

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WITHDRAWN	Noes _____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) **Except as prohibited by federal law, there is a price**
- 18 **preference for an Indiana business that:**
- 19 (1) **submits a bid for the performance of the work on a public**
- 20 **works project;**
- 21 (2) **competes for the contract against at least one (1) bidder**
- 22 **domiciled in a state that provides a price preference to**
- 23 **bidders from that state; and**
- 24 (3) **claims the preference under subsection (e).**

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

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

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

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

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

21           **(2) Provide the following information to the department:**

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

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

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

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

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

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

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

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

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

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

6 (f) If:

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

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

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

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

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

25 (1) Issuing a request for proposals.

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

27 (3) Prequalifying a contractor for the contract.

28 (4) Evaluating a bid for the contract.

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

31 (1) resulting from an emergency; or

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

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

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

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

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

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

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

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

36 (1) employ residents of Indiana as at least ninety percent  
 37 (90%) of the employees who work on the contract; and

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

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

46 (f) If:

47 (1) a contract or subcontract subject to this section is funded

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

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

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

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

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

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

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

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

43           (b) Except as prohibited by federal law, there is a price  
 44 preference for an Indiana business that:

- 45           (1) submits a bid for the performance of the work on a public  
 46 works project;
- 47           (2) competes for the contract against at least one (1) bidder

1 domiciled in a state that provides a price preference to  
2 bidders from that state; and

3 (3) claims the preference under subsection (e).

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

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

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

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

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

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

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

32 (B) The amount of the business's total payroll and the  
33 amount of the business's payroll paid to residents of  
34 Indiana.

35 (C) The number of the business's employees and the  
36 number of the business's employees who are residents of  
37 Indiana.

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

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

46 SECTION 5. IC 8-10-1-7.7 IS ADDED TO THE INDIANA CODE  
47 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE

UPON PASSAGE]: Sec. 7.7. (a) As used in this section, "resident of Indiana" means a person who is at least eighteen (18) years of age and is one (1) of the following:

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

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

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

(c) Before August 15, 2013, and before August 15 of each year thereafter, the commission shall file with the legislative council a report stating:

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

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

(d) A contract awarded under this chapter for a public works project is terminated if the commission determines that the

- 1 contractor has failed to:
- 2 (1) employ residents of Indiana as at least ninety percent
- 3 (90%) of the employees who work on the contract; and
- 4 (2) enter into subcontracts only with subcontractors who
- 5 employ residents of Indiana as at least ninety percent (90%)
- 6 of the employees who work on the subcontract.
- 7 (e) A contractor or subcontractor who fails to employ residents
- 8 of Indiana as at least ninety percent (90%) of the employees who
- 9 work on the contract or subcontract commits a Class B infraction
- 10 for each nonresident of Indiana employed that exceeds the number
- 11 of nonresident employees permitted by this section.
- 12 (f) If:
- 13 (1) a contract or subcontract subject to this section is funded
- 14 in whole or in part with federal funds; and
- 15 (2) imposing the requirements of this section would cause the
- 16 state to lose the federal funds for the contract, as determined
- 17 by the federal agency providing the funds;
- 18 subsections (a) through (e) do not apply.
- 19 (g) If an agency of the federal government makes a
- 20 determination under subsection (f) that causes a contract to be
- 21 exempted from the requirements of subsections (a) through (e), this
- 22 section is meant to express the view of the general assembly that
- 23 expanding employment opportunities for Indiana residents
- 24 remains a vital part of the state's economy.
- 25 (h) A contract exempted from the requirements of subsections
- 26 (a) through (e) may not reference the employment of Indiana
- 27 residents. The commission may not consider the number of
- 28 employment opportunities for Indiana residents when doing any of
- 29 the following with respect to a project subject to a contract that is
- 30 exempted from the requirements of subsections (a) through (e):
- 31 (1) Issuing a request for proposals.
- 32 (2) Issuing a bulletin inviting bids for the contract.
- 33 (3) Prequalifying a contractor for the contract.
- 34 (4) Evaluating a bid for the contract.
- 35 (i) This section does not apply to contracts entered into to
- 36 perform work:
- 37 (1) resulting from an emergency; or
- 38 (2) performed by an artisan or by someone in a specialty area
- 39 with limited persons able to perform the work.
- 40 SECTION 6. IC 8-10-1-7.9 IS ADDED TO THE INDIANA CODE
- 41 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
- 42 UPON PASSAGE]: Sec. 7.9. (a) As used in this section, "Indiana
- 43 business" refers to any of the following:
- 44 (1) A business whose principal place of business is located in
- 45 Indiana.
- 46 (2) A business that pays a majority of its payroll (in dollar
- 47 volume) to residents of Indiana.

