

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1001 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 4-13.6-5-13 IS ADDED TO THE INDIANA
- 4 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 5 [EFFECTIVE UPON PASSAGE]: **Sec. 13. (a) As used in this section,**
- 6 **"Indiana business" refers to any of the following:**
- 7 (1) **A business whose principal place of business is located in**
- 8 **Indiana.**
- 9 (2) **A business that pays a majority of its payroll (in dollar**
- 10 **volume) to residents of Indiana.**
- 11 (3) **A business that employs residents of Indiana as a majority**
- 12 **of its employees.**
- 13 (4) **A business that makes significant capital investments in**
- 14 **Indiana as determined by the department.**
- 15 (5) **A business that has a substantial positive economic impact**
- 16 **on Indiana as determined by the department.**
- 17 **(b) There is a price preference for an Indiana business that:**
- 18 **(1) submits a bid for the performance of the work on a public**
- 19 **works project;**
- 20 **(2) competes for the contract against at least one (1) bidder**
- 21 **domiciled in a state that provides a price preference to**
- 22 **bidders from that state; and**
- 23 **(3) claims the preference under subsection (e).**
- 24 **The amount of the preference provided by this subsection is equal**

1 to the price preference provided by the state in which the
 2 out-of-state bidder is domiciled. If bidders from two (2) or more
 3 states granting preferences to in-state bidders bid for the contract,
 4 the amount of the preference is equal to the highest preference
 5 provided among those states.

6 (c) Notwithstanding any statute that requires the award of a
 7 contract to the lowest responsive and responsible bidder or the
 8 lowest responsive and responsible quoter, but subject to subsection
 9 (d), a contract shall be awarded to the lowest responsive and
 10 responsible Indiana business that claims the preference provided
 11 by this section.

12 (d) Notwithstanding subsection (c), a contract shall be awarded
 13 to the lowest responsive and responsible bidder or quoter,
 14 regardless of the preference provided in this section, if the lowest
 15 responsive and responsible bidder or quoter is an Indiana business.

16 (e) A business that wants to claim a preference provided under
 17 this section must do all of the following:

18 (1) State in the business's bid that the business claims the
 19 preference provided by this section.

20 (2) Provide the following information to the department:

21 (A) The location of the business's principal place of
 22 business. If the business claims the preference as an
 23 Indiana business described in subsection (a)(1), a statement
 24 explaining the reasons the business considers the location
 25 named as the business's principal place of business.

26 (B) The amount of the business's total payroll and the
 27 amount of the business's payroll paid to residents of
 28 Indiana.

29 (C) The number of the business's employees and the
 30 number of the business's employees who are residents of
 31 Indiana.

32 (D) If the business claims the preference as an Indiana
 33 business described in subsection (a)(4), a description of the
 34 capital investments made in Indiana and a statement of the
 35 amount of those capital investments.

36 (E) If the business claims the preference as an Indiana
 37 business described in subsection (a)(5), a description of the
 38 substantial positive economic impact the business has on
 39 Indiana.

40 SECTION 2. IC 4-13.6-6-2.8 IS ADDED TO THE INDIANA
 41 CODE AS A NEW SECTION TO READ AS FOLLOWS
 42 [EFFECTIVE UPON PASSAGE]: Sec. 2.8. (a) As used in this section,
 43 "resident of Indiana" means a person who is at least eighteen (18)
 44 years of age and is one (1) of the following:

45 (1) A person who has registered a motor vehicle in Indiana.

46 (2) A person who is registered to vote in Indiana.

