

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WITHDRAWN	Noes _____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 ten percent (10%) price preference for an Indiana**
- 18 **business that:**
- 19 (1) **submits a bid for the performance of the work on a public**
- 20 **works project; and**
- 21 (2) **claims the preference under subsection (e).**
- 22 (c) **Notwithstanding any statute that requires the award of a**
- 23 **contract to the lowest responsive and responsible bidder or the**
- 24 **lowest responsive and responsible quoter, but subject to subsection**

1 (d), a contract shall be awarded to the lowest responsive and  
 2 responsible Indiana business that claims the preference provided  
 3 by this section.

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

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

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

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

13 (A) The location of the business's principal place of  
 14 business. If the business claims the preference as an  
 15 Indiana business described in subsection (a)(1), a statement  
 16 explaining the reasons the business considers the location  
 17 named as the business's principal place of business.

18 (B) The amount of the business's total payroll and the  
 19 amount of the business's payroll paid to residents of  
 20 Indiana.

21 (C) The number of the business's employees and the  
 22 number of the business's employees who are residents of  
 23 Indiana.

24 (D) If the business claims the preference as an Indiana  
 25 business described in subsection (a)(4), a description of the  
 26 capital investments made in Indiana and a statement of the  
 27 amount of those capital investments.

28 (E) If the business claims the preference as an Indiana  
 29 business described in subsection (a)(5), a description of the  
 30 substantial positive economic impact the business has on  
 31 Indiana.

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

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

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

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

41 (4) A person who derives more than one-half (1/2) of the  
 42 person's gross income (as defined in Section 61 of the Internal  
 43 Revenue Code) from sources in Indiana, according to the  
 44 provisions applicable to determining the source of adjusted  
 45 gross income under IC 6-3-2-2. However, a person who would  
 46 otherwise be considered a resident of Indiana under this  
 47 subdivision is not a resident of Indiana if a preponderance of

- 1 the evidence concerning the factors set forth in subdivisions  
 2 (1) through (3) proves that the person is not a resident of  
 3 Indiana.
- 4 (5) A person who:
- 5 (A) works from an office in Indiana;
- 6 (B) is on a payroll from a business located in Indiana;
- 7 (C) possesses a telephone with a telephone number that has  
 8 an Indiana area code; or
- 9 (D) has a permanent place of doing business in Indiana;  
 10 for at least thirteen (13) months before entering into a  
 11 contract or subcontract under this chapter.
- 12 (b) A contract for a public works project may not be awarded  
 13 to a contractor who does not:
- 14 (1) employ residents of Indiana as at least ninety percent  
 15 (90%) of the employees who work on the contract; and
- 16 (2) enter into subcontracts only with subcontractors who  
 17 employ residents of Indiana as at least ninety percent (90%)  
 18 of the employees who work on the subcontract.
- 19 (c) Before August 15, 2013, and before August 15 of each year  
 20 thereafter, the division shall file with the legislative council a  
 21 report for the preceding year stating:
- 22 (1) for each contractor awarded a contract under this  
 23 chapter; and
- 24 (2) for each subcontractor with which a contractor referred  
 25 to in subdivision (1) enters into a contract in connection with  
 26 a contract awarded under this chapter;
- 27 the percentage of the employees of the contractor or subcontractor  
 28 who work on the contract and are residents of Indiana. The report  
 29 to the legislative council must be in an electronic format under  
 30 IC 5-14-6.
- 31 (d) A contract awarded under this chapter for a public works  
 32 project is terminated if the division determines that the contractor  
 33 has failed to:
- 34 (1) employ residents of Indiana as at least ninety percent  
 35 (90%) of the employees who work on the contract; and
- 36 (2) enter into subcontracts only with subcontractors who  
 37 employ residents of Indiana as at least ninety percent (90%)  
 38 of the employees who work on the subcontract.
- 39 (e) A contractor or subcontractor who fails to employ residents  
 40 of Indiana as at least ninety percent (90%) of the employees who  
 41 work on the contract or subcontract commits a Class B infraction  
 42 for each nonresident of Indiana employed that exceeds the number  
 43 of nonresident employees permitted by this section.
- 44 (f) If:
- 45 (1) a contract or subcontract subject to this section is funded  
 46 in whole or in part with federal funds; and
- 47 (2) imposing the requirements of this section would cause the

1 state to lose the federal funds for the contract, as determined  
 2 by the federal agency providing the funds;  
 3 subsections (a) through (e) do not apply.

