

SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1163 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 3-9-2.5 IS ADDED TO THE INDIANA CODE AS
4 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
5 1, 2012]:
6 **Chapter 2.5. Registration by Certain State, City, or County**
7 **Contractors**
8 **Sec. 1. The definitions in IC 4-13-2.5 apply throughout this**
9 **chapter.**
10 **Sec. 2. (a) The following apply throughout this chapter:**
11 **(1) A person with any ownership interest in or distributive**
12 **share of a business entity of more than seven and one-half**
13 **percent (7.5%) is an "affiliated person" of the business entity.**
14 **(2) An executive employee of a business entity is an "affiliated**
15 **person" of the business entity.**
16 **(3) The spouse of an individual described in subdivision (1) or**
17 **(2) is an "affiliated person" of the business entity of which the**
18 **individual described in subdivision (1) or (2) is an affiliated**
19 **person.**
20 **(4) A minor child of an individual described in subdivision (1)**
21 **or (2) is an "affiliated person" of the business entity of which**
22 **the individual described in subdivision (1) or (2) is an**
23 **affiliated person.**
24 **(5) A subsidiary of a business entity is an "affiliated person"**
25 **of the business entity.**
26 **(6) A member of the same unitary business group as a**
27 **business entity is an "affiliated person" of the business entity.**
28 **(7) An organization that:**
29 **(A) is recognized by the United States Internal Revenue**
30 **Service as a tax exempt organization described in Section**

- 1 **501(c) of the Internal Revenue Code; and**
 2 **(B) is established by:**
 3 **(i) a business entity;**
 4 **(ii) a person who is an affiliated person of a business**
 5 **entity under subdivision (1), (2), (3), or (4); or**
 6 **(iii) an entity that is an affiliated person of a business**
 7 **entity under subdivision (5) or (6);**
 8 **is an "affiliated person" of the business entity.**
 9 **(8) A political action committee of which:**
 10 **(A) a business entity is a sponsor; or**
 11 **(B) an organization that is an affiliated person of a**
 12 **business entity under subdivision (7) is a sponsor;**
 13 **is an "affiliated person" of the business entity.**
 14 **(b) For purposes of section 7 of this chapter:**
 15 **(1) a business entity's "annual aggregate offers for contracts"**
 16 **is the total amount of money that the business entity would be**
 17 **paid under the contracts for which the business entity is**
 18 **making offers in a certain year; and**
 19 **(2) a business entity's "annual aggregate total value of**
 20 **contracts" is the total amount of money that the business**
 21 **entity is paid in a certain year under the contracts that the**
 22 **business entity has entered into.**
 23 **Sec. 3. As used in this chapter, "business entity" refers to any of**
 24 **the following:**
 25 **(1) A:**
 26 **(A) sole proprietorship;**
 27 **(B) partnership;**
 28 **(C) limited liability partnership;**
 29 **(D) limited liability company; or**
 30 **(E) corporation;**
 31 **doing business for profit.**
 32 **(2) Any other person doing business for profit, regardless of**
 33 **the person's legal organization.**
 34 **Sec. 4. As used in this chapter, "executive employee" refers to**
 35 **any of the following:**
 36 **(1) The president of a business entity.**
 37 **(2) The chairman of a business entity.**
 38 **(3) The chief executive officer of a business entity.**
 39 **(4) An employee of a business entity:**
 40 **(A) who has executive decision making authority over the**
 41 **long term and day to day affairs of the business entity; or**
 42 **(B) whose compensation is determined directly, in whole or**
 43 **in part, by:**
 44 **(i) the awarding of contracts by the state, a city, or a**
 45 **county to the business entity; or**
 46 **(ii) payments made under contracts awarded by the**
 47 **state, a city, or a county to the business entity.**

1 **Sec. 5.** As used in this chapter, "registrant" refers to a person
2 registered under this chapter.

3 **Sec. 6.** As used in this chapter, "sponsor" refers to an individual
4 or organization that contributes at least thirty-three percent (33%)
5 of the total funding of a political action committee.

