

# 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 4-13-1-16.5 IS ADDED TO THE INDIANA  
4 CODE AS A NEW SECTION TO READ AS FOLLOWS  
5 [EFFECTIVE UPON PASSAGE]: **Sec. 16.5. (a) As used in this**  
6 **section, "covered transaction" means the award of a contract**  
7 **under:**  
8           (1) IC 4-13.6-5-7;  
9           (2) IC 4-13.6-6;  
10          (3) IC 5-16-1;  
11          (4) IC 8-10-1; or  
12          (5) IC 8-23-9.  
13          **(b) As used in this section, "resident of Indiana" means a person**  
14 **who is at least eighteen (18) years of age and is one (1) of the**  
15 **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 that are set forth in IC 6-3-2-2. However, a  
25 person who would otherwise be considered a resident of  
26 Indiana under this subdivision is not a resident of Indiana if  
27 a preponderance of the evidence concerning the factors set  
28 forth in subdivisions (1) through (3) proves that the person is  
29 not a resident of Indiana.  
30          **(c) Before October 1, 2013, and each year thereafter, the**

1 commissioner shall compile, make available for public inspection,  
 2 and submit to the legislative council a report for the preceding  
 3 state fiscal year stating:

4 (1) for the contractors awarded contracts in covered  
 5 transactions; and

6 (2) for the subcontractors with which the contractors referred  
 7 to in subdivision (1) enter into subcontracts in connection with  
 8 contracts awarded in covered transactions;

9 the percentage of the employees of the contractors and  
 10 subcontractors who work on the contracts who are residents of  
 11 Indiana. The report to the legislative council must be in an  
 12 electronic format under IC 5-14-6.

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

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

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

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

22 (4) A person who derives more than one-half (1/2) of the  
 23 person's gross income (as defined in Section 61 of the Internal  
 24 Revenue Code) from sources in Indiana, according to the  
 25 provisions applicable to determining the source of adjusted  
 26 gross income that are set forth in IC 6-3-2-2. However, a  
 27 person who would otherwise be considered a resident of  
 28 Indiana under this subdivision is not a resident of Indiana if  
 29 a preponderance of the evidence concerning the factors set  
 30 forth in subdivisions (1) through (3) proves that the person is  
 31 not a resident of Indiana.

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

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

40 (1) employ residents of Indiana as at least eighty percent  
 41 (80%) of the employees who work on the contract; and

42 (2) enter into subcontracts only with subcontractors who  
 43 employ residents of Indiana as at least eighty percent (80%)  
 44 of the employees who work on the subcontract.

45 (d) Before August 15, 2013, and each year thereafter, the  
 46 division shall file with the commissioner a report for the preceding  
 47 year stating:

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

- 1           a preponderance of the evidence concerning the factors set  
2           forth in subdivisions (1) through (3) proves that the person is  
3           not a resident of Indiana.
- 4           (b) When entering into a contract under this chapter, each  
5           contractor shall provide the state or commission with information  
6           on the number of residents of Indiana who will be employed by the  
7           contractor and the number of residents of Indiana who will be  
8           employed by any subcontractor of the contractor.
- 9           (c) A contract for a public works project under this chapter may  
10          not be awarded to a contractor who does not:
- 11          (1) employ residents of Indiana as at least eighty percent  
12          (80%) of the employees who work on the contract; and  
13          (2) enter into subcontracts only with subcontractors who  
14          employ residents of Indiana as at least eighty percent (80%)  
15          of the employees who work on the subcontract.
- 16          (d) Before August 15, 2013, and each year thereafter, the state  
17          or a commission entering into contracts under this chapter shall  
18          file with the commissioner of the Indiana department of  
19          administration a report stating:
- 20          (1) for each contractor awarded a contract under this  
21          chapter; and  
22          (2) for each subcontractor with which a contractor referred  
23          to in subdivision (1) enters into a contract in connection with  
24          a contract awarded under this chapter;  
25          the percentage of the employees of the contractor or subcontractor  
26          who work on the contract who are residents of Indiana.
- 27          (e) A contract awarded under this chapter for a public works  
28          project is terminated if the state or commission determines that the  
29          contractor has failed to:
- 30          (1) employ residents of Indiana as at least eighty percent  
31          (80%) 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 eighty percent (80%)  
34          of the employees who work on the subcontract.
- 35          (f) A contractor or subcontractor who fails to employ residents  
36          of Indiana as at least eighty percent (80%) of the employees who  
37          work on the contract or subcontract commits a Class B infraction  
38          for each nonresident of Indiana employed in excess of the number  
39          of nonresident employees permitted by this section.
- 40          (g) If:
- 41          (1) a contract or subcontract awarded under this section is  
42          funded 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, as determined by the federal  
45          agency providing the funds, for the contract;  
46          employing eighty percent (80%) Indiana residents for the contract  
47          or any subcontract becomes a goal for the contract, and

1 subsections (a) through (f) do not apply."