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

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

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

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

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

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

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

- 1                   an Indiana area code; or
- 2                   **(D) has a permanent place of doing business in Indiana;**
- 3                   **for at least thirteen (13) months before entering into a**
- 4                   **contract or subcontract under this chapter.**
- 5                   **(b) A contract for a public works project under this chapter**
- 6                   **may not be awarded to a contractor who does not:**
- 7                   **(1) employ residents of Indiana as at least ninety percent**
- 8                   **(90%) of the employees who work on the contract; and**
- 9                   **(2) enter into subcontracts only with subcontractors who**
- 10                   **employ residents of Indiana as at least ninety percent (90%)**
- 11                   **of the employees who work on the subcontract.**
- 12                   **(c) Before August 15, 2013, and before August 15 of each year**
- 13                   **thereafter, any state agency entering into contracts under this**
- 14                   **chapter shall file with the legislative council a report stating:**
- 15                   **(1) for each contractor awarded a contract under this**
- 16                   **chapter; and**
- 17                   **(2) for each subcontractor with which a contractor referred**
- 18                   **to in subdivision (1) enters into a contract in connection with**
- 19                   **a contract awarded under this chapter;**
- 20                   **the percentage of the employees of the contractor or subcontractor**
- 21                   **who work on the contract and are residents of Indiana. The report**
- 22                   **to the legislative council must be in an electronic format under**
- 23                   **IC 5-14-6.**
- 24                   **(d) A contract awarded under this chapter for a public works**
- 25                   **project is terminated if the state or commission determines that the**
- 26                   **contractor has failed to:**
- 27                   **(1) employ residents of Indiana as at least ninety percent**
- 28                   **(90%) of the employees who work on the 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                   **(e) A contractor or subcontractor who fails to employ residents**
- 33                   **of Indiana as at least ninety percent (90%) of the employees who**
- 34                   **work on the contract or subcontract commits a Class B infraction**
- 35                   **for each nonresident of Indiana employed that exceeds the number**
- 36                   **of nonresident employees permitted by this section.**
- 37                   **(f) If:**
- 38                   **(1) a contract or subcontract subject to this section is funded**
- 39                   **in whole or in part with federal funds; and**
- 40                   **(2) imposing the requirements of this section would cause the**
- 41                   **state to lose the federal funds for the contract, as determined**
- 42                   **by the federal agency providing the funds;**
- 43                   **subsections (a) through (e) do not apply.**
- 44                   **(g) If an agency of the federal government makes a**
- 45                   **determination under subsection (f) that causes a contract to be**
- 46                   **exempted from the requirements of subsections (a) through (e), this**
- 47                   **section is meant to express the view of the general assembly that**

1 expanding employment opportunities for Indiana residents  
2 remains a vital part of the state's economy.

3 (h) A contract exempted from the requirements of subsections  
4 (a) through (e) may not reference the employment of Indiana  
5 residents. The state or a commission may not consider the number  
6 of employment opportunities for Indiana residents when doing any  
7 of the following with respect to a project subject to a contract that  
8 is exempted from the requirements of subsections (a) through (e):

- 9 (1) Issuing a request for proposals.
- 10 (2) Issuing a bulletin inviting bids for the contract.
- 11 (3) Prequalifying a contractor for the contract.
- 12 (4) Evaluating a bid for the contract.

13 (i) This section does not apply to contracts entered into to  
14 perform work:

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

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

- 22 (1) A business whose principal place of business is located in  
23 Indiana.
- 24 (2) A business that pays a majority of its payroll (in dollar  
25 volume) to residents of Indiana.
- 26 (3) A business that employs residents of Indiana as a majority  
27 of its employees.
- 28 (4) A business that makes significant capital investments in  
29 Indiana as determined by the Indiana department of  
30 administration.
- 31 (5) A business that has a substantial positive economic impact  
32 on Indiana as determined by the Indiana department of  
33 administration.