6 **Sec. 7. (a)** This section applies to the following:

7 (1) A business entity whose annual aggregate offers for
8 contracts with the state exceed one hundred thousand dollars
9 (\$100,000).

10 (2) A business entity whose annual aggregate offers for
11 contracts with the state, combined with the business entity's
12 annual aggregate total value of contracts with the state,
13 exceed one hundred thousand dollars (\$100,000).

14 (3) A business entity whose annual aggregate total value of
15 contracts with the state exceeds one hundred thousand dollars
16 (\$100,000).

17 (4) A business entity whose annual aggregate offers for
18 contracts with a city or county exceed fifty thousand dollars
19 (\$50,000).

20 (5) A business entity whose annual aggregate offers for
21 contracts with a city or county, combined with the business
22 entity's annual aggregate total value of contracts with a city
23 or county, exceed fifty thousand dollars (\$50,000).

24 (6) A business entity whose annual aggregate total value of
25 contracts with a city or county exceeds fifty thousand dollars
26 (\$50,000).

27 (b) A business entity described in subsection (a) shall register
28 with the department as provided in this chapter.

29 (c) A business entity making an offer that will cause the business
30 entity to meet the description set forth in subsection (a)(1), (a)(2),
31 (a)(4), or (a)(5) shall register with the department before
32 submitting the offer whose value causes the business entity to meet
33 the description set forth in subsection (a)(1), (a)(2), (a)(4), or (a)(5).

34 (d) A business entity that is described in subsection (c) has a
35 continuing duty to ensure that the registration of the business
36 entity is accurate during the period that:

37 (1) begins on the date of registration; and

38 (2) ends on the day after the date the contract for which the
39 business entity made the offer is awarded.

40 If a change makes information reported by the business entity in
41 registering under this chapter no longer accurate, the change must
42 be reported to the department under subsection (f)(2) not later
43 than two (2) business days after the change.

44 (e) A business entity described in subsection (a)(3) or (a)(6) shall
45 maintain the business entity's registration under this chapter and
46 has a continuing duty to ensure that the registration is accurate for
47 the longer of the following:

1 (1) Four (4) years after the date of the award of any contract
2 awarded to the business entity while the business entity met
3 the description set forth in subsection (a)(3) or (a)(6).

4 (2) One (1) year after the expiration or termination of any
5 contract awarded to the business entity while the business
6 entity met the description set forth in subsection (a)(3) or
7 (a)(6).

8 (f) If a change makes information reported by a business entity
9 in registering under this chapter no longer accurate, the business
10 entity must report the change to the department:

11 (1) except as provided in subdivision (2), not later than ten
12 (10) days after the change; or

13 (2) if the business entity has a pending offer for a contract, not
14 later than two (2) business days after the change.

15 (g) A business entity required to register under this chapter, to
16 ensure the continuing accuracy of the information reported by the
17 business entity in registering under this chapter, shall notify the
18 department of:

19 (1) any change in information relating to an affiliated person
20 of the business entity; or

21 (2) any other material change.

22 Sec. 8. (a) This section applies to a business entity that, on July
23 1, 2012, is described by section 7(a) of this chapter.

24 (b) A business entity described in subsection (a) on July 1, 2012,
25 shall register as provided in this chapter not later than September
26 1, 2012.

27 (c) This section expires January 1, 2014.

28 Sec. 9. (a) The registration required under this chapter and any
29 changes to that registration must be made electronically. The
30 department may adopt rules under IC 4-22-2 providing for
31 electronic registration and electronic changes in registration under
32 this chapter.

33 (b) The registration of a business entity under this chapter must
34 contain substantially the following information:

35 (1) The registrant's name and business address.

36 (2) The name and address of each of the registrant's affiliated
37 persons and a description of the affiliation for each affiliated
38 person.

