March 26, 1999

ENGROSSED
SENATE BILL No. 539

DIGEST OF SB 539 (Updated March 24, 1999 2:07 pm - DI 75)

Citations Affected: IC 8-4.5; IC 32-5.

Synopsis: Transportation corridors. Removes all references to right-of-way in the transportation corridor planning article and replaces the references with the term corridor. Changes obsolete references from the Interstate Commerce Commission to the Surface Transportation Board. Changes the composition of the transportation corridor planning board to include the director of the department of commerce or the director's designee. Makes the general acceptability of the proposed recreational

(Continued next page)

Effective: July 1, 1999.

Kenley, Simpson

(HOUSE SPONSORS — LYTLE, WHETSTONE, KUZMAN, KRUZAN)

January 21, 1999, read first time and referred to Committee on Planning and Economic Development.
February 8, 1999, amended, reported favorably — Do Pass.
February 15, 1999, read second time, amended, ordered engrossed.
February 16, 1999, engrossed.
February 18, 1999, read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

March 3, 1999, read first time and referred to Committee on Public Policy, Ethics and Veterans Affairs.
March 25, 1999, amended, reported — Do Pass.

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Digest Continued

use to the community at large a factor for the Indiana department of transportation to consider in determining whether to acquire part of a railway's interest in a corridor and for the board to use in reviewing applications. Indicates that a rail transportation operator and owner must consent before a rail corridor is used for both trail and rail transportation use. Provides that a responsible party may elect to establish an escrow account or post a bond as security that the responsible party will erect fences requested by adjacent property owners. Makes other related changes.

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March 26, 1999

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

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ENGROSSED
SENATE BILL No. 539

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 8-4.5-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 14. "Property owner" refers to a person that:

(1) owns property adjacent to a recreational trail; and

(2) is not a responsible party.

For purposes of this section, a person that satisfies both subdivisions (1) and (2) is a property owner even if the person owns any part of a ~~right-of-way~~ fee **simple interest in the corridor.**

SECTION 2. IC 8-4.5-1-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 16. "Recreational trail" means a trail or path that:

(1) includes a ~~right-of-way~~ **corridor** along any part of its length; and

(2) is intended to be used for:

(A) bicycling;

(B) exercising;
(C) hiking;
(D) running;
(E) riding:
(i) in or on a vehicle of any kind, regardless of the means of propelling the vehicle; or
(ii) on any animal;
(F) walking; or
(G) any other recreational purpose.

However, the term does not include a highway, road, or street (as defined in IC 8-23-1-23).

SECTION 3. IC 8-4.5-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) The board consists of the following members:

(1) The commissioner or the commissioner's designee.
(2) The director or the director's designee.
(3) An individual representing agriculture appointed by the governor.
(4) An individual representing the railroad industry appointed by the governor.
(5) An individual representing persons interested in the preservation of railroad corridors for recreational and other uses appointed by the governor.
(6) An individual representing local government appointed by the governor.
(7) An individual representing the utility industry appointed by the governor.
(8) Two (2) individuals appointed by the governor, one (1) of whom must be a property owner.
(9) The director of the department of commerce or the director's designee.

(b) In appointing members of the board, the governor shall appoint members so that not more than five (5) members of the board belong to the same political party.

SECTION 4. IC 8-4.5-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. Subject to approval by the board, the Indiana department of transportation shall file a petition with the ~~Interstate Commerce Commission~~ **United States Surface Transportation Board** for public use conditions on a ~~right-of-way~~ **corridor** that has been identified for preservation under this chapter.

SECTION 5. IC 8-4.5-3-5 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. The Indiana department of transportation, in cooperation with any of the following, may file a petition with the ~~Interstate Commerce Commission~~ **United States Surface Transportation Board** for public use conditions on any ~~right-of-way~~ **corridor** not described in section 4 of this chapter and for which a petition has been filed:

(1) The department of natural resources.
(2) Local government agencies.
(3) Statewide utility associations.
(4) Nonprofit special interest groups.