47 (3) A person who has a child enrolled in an elementary or a

- 1 secondary school located in Indiana.
- 2 (4) A person who derives more than one-half (1/2) of the
 3 person's gross income (as defined in Section 61 of the Internal
 4 Revenue Code) from sources in Indiana, according to the
 5 provisions applicable to determining the source of adjusted
 6 gross income under IC 6-3-2-2. However, a person who would
 7 otherwise be considered a resident of Indiana under this
 8 subdivision is not a resident of Indiana if a preponderance of
 9 the evidence concerning the factors set forth in subdivisions
 10 (1) through (3) proves that the person is not a resident of
 11 Indiana.
- 12 (5) A person who:
- 13 (A) works from an office in Indiana;
 14 (B) is on a payroll from a business located in Indiana;
 15 (C) possesses a telephone with a telephone number that has
 16 an Indiana area code; or
 17 (D) has a permanent place of doing business in Indiana;
 18 for at least thirteen (13) months before entering into a
 19 contract or subcontract under this chapter.
- 20 (b) A contract for a public works project may not be awarded
 21 to a contractor who does not:
- 22 (1) employ residents of Indiana as at least ninety percent
 23 (90%) of the employees who work on the contract; and
 24 (2) enter into subcontracts only with subcontractors who
 25 employ residents of Indiana as at least ninety percent (90%)
 26 of the employees who work on the subcontract.
- 27 (c) Before August 15, 2013, and before August 15 of each year
 28 thereafter, the division shall file with the legislative council a
 29 report for the preceding year stating:
- 30 (1) for each contractor awarded a contract under this
 31 chapter; and
 32 (2) for each subcontractor with which a contractor referred
 33 to in subdivision (1) enters into a contract in connection with
 34 a contract awarded under this chapter;
 35 the percentage of the employees of the contractor or subcontractor
 36 who work on the contract and are residents of Indiana. The report
 37 to the legislative council must be in an electronic format under
 38 IC 5-14-6.
- 39 (d) A contract awarded under this chapter for a public works
 40 project is terminated if the division determines that the contractor
 41 has failed to:
- 42 (1) employ residents of Indiana as at least ninety percent
 43 (90%) of the employees who work on the contract; and
 44 (2) enter into subcontracts only with subcontractors who
 45 employ residents of Indiana as at least ninety percent (90%)
 46 of the employees who work on the subcontract.
- 47 (e) A contractor or subcontractor who fails to employ residents

1 of Indiana as at least ninety percent (90%) of the employees who
 2 work on the contract or subcontract commits a Class B infraction
 3 for each nonresident of Indiana employed that exceeds the number
 4 of nonresident employees permitted by this section.

5 (f) If:

6 (1) a contract or subcontract subject to this section is funded
 7 in whole or in part with federal funds; and

8 (2) imposing the requirements of this section would cause the
 9 state to lose the federal funds for the contract, as determined
 10 by the federal agency providing the funds;

11 subsections (a) through (e) do not apply.

12 (g) If an agency of the federal government makes a
 13 determination under subsection (f) that causes a contract to be
 14 exempted from the requirements of subsections (a) through (e), this
 15 section is meant to express the view of the general assembly that
 16 expanding employment opportunities for Indiana residents
 17 remains a vital part of the state's economy.

18 (h) A contract exempted from the requirements of subsections
 19 (a) through (e) may not reference the employment of Indiana
 20 residents. The division may not consider the number of
 21 employment opportunities for Indiana residents when doing any of
 22 the following with respect to a project subject to a contract that is
 23 exempted from the requirements of subsections (a) through (e):

24 (1) Issuing a request for proposals.

25 (2) Issuing a bulletin inviting bids for the contract.

26 (3) Prequalifying a contractor for the contract.

27 (4) Evaluating a bid for the contract.

28 (i) This section does not apply to contracts entered into to
 29 perform work:

30 (1) resulting from an emergency; or

31 (2) performed by an artisan or by someone in a specialty area
 32 with limited persons able to perform the work.

33 SECTION 3. IC 5-16-1-7.5 IS ADDED TO THE INDIANA CODE
 34 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 35 UPON PASSAGE]: Sec. 7.5. (a) As used in this section, "resident of
 36 Indiana" means a person who is at least eighteen (18) years of age
 37 and is one (1) of the following:

38 (1) A person who has registered a motor vehicle in Indiana.

39 (2) A person who is registered to vote in Indiana.

40 (3) A person who has a child enrolled in an elementary or a
 41 secondary school located in Indiana.

42 (4) A person who derives more than one-half (1/2) of the
 43 person's gross income (as defined in Section 61 of the Internal
 44 Revenue Code) from sources in Indiana, according to the
 45 provisions applicable to determining the source of adjusted
 46 gross income under IC 6-3-2-2. However, a person who would
 47 otherwise be considered a resident of Indiana under this

1 subdivision is not a resident of Indiana if a preponderance of
 2 the evidence concerning the factors set forth in subdivisions
 3 (1) through (3) proves that the person is not a resident of
 4 Indiana.

5 (5) A person who:

6 (A) works from an office in Indiana;

7 (B) is on a payroll from a business located in Indiana;

8 (C) possesses a telephone with a telephone number that has
 9 an Indiana area code; or

10 (D) has a permanent place of doing business in Indiana;
 11 for at least thirteen (13) months before entering into a
 12 contract or subcontract under this chapter.

13 (b) A contract for a public works project under this chapter
 14 may not be awarded to a contractor who does not:

15 (1) employ residents of Indiana as at least ninety percent
 16 (90%) of the employees who work on the contract; and

17 (2) enter into subcontracts only with subcontractors who
 18 employ residents of Indiana as at least ninety percent (90%)
 19 of the employees who work on the subcontract.

