

FILED FEB 6 1986

SENATE FILE 2143  
BY COMMITTEE ON JUDICIARY  
*Approved (p. 255)*

Passed Senate, Date 2-26-86 (p. 462) Passed House, Date 4-1-86 (p. 111)  
Vote: Ayes 49 Nays 0 Vote: Ayes 92 Nays 0  
Approved April 14, 1986 (p. 1219)

**A BILL FOR**

1 An Act relating to corrections; changing certain administrative  
2 provisions; limiting remedies in restitution matters; and  
3 providing penalties.

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

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S.F.

**FISCAL NOTE TO**

REQUESTED BY SEN. DOYLE

SENATE FILE 2143

In compliance with a written request received February 5, 1986, a fiscal note for SENATE FILE 2143 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 2143 makes several changes in statutes relating to corrections, including provisions governing the canteen funds at correctional institutions and the revolving farm fund of the department of corrections; provides that postconviction relief is not available for alleged errors relating to restitution, court costs, and fees; removes specifications for the size of inmate photographs taken upon release; and allows the court discretion in granting hearings on restitution matters.

**FISCAL EFFECT:** This bill is estimated to have no fiscal impact upon either the Department of Corrections or the Department of Public Safety. There is expected to be some reduction in the transportation expense incurred by county sheriffs.

DENNIS C. PROUTY, DIRECTOR  
LEGISLATIVE FISCAL BUREAU

Filed by the Sec. of the Senate February 19, 1986

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1 Section 1. Section 246.310, Code Supplement 1985, is  
2 amended to read as follows:

3 246.310 CANTEENS.

4 The director may maintain a canteen at any institution  
5 under the director's jurisdiction for the sale to persons  
6 confined in the institution of items such as toilet articles,  
7 candy, tobacco products, notions, and other sundries, and may  
8 provide the necessary facilities, equipment, personnel, and  
9 merchandise for the canteen. The director shall specify the  
10 items to be sold in the canteen. The department may establish  
11 and maintain a permanent operating fund for each canteen. The  
12 fund shall consist of the receipts from the sale of  
13 commodities at the canteen. Any money in the fund over the  
14 amount needed to do normal business transactions, and to  
15 reimburse any accounts which have subsidized the canteen fund,  
16 shall be considered profit. This money may remain in the  
17 canteen fund and be used for any purchase which the  
18 superintendent approves that will directly benefit the inmates  
19 during their incarceration.

20 Sec. 2. Section 246.706, unnumbered paragraph 1, Code  
21 Supplement 1985, is amended to read as follows:

22 A revolving farm fund is created in the state treasury in  
23 which the department shall deposit receipts from agricultural  
24 products, nursery stock, agricultural land rentals, and the  
25 sale of livestock. However, before any agricultural operation  
26 is phased out, the department which proposes to discontinue  
27 this operation shall notify the governor, chairpersons and  
28 ranking members of the house and senate appropriations  
29 committees, and cochairpersons and ranking members of the  
30 subcommittee in the senate and house of representatives which  
31 has handled the appropriation for this department in the past  
32 session of the legislature. Before the department sells  
33 farmland under the control of the department, the director  
34 shall notify the governor, chairpersons and ranking members of  
35 the house and senate appropriations committees, and

1 cochairpersons and ranking members of the joint appropriations  
2 subcommittee that handled the appropriation for the department  
3 during the past legislative session. The department may pay  
4 from the fund for the operation, maintenance, and improvement  
5 of farms and agricultural or nursery property under the  
6 control of the department. A purchase order for five thousand  
7 dollars or less payable from the fund is exempt from the  
8 general purchasing requirements of chapter 18.

9 Notwithstanding section 8.33, unencumbered or unobligated  
10 receipts in the revolving farm fund at the end of a fiscal  
11 year shall not revert to the general fund of the state and the  
12 investment proceeds earned from the balance of the fund shall  
13 be credited to the fund and used for the purposes provided for  
14 in this section.