SECTION 6. IC 8-4.5-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) The Indiana department of transportation shall determine whether the state should acquire a railroad's interest in a ~~right-of-way~~ **corridor** that is proposed to be abandoned. The department shall make its recommendations to the board regarding acquisition of a railroad's interest in any ~~right-of-way.~~ **corridor.**

(b) Acquisition of a railroad's interest in a ~~right-of-way~~ **corridor** is subject to approval of the board.

SECTION 7. IC 8-4.5-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. The state may acquire any part of a railroad's interest in a ~~right-of-way~~ **corridor** under this chapter for any of the following purposes:

(1) A present or future rail line.
(2) A transportation corridor.
(3) A communication corridor.
(4) A recreational trail.
(5) A utility corridor.
(6) **The preservation of a railroad corridor.**
(7) Any combination of purposes described in subdivisions (1) through ~~(5).~~ **(6).**

SECTION 8. IC 8-4.5-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) The Indiana department of transportation shall hold at least one (1) public meeting in each county through which the ~~right-of-way~~ **corridor** passes before determining whether the state should acquire a railroad's interest in a ~~right-of-way~~ **corridor** that is proposed to be abandoned. Notice of the meeting must be given in accordance with IC 5-14-1.5.

(b) In addition to the notice requirements of IC 5-14-1.5, the department shall give notice of a meeting under this section to the following:

(1) The county commissioners of each county through which the

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railroad's interest in the proposed abandoned ~~right-of-way~~ **corridor** passes.

(2) The legislative body of each city or town:

(A) through which the railroad's interest in the ~~right-of-way~~ **corridor** passes; or

(B) that is within one (1) mile of any part of the railroad's interest in the ~~right-of-way.~~ **corridor.**

(3) The railroad that proposes to abandon the railroad's interest in the ~~right-of-way.~~ **corridor.**

(4) The Indiana utility regulatory commission.

Notice must be given to the persons described in subdivisions (1) through (4) not later than the date notice is required to be published under IC 5-14-1.5.

(c) The department may hold additional meetings before making a determination under this chapter.

(d) The department shall hold a meeting under this section in each county through which the railroad's interest in the ~~right-of-way~~ **corridor** passes.

SECTION 9. IC 8-4.5-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. In determining whether the state should acquire any part of a railroad's interest in a ~~right-of-way,~~ **corridor,** the Indiana department of transportation shall consider the following factors:

(1) The potential for future use of the railroad's interest in the ~~right-of-way~~ **corridor** as a freight or high-speed passenger rail line, considering the following:

(A) The potential need for use of the railroad's interest in the ~~right-of-way~~ **corridor** for future transportation purposes.

(B) The cost of maintaining the railroad's interest in the ~~right-of-way~~ **corridor** during any time before the future transportation use will begin.

(C) The effect of any interim use and the future transportation use of the railroad's interest in the ~~right-of-way~~ **corridor** on property owners.

(D) Any relevant requirement of any federal law.

(E) Any other factor the department considers relevant.

(2) Based on the recommendation of the department of natural resources, the potential for recreational use of the railroad's interest in the ~~right-of-way,~~ **corridor** considering the following:

(A) The recreational value of the railroad's interest in the ~~right-of-way.~~ **corridor.**

(B) The feasibility of using the railroad's interest in the

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~~right-of-way~~ **corridor** for recreation.

(C) The likelihood that there may be significant recreational use of the railroad's interest in the ~~right-of-way~~ **corridor** if the railroad's interest in the ~~right-of-way~~ **corridor** is converted to a recreational trail.

(D) The **general** acceptability of the proposed recreational use of the railroad's interest in the ~~right-of-way by~~ **corridor to** property owners **and the community at large.**

(E) The existence of a willing person, whether public or private, to operate the railroad's interest in the ~~right-of-way~~ **corridor** for the proposed recreational use.

(F) Any relevant requirement of any federal law.

(G) Any other factor the department considers relevant.

