner the difference between the price at which it was  
11 acquired and the price at which it was sold by the city less  
12 the cost of any improvements made to the land by the city.

13 Sec. 22. Section 306.19, subsection 3, Code 1999, is  
14 amended to read as follows:

15 3. None of the foregoing requirements shall prohibit the  
16 property owner and the agency from entering into a mutually  
17 acceptable agreement for the replacement, relocation,  
18 construction, or maintenance of any alternate driveway on the  
19 owner's property. Compensation for any property rights taken  
20 in the establishment of any alternative temporary or permanent  
21 access shall be paid as in any other purchase or condemnation  
22 of property.

23 Sec. 23. Section 306.19, subsection 4, Code 1999, is  
24 amended to read as follows:

25 ~~4. Compensation-for-any-property-rights-taken-in-the~~  
26 ~~establishment-of-any-alternative-temporary-or-permanent-access~~  
27 ~~shall-be-paid-as-in-any-other-purchase-or-condemnation-of~~  
28 ~~property.~~ Proceedings for the condemnation of land for any  
29 highway shall be under the provisions of chapter 6A and  
30 chapter 6B. Provided that, in the condemnation of right-of-  
31 way for secondary roads that is contiguous to existing road  
32 right-of-way for the maintenance, safety improvement, or  
33 upgrade of the existing secondary road, the board of  
34 supervisors may proceed as provided in sections 306.28 to  
35 306.37.

1 Sec. 24. Section 306.27, Code 1999, is amended to read as  
2 follows:

3 306.27 CHANGES FOR SAFETY, ECONOMY, AND UTILITY.

4 The state department of transportation as to primary roads  
5 and the boards of supervisors as to secondary roads on their  
6 own motion may change the course of any part of any road or  
7 stream, watercourse, or dry run and may pond water in order to  
8 avoid the construction and maintenance of bridges, or to avoid  
9 grades, or railroad crossings, or to straighten a road, or to  
10 cut off dangerous corners, turns or intersections on the  
11 highway, or to widen a road above statutory width, or for the  
12 purpose of preventing the encroachment of a stream,  
13 watercourse, or dry run upon the highway. The department and  
14 the board of supervisors shall conduct ~~its~~ their proceedings  
15 in the manner and form prescribed in chapter 6B, and except  
16 that the board of supervisors ~~shall~~ may use the form  
17 prescribed in sections 306.28 to 306.37 ~~or-as-provided-in~~  
18 chapter-6B for the condemnation of right of way that is  
19 contiguous to existing road right of way and necessary for the  
20 maintenance, safety improvement, or upgrade of the existing  
21 secondary road. Changes are subject to chapter 455B.

22 Sec. 25. Section 306.28, Code 1999, is amended by striking  
23 the section and inserting in lieu thereof the following:

24 306.28 APPRAISERS.

25 If the board is unable, by agreement with the owner, to  
26 acquire the necessary right of way to effect such change, a  
27 compensation commission shall be selected pursuant to section  
28 6B.4, to appraise the damages consequent on the taking of the  
29 right of way.

30 Sec. 26. Section 306.29, unnumbered paragraph 2, Code  
31 1999, is amended to read as follows:

32 To whom it may concern: Notice is given that the board of  
33 supervisors of ..... county, Iowa, propose to condemn for  
34 road purposes the following described real estate in said  
35 county: (Here describe the right of way, and the tract or

1 tracts from which such right of way will be taken.) The  
2 damages caused by said condemnation will be assessed by three  
3 appraisers a compensation commission appointed as provided by  
4 law for the purpose of appraising the damages. Notice-is  
5 ~~hereby-given-that-the-owner-or-owners-of-said-real-estate-may,~~  
6 ~~on-or-before-the---day-of-----appoint-one-of-said~~  
7 ~~appraisers-and-that-in-case-such-right-be-not-exercised,-or-if~~  
8 ~~exercised-and-the-said-appointee-fails-to-appear-and-qualify,~~  
9 ~~the-said-three-appraisers-will-be-otherwise-appointed-as~~  
10 ~~provided-by-law.~~ All parties interested are further notified  
11 that ~~said-three-appraisers~~ the compensation commission will,  
12 when duly appointed, proceed to appraise ~~said~~ the damages,  
13 will report ~~said~~ the appraisement to the ~~said~~ board of  
14 supervisors and that ~~said-latter~~ the board will pass thereon  
15 as provided by law, and that at all such times and places you  
16 may be present ~~if-you-be-so-minded.~~ You are further notified  
17 that at ~~said~~ the hearing before the ~~said~~ supervisors you may  
18 file objections to the use of ~~said~~ the land for road purposes  
19 and that all such objections not so made will be deemed  
20 waived.