20 (c) Before August 15, 2013, and before August 15 of each year
 21 thereafter, any state agency entering into contracts under this
 22 chapter shall file with the legislative council a report stating:

23 (1) for each contractor awarded a contract under this
 24 chapter; and

25 (2) for each subcontractor with which a contractor referred
 26 to in subdivision (1) enters into a contract in connection with
 27 a contract awarded under this chapter;

28 the percentage of the employees of the contractor or subcontractor
 29 who work on the contract and are residents of Indiana. The report
 30 to the legislative council must be in an electronic format under
 31 IC 5-14-6.

32 (d) A contract awarded under this chapter for a public works
 33 project is terminated if the state or commission determines that the
 34 contractor has failed to:

35 (1) employ residents of Indiana as at least ninety percent
 36 (90%) of the employees who work on the contract; and

37 (2) enter into subcontracts only with subcontractors who
 38 employ residents of Indiana as at least ninety percent (90%)
 39 of the employees who work on the subcontract.

40 (e) A contractor or subcontractor who fails to employ residents
 41 of Indiana as at least ninety percent (90%) of the employees who
 42 work on the contract or subcontract commits a Class B infraction
 43 for each nonresident of Indiana employed that exceeds the number
 44 of nonresident employees permitted by this section.

45 (f) If:

46 (1) a contract or subcontract subject to this section is funded
 47 in whole or in part with federal funds; and

1 **(2) imposing the requirements of this section would cause the**
 2 **state to lose the federal funds for the contract, as determined**
 3 **by the federal agency providing the funds;**
 4 **subsections (a) through (e) do not apply.**

5 **(g) If an agency of the federal government makes a**
 6 **determination under subsection (f) that causes a contract to be**
 7 **exempted from the requirements of subsections (a) through (e), this**
 8 **section is meant to express the view of the general assembly that**
 9 **expanding employment opportunities for Indiana residents**
 10 **remains a vital part of the state's economy.**

11 **(h) A contract exempted from the requirements of subsections**
 12 **(a) through (e) may not reference the employment of Indiana**
 13 **residents. The state or a commission may not consider the number**
 14 **of employment opportunities for Indiana residents when doing any**
 15 **of the following with respect to a project subject to a contract that**
 16 **is exempted from the requirements of subsections (a) through (e):**

- 17 **(1) Issuing a request for proposals.**
- 18 **(2) Issuing a bulletin inviting bids for the contract.**
- 19 **(3) Prequalifying a contractor for the contract.**
- 20 **(4) Evaluating a bid for the contract.**

21 **(i) This section does not apply to contracts entered into to**
 22 **perform work:**

- 23 **(1) resulting from an emergency; or**
- 24 **(2) performed by an artisan or by someone in a specialty area**
 25 **with limited persons able to perform the work.**

26 **SECTION 4. IC 5-16-1-9 IS ADDED TO THE INDIANA CODE**
 27 **AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**
 28 **UPON PASSAGE]: Sec. 9. (a) As used in this section, "Indiana**
 29 **business" refers to any of the following:**

- 30 **(1) A business whose principal place of business is located in**
 31 **Indiana.**
- 32 **(2) A business that pays a majority of its payroll (in dollar**
 33 **volume) to residents of Indiana.**
- 34 **(3) A business that employs residents of Indiana as a majority**
 35 **of its employees.**
- 36 **(4) A business that makes significant capital investments in**
 37 **Indiana as determined by the Indiana department of**
 38 **administration.**
- 39 **(5) A business that has a substantial positive economic impact**
 40 **on Indiana as determined by the Indiana department of**
 41 **administration.**

42 **(b) There is a price preference for an Indiana business that:**

- 43 **(1) submits a bid for the performance of the work on a public**
 44 **works project;**
- 45 **(2) competes for the contract against at least one (1) bidder**
 46 **domiciled in a state that provides a price preference to**
 47 **bidders from that state; and**

1 **(3) claims the preference under subsection (e).**
 2 **The amount of the preference provided by this subsection is equal**
 3 **to the price preference provided by the state in which the**
 4 **out-of-state bidder is domiciled. If bidders from two (2) or more**
 5 **states granting preferences to in-state bidders bid for the contract,**
 6 **the amount of the preference is equal to the highest preference**
 7 **provided among those states.**

8 **(c) Notwithstanding any statute that requires the award of a**
 9 **contract to the lowest responsive and responsible bidder or the**
 10 **lowest responsive and responsible quoter, but subject to subsection**
 11 **(d), a contract shall be awarded to the lowest responsive and**
 12 **responsible Indiana business that claims the preference provided**
 13 **by this section.**