39 (c) The individual:

40 (1) registering for a business entity under this chapter; or

41 (2) changing the registration of a business entity under this
42 chapter;

43 must certify, subject to the penalties for perjury, that, to the best
44 of the individual's knowledge and belief, the information stated is
45 true.

46 (d) The department shall provide a registration certificate to a
47 person that registers under this chapter.

1 (e) A registration certificate provided under subsection (d) must
2 be:

- 3 (1) electronic;
- 4 (2) accessible to the registrant through the department's
- 5 Internet web site; and
- 6 (3) protected by a password.

7 Sec. 10. (a) For purposes of this section, a data base maintained
8 under this section is "searchable" if the data base can be searched
9 for the following terms:

- 10 (1) Affiliated person.
- 11 (2) Registrant.
- 12 (3) State agency.
- 13 (4) City or county.

14 (b) The department shall provide for information that
15 registrants are required to report in registering under this chapter
16 to be posted on the Indiana transparency portal and to be kept in
17 a searchable data base containing all information required to be
18 submitted to the department under this chapter.

19 (c) The data base maintained under subsection (b) must be fully
20 accessible to the election division, as determined by the election
21 division, the department, and the Indiana transparency portal.

22 (d) The name of a minor child may not be placed in a location
23 in the data base maintained under subsection (b) that is accessible
24 to the public. Public information in the data base relating to a
25 minor child:

- 26 (1) must be designated as relating to a minor child; and
- 27 (2) must provide a link to all contributions made by anyone
- 28 reporting the same residential address as the minor child.

29 Sec. 11. A registrant shall provide a copy of the registration
30 certificate provided by the department under section 9(d) of this
31 chapter to each affiliated person of the registrant whose identity is
32 required to be disclosed under this chapter. A registrant shall
33 provide a copy of the registration certificate to an affiliated person
34 under this section by first class mail or hand delivery not later than
35 ten (10) days after the registrant's registration under this chapter.

36 Sec. 12. (a) At the time a registrant makes a contribution to a
37 political action committee, the registrant shall inform the political
38 action committee that the person is registered with the department
39 under this chapter.

40 (b) An affiliated person of a registrant shall notify any political
41 action committee to which the affiliated person makes a
42 contribution that the affiliated person is an affiliated person of a
43 registrant under this chapter.

44 Sec. 13. (a) During the period described in subsection (b):

- 45 (1) a registrant who has a contract; and
- 46 (2) affiliated persons of the registrant described in subdivision
- 47 (1);

1 shall not make a contribution to an individual who holds a state,
2 city, or county office or is a candidate for a state, city, or county
3 office.

- 4 (b) The prohibition on contributions under this section:
- 5 (1) begins on the date on which the contract is awarded to the
- 6 registrant; and
- 7 (2) ends on the later of the following:
- 8 (A) Four (4) years after the date on which a contract is
- 9 awarded to the registrant.
- 10 (B) One (1) year after the date of the expiration or
- 11 termination of the contract.

12 Sec. 14. (a) During the period described in subsection (b):

- 13 (1) a registrant who has no contracts but has an offer for a
- 14 contract pending; and
- 15 (2) affiliated persons of the registrant described in subdivision
- 16 (1);

17 shall not make a contribution to an individual who holds a state,
18 city, or county office or is a candidate for a state, city, or county
19 office.

- 20 (b) The prohibition on contributions under this section:
- 21 (1) begins on the date of issuance of the solicitation to which
- 22 the registrant responded in submitting the offer; and
- 23 (2) ends on the day after the date on which the contract for
- 24 which the registrant submitted the offer is awarded.

25 Sec. 15. (a) A candidate or a candidate's committee that receives
26 a contribution from a person who is prohibited from making a
27 contribution under section 13 or 14 of this chapter shall pay an
28 amount equal to the value of the contribution to the election
29 division not later than thirty (30) days after receiving the
30 contribution.

31 (b) The election division shall deposit payments made under this
32 section in the campaign finance enforcement account established
33 by IC 3-6-4.1-24.