21 .....  
22 County Auditor.

23 Sec. 27. Section 306.31, Code 1999, is amended to read as  
24 follows:

25 306.31 QUALIFICATION-AND ASSESSMENT.

26 ~~Upon-the-appointment-of-three-appraisers,-the-county~~  
27 ~~auditor-shall-cause-them-to-appear-before-the-auditor-and-to~~  
28 ~~take-oath-that-they-will-faithfully-and-impartially-assess-the~~  
29 ~~damages-claimed.--Said~~ The appraisers shall forthwith proceed  
30 to the assessment of ~~said~~ damages and shall make written  
31 report ~~thereof~~ of the damages to the board of supervisors.

32 Sec. 28. Section 316.1, subsection 5, paragraphs a and b,  
33 Code 1999, are amended to read as follows:

34 a. A person who moves from real property or moves the  
35 person's personal property from real property in either any of

1 the following circumstances:

2 (1) As a direct result of a written notice of intent to  
3 acquire, the initiation of negotiations for, or the  
4 acquisition of, the real property in whole or in part for a  
5 program or project undertaken with federal financial  
6 assistance.

7 (2) The person moved or moved the person's personal  
8 property from real property on which the person is either a  
9 residential tenant or conducts a small business, a farm  
10 operation, or a business as defined in subsection 2, paragraph  
11 "d", as a direct result of rehabilitation or demolition for a  
12 program or project undertaken with federal financial  
13 assistance in a case in which the head of the displacing  
14 agency determines that the displacement is permanent.

15 (3) As a direct result of a written notice of intent to  
16 acquire by condemnation, the initiation of negotiations for,  
17 or the acquisition of, the real property in whole or in part  
18 by the state of Iowa or by an entity or person conferred the  
19 right to condemn private property.

20 b. For purposes of section 316.4, subsections 1 and 2, and  
21 section 316.7, a person who moves from real property, or moves  
22 the person's personal property from real property in either  
23 any of the following circumstances:

24 (1) As a direct result of a written notice of intent to  
25 acquire, the initiation of negotiations for, or the  
26 acquisition of, other real property in whole or in part if the  
27 person conducts a business or farm operation on the other real  
28 property for a program or project undertaken with federal  
29 financial assistance.

30 (2) As a direct result of rehabilitation or demolition of  
31 other real property on which the person conducts a business or  
32 a farm operation for a program or project undertaken with  
33 federal financial assistance in a case in which the head of  
34 the displacing agency determines that the displacement is  
35 permanent.

1 (3) As a direct result of a written notice of intent to  
2 acquire by condemnation, the initiation of negotiations for,  
3 or the acquisition of, other real property in whole or in part  
4 by the state of Iowa or by an entity or person conferred the  
5 right to condemn private property if the person conducts a  
6 business or farm operation on the other real property.

7 Sec. 29. Section 331.304, subsection 8, Code 1999, is  
8 amended to read as follows:

9 8. The power to take private property for public use shall  
10 only be exercised by counties for public purposes which are  
11 reasonable and necessary as an incident to the powers and  
12 duties conferred upon counties, and in accordance with  
13 chapters 6A and 6B. ~~Sections~~ Section 306.19 and-306-28-to  
14 306-37-are is also applicable to condemnation of right of way  
15 for secondary roads. Sections 306.27 through 306.37 are  
16 applicable to the condemnation of right of way that is  
17 contiguous to existing road right of way and necessary for the  
18 maintenance, safety improvement, or upgrade of the existing  
19 secondary road.

20 Sec. 30. Section 403.5, subsection 4, Code 1999, is  
21 amended by adding the following new unnumbered paragraph:

22 NEW UNNUMBERED PARAGRAPH. A municipality shall not condemn  
23 agricultural land included within an economic development area  
24 unless the owner of the agricultural land consents to  
25 condemnation or unless the economic development board approves  
26 the use of condemnation under section 15.104, subsection 9,  
27 for the purposes of locating an industrial enterprise. This  
28 paragraph shall not apply to land necessary or useful for the  
29 operation of a city utility as defined in section 362.2, for  
30 the operation of a city franchise conferred the authority to  
31 condemn private property under section 364.2, or a combined  
32 utility system as defined in section 384.80.