14 **(d) Notwithstanding subsection (c), a contract shall be awarded**
 15 **to the lowest responsive and responsible bidder or quoter,**
 16 **regardless of the preference provided in this section, if the lowest**
 17 **responsive and responsible bidder or quoter is an Indiana business.**

18 **(e) A business that wants to claim a preference provided under**
 19 **this section must do all of the following:**

20 **(1) State in the business's bid that the business claims the**
 21 **preference provided by this section.**

22 **(2) Provide the following information to the awarding officer,**
 23 **commission, or agent and the Indiana department of**
 24 **administration:**

25 **(A) The location of the business's principal place of**
 26 **business. If the business claims the preference as an**
 27 **Indiana business described in subsection (a)(1), a statement**
 28 **explaining the reasons the business considers the location**
 29 **named as the business's principal place of business.**

30 **(B) The amount of the business's total payroll and the**
 31 **amount of the business's payroll paid to residents of**
 32 **Indiana.**

33 **(C) The number of the business's employees and the**
 34 **number of the business's employees who are residents of**
 35 **Indiana.**

36 **(D) If the business claims the preference as an Indiana**
 37 **business described in subsection (a)(4), a description of the**
 38 **capital investments made in Indiana and a statement of the**
 39 **amount of those capital investments.**

40 **(E) If the business claims the preference as an Indiana**
 41 **business described in subsection (a)(5), a description of the**
 42 **substantial positive economic impact the business has on**
 43 **Indiana.**

44 **SECTION 5. IC 8-10-1-7.7 IS ADDED TO THE INDIANA CODE**
 45 **AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**
 46 **UPON PASSAGE]: Sec. 7.7. (a) As used in this section, "resident of**
 47 **Indiana" means a person who is at least eighteen (18) years of age**

- 1 and is one (1) of the following:
- 2 (1) A person who has registered a motor vehicle in Indiana.
- 3 (2) A person who is registered to vote in Indiana.
- 4 (3) A person who has a child enrolled in an elementary or a
- 5 secondary school located in Indiana.
- 6 (4) A person who derives more than one-half (1/2) of the
- 7 person's gross income (as defined in Section 61 of the Internal
- 8 Revenue Code) from sources in Indiana, according to the
- 9 provisions applicable to determining the source of adjusted
- 10 gross income under IC 6-3-2-2. However, a person who would
- 11 otherwise be considered a resident of Indiana under this
- 12 subdivision is not a resident of Indiana if a preponderance of
- 13 the evidence concerning the factors set forth in subdivisions
- 14 (1) through (3) proves that the person is not a resident of
- 15 Indiana.
- 16 (5) A person who:
- 17 (A) works from an office in Indiana;
- 18 (B) is on a payroll from a business located in Indiana;
- 19 (C) possesses a telephone with a telephone number that has
- 20 an Indiana area code; or
- 21 (D) has a permanent place of doing business in Indiana;
- 22 for at least thirteen (13) months before entering into a
- 23 contract or subcontract under this chapter.
- 24 (b) A contract for a public works project under this chapter
- 25 may not be awarded to a contractor who does not:
- 26 (1) employ residents of Indiana as at least ninety percent
- 27 (90%) of the employees of the contractor who work on the
- 28 contract; and
- 29 (2) enter into subcontracts only with subcontractors who
- 30 employ residents of Indiana as at least ninety percent (90%)
- 31 of the employees who work on the subcontract.
- 32 (c) Before August 15, 2013, and before August 15 of each year
- 33 thereafter, the commission shall file with the legislative council a
- 34 report stating:
- 35 (1) for each contractor awarded a contract under this
- 36 chapter; and
- 37 (2) for each subcontractor with which a contractor referred
- 38 to in subdivision (1) enters into a contract in connection with
- 39 a contract awarded under this chapter;
- 40 the percentage of the employees of the contractor or subcontractor
- 41 who work on the contract and are residents of Indiana. The report
- 42 to the legislative council must be in an electronic format under
- 43 IC 5-14-6.
- 44 (d) A contract awarded under this chapter for a public works
- 45 project is terminated if the commission determines that the
- 46 contractor has failed to:
- 47 (1) employ residents of Indiana as at least ninety percent

1 **(90%) of the employees who work on the contract; and**
 2 **(2) enter into subcontracts only with subcontractors who**
 3 **employ residents of Indiana as at least ninety percent (90%)**
 4 **of the employees who work on the subcontract.**