34 SECTION 2. IC 4-2-6-10.2 IS ADDED TO THE INDIANA CODE
35 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
36 1, 2012]: Sec. 10.2. The following may not solicit political
37 contributions on behalf of a candidate for public office, unless the
38 soliciting individual is the candidate for public office:

- 39 (1) An appointing authority.
- 40 (2) An employee who has purchasing or procurement
- 41 authority on behalf of the agency that employs the employee.

42 SECTION 3. IC 4-13-1-16.5 IS ADDED TO THE INDIANA CODE
43 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
44 UPON PASSAGE]: Sec. 16.5. (a) As used in this section, "covered
45 transaction" means the award of a contract under:

- 46 (1) IC 4-13.6-5-7;

- 1 (2) IC 4-13.6-6;
 2 (3) IC 5-16-1;
 3 (4) IC 8-10-1; or
 4 (5) IC 8-23-9.

5 (b) As used in this section, "resident of Indiana" means a person
 6 who is at least eighteen (18) years of age and is one (1) of the
 7 following:

- 8 (1) A person who has registered a motor vehicle in Indiana.
 9 (2) A person who is registered to vote in Indiana.
 10 (3) A person who has a child enrolled in an elementary or a
 11 secondary school located in Indiana.
 12 (4) A person who derives more than one-half (1/2) of the
 13 person's gross income (as defined in Section 61 of the Internal
 14 Revenue Code) from sources in Indiana, according to the
 15 provisions applicable to determining the source of adjusted
 16 gross income that are set forth in IC 6-3-2-2. However, a
 17 person who would otherwise be considered a resident of
 18 Indiana under this subdivision is not a resident of Indiana if
 19 a preponderance of the evidence concerning the factors set
 20 forth in subdivisions (1) through (3) proves that the person is
 21 not a resident of Indiana.

22 (c) Before October 1, 2013, and each year thereafter, the
 23 commissioner shall compile, make available for public inspection,
 24 and submit to the legislative council a report for the preceding
 25 state fiscal year stating:

- 26 (1) for the contractors awarded contracts in covered
 27 transactions; and
 28 (2) for the subcontractors with which the contractors referred
 29 to in subdivision (1) enter into subcontracts in connection with
 30 contracts awarded in covered transactions;

31 the percentage of the employees of the contractors and
 32 subcontractors who work on the contracts that are residents of
 33 Indiana. The report to the legislative council must be in an
 34 electronic format under IC 5-14-6.

35 SECTION 4. IC 4-13-2.5 IS ADDED TO THE INDIANA CODE
 36 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 37 JULY 1, 2012]:

38 **Chapter 2.5. Political Contributions of Offerors and**
 39 **Contractors**

40 **Sec. 1. This chapter applies to:**

- 41 (1) every offer submitted to a state agency, a city, or a county;
 42 and
 43 (2) every contract awarded by a state agency, a city, or a
 44 county;

45 after June 30, 2012.

46 **Sec. 2. (a) As used in this chapter, "contract" refers to a**
 47 **contract for:**