34 (b) There is a ten percent (10%) price preference for an Indiana  
35 business that:

- 36 (1) submits a bid for the performance of the work on a public  
37 works project; and
- 38 (2) claims the preference under subsection (e).

39 (c) Notwithstanding any statute that requires the award of a  
40 contract to the lowest responsive and responsible bidder or the  
41 lowest responsive and responsible quoter, but subject to subsection  
42 (d), a contract shall be awarded to the lowest responsive and  
43 responsible Indiana business that claims the preference provided  
44 by this section.

45 (d) Notwithstanding subsection (c), a contract shall be awarded  
46 to the lowest responsive and responsible bidder or quoter,  
47 regardless of the preference provided in this section, if the lowest

1 responsive and responsible bidder or quoter is an Indiana business.

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

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

6 (2) Provide the following information to the awarding officer,  
7 commission, or agent and the department of administration:

8 (A) The location of the business's principal place of  
9 business. If the business claims the preference as an  
10 Indiana business described in subsection (a)(1), a statement  
11 explaining the reasons the business considers the location  
12 named as the business's principal place of business.

13 (B) The amount of the business's total payroll and the  
14 amount of the business's payroll paid to residents of  
15 Indiana.

16 (C) The number of the business's employees and the  
17 number of the business's employees who are residents of  
18 Indiana.

19 (D) If the business claims the preference as an Indiana  
20 business described in subsection (a)(4), a description of the  
21 capital investments made in Indiana and a statement of the  
22 amount of those capital investments.

23 (E) If the business claims the preference as an Indiana  
24 business described in subsection (a)(5), a description of the  
25 substantial positive economic impact the business has on  
26 Indiana.

27 SECTION 5. IC 8-10-1-7.7 IS ADDED TO THE INDIANA CODE  
28 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
29 UPON PASSAGE]: Sec. 7.7. (a) As used in this section, "resident of  
30 Indiana" means a person who is at least eighteen (18) years of age  
31 and is one (1) of the following:

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

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

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

36 (4) A person who derives more than one-half (1/2) of the  
37 person's gross income (as defined in Section 61 of the Internal  
38 Revenue Code) from sources in Indiana, according to the  
39 provisions applicable to determining the source of adjusted  
40 gross income under IC 6-3-2-2. However, a person who would  
41 otherwise be considered a resident of Indiana under this  
42 subdivision is not a resident of Indiana if a preponderance of  
43 the evidence concerning the factors set forth in subdivisions  
44 (1) through (3) proves that the person is not a resident of  
45 Indiana.

46 (5) A person who:

47 (A) works from an office in Indiana;

- 1           **(B) is on a payroll from a business located in Indiana;**  
2           **(C) possesses a telephone with a telephone number that has**  
3           **an Indiana area code; or**  
4           **(D) has a permanent place of doing business in Indiana;**  
5           **for at least thirteen (13) months before entering into a**  
6           **contract or subcontract under this chapter.**  
7           **(b) A contract for a public works project under this chapter**  
8           **may not be awarded to a contractor who does not:**  
9           **(1) employ residents of Indiana as at least ninety percent**  
10           **(90%) of the employees of the contractor who work on the**  
11           **contract; and**  
12           **(2) enter into subcontracts only with subcontractors who**  
13           **employ residents of Indiana as at least ninety percent (90%)**  
14           **of the employees who work on the subcontract.**  
15           **(c) Before August 15, 2013, and before August 15 of each year**  
16           **thereafter, the commission shall file with the legislative council a**  
17           **report stating:**  
18           **(1) for each contractor awarded a contract under this**  
19           **chapter; and**  
20           **(2) for each subcontractor with which a contractor referred**  
21           **to in subdivision (1) enters into a contract in connection with**  
22           **a contract awarded under this chapter;**  
23           **the percentage of the employees of the contractor or subcontractor**  
24           **who work on the contract and are residents of Indiana. The report**  
25           **to the legislative council must be in an electronic format under**  
26           **IC 5-14-6.**  
27           **(d) A contract awarded under this chapter for a public works**  
28           **project is terminated if the commission determines that the**  
29           **contractor has failed to:**  
30           **(1) employ residents of Indiana as at least ninety percent**  
31           **(90%) of the employees who work on the contract; and**  
32           **(2) enter into subcontracts only with subcontractors who**  
33           **employ residents of Indiana as at least ninety percent (90%)**  
34           **of the employees who work on the subcontract.**  
35           **(e) A contractor or subcontractor who fails to employ residents**  
36           **of Indiana as at least ninety percent (90%) of the employees who**  
37           **work on the contract or subcontract commits a Class B infraction**  
38           **for each nonresident of Indiana employed that exceeds the number**  
39           **of nonresident employees permitted by this section.**  
40           **(f) If:**  
41           **(1) a contract or subcontract subject to this section is funded**  
42           **in whole or in part with federal funds; and**  
43           **(2) imposing the requirements of this section would cause the**  
44           **state to lose the federal funds for the contract, as determined**  
45           **by the federal agency providing the funds;**  
46           **subsections (a) through (e) do not apply.**  
47           **(g) If an agency of the federal government makes a**