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

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

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

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- perform work:**
- (1) resulting from an emergency; or**
  - (2) performed by an artisan or by someone in a specialty area with limited persons able to perform the work.**
- SECTION 8. IC 8-23-9-23.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 23.5. (a) As used in this section, "Indiana business" refers to any of the following:**
- (1) A business whose principal place of business is located in Indiana.**
  - (2) A business that pays a majority of its payroll (in dollar volume) to residents of Indiana.**
  - (3) A business that employs residents of Indiana as a majority of its employees.**
  - (4) A business that makes significant capital investments in Indiana as determined by the Indiana department of administration.**
  - (5) A business that has a substantial positive economic impact on Indiana as determined by the Indiana department of administration.**
- (b) Except as prohibited by federal law, there is a price preference for an Indiana business that:**
- (1) submits a bid for the performance of the work on a public works project;**
  - (2) competes for the contract against at least one (1) bidder domiciled in a state that provides a price preference to bidders from that state; and**
  - (3) claims the preference under subsection (e).**
- The amount of the preference provided by this subsection is equal to the price preference provided by the state in which the out-of-state bidder is domiciled. If bidders from two (2) or more states granting preferences to in-state bidders bid for the contract, the amount of the preference is equal to the highest preference provided among those states.**
- (c) Notwithstanding any statute that requires the award of a contract to the lowest responsive and responsible bidder or the lowest responsive and responsible quoter, but subject to subsection (d) and any federal statute or regulation to the contrary, a contract shall be awarded to the lowest responsive and responsible Indiana business that claims the preference provided by this section.**
- (d) Notwithstanding subsection (c), a contract shall be awarded to the lowest responsive and responsible bidder or quoter, regardless of the preference provided in this section, if the lowest responsive and responsible bidder or quoter is an Indiana business.**
- (e) A business that wants to claim a preference provided under this section must do all of the following:**
- (1) State in the business's bid that the business claims the**

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- preference provided by this section.
- (2) Provide the following information to the department and the Indiana department of administration:**
  - (A) The location of the business's principal place of business. If the business claims the preference as an Indiana business described in subsection (a)(1), a statement explaining the reasons the business considers the location named as the business's principal place of business.**
  - (B) The amount of the business's total payroll and the amount of the business's payroll paid to residents of Indiana.**
  - (C) The number of the business's employees and the number of the business's employees who are residents of Indiana.**
  - (D) If the business claims the preference as an Indiana business described in subsection (a)(4), a description of the capital investments made in Indiana and a statement of the amount of those capital investments.**
  - (E) If the business claims the preference as an Indiana business described in subsection (a)(5), a description of the substantial positive economic impact the business has on Indiana."**

Page 1, line 4, delete "Right to Work" and insert "**Labor Organization Membership**".

Page 2, delete lines 41 through 42, begin a new paragraph and insert:

**"Sec. 7. A person may not require an individual to become or remain a member of a labor organization.**

**Sec. 8. Nothing in this chapter shall be construed to prohibit collective bargaining agreements that require the payment of representation fees."**

Delete page 3.

Page 4, delete lines 1 through 4, begin a new paragraph and insert:

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

- (1) A person who has registered a motor vehicle in Indiana.**
- (2) A person who is registered to vote in Indiana.**
- (3) A person who has a child enrolled in an elementary or a secondary school located in Indiana.**
- (4) A person who derives more than one-half (1/2) of the person's gross income (as defined in Section 61 of the Internal Revenue Code) from sources in Indiana, according to the provisions applicable to determining the source of adjusted**

1 gross income under IC 6-3-2-2. However, a person who would  
2 otherwise be considered a resident of Indiana under this  
3 subdivision is not a resident of Indiana if a preponderance of  
4 the evidence concerning the factors set forth in subdivisions  
5 (1) through (3) proves that the person is not a resident of  
6 Indiana.

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

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

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

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

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

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

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

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

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

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

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Representative Riecken