15 Sec. 3. Section 663A.2, subsection 7, Code 1985, is  
16 amended to read as follows:

17 7. The conviction or sentence is otherwise subject to  
18 collateral attack upon any ground of alleged error formerly  
19 available under any common law, statutory or other writ,  
20 motion, petition, proceeding, or remedy, except alleged error  
21 relating to restitution, court costs, or fees under section  
22 246.702 or chapter 815 or 910;

23 may institute, without paying a filing fee, a proceeding under  
24 this chapter to secure relief.

25 Sec. 4. Section 690.4, unnumbered paragraph 2, Code 1985,  
26 is amended to read as follows:

27 ~~it is also the duty of the~~ The wardens and superintendents  
28 ~~to shall~~ procure the taking of ~~five-by-seven-inch-photographic~~  
29 ~~negative~~ a photograph showing a full length view of each  
30 inmate of a state correctional institution in the inmate's  
31 release clothing immediately prior to the inmate's discharge  
32 from the institution either upon expiration of sentence or  
33 commitment or on parole, and ~~to shall~~ forward the photographic  
34 ~~negative~~ photograph within two days after it is taken to the  
35 division of criminal investigation and bureau of

1 identification, Iowa department of public safety.

2 Sec. 5. Section 815.1, Code 1985, is amended to read as  
3 follows:

4 815.1 COSTS PAYABLE BY STATE IN SPECIAL CASES.

5 All costs and fees, including any award of attorney fees to  
6 a court-appointed attorney, incurred in any a parole  
7 revocation ~~proceedings proceeding~~ or in any a criminal case  
8 brought against an inmate of any a state institution for a  
9 crime committed while confined in ~~such the~~ institution, or for  
10 a crime committed by ~~such the~~ inmate while placed outside the  
11 walls or confines of the institution under the control and  
12 direction of a warden, supervisor, officer, or employee  
13 ~~thereof of the institution~~, or for a crime committed by ~~such~~  
14 ~~the~~ inmate during an escape or other unauthorized departure  
15 from ~~such the~~ institution or from the control of a warden,  
16 supervisor, officer, or employee ~~thereof, of the institution~~,  
17 ~~or from wherever the said inmate may have been placed by~~  
18 authorized personnel ~~thereof of the institution~~, shall be paid  
19 out of the state treasury from the general fund ~~in-case if the~~  
20 prosecution fails, or ~~where-such if the person liable to pay~~  
21 ~~the costs and fees, including an award of attorney fees to a~~  
22 ~~court-appointed attorney, cannot be-made-from-the-person~~  
23 ~~liable-to pay the same, the~~ costs and fees. The facts being  
24 shall be certified by the clerk of the district court under  
25 the clerk's seal of office to the state comptroller, including  
26 a statement of the amount of fees or costs incurred, ~~such~~  
27 ~~statement-to-be approved by the presiding judge in writing~~  
28 ~~appended-thereto-or-endorsed-thereon.~~ When a conviction is  
29 rendered and the court orders restitution for costs of the  
30 prosecution, the inmate, work releasee, or parolee shall make  
31 restitution to the general fund of the state pursuant to  
32 section 910.2.

33 Sec. 6. Section 910.7, Code 1985, is amended to read as  
34 follows:

35 910.7 PETITION FOR HEARING.

1 At any time during the period of probation, parole, or  
 2 incarceration, the offender or the office or individual who  
 3 prepared the offender's restitution plan, may petition the  
 4 court ~~and the court shall grant a hearing~~ on any matter  
 5 related to the plan of restitution or restitution plan of  
 6 payment and the court shall grant a hearing if on the face of  
 7 the petition it appears that a hearing is warranted. In  
 8 determining whether to grant a hearing, the court shall  
 9 consider whether there is substantial evidence that the amount  
 10 of restitution is not correct or that conditions of the  
 11 restitution plan or plan of payment are being violated by the  
 12 offender or the office or individual who prepared the  
 13 offender's restitution plan. The court, at any time prior to  
 14 the expiration of the offender's sentence, may modify the plan  
 15 of restitution or the restitution plan of payment, or both,  
 16 and may extend the period of time for the completion of  
 17 restitution.