1 determination under subsection (f) that causes a contract to be  
 2 exempted from the requirements of subsections (a) through (e), this  
 3 section is meant to express the view of the general assembly that  
 4 expanding employment opportunities for Indiana residents  
 5 remains a vital part of the state's economy.

6 (h) A contract exempted from the requirements of subsections  
 7 (a) through (e) may not reference the employment of Indiana  
 8 residents. The commission may not consider the number of  
 9 employment opportunities for Indiana residents when doing any of  
 10 the following with respect to a project subject to a contract that is  
 11 exempted from the requirements of subsections (a) through (e):

- 12 (1) Issuing a request for proposals.
- 13 (2) Issuing a bulletin inviting bids for the contract.
- 14 (3) Prequalifying a contractor for the contract.
- 15 (4) Evaluating a bid for the contract.

16 (i) This section does not apply to contracts entered into to  
 17 perform work:

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

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

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

37 (b) There is a ten percent (10%) price preference for an Indiana  
 38 business that:

- 39 (1) submits a bid for the performance of the work on a public  
 40 works project; and
- 41 (2) claims the preference under subsection (e).

42 (c) Notwithstanding any statute that requires the award of a  
 43 contract to the lowest responsive and responsible bidder or the  
 44 lowest responsive and responsible quoter, but subject to subsection  
 45 (d), a contract shall be awarded to the lowest responsive and  
 46 responsible Indiana business that claims the preference provided  
 47 by this section.

- 1           **(d) Notwithstanding subsection (c), a contract shall be awarded**
- 2 **to the lowest responsive and responsible bidder or quoter,**
- 3 **regardless of the preference provided in this section, if the lowest**
- 4 **responsive and responsible bidder or quoter is an Indiana business.**
- 5           **(e) A business that wants to claim a preference provided under**
- 6 **this section must do all of the following:**
- 7           **(1) State in the business's bid that the business claims the**
- 8 **preference provided by this section.**
- 9           **(2) Provide the following information to the commission and**
- 10 **the department of administration:**
- 11           **(A) The location of the business's principal place of**
- 12 **business. If the business claims the preference as an**
- 13 **Indiana business described in subsection (a)(1), a statement**
- 14 **explaining the reasons the business considers the location**
- 15 **named as the business's principal place of business.**
- 16           **(B) The amount of the business's total payroll and the**
- 17 **amount of the business's payroll paid to residents of**
- 18 **Indiana.**
- 19           **(C) The number of the business's employees and the**
- 20 **number of the business's employees who are residents of**
- 21 **Indiana.**
- 22           **(D) If the business claims the preference as an Indiana**
- 23 **business described in subsection (a)(4), a description of the**
- 24 **capital investments made in Indiana and a statement of the**
- 25 **amount of those capital investments.**
- 26           **(E) If the business claims the preference as an Indiana**
- 27 **business described in subsection (a)(5), a description of the**
- 28 **substantial positive economic impact the business has on**
- 29 **Indiana.**
- 30           **SECTION 7. IC 8-23-9-4.6 IS ADDED TO THE INDIANA CODE**
- 31 **AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**
- 32 **UPON PASSAGE]: Sec. 4.6. (a) As used in this section, "resident of**
- 33 **Indiana" means a person who is at least eighteen (18) years of age**
- 34 **and is one (1) of the following:**
- 35           **(1) A person who has registered a motor vehicle in Indiana.**
- 36           **(2) A person who is registered to vote in Indiana.**
- 37           **(3) A person who has a child enrolled in an elementary or a**
- 38 **secondary school located in Indiana.**
- 39           **(4) A person who derives more than one-half (1/2) of the**
- 40 **person's gross income (as defined in Section 61 of the Internal**
- 41 **Revenue Code) from sources in Indiana, according to the**
- 42 **provisions applicable to determining the source of adjusted**
- 43 **gross income under IC 6-3-2-2. However, a person who would**
- 44 **otherwise be considered a resident of Indiana under this**
- 45 **subdivision is not a resident of Indiana if a preponderance of**
- 46 **the evidence concerning the factors set forth in subdivisions**
- 47 **(1) through (3) proves that the person is not a resident of**

