constitute a determination of any proposition, it is merely for the information of the Legislature. The results, separately tabulated as to each question, are delivered by the Secretary of State to the presiding officers of the General Assembly. There is nothing in the statute as passed to indicate that a failure to vote upon the method of financing authorizes the election board of the precinct to disregard a vote for or against the payment of a bonus. The duty of the election board is merely to certify the vote on each of the proposed questions. Thus it will ultimately be a question for the Legislature to determine as to the effect to be given to the fact that more electors voted upon the first question than did vote upon the other questions, if such facts should be disclosed by the certification.

In summary, although the statutory language is mandatory that each voter shall vote upon all questions, a failure to vote upon the method of financing does not nullify the whole ballot in so far as precinct election boards are concerned but is for the consideration of the Legislature after certification.

OFFICIAL OPINION NO. 19

March 8, 1948.

Hon. Wm. C. Stalnaker, Director,
Department of Veterans Affairs,
431 N. Meridian Street,
Indianapolis 4, Indiana.

Att: Mr. Harvey B. Stout

Dear Sir:

I have your request for an official opinion on the following: Does Chapter 167 of the Acts of 1947, page 553 overrule the opinion of the Attorney General given in 1942 at pages 56-58 of O. A. G.: and, should the county auditor allow a claim of $75.00 as a burial allowance for a soldier, sailor or marine who dies in actual service.

The opinion of the Attorney General of 1942, to which you refer, was based upon an act, then in force, which was Section 59-1009 of Burns' Indiana Statutes Annotated 1933, and that act is fully set forth in the Opinion at page 57 O. A. G. 1942.
The Act at that time only permitted the payment of a burial claim for a resident of the county who had served as a regular or volunteer soldier, sailor or marine in the Army or the Navy of the United States and was honorably discharged from such service at the time of his death. It did not apply to those who died while in active service.

The Legislature in 1943 amended Section 59-1009, referred to above, by providing that the benefits of the law apply to members of the armed forces engaged in World War II, the particular language of which is as follows:

"* * * whenever any member of the armed forces engaged in World War II, resident of any county of this state, has died or shall die hereafter, upon claim filed by any interested person with the board of commissioners of the county, stating the fact of such service, death and discharge, * * *

This new and amendatory legislation still limited the application of the Act to those persons who died after having served in the armed forces of the United States and having been honorably discharged therefrom. The 1942 Opinion of the Attorney General was still applicable to this Act (59-1009 Burns' Ind. Statutes Ann. 1933-1943 Repl.)

The 1947 General Assembly amended the former laws on this subject and provided the following:

"* * * whenever any person, male or female, who has heretofore served or who may hereafter serve, as a member of the armed forces of the United States resident of any county of this state, and, who, while a member of the armed forces and before discharge therefrom, or, who after receiving an honorable discharge therefrom, or the wife or widower, the husband or widower of any such member of the armed forces of the United States, resident of any county of this state, has died or shall hereafter, upon claim being filed by an interested person with the Board of Commissioners of the county of the residents of such deceased person stating the fact that such service, death and discharge, if discharged from such service prior to death * * *," (Our emphasis.)
thus providing that an allowance could be made for the burial of an individual even though death occurred while in active service. Acts of 1947, Chapter 167, page 553.

In answer to the first question stipulated above, in my opinion, the 1947 Act changes the law to such an extent that the opinion of the Attorney General in 1942 is no longer applicable, insofar as it limits the burial allowance to only those persons who died after having served in the armed forces of the United States and being discharged therefrom. Under the 1947 Act, Chapter 167, p. 553, the law now applies to those persons who die while in active service, and also as before, to those persons who die after discharge from active service. It is true, under the prior laws (Burn's Sec. 59-1099, 1933 and Sec. 59-1009 (1943 Repl.)) the legislative intent was clear that the allowance was to be made only for those deaths occurring after discharge from service in the armed forces. But, there is a rule of statutory construction to this effect; a change of legislative intent will be presumed from a material change in the wording of the statutes. State, ex rel. v. Beal (1916), 185 Ind. 192, 197; Chism, et al. v. State of Indiana (1932), 203 Ind. 241, 244.