5 **(e) A contractor or subcontractor who fails to employ residents**
 6 **of Indiana as at least ninety percent (90%) of the employees who**
 7 **work on the contract or subcontract commits a Class B infraction**
 8 **for each nonresident of Indiana employed that exceeds the number**
 9 **of nonresident employees permitted by this section.**

10 **(f) If:**

11 **(1) a contract or subcontract subject to this section is funded**
 12 **in whole or in part with federal funds; and**

13 **(2) imposing the requirements of this section would cause the**
 14 **state to lose the federal funds for the contract, as determined**
 15 **by the federal agency providing the funds;**

16 **subsections (a) through (e) do not apply.**

17 **(g) If an agency of the federal government makes a**
 18 **determination under subsection (f) that causes a contract to be**
 19 **exempted from the requirements of subsections (a) through (e), this**
 20 **section is meant to express the view of the general assembly that**
 21 **expanding employment opportunities for Indiana residents**
 22 **remains a vital part of the state's economy.**

23 **(h) A contract exempted from the requirements of subsections**
 24 **(a) through (e) may not reference the employment of Indiana**
 25 **residents. The commission may not consider the number of**
 26 **employment opportunities for Indiana residents when doing any of**
 27 **the following with respect to a project subject to a contract that is**
 28 **exempted from the requirements of subsections (a) through (e):**

29 **(1) Issuing a request for proposals.**

30 **(2) Issuing a bulletin inviting bids for the contract.**

31 **(3) Prequalifying a contractor for the contract.**

32 **(4) Evaluating a bid for the contract.**

33 **(i) This section does not apply to contracts entered into to**
 34 **perform work:**

35 **(1) resulting from an emergency; or**

36 **(2) performed by an artisan or by someone in a specialty area**
 37 **with limited persons able to perform the work.**

38 **SECTION 6. IC 8-10-1-7.9 IS ADDED TO THE INDIANA CODE**
 39 **AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**
 40 **UPON PASSAGE]: Sec. 7.9. (a) As used in this section, "Indiana**
 41 **business" refers to any of the following:**

42 **(1) A business whose principal place of business is located in**
 43 **Indiana.**

44 **(2) A business that pays a majority of its payroll (in dollar**
 45 **volume) to residents of Indiana.**

46 **(3) A business that employs residents of Indiana as a majority**
 47 **of its employees.**

- 1 **(4) A business that makes significant capital investments in**
- 2 **Indiana as determined by the Indiana department of**
- 3 **administration.**
- 4 **(5) A business that has a substantial positive economic impact**
- 5 **on Indiana as determined by the Indiana department of**
- 6 **administration.**
- 7 **(b) There is a price preference for an Indiana business that:**
- 8 **(1) submits a bid for the performance of the work on a public**
- 9 **works project;**
- 10 **(2) competes for the contract against at least one (1) bidder**
- 11 **domiciled in a state that provides a price preference to**
- 12 **bidders from that state; and**
- 13 **(3) claims the preference under subsection (e).**
- 14 **The amount of the preference provided by this subsection is equal**
- 15 **to the price preference provided by the state in which the**
- 16 **out-of-state bidder is domiciled. If bidders from two (2) or more**
- 17 **states granting preferences to in-state bidders bid for the contract,**
- 18 **the amount of the preference is equal to the highest preference**
- 19 **provided among those states.**
- 20 **(c) Notwithstanding any statute that requires the award of a**
- 21 **contract to the lowest responsive and responsible bidder or the**
- 22 **lowest responsive and responsible quoter, but subject to subsection**
- 23 **(d), a contract shall be awarded to the lowest responsive and**
- 24 **responsible Indiana business that claims the preference provided**
- 25 **by this section.**
- 26 **(d) Notwithstanding subsection (c), a contract shall be awarded**
- 27 **to the lowest responsive and responsible bidder or quoter,**
- 28 **regardless of the preference provided in this section, if the lowest**
- 29 **responsive and responsible bidder or quoter is an Indiana business.**
- 30 **(e) A business that wants to claim a preference provided under**
- 31 **this section must do all of the following:**
- 32 **(1) State in the business's bid that the business claims the**
- 33 **preference provided by this section.**
- 34 **(2) Provide the following information to the commission and**
- 35 **the Indiana department of administration:**
- 36 **(A) The location of the business's principal place of**
- 37 **business. If the business claims the preference as an**
- 38 **Indiana business described in subsection (a)(1), a statement**
- 39 **explaining the reasons the business considers the location**
- 40 **named as the business's principal place of business.**
- 41 **(B) The amount of the business's total payroll and the**
- 42 **amount of the business's payroll paid to residents of**
- 43 **Indiana.**
- 44 **(C) The number of the business's employees and the**
- 45 **number of the business's employees who are residents of**
- 46 **Indiana.**
- 47 **(D) If the business claims the preference as an Indiana**

