March 13, 2007

ENGROSSED
HOUSE BILL No. 1657

DIGEST OF HB 1657 (Updated March 12, 2007 12:02 pm - DI 14)

Citations Affected: IC 6-3; noncode.

Synopsis: Forestry issues. Provides deductions to an individual in determining adjusted gross income for a taxable year for: (1) expenses incurred by the individual for property taxes imposed on property assessed as native forest land or a forest plantation; (2) expenses incurred by the individual for fees for the management of forests located on property assessed as native forest land or a forest plantation; (3) 50% of the part of federal adjusted gross income attributable to a net long term capital gain derived from the sale of timber; and (4) charitable contributions of property assessed as native forest land or a forest plantation. Provides that the deductions with respect to forest plantation apply only if: (1) the classification as forest plantation occurred before July 1, 2007; or (2) if the classification occurred after June 30, 2007, all of the trees that qualify the land for the classification are native trees.

Effective: January 1, 2008.

Denbo, Ruppel, Goodin

(SENATE SPONSORS — JACKMAN, STEELE, HUME, WEATHERWAX)

January 23, 2007, read first time and referred to Committee on Natural Resources.
February 12, 2007, amended, reported — Do Pass. Recommitted to Committee on Ways and Means.
February 20, 2007, amended, reported — Do Pass.
February 22, 2007, read second time, ordered engrossed.
February 23, 2007, engrossed.
February 26, 2007, read third time, passed. Yeas 95, nays 2.

SENATE ACTION

March 5, 2007, read first time and referred to Committee on Natural Resources.
March 12, 2007, amended, reported favorably — Do Pass; reassigned to Committee on Tax and Fiscal Policy.

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March 13, 2007

First Regular Session 115th General Assembly (2007)

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 2006 Regular Session of the General Assembly.

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ENGROSSED
HOUSE BILL No. 1657

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

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

SECTION 1. IC 6-3-1-3.5, AS AMENDED BY P.L.246-2005, SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 3.5. When used in this article, the term "adjusted gross income" shall mean the following:

(a) In the case of all individuals, "adjusted gross income" (as defined in Section 62 of the Internal Revenue Code), modified as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 62 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(3) Subtract one thousand dollars ($1,000), or in the case of a joint return filed by a husband and wife, subtract for each spouse one thousand dollars ($1,000).

(4) Subtract one thousand dollars ($1,000) for:

(A) each of the exemptions provided by Section 151(c) of the Internal Revenue Code;

(B) each additional amount allowable under Section 63(f) of the Internal Revenue Code; and

(C) the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(5) Subtract:

(A) one thousand five hundred dollars ($1,500) for each of the exemptions allowed under Section 151(c)(1)(B) of the Internal Revenue Code for taxable years beginning after December 31, 1996; and

(B) five hundred dollars ($500) for each additional amount allowable under Section 63(f)(1) of the Internal Revenue Code if the adjusted gross income of the taxpayer, or the taxpayer and the taxpayer's spouse in the case of a joint return, is less than forty thousand dollars ($40,000).

This amount is in addition to the amount subtracted under subdivision (4).

(6) Subtract an amount equal to the lesser of:

(A) that part of the individual's adjusted gross income (as defined in Section 62 of the Internal Revenue Code) for that taxable year that is subject to a tax that is imposed by a political subdivision of another state and that is imposed on or measured by income; or

(B) two thousand dollars ($2,000).

(7) Add an amount equal to the total capital gain portion of a lump sum distribution (as defined in Section 402(e)(4)(D) of the Internal Revenue Code) if the lump sum distribution is received by the individual during the taxable year and if the capital gain portion of the distribution is taxed in the manner provided in Section 402 of the Internal Revenue Code.

(8) Subtract any amounts included in federal adjusted gross income under Section 111 of the Internal Revenue Code as a recovery of items previously deducted as an itemized deduction from adjusted gross income.

(9) Subtract any amounts included in federal adjusted gross income under the Internal Revenue Code which amounts were received by the individual as supplemental railroad retirement annuities under 45 U.S.C. 231 and which are not deductible under subdivision (1).

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(10) Add an amount equal to the deduction allowed under Section 221 of the Internal Revenue Code for married couples filing joint returns if the taxable year began before January 1, 1987.

(11) Add an amount equal to the interest excluded from federal gross income by the individual for the taxable year under Section 128 of the Internal Revenue Code if the taxable year began before January 1, 1985.

(12) Subtract an amount equal to the amount of federal Social Security and Railroad Retirement benefits included in a taxpayer's federal gross income by Section 86 of the Internal Revenue Code.