(3) The potential for the use of the railroad's interest in the ~~right-of-way~~ **corridor** for communications or utility use.

(4) Whether there are funds to acquire the railroad's interest in the ~~right-of-way.~~ **corridor.**

SECTION 10. IC 8-4.5-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) After the department makes a recommendation to the board under section 1 of this chapter, the board shall hold a public meeting to consider the recommendation.

(b) Notice of a meeting under this section must be given in the same manner and to the same persons as required under section 3 of this chapter.

(c) The board may hold additional meetings before making a determination under this chapter.

(d) The board shall hold a meeting under this section in a county through which the railroad's interest in the ~~right-of-way~~ **corridor** passes.

SECTION 11. IC 8-4.5-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. (a) If:

(1) a determination is made under this chapter to acquire the railroad's interest in the ~~right-of-way;~~ **corridor;** and

(2) money is available in the fund;

the state shall acquire the railroad's interest in the ~~right-of-way~~ **corridor** under IC 4-20.5-3.

(b) An acquisition by the state under this chapter does not deprive a public utility of the use of all or part of the railroad's interest in the ~~right-of-way,~~ **corridor,** if, at the time of acquisition:

(1) the public utility is occupying and using all or part of the railroad's interest in that ~~right-of-way~~ **corridor** for the location

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and operation of its facilities; or

(2) the public utility has acquired an interest for use of all or part of the railroad's interest in the ~~right-of-way.~~ **corridor.**

SECTION 12. IC 8-4.5-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. If the state acquires any interest in the ~~right-of-way~~ **corridor** under this article, all revenues from a railroad's interest in a ~~right-of-way~~ **corridor** acquired under this chapter, including payments derived from public utility or other easements, must be deposited in the fund.

SECTION 13. IC 8-4.5-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8. If a railroad's interest in a ~~right-of-way~~ **corridor** is acquired under this chapter for a recreational purpose, the railroad's interest in the ~~right-of-way~~ **corridor** must be developed and operated under IC 8-4.5-5.

SECTION 14. IC 8-4.5-5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 11. (a) The board:

(1) shall review each application;

(2) may verify the contents of an application; and

(3) may visit the trail site that is the subject of an application.

(b) The board shall evaluate each complete application on the basis of the following criteria:

(1) Whether the predicted use of the trail justifies the construction and maintenance costs.

(2) Need, in terms of the population to be served and existing trails in the area.

(3) Compatibility with local, areawide, regional, or statewide plans.

(4) The acceptability of the proposed trail to property owners.

(5) The general acceptability of the proposed trail to the community at large.

~~(5)~~ **(6)** Benefits of multiple uses and recreational opportunities.

~~(6)~~ **(7)** Quality of the site.

~~(7)~~ **(8)** Economic benefits to the local area.

~~(8)~~ **(9)** Accessibility for persons with disabilities.

~~(9)~~ **(10)** Interference with any existing public utility use.

~~(10)~~ **(11)** Other criteria set by the board.

(c) The board shall determine the applicants to whom grants will be awarded.

SECTION 15. IC 8-4.5-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) Subject to this chapter, a ~~right-of-way~~ **corridor** may be used for a recreational trail.

(b) A recreational trail may not be authorized under this chapter to

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be used by motorized vehicles except for the following:

(1) Vehicles used to maintain or provide security for the trail.

(2) Vehicles used by persons with disabilities.

(c) A recreational trail may ~~not~~ be authorized under this chapter on any part of a ~~right-of-way~~ **corridor** that has rail traffic **with the consent of the rail traffic operator and owner after consideration of appropriate and safe design and operation.**

SECTION 16. IC 8-4.5-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. Before a ~~right-of-way~~ **corridor** in any part of a county may be converted for use as a recreational trail, a responsible party must file the information required by section 3 of this chapter with the following:

(1) The department of natural resources.

(2) If any part of the recreational trail is intended to be located in a municipality, with the executive of the municipality.

(3) If any part of the recreational trail is intended to be located on property not within a municipality, with the county executive of any county in which the recreational trail is intended to be located.