- 1 **business described in subsection (a)(4), a description of the**
 2 **capital investments made in Indiana and a statement of the**
 3 **amount of those capital investments.**
 4 **(E) If the business claims the preference as an Indiana**
 5 **business described in subsection (a)(5), a description of the**
 6 **substantial positive economic impact the business has on**
 7 **Indiana.**
- 8 SECTION 7. IC 8-23-9-4.6 IS ADDED TO THE INDIANA CODE
 9 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 10 UPON PASSAGE]: **Sec. 4.6. (a) As used in this section, "resident of**
 11 **Indiana" means a person who is at least eighteen (18) years of age**
 12 **and is one (1) of the following:**
- 13 **(1) A person who has registered a motor vehicle in Indiana.**
 14 **(2) A person who is registered to vote in Indiana.**
 15 **(3) A person who has a child enrolled in an elementary or a**
 16 **secondary school located in Indiana.**
 17 **(4) A person who derives more than one-half (1/2) of the**
 18 **person's gross income (as defined in Section 61 of the Internal**
 19 **Revenue Code) from sources in Indiana, according to the**
 20 **provisions applicable to determining the source of adjusted**
 21 **gross income under IC 6-3-2-2. However, a person who would**
 22 **otherwise be considered a resident of Indiana under this**
 23 **subdivision is not a resident of Indiana if a preponderance of**
 24 **the evidence concerning the factors set forth in subdivisions**
 25 **(1) through (3) proves that the person is not a resident of**
 26 **Indiana.**
- 27 **(5) A person who:**
- 28 **(A) works from an office in Indiana;**
 29 **(B) is on a payroll from a business located in Indiana;**
 30 **(C) possesses a telephone with a telephone number that has**
 31 **an Indiana area code; or**
 32 **(D) has a permanent place of doing business in Indiana;**
 33 **for at least thirteen (13) months before entering into a**
 34 **contract or subcontract under this chapter.**
- 35 **(b) A contract for a public works project under this chapter**
 36 **may not be awarded to a contractor who does not:**
- 37 **(1) employ residents of Indiana as at least ninety percent**
 38 **(90%) of the employees of the contractor who work on the**
 39 **contract; and**
 40 **(2) enter into subcontracts only with subcontractors who**
 41 **employ residents of Indiana as at least ninety percent (90%)**
 42 **of the employees working on the subcontract.**
- 43 **(c) Before August 15, 2013, and before August 15 of each year**
 44 **thereafter, the department shall file with the legislative council a**
 45 **report stating:**
- 46 **(1) for each contractor awarded a contract under this**
 47 **chapter; and**

- 1 **(2) for each subcontractor with which a contractor referred**
- 2 **to in subdivision (1) enters into a contract in connection with**
- 3 **a contract awarded under this chapter;**
- 4 **the percentage of the employees of the contractor or subcontractor**
- 5 **who work on the contract and are residents of Indiana. The report**
- 6 **to the legislative council must be in an electronic format under**
- 7 **IC 5-14-6.**
- 8 **(d) A contract awarded under this chapter for a public works**
- 9 **project is terminated if the department determines that the**
- 10 **contractor has failed to:**
 - 11 **(1) employ residents of Indiana as at least ninety percent**
 - 12 **(90%) of the employees who work on the contract; and**
 - 13 **(2) enter into subcontracts only with subcontractors who**
 - 14 **employ residents of Indiana as at least ninety percent (90%)**
 - 15 **of the employees who work on the subcontract.**
- 16 **(e) A contractor or subcontractor who fails to employ residents**
- 17 **of Indiana as at least ninety percent (90%) of the employees who**
- 18 **work on the contract or subcontract commits a Class B infraction**
- 19 **for each nonresident of Indiana employed that exceeds the number**
- 20 **of nonresident employees permitted by this section.**
- 21 **(f) If:**
 - 22 **(1) a contract or subcontract subject to this section is funded**
 - 23 **in whole or in part with federal funds; and**
 - 24 **(2) imposing the requirements of this section would cause the**
 - 25 **state to lose the federal funds for the contract, as determined**
 - 26 **by the federal agency providing the funds;**
- 27 **subsections (a) through (e) do not apply.**
- 28 **(g) If an agency of the federal government makes a**
- 29 **determination under subsection (f) that causes a contract to be**
- 30 **exempted from the requirements of subsections (a) through (e), this**
- 31 **section is meant to express the view of the general assembly that**
- 32 **expanding employment opportunities for Indiana residents**
- 33 **remains a vital part of the state's economy.**
- 34 **(h) A contract exempted from the requirements of subsections**
- 35 **(a) through (e) may not reference the employment of Indiana**
- 36 **residents. The department may not consider the number of**
- 37 **employment opportunities for Indiana residents when doing any of**
- 38 **the following with respect to a project subject to a contract that is**
- 39 **exempted from the requirements of subsections (a) through (e):**
 - 40 **(1) Issuing a request for proposals.**
 - 41 **(2) Issuing a bulletin inviting bids for the contract.**
 - 42 **(3) Prequalifying a contractor for the contract.**
 - 43 **(4) Evaluating a bid for the contract.**
- 44 **(i) This section does not apply to contracts entered into to**
- 45 **perform work:**
 - 46 **(1) resulting from an emergency; or**
 - 47 **(2) performed by an artisan or by someone in a specialty area**