18 EXPLANATION

19 This bill makes several changes in statutes relating to  
 20 corrections. It revises provisions governing the canteen  
 21 funds at correctional institutions and the revolving farm fund  
 22 of the department of corrections; provides that postconviction  
 23 relief is not available for alleged errors relating to  
 24 restitution, court costs, and fees; removes specifications for  
 25 the size of inmate photographs taken upon release; adds a  
 26 reference to restitution in provisions governing costs payable  
 27 by the state; and allows the court discretion in granting  
 28 hearings on restitution matters.

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SENATE FILE 2143

S-5057

1 Amend Senate File 2143 as follows:

- 2 1. Page 4, line 7, by striking the word "In".
- 3 2. Page 4, by striking lines 8 through 13 and
- 4 inserting the following: "The court, at any time
- 5 prior to".

S-5057 Filed February 11, 1986

BY MANN

*Adopted 2/26 (p. 462)*

SENATE FILE 2143

S-5081

1 Amend Senate File 2143 as follows:

- 2 1. Page 4, by inserting after line 17 the
- 3 following:
- 4 "Sec. \_\_\_\_ . 1983 Iowa Acts, chapter 147, section
- 5 14, is amended to read as follows:
- 6 SEC. 14. Sections 2 through 6 and sections 8, 9,
- 7 10, 11, and 13 Section 3 and section 4, subsection 1,
- 8 and section 11 of this Act apply only to inmates
- 9 sentenced for offenses committed after July 1, 1983.
- 10 Section 2, section 4, subsections 2 through 4, and
- 11 sections 5, 6, and 8 through 10 of this Act take
- 12 effect July 1, 1983, but do not apply to inmates
- 13 sentenced for offenses committed prior to July 1,
- 14 1983, until July 1, 1986. Section 12 of this Act
- 15 takes effect July 1, 1983 but also applies
- 16 retroactively to inmates who are serving or will serve
- 17 mandatory sentences pursuant to section 906.5 before
- 18 July 1, 1983."
- 19 2. Title page, line 2, by inserting after the
- 20 word "matters;" the following: "changing the
- 21 applicability dates of certain provisions relating to
- 22 inmate discipline and the availability of remedies;".
- 23 3. By renumbering as necessary.

S-5081 Filed February 18, 1986

BY DOYLE, DRAKE

*Adopted 2/26 (p. 462)*

See Judiciary 3/4/86 D. Case 3/25 (p. 1004)

SENATE FILE 2143  
BY COMMITTEE ON JUDICIARY

(AS AMENDED AND PASSED BY THE SENATE FEBRUARY 26, 1986)

\_\_\_\_\_ - New Language by the Senate  
\* - Language Stricken by the Senate

Passed Senate, Date 2-26-86 (p. 462) Passed House, Date 4-1-86 (p. 1111)  
Vote: Ayes 49 Nays 0 Vote: Ayes 92 Nays 0  
Approved April 14, 1986 (p. 1219)

A BILL FOR

1 An Act relating to corrections; changing certain administrative  
2 provisions; limiting remedies in restitution matters; changing  
3 the applicability dates of certain provisions relating to  
4 inmate discipline and the availability of remedies; and  
5 providing penalties.

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

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1 Section 1. Section 246.310, Code Supplement 1985, is  
2 amended to read as follows:

3 246.310 CANTEENS.

4 The director may maintain a canteen at any institution  
5 under the director's jurisdiction for the sale to persons  
6 confined in the institution of items such as toilet articles,  
7 candy, tobacco products, notions, and other sundries, and may  
8 provide the necessary facilities, equipment, personnel, and  
9 merchandise for the canteen. The director shall specify the  
10 items to be sold in the canteen. The department may establish  
11 and maintain a permanent operating fund for each canteen. The  
12 fund shall consist of the receipts from the sale of  
13 commodities at the canteen. Any money in the fund over the  
14 amount needed to do normal business transactions, and to  
15 reimburse any accounts which have subsidized the canteen fund,  
16 shall be considered profit. This money may remain in the  
17 canteen fund and be used for any purchase which the  
18 superintendent approves that will directly benefit the inmates  
19 during their incarceration.