2 Page 7, between lines 10 and 11, begin a new paragraph and insert:

3 "SECTION 12. IC 8-10-1-7.7 IS ADDED TO THE INDIANA  
4 CODE AS A NEW SECTION TO READ AS FOLLOWS  
5 [EFFECTIVE UPON PASSAGE]: **Sec. 7.7. (a) As used in this section,**  
6 **"resident of Indiana" means a person who is at least eighteen (18)**  
7 **years of age and is one (1) of the 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 (b) When entering into a contract under this chapter, each  
23 contractor shall provide the commission with information on the  
24 number of residents of Indiana who will be employed by the  
25 contractor and the number of residents of Indiana who will be  
26 employed by any subcontractor of the contractor.

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

- 29 (1) employ residents of Indiana as at least eighty percent  
30 (80%) of the employees of the contractor who work on the  
31 contract; and  
32 (2) enter into subcontracts only with subcontractors who  
33 employ residents of Indiana as at least eighty percent (80%)  
34 of the employees who work on the subcontract.

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

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

43 the percentage of the employees of the contractor or subcontractor  
44 who work on the contract who are residents of Indiana.

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

1 (1) employ residents of Indiana as at least eighty percent  
2 (80%) of the employees who work on the contract; and

3 (2) enter into subcontracts only with subcontractors who  
4 employ residents of Indiana as at least eighty percent (80%)  
5 of the employees who work on the subcontract.

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

11 (g) If:

12 (1) a contract or subcontract awarded under this section is  
13 funded in whole or in part with federal funds; and

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

17 employing eighty percent (80%) Indiana residents for the contract  
18 or any subcontract becomes a goal for the contract, and  
19 subsections (a) through (f) do not apply.

20 SECTION 13. IC 8-23-9-4.6 IS ADDED TO THE INDIANA CODE  
21 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
22 UPON PASSAGE]: Sec. 4.6. (a) As used in this section, "resident of  
23 Indiana" means a person who is at least eighteen (18) years of age  
24 and is one (1) of the following:

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

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

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

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

39 (b) When entering into a contract under this chapter, each  
40 contractor shall provide the department with information on the  
41 number of residents of Indiana who will be employed by the  
42 contractor and the number of residents of Indiana who will be  
43 employed by any subcontractor of the contractor.

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

46 (1) employ residents of Indiana as at least eighty percent  
47 (80%) of the employees of the contractor who work on the

- 1 contract; and  
2 (2) enter into subcontracts only with subcontractors who  
3 employ residents of Indiana as at least eighty percent (80%)  
4 of the employees working on the subcontract.  
5 (d) Before August 15, 2013, and each year thereafter, the  
6 department shall file with the commissioner of the Indiana  
7 department of administration a report stating:  
8 (1) for each contractor awarded a contract under this  
9 chapter; and  
10 (2) for each subcontractor with which a contractor referred  
11 to in subdivision (1) enters into a contract in connection with  
12 a contract awarded under this chapter;  
13 the percentage of the employees of the contractor or subcontractor  
14 who work on the contract who are residents of Indiana.  
15 (e) A contract awarded under this chapter for a public works  
16 project is terminated if the department determines that the  
17 contractor has failed to:  
18 (1) employ residents of Indiana as at least eighty percent  
19 (80%) of the employees who work on the 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 (f) A contractor or subcontractor who fails to employ residents  
24 of Indiana as at least eighty percent (80%) of the employees who  
25 work on the contract or subcontract commits a Class B infraction  
26 for each nonresident of Indiana employed in excess of the number  
27 of nonresident employees permitted by this section.  
28 (g) If:  
29 (1) a contract or subcontract awarded under this section is  
30 funded in whole or in part with federal funds; and  
31 (2) imposing the requirements of this section would cause the  
32 state to lose the federal funds, as determined by the federal  
33 agency providing the funds, for the contract;  
34 employing eighty percent (80%) Indiana residents for the contract  
35 or any subcontract becomes a goal for the contract, and  
36 subsections (a) through (f) do not apply."

- 1 Page 9, after line 35, begin a new paragraph and insert:
- 2 "SECTION 16. **An emergency is declared for this act.**".
- 3 Renumber all SECTIONS consecutively.  
(Reference is to EHB 1163 as printed February 8, 2012.)

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Senator ARNOLD