1 **with limited persons able to perform the work.**
2 SECTION 8. IC 8-23-9-23.5 IS ADDED TO THE INDIANA CODE
3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
4 UPON PASSAGE]: **Sec. 23.5. (a) As used in this section, "Indiana**
5 **business" refers to any of the following:**
6 **(1) A business whose principal place of business is located in**
7 **Indiana.**
8 **(2) A business that pays a majority of its payroll (in dollar**
9 **volume) to residents of Indiana.**
10 **(3) A business that employs residents of Indiana as a majority**
11 **of its employees.**
12 **(4) A business that makes significant capital investments in**
13 **Indiana as determined by the Indiana department of**
14 **administration.**
15 **(5) A business that has a substantial positive economic impact**
16 **on Indiana as determined by the Indiana department of**
17 **administration.**
18 **(b) Except as prohibited by federal law, there is a price**
19 **preference for an Indiana business that:**
20 **(1) submits a bid for the performance of the work on a public**
21 **works project;**
22 **(2) competes for the contract against at least one (1) bidder**
23 **domiciled in a state that provides a price preference to**
24 **bidders from that state; and**
25 **(3) claims the preference under subsection (e).**
26 **The amount of the preference provided by this subsection is equal**
27 **to the price preference provided by the state in which the**
28 **out-of-state bidder is domiciled. If bidders from two (2) or more**
29 **states granting preferences to in-state bidders bid for the contract,**
30 **the amount of the preference is equal to the highest preference**
31 **provided among those states.**
32 **(c) Notwithstanding any statute that requires the award of a**
33 **contract to the lowest responsive and responsible bidder or the**
34 **lowest responsive and responsible quoter, but subject to subsection**
35 **(d) and any federal statute or regulation to the contrary, a contract**
36 **shall be awarded to the lowest responsive and responsible Indiana**
37 **business that claims the preference provided by this section.**
38 **(d) Notwithstanding subsection (c), a contract shall be awarded**
39 **to the lowest responsive and responsible bidder or quoter,**
40 **regardless of the preference provided in this section, if the lowest**
41 **responsive and responsible bidder or quoter is an Indiana business.**
42 **(e) A business that wants to claim a preference provided under**
43 **this section must do all of the following:**
44 **(1) State in the business's bid that the business claims the**
45 **preference provided by this section.**
46 **(2) Provide the following information to the department and**
47 **the Indiana department of administration:**

- 1 **(A) The location of the business's principal place of**
- 2 **business. If the business claims the preference as an**
- 3 **Indiana business described in subsection (a)(1), a statement**
- 4 **explaining the reasons the business considers the location**
- 5 **named as the business's principal place of business.**
- 6 **(B) The amount of the business's total payroll and the**
- 7 **amount of the business's payroll paid to residents of**
- 8 **Indiana.**
- 9 **(C) The number of the business's employees and the**
- 10 **number of the business's employees who are residents of**
- 11 **Indiana.**
- 12 **(D) If the business claims the preference as an Indiana**
- 13 **business described in subsection (a)(4), a description of the**
- 14 **capital investments made in Indiana and a statement of the**
- 15 **amount of those capital investments.**
- 16 **(E) If the business claims the preference as an Indiana**
- 17 **business described in subsection (a)(5), a description of the**
- 18 **substantial positive economic impact the business has on**
- 19 **Indiana."**