20 Sec. 2. Section 246.706, unnumbered paragraph 1, Code  
21 Supplement 1985, is amended to read as follows:

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23 which the department shall deposit receipts from agricultural  
24 products, nursery stock, agricultural land rentals, and the  
25 sale of livestock. However, before any agricultural operation  
26 is phased out, the department which proposes to discontinue  
27 this operation shall notify the governor, chairpersons and  
28 ranking members of the house and senate appropriations  
29 committees, and cochairpersons and ranking members of the  
30 subcommittee in the senate and house of representatives which  
31 has handled the appropriation for this department in the past  
32 session of the legislature. Before the department sells  
33 farmland under the control of the department, the director  
34 shall notify the governor, chairpersons and ranking members of  
35 the house and senate appropriations committees, and

1 cochairpersons and ranking members of the joint appropriations  
2 subcommittee that handled the appropriation for the department  
3 during the past legislative session. The department may pay  
4 from the fund for the operation, maintenance, and improvement  
5 of farms and agricultural or nursery property under the  
6 control of the department. A purchase order for five thousand  
7 dollars or less payable from the fund is exempt from the  
8 general purchasing requirements of chapter 18.

9 Notwithstanding section 8.33, unencumbered or unobligated  
10 receipts in the revolving farm fund at the end of a fiscal  
11 year shall not revert to the general fund of the state and the  
12 investment proceeds earned from the balance of the fund shall  
13 be credited to the fund and used for the purposes provided for  
14 in this section.

15 Sec. 3. Section 663A.2, subsection 7, Code 1985, is  
16 amended to read as follows:

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18 collateral attack upon any ground of alleged error formerly  
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20 motion, petition, proceeding, or remedy, except alleged error  
21 relating to restitution, court costs, or fees under section  
22 246.702 or chapter 815 or 910;

23 may institute, without paying a filing fee, a proceeding under  
24 this chapter to secure relief.

25 Sec. 4. Section 690.4, unnumbered paragraph 2, Code 1985,  
26 is amended to read as follows:

27 ~~It is also the duty of the~~ The wardens and superintendents  
28 ~~to shall~~ procure the taking of ~~five-by-seven-inch-photographic~~  
29 ~~negative~~ a photograph showing a full length view of each  
30 inmate of a state correctional institution in the inmate's  
31 release clothing immediately prior to the inmate's discharge  
32 from the institution either upon expiration of sentence or  
33 commitment or on parole, and ~~to~~ shall forward the ~~photographic~~  
34 ~~negative photograph~~ within two days after it is taken to the  
35 division of criminal investigation and bureau of

1 identification, Iowa department of public safety.

2 Sec. 5. Section 815.1, Code 1985, is amended to read as  
3 follows:

4 815.1 COSTS PAYABLE BY STATE IN SPECIAL CASES.

5 All costs and fees, including any award of attorney fees to  
6 a court-appointed attorney, incurred in any a parole  
7 revocation ~~proceedings~~ proceeding or in any a criminal case  
8 brought against an inmate of any a state institution for a  
9 crime committed while confined in such the institution, or for  
10 a crime committed by such the inmate while placed outside the  
11 walls or confines of the institution under the control and  
12 direction of a warden, supervisor, officer, or employee  
13 thereof of the institution, or for a crime committed by such  
14 the inmate during an escape or other unauthorized departure  
15 from such the institution or from the control of a warden,  
16 supervisor, officer, or employee thereof, of the institution,  
17 or from wherever the ~~said~~ inmate may have been placed by  
18 authorized personnel thereof of the institution, shall be paid  
19 out of the state treasury from the general fund ~~in-case~~ if the  
20 prosecution fails, or ~~where-such~~ if the person liable to pay  
21 the costs and fees, including an award of attorney fees to a  
22 court-appointed attorney, ~~cannot be-made-from-the-person~~  
23 ~~liable-to pay the same, the~~ costs and fees. The facts being  
24 shall be certified by the clerk of the district court under  
25 the clerk's seal of office to the state comptroller, including  
26 a statement of the amount of fees or costs incurred, ~~such~~  
27 ~~statement-to-be~~ approved by the presiding judge in writing  
28 ~~appended-thereto-or-endorsed-thereon~~. When a conviction is  
29 rendered and the court orders restitution for costs of the  
30 prosecution, the inmate, work releasee, or parolee shall make  
31 restitution to the general fund of the state pursuant to  
32 section 910.2.