SECTION 17. IC 8-4.5-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. A responsible party must file the following information under section 2 of this chapter:

(1) A description and map of the proposed recreational trail. The information filed under this subdivision must identify the following:

(A) The properties for which the responsible party has secured the legal right to use as a recreational trail.

(B) The properties for which the responsible party has not, at the time of the filing, secured the legal right to use as a recreational trail.

(2) The name and address of the responsible party. If the responsible party is not an individual, the following information about the responsible party must also be included:

(A) If the responsible party is a governmental entity, the following:

(i) The name and address of the individual or body responsible for the administration of the governmental entity.

(ii) The name, address, and head of any agency of the governmental entity that will be responsible for the operation of the recreational trail.

(B) If the responsible party is a corporation of any kind, the

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officers of the corporation and the address at which legal documents for the corporation may be served.

(C) If the responsible party is a partnership of any kind, the names and addresses of all of the partners.

(D) If the responsible party is any other kind of entity, the name and address of each individual who satisfies the following:

(i) The individual belongs to or is affiliated with the entity.

(ii) The individual has some responsibility for the organization or governance of the entity.

(3) A project concept statement for the recreational trail, including a location map, cross-section, and sketch of the project, detailed enough to generate project cost estimates. The proposed project is not required to be designed before filing, but the concept must be reasonable from a transportation engineering standpoint and detailed enough to generate project cost estimates.

(4) An environmental impact statement, if required by law.

(5) An itemized cost estimate for the total project showing for each item the cost and funding source.

(6) Expenses, including personnel costs, costs of goods and services, contractual services, equipment, utilities, travel, and taxes. The information provided under this subdivision must specifically show expenses for:

(A) trail security;

(B) fencing;

(C) maintenance; and

(D) drainage.

(7) A trail operation agreement under which the responsible party agrees to operate the recreational trail. The trail operation agreement must provide that the responsible party shall grant easements to persons who own adjacent property on both sides of the recreational trail permitting those persons to cross the trail in a reasonable fashion given the use of the adjacent property. The following may require inclusion of other provisions in the trail operation agreement considered advisable:

(A) The department of natural resources.

(B) The executive of a county if an ordinance of the legislative body of the county is required to authorize the recreational trail under this chapter.

(C) The executive of a municipality if an ordinance of the legislative body of the municipality is required to authorize the recreational trail under this chapter.

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~~(8) If the responsible party is not a governmental entity, a bond in an amount sufficient to satisfy the responsible party's obligation to:~~

~~(1) erect and maintain fences; or~~

~~(2) pay for the cost of fences;~~

~~under section 6 of this chapter. The bond shall be made payable to property owners under section 6 of this chapter if the responsible party breaches its obligation under section 6 of this chapter.~~

SECTION 18. IC 8-4.5-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. ~~(a)~~ At the request of a property owner, the responsible party (including a governmental entity), at the responsible party's expense, shall ~~at the option of the property owner,~~ do ~~either of~~ the following:

(1) **If the responsible party is not a governmental entity, either:**

(A) post a bond in an amount sufficient to satisfy the responsible party's obligation to erect the fences requested under this section; or

(B) establish an escrow account with a financial institution or a person selected by mutual agreement with a property owner that contains sufficient money to erect the fences requested under this section.

The terms of the escrow agreement described in clause (B) must require that the money in the account be dedicated to the provision of the fences requested under this section with the surplus to be returned to the responsible party. The responsible party may post a single bond or establish a single escrow account to provide fences for more than one (1) property owner.

(2) Erect and maintain fencing between the recreational trail and the property owner's property. The fencing must be in accordance with current fencing standards of the Indiana department of transportation for urban or rural settings, as appropriate to the location of the recreational trail.