(13) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the total amount of the deductions allowed pursuant to subdivisions (3), (4), (5), and (6) shall be reduced to an amount which bears the same ratio to the total as the taxpayer's income taxable in Indiana bears to the taxpayer's total income.

(14) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7, subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the individual is not allowed under federal law to retain an amount to pay state and local income taxes.

(15) In the case of an eligible individual, subtract the amount of a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.

(16) For taxable years beginning after December 31, 1999, subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.

(17) Subtract an amount equal to the lesser of:

(A) for a taxable year:

(i) including any part of 2004, the amount determined under subsection (f); and

(ii) beginning after December 31, 2004, two thousand five hundred dollars ($2,500); or

(B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.

(18) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the individual's federal adjusted gross income.

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(19) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(20) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(21) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000).

(22) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(23) Subtract the sum of any deductions to which a taxpayer is entitled under IC 6-3-2-21 through IC 6-3-2-24.

(b) In the case of corporations, the same as "taxable income" (as defined in Section 63 of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code.

(3) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted

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gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(c) In the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law, the same as "life insurance company taxable income" (as defined in Section 801 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income

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that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 or Section 810 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(d) In the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law, the same as "taxable income" (as defined in Section 832 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in

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service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(e) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.

(3) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(4) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been

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computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000).

(6) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(f) This subsection applies only to the extent that an individual paid property taxes in 2004 that were imposed for the March 1, 2002, assessment date or the January 15, 2003, assessment date. The maximum amount of the deduction under subsection (a)(17) is equal to the amount determined under STEP FIVE of the following formula:

STEP ONE: Determine the amount of property taxes that the taxpayer paid after December 31, 2003, in the taxable year for property taxes imposed for the March 1, 2002, assessment date and the January 15, 2003, assessment date.

STEP TWO: Determine the amount of property taxes that the taxpayer paid in the taxable year for the March 1, 2003, assessment date and the January 15, 2004, assessment date.

STEP THREE: Determine the result of the STEP ONE amount divided by the STEP TWO amount.

STEP FOUR: Multiply the STEP THREE amount by two thousand five hundred dollars ($2,500).

STEP FIVE: Determine the sum of the STEP FOUR amount and two thousand five hundred dollars ($2,500).

SECTION 2. IC 6-3-2-21 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: **Sec. 21. (a) As used in this section, "eligible land" means any of the following:**

(1) Land classified under IC 6-1.1-6 as native forest land.

(2) Land classified under IC 6-1.1-6 as a forest plantation by an application approval under IC 6-1.1-6-12 dated before July 1, 2007.

(3) Land:

(A) classified under IC 6-1.1-6 as a forest plantation by an application approval under IC 6-1.1-6-12 dated after June 30, 2007; and

(B) on which all of the trees that qualify the land for classification under IC 6-1.1-6 as a forest plantation are native trees.

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(b) Except as provided in subsection (c), an individual is entitled to a deduction in determining the individual's adjusted gross income for a taxable year in an amount equal to the property taxes paid or accrued by the individual during the taxable year on eligible land.

(c) The deduction described in subsection (b) is allowable only to the extent that the individual has not subtracted the deduction described in subsection (b) from federal gross income in calculating the individual's federal adjusted gross income for the taxable year.

SECTION 3. IC 6-3-2-22 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: **Sec. 22. (a) As used in this section, "eligible land" has the meaning set forth in section 21(a) of this chapter.**

(b) Except as provided in subsection (c), an individual is entitled to a deduction in determining the individual's adjusted gross income for a taxable year in an amount equal to expenses paid or accrued by the individual during the taxable year for the management of a forest located on eligible land.

(c) The deduction described in subsection (b) is allowable only to the extent that the individual has not subtracted the deduction described in subsection (b) from federal gross income in calculating the individual's federal adjusted gross income for the taxable year.

SECTION 4. IC 6-3-2-23 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: **Sec. 23. (a) As used in this section, "net long term capital gain" has the meaning set forth in Section 1222(7) of the Internal Revenue Code.**

(b) An individual is entitled to a deduction in determining the individual's adjusted gross income for a taxable year with respect to the part of the individual's federal adjusted gross income attributable to the individual's net long term capital gain on the sale of timber during the taxable year, in an amount determined under subsection (c).

(c) The amount of the deduction described in subsection (b) for a taxable year is:

(1) the part of the individual's federal adjusted gross income attributable to a net long term capital gain on the sale of timber during the taxable year; multiplied by

(2) fifty percent (50%).

SECTION 5. IC 6-3-2-24 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: **Sec. 24. (a) As used in this section, "eligible**

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land" has the meaning set forth in section 21(a) of this chapter.