33 Sec. 6. Section 910.7, Code 1985, is amended to read as  
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1 At any time during the period of probation, parole, or  
2 incarceration, the offender or the office or individual who  
3 prepared the offender's restitution plan, may petition the  
4 court ~~and the court shall grant a hearing~~ on any matter  
5 related to the plan of restitution or restitution plan of  
6 payment and the court shall grant a hearing if on the face of  
\* 7 the petition it appears that a hearing is warranted. The  
8 court, at any time prior to the expiration of the offender's  
9 sentence, may modify the plan of restitution or the  
10 restitution plan of payment, or both, and may extend the  
11 period of time for the completion of restitution.

12 Sec. 7. 1983 Iowa Acts, chapter 147, section 14, is  
13 amended to read as follows:

14 SEC. 14. ~~Sections 2 through 6 and sections 8, 9, 10, 11,~~  
15 ~~and 13~~ Section 3 and section 4, subsection 1, and section 11  
16 of this Act apply only to inmates sentenced for offenses  
17 committed after July 1, 1983. Section 2, section 4,  
18 subsections 2 through 4, and sections 5, 6, and 8 through 10  
19 of this Act take effect July 1, 1983, but do not apply to  
20 inmates sentenced for offenses committed prior to July 1,  
21 1983, until July 1, 1986. Section 12 of this Act takes effect  
22 July 1, 1983 but also applies retroactively to inmates who are  
23 servinq or will serve mandatory sentences pursuant to section  
24 906.5 before July 1, 1983.

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SENATE FILE 2143

AN ACT

RELATING TO CORRECTIONS; CHANGING CERTAIN ADMINISTRATIVE PROVISIONS; LIMITING REMEDIES IN RESTITUTION MATTERS; CHANGING THE APPLICABILITY DATES OF CERTAIN PROVISIONS RELATING TO INMATE DISCIPLINE AND THE AVAILABILITY OF REMEDIES; AND PROVIDING PENALTIES.

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

Section 1. Section 246.310, Code Supplement 1985, is amended to read as follows:

246.310 CANTEENS.

The director may maintain a canteen at any institution under the director's jurisdiction for the sale to persons confined in the institution of items such as toilet articles, candy, tobacco products, notions, and other sundries, and may provide the necessary facilities, equipment, personnel, and merchandise for the canteen. The director shall specify the items to be sold in the canteen. The department may establish and maintain a permanent operating fund for each canteen. The fund shall consist of the receipts from the sale of commodities at the canteen. Any money in the fund over the amount needed to do normal business transactions, and to reimburse any accounts which have subsidized the canteen fund, shall be considered profit. This money may remain in the canteen fund and be used for any purchase which the superintendent approves that will directly benefit the inmates during their incarceration.

Sec. 2. Section 246.706, unnumbered paragraph 1, Code Supplement 1985, is amended to read as follows:

A revolving farm fund is created in the state treasury in which the department shall deposit receipts from agricultural products, nursery stock, agricultural land rentals, and the sale of livestock. However, before any agricultural operation is phased out, the department which proposes to discontinue this operation shall notify the governor, chairpersons and ranking members of the house and senate appropriations committees, and cochairpersons and ranking members of the subcommittee in the senate and house of representatives which has handled the appropriation for this department in the past session of the legislature. Before the department sells farmland under the control of the department, the director shall notify the governor, chairpersons and ranking members of the house and senate appropriations committees, and cochairpersons and ranking members of the joint appropriations subcommittee that handled the appropriation for the department during the past legislative session. The department may pay from the fund for the operation, maintenance, and improvement of farms and agricultural or nursery property under the control of the department. A purchase order for five thousand dollars or less payable from the fund is exempt from the general purchasing requirements of chapter 18. Notwithstanding section 8.33, unencumbered or unobligated receipts in the revolving farm fund at the end of a fiscal year shall not revert to the general fund of the state and the investment proceeds earned from the balance of the fund shall be credited to the fund and used for the purposes provided for in this section.