~~(2) Pay the property owner money equal to the cost of installing a fence described in subdivision (1) between the property owner's property and the recreational trail.~~

~~(b) If the responsible party is not a governmental entity, failure of the responsible party to comply with subsection (a) is a breach of the trail operation agreement. A property owner may recover the costs of erecting and maintaining a fence from the bond given under section~~

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~~3(8) of this chapter.~~

SECTION 19. IC 32-5-12-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. (a) Except as provided in subsection (b) and in sections 7 and 8 of this chapter, a right-of-way is considered abandoned if any of subdivisions (1) through (3) apply:

(1) Before February 28, 1920, both of the following occurred:

(A) The railroad discontinued use of the right-of-way for railroad purposes.

(B) The rails, switches, ties, and other facilities were removed from the right-of-way.

(2) After February 27, 1920, both of the following occur:

(A) The Interstate Commerce Commission **or the United States Surface Transportation Board** issues a certificate of public convenience and necessity relieving the railroad of the railroad's common carrier obligation on the right-of-way.

(B) The earlier of the following occurs:

(i) Rails, switches, ties, and other facilities are removed from the right-of-way, making the right-of-way unusable for continued rail traffic.

(ii) Ten (10) years have passed after the date on which the Interstate Commerce Commission **or the United States Surface Transportation Board** issued a certificate of public convenience and necessity relieving the railroad of its common carrier obligation on the right-of-way.

(3) The right-of-way was abandoned under 45 U.S.C. 701 et seq. (the Regional Rail Reorganization Act of 1973).

(b) Notwithstanding subsection (a), a right-of-way is not considered abandoned if:

(1) rail service continues on the right-of-way; or

(2) the railroad has entered into an agreement preserving rail service on the right-of-way.

SECTION 20. IC 32-5-12-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. Notwithstanding section 6 of this chapter, a right-of-way is not considered abandoned if the Interstate Commerce Commission **or the United States Surface Transportation Board** imposes on the right-of-way a trail use condition under 16 U.S.C. 1247(d).

SECTION 21. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 1999]: IC 8-4.5-1-18; IC 8-4.5-1-19.

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SENATE MOTION

Mr. President: I move that Senator Simpson be added as second author of Senate Bill 539.

KENLEY

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COMMITTEE REPORT

Mr. President: The Senate Committee on Planning and Economic Development, to which was referred Senate Bill No. 539, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, delete lines 32 through 35.

Page 2, line 37, reset in roman "five (5)".

Page 2, line 37, delete "six (6)".

Page 2, line 40, after "FOLLOWS" insert "[EFFECTIVE JULY 1, 1999]".

Page 2, line 41, strike "Interstate".

Page 2, line 42, strike "Commerce Commission" and insert "**United States Surface Transportation Board**".

Page 3, line 5, strike "Interstate Commerce Commission" and insert "**United States Surface Transportation Board**".

Page 6, line 29, delete "general".

Page 6, line 30, delete "and the community at large." and insert ".".

Page 6, between lines 30 and 31, begin a new line block indented and insert:

"**(5) The general acceptability of the proposed trail to the community at large.**".

Page 6, line 31, strike "(5)" and insert "**(6)**".

Page 6, line 32, strike "(6)" and insert "**(7)**".

Page 6, line 33, strike "(7)" and insert "**(8)**".

Page 6, line 34, strike "(8)" and insert "**(9)**".

Page 6, line 35, strike "(9)" and insert "**(10)**".

Page 6, line 36, strike "(10)" and insert "**(11)**".

Page 7, line 5, delete "at the".

Page 7, line 6, delete "discretion of the responsible party and" and insert "**with the consent of the**".

Page 7, line 6, after "operator" insert "**and owner after consideration of**".

Page 7, line 7, delete "considering".

Page 9, line 13, after "shall" delete ",".

Page 9, line 13, strike "at the option of the".

Page 9, line 14, strike "property owner,".

Page 9, line 14, reset in roman "do".

Page 9, line 14, reset in roman "the following:".