- 1 (1) goods;
- 2 (2) services, including professional services;
- 3 (3) a public works project; or
- 4 (4) a highway project;
- 5 awarded by a state agency, city, or county.
- 6 (b) A contract awarded by a state agency, a city, or a county
- 7 under:
- 8 (1) IC 4-13.6;
- 9 (2) IC 5-22;
- 10 (3) IC 5-23;
- 11 (4) IC 8-23; or
- 12 (5) any other statute;
- 13 is considered a contract for purposes of this chapter.
- 14 Sec. 3. As used in this chapter, "city" has the meaning set forth
- 15 in IC 36-1-2-3.
- 16 Sec. 4. As used in this chapter, "contract officer" refers to:
- 17 (1) an individual who is a purchasing agent under IC 5-22;
- 18 (2) the state officer or employee responsible for awarding a
- 19 contract; or
- 20 (3) the city or county officer or employee responsible for
- 21 awarding a contract.
- 22 Sec. 5. As used in this chapter, "contractor" refers to a person
- 23 who has been awarded a contract with a state agency, a city, or a
- 24 county.
- 25 Sec. 6. As used in this chapter, "department" refers to the
- 26 Indiana department of administration established by IC 4-13-1-2.
- 27 Sec. 7. (a) As used in this chapter, "offer" means a response to
- 28 a solicitation.
- 29 (b) The term includes a bid, a proposal, and a quote.
- 30 Sec. 8. As used in this chapter, "offeror" means a person who
- 31 submits an offer to a state agency, a city, or a county.
- 32 Sec. 9. (a) As used in this chapter, "solicitation" means the
- 33 procedure by which a state agency, a city, or a county invites
- 34 persons to submit an offer to enter into a contract with the state
- 35 agency, city, or county.
- 36 (b) The term includes an invitation for bids, a request for
- 37 proposals, and a request for quotes.
- 38 Sec. 10. As used in this chapter, "state agency" refers to any of
- 39 the following:
- 40 (1) A state agency (as defined in IC 4-13-1-1(b)).
- 41 (2) An entity that was established by the general assembly as
- 42 a body corporate and politic and that is governed by a body,
- 43 any of whose members is:
- 44 (A) the governor; or
- 45 (B) appointed by the governor.
- 46 Sec. 11. Every offer submitted to a state agency, a city, or a
- 47 county, and every contract entered into by a state agency, a city, or

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a county must contain the following:

- (1) A certification by the offeror or contractor that either:
 - (A) the offeror or contractor is not required to register with the department under IC 3-9-2.5; or
 - (B) the offeror or contractor has registered with the department under IC 3-9-2.5 and acknowledges a continuing duty to update the registration.
- (2) A statement acknowledging that the contract is voidable under section 13 or 14 of this chapter for the offeror's or contractor's failure to comply with this chapter or IC 3-9-2.5.

Sec. 12. (a) A person that:

- (1) is required to register with the department under IC 3-9-2.5; and
- (2) submits an offer;

must submit, along with the offer, a copy of the registration certificate provided to the person by the department under IC 3-9-2.5-9.

(b) A contracting officer may not accept an offer from a person described in subsection (a) unless a copy of the person's registration certificate is submitted with the offer.

Sec. 13. If a person that is required to register with the department under IC 3-9-2.5 knowingly or intentionally fails to register with the department under IC 3-9-2.5, or knowingly or intentionally fails to disclose to the department material information that the person is required to disclose under IC 3-9-2.5, in addition to the person being subject to any penalty under this chapter or IC 3-9-2.5:

- (1) the person, with respect to any offer submitted by the person, is nonresponsible; and
- (2) a contract awarded to the person is voidable by the contract officer if the contract officer considers the voiding of the contract to be in the best interest of the state, city, or county.

Sec. 14. (a) This section applies to a contract with a person who violates IC 3-9-2.5-13 or IC 3-9-2.5-14.

(b) A contract with the state, a city, or a county that is described in subsection (a) is voidable by the contract officer of the state, city, or county if the contract officer considers the voiding of the contract to be in the best interest of the state, city, or county.

(c) If the person referred to in subsection (a) violates IC 3-9-2.5-13 or IC 3-9-2.5-14 more than two (2) times:

- (1) the contract described in subsection (a) is terminated by operation of law; and
- (2) the person referred to in subsection (a) is considered a nonresponsible offeror for three (3) years after the date of the person's latest violation of IC 3-9-2.5-13 or IC 3-9-2.5-14.