33 Sec. 31. Section 403.7, unnumbered paragraph 1, Code 1999,  
34 is amended to read as follows:

35 A municipality shall have the right to acquire by

1 condemnation any interest in real property, including a fee  
2 simple title thereto, which it may deem necessary for or in  
3 connection with an urban renewal project under this chapter.  
4 However, a municipality shall not condemn agricultural land  
5 included within an economic development area unless the owner  
6 of the agricultural land consents to condemnation or unless  
7 the economic development board approves the use of  
8 condemnation under section 15.104, subsection 9, for the  
9 purposes of locating an industrial enterprise. A municipality  
10 may exercise the power of eminent domain in the manner  
11 provided in chapter 6B, and Acts amendatory to that chapter or  
12 supplementary to that chapter, or it may exercise the power of  
13 eminent domain in the manner now or which may be hereafter  
14 provided by any other statutory provisions for the exercise of  
15 the power of eminent domain. Property already devoted to a  
16 public use may be acquired in like manner. However, real  
17 property belonging to the state, or any political subdivision  
18 of this state, shall not be acquired without its consent, and  
19 real property or any right or interest in the property owned  
20 by any public utility company, pipeline company, railway or  
21 transportation company vested with the right of eminent domain  
22 under the laws of this state, shall not be acquired without  
23 the consent of the company, or without first securing, after  
24 due notice to the company and after hearing, a certificate  
25 authorizing condemnation of the property from the board,  
26 commission or body having the authority to grant a certificate  
27 authorizing condemnation. In a condemnation proceeding, if a  
28 municipality proposes to take a part of a lot or parcel of  
29 real property, the municipality shall also take the remaining  
30 part of the lot or parcel if requested by the owner.

31 Sec. 32. Section 403.17, Code 1999, is amended by adding  
32 the following new subsection:

33 NEW SUBSECTION. 2A. "Agricultural land" means real  
34 property that is used for the production of agricultural  
35 commodities and from which one thousand dollars or more of

1 agricultural commodities were sold or normally would be sold  
2 during the year. Such use of property includes, but is not  
3 limited to, the raising, harvesting, handling, drying, or  
4 storage of crops used for feed, food, seed, or fiber; the care  
5 or feeding of livestock; the handling or transportation of  
6 crops or livestock; the storage, treatment, or disposal of  
7 livestock manure; and the application of fertilizers, soil  
8 conditioners, pesticides, and herbicides on crops.

9 Agricultural land includes land on which is located farm  
10 residences or outbuildings used for agricultural purposes and  
11 land on which is located facilities, structures, or equipment  
12 for agricultural purposes. Agricultural land includes land  
13 taken out of agricultural production for purposes of  
14 environmental protection or preservation.

15 Sec. 33. Section 403.17, subsection 9, Code 1999, is  
16 amended to read as follows:

17 9. "Economic development area" means an area of a  
18 municipality designated by the local governing body as  
19 appropriate for commercial and industrial enterprises, public  
20 improvements related to housing and residential development,  
21 or construction of housing and residential development for low  
22 and moderate income families, including single or multifamily  
23 housing. If an urban renewal plan for an urban renewal area  
24 is based upon a finding that the area is an economic  
25 development area and that no part contains slum or blighted  
26 conditions, then the division of revenue provided in section  
27 403.19 and stated in the plan shall be limited to twenty years  
28 from the calendar year following the calendar year in which  
29 the city first certifies to the county auditor the amount of  
30 any loans, advances, indebtedness, or bonds which qualify for  
31 payment from the division of revenue provided in section  
32 403.19. Such designated area shall not include agricultural  
33 land, including land which is part of a century farm, unless  
34 the owner of the agricultural land or century farm agrees to  
35 include the agricultural land or century farm in the urban

1 renewal area. For the purposes of this subsection, "century  
2 farm" means a farm in which at least forty acres of such farm  
3 have been held in continuous ownership by the same family for  
4 one hundred years or more.

5 Sec. 34. APPLICABILITY. Sections 1, 30, 31, and 32 of  
6 this Act, enacting section 6A.21, amending sections 403.5 and  
7 403.7, and enacting section 403.17, subsection 2A, apply to  
8 urban renewal areas established before, on, or after the  
9 effective date of this Act and to amendments to such urban  
10 renewal areas.