- 1           **Indiana.**
- 2           **(5) A person who:**
- 3               **(A) works from an office in Indiana;**
- 4               **(B) is on a payroll from a business located in Indiana;**
- 5               **(C) possesses a telephone with a telephone number that has**
- 6               **an Indiana area code; or**
- 7               **(D) has a permanent place of doing business in Indiana;**
- 8           **for at least thirteen (13) months before entering into a**
- 9           **contract or subcontract under this chapter.**
- 10          **(b) A contract for a public works project under this chapter**
- 11          **may not be awarded to a contractor who does not:**
- 12               **(1) employ residents of Indiana as at least ninety percent**
- 13               **(90%) of the employees of the contractor who work on the**
- 14               **contract; and**
- 15               **(2) enter into subcontracts only with subcontractors who**
- 16               **employ residents of Indiana as at least ninety percent (90%)**
- 17               **of the employees working on the subcontract.**
- 18          **(c) Before August 15, 2013, and before August 15 of each year**
- 19          **thereafter, the department shall file with the legislative council a**
- 20          **report stating:**
- 21               **(1) for each contractor awarded a contract under this**
- 22               **chapter; and**
- 23               **(2) for each subcontractor with which a contractor referred**
- 24               **to in subdivision (1) enters into a contract in connection with**
- 25               **a contract awarded under this chapter;**
- 26          **the percentage of the employees of the contractor or subcontractor**
- 27          **who work on the contract and are residents of Indiana. The report**
- 28          **to the legislative council must be in an electronic format under**
- 29          **IC 5-14-6.**
- 30          **(d) A contract awarded under this chapter for a public works**
- 31          **project is terminated if the department determines that the**
- 32          **contractor has failed to:**
- 33               **(1) employ residents of Indiana as at least ninety percent**
- 34               **(90%) of the employees who work on the contract; and**
- 35               **(2) enter into subcontracts only with subcontractors who**
- 36               **employ residents of Indiana as at least ninety percent (90%)**
- 37               **of the employees who work on the subcontract.**
- 38          **(e) A contractor or subcontractor who fails to employ residents**
- 39          **of Indiana as at least ninety percent (90%) of the employees who**
- 40          **work on the contract or subcontract commits a Class B infraction**
- 41          **for each nonresident of Indiana employed that exceeds the number**
- 42          **of nonresident employees permitted by this section.**
- 43          **(f) If:**
- 44               **(1) a contract or subcontract subject to this section is funded**
- 45               **in whole or in part with federal funds; and**
- 46               **(2) imposing the requirements of this section would cause the**
- 47               **state to lose the federal funds for the contract, as determined**

1 by the federal agency providing the funds;  
2 subsections (a) through (e) do not apply.

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

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

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

19 (i) This section does not apply to contracts entered into to  
20 perform work:

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

24 SECTION 8. IC 8-23-9-23.5 IS ADDED TO THE INDIANA CODE  
25 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
26 UPON PASSAGE]: Sec. 23.5. (a) As used in this section, "Indiana  
27 business" refers to any of the following:

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

40 (b) Except as prohibited by federal law, there is a ten percent  
41 (10%) price preference for an Indiana business that:

- 42 (1) submits a bid for the performance of the work on a  
43 highway project; and
- 44 (2) claims the preference under subsection (e).