Sec. 3. Section 663A.2, subsection 7, Code 1985, is amended to read as follows:

7. The conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error formerly available under any common law, statutory or other writ,

motion, petition, proceeding, or remedy, except alleged error relating to restitution, court costs, or fees under section 246.702 or chapter 815 or 910; may institute, without paying a filing fee, a proceeding under this chapter to secure relief.

Sec. 4. Section 690.4, unnumbered paragraph 2, Code 1985, is amended to read as follows:

~~It is also the duty of the~~ The wardens and superintendents to shall procure the taking of ~~five-by-seven-inch-photographic negative a photograph~~ showing a full length view of each inmate of a state correctional institution in the inmate's release clothing immediately prior to the inmate's discharge from the institution either upon expiration of sentence or commitment or on parole, and to shall forward the ~~photographic negative photograph~~ within two days after it is taken to the division of criminal investigation and bureau of identification, Iowa department of public safety.

Sec. 5. Section 815.1, Code 1985, is amended to read as follows:

815.1 COSTS PAYABLE BY STATE IN SPECIAL CASES.

All costs and fees, including any award of attorney fees to a court-appointed attorney, incurred in any a parole revocation ~~proceedings~~ proceeding or in any a criminal case brought against an inmate of any a state institution for a crime committed while confined in such the institution, or for a crime committed by such the inmate while placed outside the walls or confines of the institution under the control and direction of a warden, supervisor, officer, or employee thereof of the institution, or for a crime committed by such the inmate during an escape or other unauthorized departure from such the institution or from the control of a warden, supervisor, officer, or employee thereof, of the institution, or from wherever the said inmate may have been placed by authorized personnel thereof of the institution, shall be paid out of the state treasury from the general fund ~~in-case~~ if the

prosecution fails, or ~~where-such~~ if the person liable to pay the costs and fees, including an award of attorney fees to a court-appointed attorney, cannot be-made-from-the-person liable to pay the same, the costs and fees. The facts being shall be certified by the clerk of the district court under the clerk's seal of office to the state comptroller, including a statement of the amount of fees or costs incurred, ~~such statement-to-be~~ approved by the presiding judge in writing ~~appended-thereto-or-endorsed-thereon.~~ When a conviction is rendered and the court orders restitution for costs of the prosecution, the inmate, work releasee, or parolee shall make restitution to the general fund of the state pursuant to section 910.2.

Sec. 6. Section 910.7, Code 1985, is amended to read as follows:

910.7 PETITION FOR HEARING.

At any time during the period of probation, parole, or incarceration, the offender or the office or individual who prepared the offender's restitution plan, may petition the court ~~and-the-court-shall-grant-a-hearing~~ on any matter related to the plan of restitution or restitution plan of payment and the court shall grant a hearing if on the face of the petition it appears that a hearing is warranted. The court, at any time prior to the expiration of the offender's sentence, may modify the plan of restitution or the restitution plan of payment, or both, and may extend the period of time for the completion of restitution.

Sec. 7. 1983 Iowa Acts, chapter 147, section 14, is amended to read as follows:

~~SEC. 14. Sections-2-through-6-and-sections-87-97-107-117 and-13~~ Section 3 and section 4, subsection 1, and section 11 of this Act apply only to inmates sentenced for offenses committed after July 1, 1983. Section 2, section 4, subsections 2 through 4, and sections 5, 6, and 8 through 10 of this Act take effect July 1, 1983, but do not apply to

inmates sentenced for offenses committed prior to July 1, 1983, until July 1, 1986. Section 12 of this Act takes effect July 1, 1983 but also applies retroactively to inmates who are serving or will serve mandatory sentences pursuant to section 906.5 before July 1, 1983.

---

ROBERT T. ANDERSON  
President of the Senate

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DONALD D. AVENSON  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2143, Seventy-first General Assembly.

---

K. MARIE THAYER  
Secretary of the Senate

Approved April 14, 1986

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TERRY E. BRANSTAD  
Governor

S.F. 2143