SECTION 5. IC 4-13.6-6-2.8 IS ADDED TO THE INDIANA

1 CODE AS A NEW SECTION TO READ AS FOLLOWS
 2 [EFFECTIVE UPON PASSAGE]: **Sec. 2.8. (a) As used in this section,**
 3 **"resident of Indiana" means a person who is at least eighteen (18)**
 4 **years of age and is one (1) of the following:**

- 5 (1) A person who has registered a motor vehicle in Indiana.
 6 (2) A person who is registered to vote in Indiana.
 7 (3) A person who has a child enrolled in an elementary or a
 8 secondary school located in Indiana.
 9 (4) A person who derives more than one-half (1/2) of the
 10 person's gross income (as defined in Section 61 of the Internal
 11 Revenue Code) from sources in Indiana, according to the
 12 provisions applicable to determining the source of adjusted
 13 gross income that are set forth in IC 6-3-2-2. However, a
 14 person who would otherwise be considered a resident of
 15 Indiana under this subdivision is not a resident of Indiana if
 16 a preponderance of the evidence concerning the factors set
 17 forth in subdivisions (1) through (3) proves that the person is
 18 not a resident of Indiana.

19 (b) When entering a bid under this chapter or a contract for
 20 professional services without bids under IC 4-13.6-5-7 for a public
 21 works project, each contractor shall provide the division with
 22 information on the number of residents of Indiana who will be
 23 employed by the contractor and the number of residents of Indiana
 24 who will be employed by any subcontractor of the contractor.

25 (c) A contract for a public works project may not be awarded to
 26 a contractor who does not:

- 27 (1) employ residents of Indiana as at least eighty percent
 28 (80%) 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 eighty percent (80%)
 31 of the employees who work on the subcontract.

32 (d) Before August 15, 2013, and each year thereafter, the
 33 division shall file with the commissioner a report for the preceding
 34 year 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 who are residents of Indiana.

42 (e) A contract awarded under this chapter for a public works
 43 project is terminated if the division determines that the contractor
 44 has failed to:

- 45 (1) employ residents of Indiana as at least eighty percent
 46 (80%) of the employees who work on the contract; and
 47 (2) enter into subcontracts only with subcontractors who

- 1 employ residents of Indiana as at least eighty percent (80%)
- 2 of the employees who work on the subcontract.
- 3 (f) A contractor or subcontractor who fails to employ residents
- 4 of Indiana as at least eighty percent (80%) of the employees who
- 5 work on the contract or subcontract commits a Class B infraction
- 6 for each nonresident of Indiana employed in excess of the number
- 7 of nonresident employees permitted by this section.
- 8 (g) If:
- 9 (1) a contract or subcontract awarded under this section is
- 10 funded in whole or in part with federal funds; and
- 11 (2) imposing the requirements of this section would cause the
- 12 state to lose the federal funds, as determined by the federal
- 13 agency providing the funds, for the contract;
- 14 employing eighty percent (80%) Indiana residents for the contract
- 15 or any subcontract becomes a goal for the contract, and
- 16 subsections (a) through (f) do not apply."
- 17 Page 3, between lines 11 and 12, begin a new paragraph and insert:
- 18 "SECTION 9. IC 5-16-1-7.5 IS ADDED TO THE INDIANA CODE
- 19 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
- 20 UPON PASSAGE]: Sec. 7.5. (a) As used in this section, "resident of
- 21 Indiana" means a person who is at least eighteen (18) years of age
- 22 and is one (1) of the following:
- 23 (1) A person who has registered a motor vehicle in Indiana.
- 24 (2) A person who is registered to vote in Indiana.
- 25 (3) A person who has a child enrolled in an elementary or a
- 26 secondary school located in Indiana.
- 27 (4) A person who derives more than one-half (1/2) of the
- 28 person's gross income (as defined in Section 61 of the Internal
- 29 Revenue Code) from sources in Indiana, according to the
- 30 provisions applicable to determining the source of adjusted
- 31 gross income that are set forth in IC 6-3-2-2. However, a
- 32 person who would otherwise be considered a resident of
- 33 Indiana under this subdivision is not a resident of Indiana if
- 34 a preponderance of the evidence concerning the factors set
- 35 forth in subdivisions (1) through (3) proves that the person is
- 36 not a resident of Indiana.
- 37 (b) When entering into a contract under this chapter, each
- 38 contractor shall provide the state or commission with information
- 39 on the number of residents of Indiana who will be employed by the
- 40 contractor and the number of residents of Indiana who will be
- 41 employed by any subcontractor of the contractor.
- 42 (c) A contract for a public works project under this chapter may
- 43 not be awarded to a contractor who does not:
- 44 (1) employ residents of Indiana as at least eighty percent
- 45 (80%) of the employees who work on the contract; and
- 46 (2) enter into subcontracts only with subcontractors who