11 Section 33 of this Act, amending section 403.17, subsection  
12 9, applies to urban renewal areas established on or after the  
13 effective date of this Act. Section 33 of this Act also  
14 applies to agricultural land included in an urban renewal area  
15 established before the effective date of this Act if the  
16 agricultural land is included in the urban renewal area by  
17 virtue of an amendment to the urban renewal plan, which  
18 amendment is adopted on or after the effective date of this  
19 Act.

20 Sec. 35. EFFECTIVE DATE. This Act applies to state  
21 highway construction projects approved for commencement by the  
22 transportation commission on or after July 1, 1999. This Act  
23 applies to all other condemnation proceedings in which the  
24 application for condemnation is filed on or after July 1,  
25 1999.

26 EXPLANATION

27 This bill makes several changes to the law relating to the  
28 power of eminent domain and the procedures by which the state  
29 of Iowa and other entities and persons are allowed to condemn  
30 private property. The bill defines "acquiring agency" to mean  
31 entities or persons conferred the right by law to condemn  
32 private property. "Acquiring agency" under the bill includes  
33 counties, cities, owners of land without a way to the land,  
34 owners of mineral lands, cemetery associations, subdistricts  
35 of soil and water conservation districts, and utilities.

1 The bill defines "public use", "public purpose", or "public  
2 improvement" to exclude the condemnation of agricultural land  
3 without the consent of the owner. The bill defines  
4 "agricultural land" as real property used for production of  
5 certain agricultural commodities and from which \$1,000 or more  
6 of commodities were sold in a year. The bill defines "private  
7 development purposes" as the construction of, or improvement  
8 related to, recreational trails, recreational development paid  
9 for primarily with private funds, housing and residential  
10 development, or commercial or industrial enterprise  
11 development.

12 The bill requires a condemning authority to send a notice  
13 of a proposed public improvement to the owner of property for  
14 which condemnation is being considered for the public  
15 improvement. The notice must be mailed by ordinary mail no  
16 less than 30 days before adoption of the declaration of intent  
17 relating to the public improvement and the acquisition or  
18 condemnation of the property. The notice, at a minimum,  
19 should include information on the general nature of the public  
20 improvement, the intended use of the property, the process  
21 relating to the public improvement, and opportunity for public  
22 input relating to the public improvement if the law requires  
23 public input.

24 The bill requires a condemning authority to make a good  
25 faith effort to negotiate with the owner to purchase the  
26 private property before filing an application for  
27 condemnation. The condemning authority is required to provide  
28 the owner of the property with a statement of rights. The  
29 statement is to be included with the notice of proposed public  
30 improvement. The bill provides that condemnation may not  
31 proceed until the notice of proposed public improvement  
32 containing the statement of individual rights is provided to  
33 the owner.

34 The bill requires a condemning authority to mail a copy of  
35 the condemnation application filed with the district court to

1 the owner of the property. The bill also requires that the  
2 condemnation application provide information on the minimum  
3 amount of land necessary for the public improvement and the  
4 amount of land to be acquired by condemnation. The  
5 condemnation application must also include a statement of the  
6 efforts made by the condemning authority to negotiate with the  
7 owner for the sale of the property prior to filing the  
8 application.

9 The bill requires that a list of the persons selected to  
10 serve on the compensation commission for condemnation  
11 proceedings be provided to the condemnation applicant and to  
12 the owner of the property. The bill allows the applicant and  
13 the owner to each dismiss one commissioner without stating  
14 cause.

15 The bill provides that a compensation commission  
16 established to determine damages is a governmental body and  
17 subject to the public open meeting laws pursuant to Code  
18 chapter 21. The bill also provides that the notice of the  
19 date and time of an appraisal or assessment given by the  
20 sheriff to the compensation commissioners shall be published  
21 by the sheriff to serve public notice of the meeting of the  
22 commission.

23 The bill increases from 10 days to 30 days the amount of  
24 notice given of an assessment of the property. The bill  
25 provides that service of notice of assessment shall be mailed  
26 by certified mail to applicants or owners or persons in  
27 interest, any of whom are not residents of the state. The  
28 bill also requires that the notice to nonresidents be  
29 published once 30 days before the assessment.

30 The bill increases the amount to be paid in moving expenses  
31 from \$500 to \$5,000 for an owner or tenant occupying land that  
32 has been condemned. The bill also increases that distance  
33 that personal property is moved for which moving expenses are  
34 paid from 25 miles to 50 miles.