In view of the foregoing, I wish to direct your attention again to the 1947 Act, quoted supra, to point out a material change in the wording of the statutes. There is this particular language in the act:

"** whenever any person, male or female, who heretofore served or who may hereafter serve, as a member of the armed forces of the United States ** resident of any county of this state, and, who, while a member of the armed forces and before discharge therefrom, or, who after receiving an honorable discharge therefrom, ** has died or shall hereafter **" (Our emphasis.)

The language which I have quoted above, particularly the words "heretofore served" and "has died" indicate that the legislature intended the act to be retroactive, and to include those persons who died while in the armed services of their country, previous to the effective date of the act. And the latter part of the quoted provision, supra, clearly expresses an intent that the act be applicable to those persons who die
while in the armed forces of the United States. To bear out this contention we must look to the common meaning of the phrase "has died." The phrase commonly means an act which has occurred previously in point of time.

This contention becomes even stronger in view of the fact that Chapter 167 of the Acts of 1947 is an Act with a humane and benevolent purpose, and as such, should be liberally construed. See: Lasear, Inc. v. Anderson (1934), 99 Ind. App. 428, 433, and cases cited.

Therefore, in my opinion, the Auditor may properly allow a claim for a burial allowance, when the same has been approved by the Board of Commissioners of the county, for one who died while in the service of the United States, as a soldier, sailor or marine in the Army or Navy of the United States, or as a member of the women’s components thereof. This is true, even though such claim could not be properly made until after the effective date of the Act, which was August 21, 1947 at 12:30 p. m.

Although your letter does not specifically ask the following question, it is of vital importance to the interpretation of the act, in view of the questions you propound; i.e., whether the act grants $75.00 as an absolute allowance for burial, or only contemplates reimbursement for actual expenditures incurred in the burial of persons contemplated by the act.

The 1947 Act, Chapter 167, at p. 554 contains this language:

"* * * such board of commissioners shall hear and determine such claim, like other claims, filed for allowance by them, and if the facts averred are found true, * * * shall make allowance of such claim on a sum not exceeding seventy-five dollars for service rendered and material furnished in care of such body and such burial.

"In case it is averred and proven that a burial place for the body of such deceased person, was purchased in a cemetery, the board of commissioners shall make such further allowances as shall be reasonable, not however, exceeding twenty-five dollars, in payment for such burial place, * * *" (Our emphasis.)

The plain language of the foregoing provisions is to the effect that the allowance be conditioned upon the proof of
expenditures incurred in the interment of those persons contemplated by the act. If the expenditures are proved to the satisfaction of the Board of Commissioners, then the allowances, not to exceed the maximum should be granted.

In summarization, my conclusions are as follows: (1) The 1942 Opinion of the Attorney General, referred to supra, p. 1 of this opinion, is not now controlling; (2) A claim may be allowed up to $75.00 for burial, and up to $25.00 for a burial place for one who is a resident of the county, and dies while in the armed forces of the United States; or has died in the past while in the armed forces of the United States; or who dies after honorable discharge from the armed forces of the United States; but with this proviso, (3) Such allowances are conditioned upon proof of expenditures by an interested person for the interment of persons contemplated by this act, such proof being made to the Board of County Commissioners who have the power to approve or disapprove such allowances.

OFFICIAL OPINION NO. 20
March 8, 1948.

Miss Margaret E. Lake,
Secretary State Board
for Depositories,
242 State House,
Indianapolis, Indiana.

Dear Miss Lake:

Pursuant to your request for an official opinion on a question which has arisen concerning extra-curricular funds, I beg to submit the following: The specific question you submitted is:

"Are funds which are collected or obtained by means of class plays, school lunches, athletic contests or social activities, and deposited by a class treasurer or by the superintendent of the school, to be classed as public funds and therefore require that the institution receiving such funds be required to be approved by the State Board of Depositories?"