- 1 employ residents of Indiana as at least eighty percent (80%)
- 2 of the employees who work on the subcontract.
- 3 (d) Before August 15, 2013, and each year thereafter, the state
- 4 or a commission entering into contracts under this chapter shall
- 5 file with the commissioner of the Indiana department of
- 6 administration a report stating:
- 7 (1) for each contractor awarded a contract under this
- 8 chapter; and
- 9 (2) for each subcontractor with which a contractor referred
- 10 to in subdivision (1) enters into a contract in connection with
- 11 a contract awarded under this chapter;
- 12 the percentage of the employees of the contractor or subcontractor
- 13 who work on the contract who are residents of Indiana.
- 14 (e) A contract awarded under this chapter for a public works
- 15 project is terminated if the state or commission determines that the
- 16 contractor has failed to:
- 17 (1) employ residents of Indiana as at least eighty percent
- 18 (80%) of the employees who work on the contract; and
- 19 (2) enter into subcontracts only with subcontractors who
- 20 employ residents of Indiana as at least eighty percent (80%)
- 21 of the employees who work on the subcontract.
- 22 (f) A contractor or subcontractor who fails to employ residents
- 23 of Indiana as at least eighty percent (80%) of the employees who
- 24 work on the contract or subcontract commits a Class B infraction
- 25 for each nonresident of Indiana employed in excess of the number
- 26 of nonresident employees permitted by this section.
- 27 (g) If:
- 28 (1) a contract or subcontract awarded under this section is
- 29 funded in whole or in part with federal funds; and
- 30 (2) imposing the requirements of this section would cause the
- 31 state to lose the federal funds, as determined by the federal
- 32 agency providing the funds, for the contract;
- 33 employing eighty percent (80%) Indiana residents for the contract
- 34 or any subcontract becomes a goal for the contract, and
- 35 subsections (a) through (f) do not apply."
- 36 Page 7, between lines 10 and 11, begin a new paragraph and insert:
- 37 "SECTION 15. IC 8-10-1-7.7 IS ADDED TO THE INDIANA
- 38 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 39 [EFFECTIVE UPON PASSAGE]: Sec. 7.7. (a) As used in this section,
- 40 "resident of Indiana" means a person who is at least eighteen (18)
- 41 years of age and is one (1) of the following:
- 42 (1) A person who has registered a motor vehicle in Indiana.
- 43 (2) A person who is registered to vote in Indiana.
- 44 (3) A person who has a child enrolled in an elementary or a
- 45 secondary school located in Indiana.
- 46 (4) A person who derives more than one-half (1/2) of the

1 person's gross income (as defined in Section 61 of the Internal
 2 Revenue Code) from sources in Indiana, according to the
 3 provisions applicable to determining the source of adjusted
 4 gross income that are set forth in IC 6-3-2-2. However, a
 5 person who would otherwise be considered a resident of
 6 Indiana under this subdivision is not a resident of Indiana if
 7 a preponderance of the evidence concerning the factors set
 8 forth in subdivisions (1) through (3) proves that the person is
 9 not a resident of Indiana.

10 (b) When entering into a contract under this chapter, each
 11 contractor shall provide the commission with information on the
 12 number of residents of Indiana who will be employed by the
 13 contractor and the number of residents of Indiana who will be
 14 employed by any subcontractor of the contractor.

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

17 (1) employ residents of Indiana as at least eighty percent
 18 (80%) 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 eighty percent (80%)
 22 of the employees who work on the subcontract.