Page 9, between lines 14 and 15, begin a new line block indented and insert:

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"(1) **If the responsible party is not a governmental entity, either:**

(A) post a bond in an amount sufficient to satisfy the responsible party's obligation to erect the fences requested under this section; or

(B) establish an escrow account with a financial institution or a person selected by mutual agreement with a property owner that contains sufficient money to erect the fences requested under this section.

The terms of the escrow agreement described in clause (B) must require that the money in the account be dedicated to the provision of the fences requested under this section with the surplus to be returned to the responsible party. The responsible party may post a single bond or establish a single escrow account to provide fences for more than one (1) property owner.".

Page 9, line 15, delete "(1) erect" and insert "**(2)** Erect".

Page 9, between lines 27 and 28, begin a new paragraph and insert:

"SECTION 19. IC 32-5-12-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. (a) Except as provided in subsection (b) and in sections 7 and 8 of this chapter, a right-of-way is considered abandoned if any of subdivisions (1) through (3) apply:

(1) Before February 28, 1920, both of the following occurred:

(A) The railroad discontinued use of the right-of-way for railroad purposes.

(B) The rails, switches, ties, and other facilities were removed from the right-of-way.

(2) After February 27, 1920, both of the following occur:

(A) The Interstate Commerce Commission **or the United States Surface Transportation Board** issues a certificate of public convenience and necessity relieving the railroad of the railroad's common carrier obligation on the right-of-way.

(B) The earlier of the following occurs:

(i) Rails, switches, ties, and other facilities are removed from the right-of-way, making the right-of-way unusable for continued rail traffic.

(ii) Ten (10) years have passed after the date on which the Interstate Commerce Commission **or the United States Surface Transportation Board** issued a certificate of public convenience and necessity relieving the railroad of its common carrier obligation on the right-of-way.

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(3) The right-of-way was abandoned under 45 U.S.C. 701 et seq. (the Regional Rail Reorganization Act of 1973).

(b) Notwithstanding subsection (a), a right-of-way is not considered abandoned if:

(1) rail service continues on the right-of-way; or

(2) the railroad has entered into an agreement preserving rail service on the right-of-way.

SECTION 20. IC 32-5-12-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. Notwithstanding section 6 of this chapter, a right-of-way is not considered abandoned if the Interstate Commerce Commission **or the United States Surface Transportation Board** imposes on the right-of-way a trail use condition under 16 U.S.C. 1247(d).".

Page 9, line 29, delete "; IC 32-5-12." and insert ".".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 539 as introduced.)

LUBBERS, Chairperson

Committee Vote: Yeas 7, Nays 0.

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SENATE MOTION

Mr. President: I move that Senate Bill 539 be amended to read as follows:

Page 10, after line 40, begin a new paragraph and insert:

"SECTION 22. [EFFECTIVE UPON PASSAGE] **For each year in which the transportation corridor planning board established under IC 8-4.5-2-1 has been in existence, the Indiana department of transportation shall review the records of the Indiana department of transportation and the records of the transportation corridor planning board to determine whether the Indiana department of transportation has fully complied with the requirements under IC 8-4.5-2-8 and IC 8-4.5-2-9 to pay the following to members of the transportation corridor planning board:**

(1) The minimum salary per diem provided by IC 4-10-11-2.1.

(2) Reimbursement for travel expense as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

If the Indiana department of transportation discovers that it has failed to fully comply with IC 8-4.5-2-8 and IC 8-4.5-2-9, the Indiana department of transportation shall make the required payments as soon as practicable after discovering the omission. After the effective date of this SECTION, the Indiana department of transportation shall take the necessary steps to comply with IC 8-4.5-2-8 and IC 8-4.5-2-9 in a timely manner.

SECTION 23. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

(Reference is to SB 539 as printed February 9, 1999.)

KENLEY

C o p y

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, Ethics and Veterans Affairs, to which was referred Senate Bill 539, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 10, delete lines 41 through 42.

Delete page 11.

and when so amended that said bill do pass.

(Reference is to SB 539 as reprinted February 16, 1999.)

KUZMAN, Chair

Committee Vote: yeas 10, nays 0.

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