35 The bill adds outbuildings to the list of property from

1 which a landowner may not be dispossessed by condemnation  
2 without determination and payment of damages. Outbuildings  
3 are defined as structures and improvements located in  
4 proximity to the owner's residence.

5 Current law requires the applicant to pay the expenses of  
6 the compensation commission and of the landowner if the award  
7 of the commission is 110 percent or more of the final offer of  
8 the applicant prior to condemnation. The bill provides that  
9 the condemnation applicant shall reimburse the county sheriff  
10 for the per diem and actual expenses paid to members of the  
11 compensation commission. The bill specifies that the  
12 applicant shall reimburse the owner of the property for  
13 expenses incurred for recording fees, mortgage penalty costs,  
14 and similar expenses incidental to the transfer of the  
15 property to the applicant.

16 The bill provides that relocation expenses for  
17 condemnations by the state of Iowa or other entity or person  
18 having the right to condemn property shall be determined and  
19 paid in the same manner as relocation expenses for  
20 condemnations involving federally funded projects.

21 The bill requires that a copy of the appraisal, on which  
22 the purchasing state agency, county, or city will base its  
23 offer of compensation, be mailed to the owner of the property.

24 The bill makes current acquisition policy guidelines for  
25 projects receiving federal financial assistance applicable to  
26 any state funded projects and to any other public improvement  
27 for which condemnation is sought.

28 The bill provides that if a city makes a good faith effort  
29 to comply with notice provisions, that failure to comply may  
30 only result in a delay of the condemnation proceeding.

31 The bill allows a city to condemn agricultural land for an  
32 industrial enterprise if the land has been located within city  
33 boundaries for at least three years and the city has applied  
34 to, and received approval from, the state economic development  
35 board.

1 The bill amends Code sections providing an alternative  
2 condemnation procedure for counties and secondary roads. The  
3 county may use the alternative procedure if the right of way  
4 to be condemned is contiguous to existing road right of way  
5 and is necessary for maintenance, safety improvement, or  
6 upgrade of the existing road. The county is also required to  
7 use the compensation commission to assess damages.

8 The bill provides that a municipality (city or county)  
9 shall not condemn agricultural land included within an urban  
10 renewal area designated as an economic development area  
11 without the consent of the owner of the agricultural land.  
12 This does not apply to city utilities or city franchises.

13 The section of the bill amending the definition of  
14 "economic development area" for purposes of urban renewal,  
15 applies to urban renewal areas established on or after the  
16 effective date of the bill. However, the amendment applies to  
17 urban renewal areas established before the effective date if  
18 they were amended to add agricultural land to the economic  
19 development urban renewal area on or after the effective date  
20 of the bill. The remaining sections of the bill which amend  
21 or reference Code chapter 403 apply to urban renewal areas  
22 established before, on, or after the effective date of the  
23 bill.

24 The bill applies to state highway construction projects  
25 approved on or after July 1, 1999. The bill applies to all  
26 other condemnation proceedings in which the application for  
27 condemnation is filed on or after July 1, 1999.

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- 1 Amend Senate File 351 as follows:  
 2 1. Page 1, by striking lines 5 through 8 and  
 3 inserting the following:  
 4 "a. "Agricultural land" means real property owned  
 5 by a person in tracts of ten acres or more and not  
 6 laid off into lots of less than ten acres or divided  
 7 by streets and alleys into parcels of less than ten  
 8 acres, and that is used for the production of  
 9 agricultural commodities. Such use of".  
 10 2. Page 1, by inserting after line 21 the  
 11 following:  
 12 "b. "Century farm" means a farm in which at least  
 13 forty acres of such farm have been held in continuous  
 14 ownership by the same family for one hundred years or  
 15 more."  
 16 3. Page 1, line 22, by striking the letter "b."  
 17 and inserting the following: "c."  
 18 4. Page 1, line 27, by striking the letter "c."  
 19 and inserting the following: "d."  
 20 5. Page 1, line 34, by striking the words  
 21 "industrial enterprise" and inserting the following:  
 22 "industry".  
 23 6. Page 2, by inserting after line 10 the  
 24 following:  
 25 "Sec. \_\_\_\_ . NEW SECTION. 6A.22 CONDEMNATION OF  
 26 CENTURY FARMS PROHIBITED.  
 27 The acquisition of a century farm by condemnation  
 28 is prohibited except for acquisition of a right of way  
 29 for existing roads and highways for the maintenance,  
 30 safety improvement, or upgrade of such existing roads  
 31 and highways."  
 32 7. Page 6, line 9, by inserting after the word  
 33 "filing." the following: "After filing and indexing,  
 34 the county recorder shall file a copy of the  
 35 application with the office of secretary of state.  
 36 PARAGRAPH DIVIDED."  
 37 8. Page 7, line 3, by striking the word "regular"  
 38 and inserting the following: "ordinary".  
 39 9. Page 9, line 25, by inserting after the word  
 40 "owner's" the following: "or tenant's".  
 41 10. Page 11, by inserting after line 2 the  
 42 following:  
 43 "Sec. \_\_\_\_ . Section 6B.38, Code 1999, is amended by  
 44 adding the following new unnumbered paragraph:  
 45 NEW UNNUMBERED PARAGRAPH. The county recorder  
 46 shall file a copy of the sheriff's statement required  
 47 by section 6B.35, subsection 5, with the office of the  
 48 secretary of state."  
 49 11. Page 15, by inserting after line 13, the  
 50 following:

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*Adopted*  
*4-18-99*  
*(p. 1019)*

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Page 2

1 "Sec. \_\_\_\_ . NEW SECTION. 6B.59 SALE OF ACQUIRED  
2 PROPERTY -- REIMBURSEMENT TO LANDOWNER.

3 If an acquiring agency acquires property by  
4 condemnation, or by otherwise exercising the power of  
5 eminent domain, and that property is later sold by the  
6 acquiring agency for more than the acquisition price  
7 paid to the landowner, the acquiring agency shall pay  
8 to the landowner from whom the property was acquired  
9 the difference between the price at which it was  
10 acquired and the price at which it was sold by the  
11 acquiring agency less the cost of any improvements  
12 made to the land by the acquiring agency.

13 Sec. \_\_\_\_ . NEW SECTION. 9.2A RECORDS RELATING TO  
14 CONDEMNATION.

15 The secretary of state shall receive and preserve  
16 in the secretary's office all papers transmitted to  
17 the secretary in relation to condemnation and shall  
18 keep an alphabetical list of acquiring agencies in a  
19 book provided for that purpose, in which shall be  
20 entered the name of the acquiring agency, the county  
21 in which the real property is located, and the date  
22 the condemnation application was filed."

23 12. Page 15, by striking lines 20 through 22 and  
24 inserting the following: "industry in the community."

25 13. Page 15, line 25, by striking the words  
26 "industrial enterprise" and inserting the following:  
27 "industry".

28 14. Page 15, line 32, by striking the words  
29 "industrial enterprise" and inserting the following:  
30 "industry".

31 15. Page 15, by striking lines 33 and 34.

32 16. Page 15, line 35, by striking the letter "d."  
33 and inserting the following: "c."

34 17. Page 16, line 2, by striking the letter "e."  
35 and inserting the following: "d."

36 18. Page 16, line 2, by striking the words  
37 "industrial enterprise" and inserting the following:  
38 "industry".

39 19. Page 16, line 4, by striking the letter "f."  
40 and inserting the following: "e."

41 20. Page 16, by striking lines 6 through 12 and  
42 inserting the following:

43 "For purposes of this subsection, "industry" means  
44 the same as defined in section 260E.2."

45 21. Page 20, by inserting after line 19 the  
46 following:

47 "Sec. \_\_\_\_ . Section 331.602, subsection 24, Code  
48 1999, is amended to read as follows:

49 24. Record papers, statements, and certificates  
50 relating to the condemnation of property as provided

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Page 3

1 in section 6B.38, and carry out duties related to the  
2 filing of certain condemnation documents with the  
3 office of secretary of state."

4 22. Page 20, line 27, by striking the words  
5 "industrial enterprise" and inserting the following:  
6 "industry".

7 23. Page 21, line 9, by striking the words  
8 "industrial enterprise" and inserting the following:  
9 "industry".

10 24. Page 23, line 5, by striking the word and  
11 figures "30, 31, and 32" and inserting the following:  
12 "35, 36, and 37".

13 25. Page 23, line 11, by striking the figure "33"  
14 and inserting the following: "38".

15 26. Page 23, line 13, by striking the figure "33"  
16 and inserting the following: "38".

17 27. By renumbering and correcting internal  
18 references as necessary.

By JEFF ANGELO

S-3205 FILED MARCH 31, 1999

*Adapted  
4-8-99  
(P. 019)*