23 (d) Before August 15, 2013, and each year thereafter, the
 24 commission shall file with the commissioner of the Indiana
 25 department of administration a report stating:

26 (1) for each contractor awarded a contract under this
 27 chapter; and

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

31 the percentage of the employees of the contractor or subcontractor
 32 who work on the contract who are residents of Indiana.

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

36 (1) employ residents of Indiana as at least eighty percent
 37 (80%) 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 eighty percent (80%)
 40 of the employees who work on the subcontract.

41 (f) A contractor or subcontractor who fails to employ residents
 42 of Indiana as at least eighty percent (80%) of the employees who
 43 work on the contract or subcontract commits a Class B infraction
 44 for each nonresident of Indiana employed in excess of the number
 45 of nonresident employees permitted by this section.

46 (g) If:

47 (1) a contract or subcontract awarded under this section is

1 **funded 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, as determined by the federal**
 4 **agency providing the funds, for the contract;**
 5 **employing eighty percent (80%) Indiana residents for the contract**
 6 **or any subcontract becomes a goal for the contract, and**
 7 **subsections (a) through (f) do not apply.**

8 SECTION 16. 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 that are set forth in IC 6-3-2-2. However, a**
 22 **person who would otherwise be considered a resident of**
 23 **Indiana under this subdivision is not a resident of Indiana if**
 24 **a preponderance of the evidence concerning the factors set**
 25 **forth in subdivisions (1) through (3) proves that the person is**
 26 **not a resident of Indiana.**

27 **(b) When entering into a contract under this chapter, each**
 28 **contractor shall provide the department with information on the**
 29 **number of residents of Indiana who will be employed by the**
 30 **contractor and the number of residents of Indiana who will be**
 31 **employed by any subcontractor of the contractor.**

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

- 34 **(1) employ residents of Indiana as at least eighty percent**
 35 **(80%) of the employees of the contractor who work on the**
 36 **contract; and**
- 37 **(2) enter into subcontracts only with subcontractors who**
 38 **employ residents of Indiana as at least eighty percent (80%)**
 39 **of the employees working on the subcontract.**

40 **(d) Before August 15, 2013, and each year thereafter, the**
 41 **department shall file with the commissioner of the Indiana**
 42 **department of administration a report stating:**

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

- 1 **the percentage of the employees of the contractor or subcontractor**
- 2 **who work on the contract who are residents of Indiana.**
- 3 **(e) A contract awarded under this chapter for a public works**
- 4 **project is terminated if the department determines that the**
- 5 **contractor has failed to:**
 - 6 **(1) employ residents of Indiana as at least eighty percent**
 - 7 **(80%) of the employees who work on the contract; and**
 - 8 **(2) enter into subcontracts only with subcontractors who**
 - 9 **employ residents of Indiana as at least eighty percent (80%)**
 - 10 **of the employees who work on the subcontract.**
- 11 **(f) A contractor or subcontractor who fails to employ residents**
- 12 **of Indiana as at least eighty percent (80%) of the employees who**
- 13 **work on the contract or subcontract commits a Class B infraction**
- 14 **for each nonresident of Indiana employed in excess of the number**
- 15 **of nonresident employees permitted by this section.**
- 16 **(g) If:**
 - 17 **(1) a contract or subcontract awarded under this section is**
 - 18 **funded in whole or in part with federal funds; and**
 - 19 **(2) imposing the requirements of this section would cause the**
 - 20 **state to lose the federal funds, as determined by the federal**
 - 21 **agency providing the funds, for the contract;**
 - 22 **employing eighty percent (80%) Indiana residents for the contract**
 - 23 **or any subcontract becomes a goal for the contract, and**
 - 24 **subsections (a) through (f) do not apply."**
- 25 Page 9, after line 35, begin a new paragraph and insert:
- 26 "SECTION 19. **An emergency is declared for this act.**".
- 27 Re-number all SECTIONS consecutively.
- (Reference is to EHB 1163 as printed February 8, 2012.)

Senator ARNOLD