45 (c) Notwithstanding any statute that requires the award of a  
46 contract to the lowest responsive and responsible bidder or the  
47 lowest responsive and responsible quoter, but subject to subsection

1 (d) and any federal statute or regulation to the contrary, a contract  
2 shall be awarded to the lowest responsive and responsible Indiana  
3 business that claims the preference provided by this section.

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

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

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

12 (2) Provide the following information to the department and  
13 the Indiana department of administration:

14 (A) The location of the business's principal place of  
15 business. If the business claims the preference as an  
16 Indiana business described in subsection (a)(1), a statement  
17 explaining the reasons the business considers the location  
18 named as the business's principal place of business.

19 (B) The amount of the business's total payroll and the  
20 amount of the business's payroll paid to residents of  
21 Indiana.

22 (C) The number of the business's employees and the  
23 number of the business's employees who are residents of  
24 Indiana.

25 (D) If the business claims the preference as an Indiana  
26 business described in subsection (a)(4), a description of the  
27 capital investments made in Indiana and a statement of the  
28 amount of those capital investments.

29 (E) If the business claims the preference as an Indiana  
30 business described in subsection (a)(5), a description of the  
31 substantial positive economic impact the business has on  
32 Indiana."

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

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

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

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

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

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

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

6 (5) A person who:  
7 (A) works from an office in Indiana;  
8 (B) is on a payroll from a business located in Indiana;  
9 (C) possesses a telephone with a telephone number that has  
10 an Indiana area code; or  
11 (D) has a permanent place of doing business in Indiana;  
12 for at least thirteen (13) months before entering into a  
13 contract or subcontract under this chapter.

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

16 (1) employ residents of Indiana as at least ninety percent  
17 (90%) of the employees of the contractor who work on the  
18 contract; and  
19 (2) enter into subcontracts only with subcontractors who  
20 employ residents of Indiana as at least ninety percent (90%)  
21 of the employees working on the subcontract.

22 (c) A contract awarded under this chapter for a public works  
23 project is terminated if the unit determines that the contractor has  
24 failed to:

25 (1) employ residents of Indiana as at least ninety percent  
26 (90%) of the employees who work on the contract; and  
27 (2) enter into subcontracts only with subcontractors who  
28 employ residents of Indiana as at least ninety percent (90%)  
29 of the employees who work on the subcontract.

30 (d) A contractor or subcontractor who fails to employ residents  
31 of Indiana as at least ninety percent (90%) of the employees who  
32 work on the contract or subcontract commits a Class B infraction  
33 for each nonresident of Indiana employed that exceeds the number  
34 of nonresident employees permitted by this section.

35 (e) If:  
36 (1) a contract or subcontract subject to this section is funded  
37 in whole or in part with federal funds; and  
38 (2) imposing the requirements of this section would cause the  
39 state to lose the federal funds for the contract, as determined  
40 by the federal agency providing the funds;

41 subsections (a) through (d) do not apply.

42 (f) If an agency of the federal government makes a  
43 determination under subsection (e) that causes a contract to be  
44 exempted from the requirements of subsections (a) through (d),  
45 this section is meant to express the view of the general assembly  
46 that expanding employment opportunities for Indiana residents  
47 remains a vital part of the state's economy.

- 1       **(g) A contract exempted from the requirements of subsections**
- 2 **(a) through (d) may not reference the employment of Indiana**
- 3 **residents. A unit may not consider the number of employment**
- 4 **opportunities for Indiana residents when doing any of the following**
- 5 **with respect to a project subject to a contract that is exempted**
- 6 **from the requirements of subsections (a) through (d):**
- 7       **(1) Issuing a request for proposals.**
- 8       **(2) Issuing a bulletin inviting bids for the contract.**
- 9       **(3) Prequalifying a contractor for the contract.**
- 10       **(4) Evaluating a bid for the contract.**
- 11       **(h) This section does not apply to contracts entered into to**
- 12 **perform work:**
- 13       **(1) resulting from an emergency; or**
- 14       **(2) performed by an artisan or by someone in a specialty area**
- 15       **with limited persons able to perform the work."**
- 16       Renumber all SECTIONS consecutively.  
      (Reference is to HB 1001 as printed January 12, 2012.).

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Representative Riecken