20 Page 4, between lines 4 and 5, begin a new paragraph and insert:

21 "SECTION 10. IC 36-1-12-5.5 IS ADDED TO THE INDIANA
22 CODE AS A NEW SECTION TO READ AS FOLLOWS
23 [EFFECTIVE UPON PASSAGE]: Sec. 5.5. (a) As used in this section,
24 "resident of Indiana" means a person who is at least eighteen (18)
25 years of age and is one (1) of the following:

- 26 **(1) A person who has registered a motor vehicle in Indiana.**
- 27 **(2) A person who is registered to vote in Indiana.**
- 28 **(3) A person who has a child enrolled in an elementary or a**
- 29 **secondary school located in Indiana.**
- 30 **(4) A person who derives more than one-half (1/2) of the**
- 31 **person's gross income (as defined in Section 61 of the Internal**
- 32 **Revenue Code) from sources in Indiana, according to the**
- 33 **provisions applicable to determining the source of adjusted**
- 34 **gross income under IC 6-3-2-2. However, a person who would**
- 35 **otherwise be considered a resident of Indiana under this**
- 36 **subdivision is not a resident of Indiana if a preponderance of**
- 37 **the evidence concerning the factors set forth in subdivisions**
- 38 **(1) through (3) proves that the person is not a resident of**
- 39 **Indiana.**
- 40 **(5) A person who:**
 - 41 **(A) works from an office in Indiana;**
 - 42 **(B) is on a payroll from a business located in Indiana;**
 - 43 **(C) possesses a telephone with a telephone number that has**
 - 44 **an Indiana area code; or**
 - 45 **(D) has a permanent place of doing business in Indiana;**
 - 46 **for at least thirteen (13) months before entering into a**
 - 47 **contract or subcontract under this chapter.**

- 1 **(b) A contract for a public works project under this chapter**
- 2 **may not be awarded to a contractor who does not:**
- 3 **(1) employ residents of Indiana as at least ninety percent**
- 4 **(90%) of the employees of the contractor who work on the**
- 5 **contract; and**
- 6 **(2) enter into subcontracts only with subcontractors who**
- 7 **employ residents of Indiana as at least ninety percent (90%)**
- 8 **of the employees working on the subcontract.**
- 9 **(c) A contract awarded under this chapter for a public works**
- 10 **project is terminated if the unit determines that the contractor has**
- 11 **failed to:**
- 12 **(1) employ residents of Indiana as at least ninety percent**
- 13 **(90%) of the employees who work on the contract; and**
- 14 **(2) enter into subcontracts only with subcontractors who**
- 15 **employ residents of Indiana as at least ninety percent (90%)**
- 16 **of the employees who work on the subcontract.**
- 17 **(d) A contractor or subcontractor who fails to employ residents**
- 18 **of Indiana as at least ninety percent (90%) of the employees who**
- 19 **work on the contract or subcontract commits a Class B infraction**
- 20 **for each nonresident of Indiana employed that exceeds the number**
- 21 **of nonresident employees permitted by this section.**
- 22 **(e) If:**
- 23 **(1) a contract or subcontract subject to this section is funded**
- 24 **in whole or in part with federal funds; and**
- 25 **(2) imposing the requirements of this section would cause the**
- 26 **state to lose the federal funds for the contract, as determined**
- 27 **by the federal agency providing the funds;**
- 28 **subsections (a) through (d) do not apply.**
- 29 **(f) If an agency of the federal government makes a**
- 30 **determination under subsection (e) that causes a contract to be**
- 31 **exempted from the requirements of subsections (a) through (d),**
- 32 **this section is meant to express the view of the general assembly**
- 33 **that expanding employment opportunities for Indiana residents**
- 34 **remains a vital part of the state's economy.**
- 35 **(g) A contract exempted from the requirements of subsections**
- 36 **(a) through (d) may not reference the employment of Indiana**
- 37 **residents. A unit may not consider the number of employment**
- 38 **opportunities for Indiana residents when doing any of the following**
- 39 **with respect to a project subject to a contract that is exempted**
- 40 **from the requirements of subsections (a) through (d):**
- 41 **(1) Issuing a request for proposals.**
- 42 **(2) Issuing a bulletin inviting bids for the contract.**
- 43 **(3) Prequalifying a contractor for the contract.**
- 44 **(4) Evaluating a bid for the contract.**
- 45 **(h) This section does not apply to contracts entered into to**
- 46 **perform work:**
- 47 **(1) resulting from an emergency; or**

- 1 **(2) performed by an artisan or by someone in a specialty area**
- 2 **with limited persons able to perform the work."**
- 3 Renumber all SECTIONS consecutively.
(Reference is to HB 1001 as printed January 12, 2012.)

Representative Riecken