(b) An individual is entitled to a deduction in determining the individual's adjusted gross income for a taxable year for a charitable contribution of eligible land to the same extent the charitable contribution is allowed as a deduction to the individual for the taxable year under Section 170 of the Internal Revenue Code.

SECTION 6. [EFFECTIVE JANUARY 1, 2008] **(a) IC 6-3-1-3.5, as amended by this act, applies only to taxable years beginning after December 31, 2007.**

(b) The following statutes, as added by this act, apply only to taxable years beginning after December 31, 2007:

(1) IC 6-3-2-21.

(2) IC 6-3-2-22.

(3) IC 6-3-2-23.

(4) IC 6-3-2-24.

(c) This SECTION expires January 1, 2012.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Natural Resources, to which was referred House Bill 1657, 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 8, line 30, delete "Except as provided in subsection" and insert "**As used in this section, "eligible land" means any of the following:**

(1) Land classified under IC 6-1.1-6 as native forest land.

(2) Land classified under IC 6-1.1-6 as a forest plantation by an application approval under IC 6-1.1-6-12 dated before July 1, 2007.

(3) Land:

(A) classified under IC 6-1.1-6 as a forest plantation by an application approval under IC 6-1.1-6-12 dated after June 30, 2007; and

(B) on which all of the trees that qualify the land for classification under IC 6-1.1-6 as a forest plantation are native trees.

(b) Except as provided in subsection (c), an individual is entitled to a deduction in determining the individual's adjusted gross income for a taxable year in an amount equal to the property taxes paid or accrued by the individual during the taxable year on eligible land.".

Page 8, delete lines 31 through 35.

Page 8, line 36, delete "(b)" and insert "**(c)**".

Page 8, line 36, delete "(a)" and insert "**(b)**".

Page 8, line 38, delete "(a)" and insert "**(b)**".

Page 8, line 42, delete "Except as provided in subsection" and insert "**As used in this section, "eligible land" has the meaning set forth in section 21(a) of this chapter.**

(b) Except as provided in subsection (c), an individual is entitled to a deduction in determining the individual's adjusted gross income for a taxable year in an amount equal to expenses paid or accrued by the individual during the taxable year for the management of a forest located on eligible land.".

Page 9, delete lines 1 through 6.

Page 9, line 7, delete "(b)" and insert "**(c)**".

Page 9, line 7, delete "(a)" and insert "**(b)**".

Page 9, line 9, delete "(a)" and insert "**(b)**".

Page 9, line 30, delete "An individual is entitled to a deduction" and insert "**(a) As used in this section, "eligible land" has the meaning set forth in section 21(a) of this chapter.**

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(b) An individual is entitled to a deduction in determining the individual's adjusted gross income for a taxable year for a charitable contribution of eligible land to the same extent the charitable contribution is allowed as a deduction to the individual for the taxable year under Section 170 of the Internal Revenue Code.".

Page 9, delete lines 31 through 42.

Delete pages 10 through 25.

Page 26, delete lines 1 through 18.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1657 as introduced.)

BISCHOFF, Chair

Committee Vote: yeas 7, nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1657, 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, after line 17, begin a new paragraph and insert:

"SECTION 7. [EFFECTIVE UPON PASSAGE] **(a) This SECTION applies only to salaries paid for pay periods beginning after June 30, 2007.**

(b) As used in this SECTION, "district forester" means any position on the state staffing table with a job code of "001LE2" and a description of "Forester Specialist 2".

(c) As used in this SECTION, "natural sciences manager" means any position on the state staffing table with a job code of "00ENS7" and a description of "Natural Sciences Manager E7".

(d) As used in this SECTION, "state staffing table" means a position classification plan and salary and wage schedule adopted by the state personnel department (established by IC 4-15-1.8-2) under IC 4-15-1.8-7.

(e) For pay periods beginning after June 30, 2007, the state personnel department shall equalize the salary and wage schedules for the positions of district forester and natural sciences manager so that both positions share the higher of the two (2) wage and

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salary schedules for these positions existing on April 1, 2007. For pay periods beginning after June 30, 2007, the department of natural resources (created by IC 14-9-1-1) shall increase the wages and salaries of all district foresters and natural sciences managers to bring the wages and salaries into conformity with the salary and wage schedules required by this SECTION.

SECTION 8. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1657 as printed February 13, 2007.)

CRAWFORD, Chair

Committee Vote: yeas 18, nays 2.

COMMITTEE REPORT

Madam President: The Senate Committee on Natural Resources, to which was referred House Bill No. 1657, 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 10, delete lines 18 through 41.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass and be reassigned to the Senate Committee on Tax and Fiscal Policy.

(Reference is to HB 1657 as printed February 20, 2007.)

JACKMAN, Chairperson

Committee Vote: Yeas 10, Nays 0.

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