

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WITHDRAWN	Noes _____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

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1090 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 Page 25, between lines 41 and 42, begin a new paragraph and insert:
47 "SECTION 23. IC 8-10-1-7.7 IS ADDED TO THE INDIANA

1 CODE AS A NEW SECTION TO READ AS FOLLOWS
 2 [EFFECTIVE UPON PASSAGE]: Sec. 7.7. (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 under IC 6-3-2-2. However, a person who would
 14 otherwise be considered a resident of Indiana under this
 15 subdivision is not a resident of Indiana if a preponderance of
 16 the evidence concerning the factors set forth in subdivisions
 17 (1) through (3) proves that the person is not a resident of
 18 Indiana.
- 19 (5) A person who:
 - 20 (A) works from an office in Indiana;
 - 21 (B) is on a payroll from a business located in Indiana;
 - 22 (C) possesses a telephone with a telephone number that has
 23 an Indiana area code; or
 - 24 (D) has a permanent place of doing business in Indiana;
 25 for at least thirteen (13) months before entering into a
 26 contract or subcontract under this chapter.

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

- 29 (1) employ residents of Indiana as at least ninety percent
 30 (90%) 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 ninety percent (90%)
 34 of the employees who work on the subcontract.

35 (c) Before August 15, 2013, and before August 15 of each year
 36 thereafter, the commission shall file with the legislative council a
 37 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 and are residents of Indiana. The report
 45 to the legislative council must be in an electronic format under
 46 IC 5-14-6.

47 (d) A contract awarded under this chapter for a public works

1 project is terminated if the commission determines that the
2 contractor has failed to:

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

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

13 (f) If:

- 14 (1) a contract or subcontract subject to this section is funded
- 15 in whole or in part with federal funds; and
- 16 (2) imposing the requirements of this section would cause the
- 17 state to lose the federal funds for the contract, as determined
- 18 by the federal agency providing the funds;

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

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

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

- 32 (1) Issuing a request for proposals.
- 33 (2) Issuing a bulletin inviting bids for the contract.
- 34 (3) Prequalifying a contractor for the contract.
- 35 (4) Evaluating a bid for the contract.

36 (i) This section does not apply to contracts entered into to
37 perform work:

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

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

- 45 (1) A business whose principal place of business is located in
- 46 Indiana.
- 47 (2) A business that pays a majority of its payroll (in dollar

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

- 1 (C) The number of the business's employees and the
- 2 number of the business's employees who are residents of
- 3 Indiana.
- 4 (D) If the business claims the preference as an Indiana
- 5 business described in subsection (a)(4), a description of the
- 6 capital investments made in Indiana and a statement of the
- 7 amount of those capital investments.
- 8 (E) If the business claims the preference as an Indiana
- 9 business described in subsection (a)(5), a description of the
- 10 substantial positive economic impact the business has on
- 11 Indiana.

12 SECTION 25. IC 8-23-9-4.6 IS ADDED TO THE INDIANA CODE
 13 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 14 UPON PASSAGE]: Sec. 4.6. (a) As used in this section, "resident of
 15 Indiana" means a person who is at least eighteen (18) years of age
 16 and is one (1) of the following:

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

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

- 41 (1) employ residents of Indiana as at least ninety percent
- 42 (90%) of the employees of the contractor who work on the
- 43 contract; and
- 44 (2) enter into subcontracts only with subcontractors who
- 45 employ residents of Indiana as at least ninety percent (90%)
- 46 of the employees working on the subcontract.

47 (c) Before August 15, 2013, and before August 15 of each year

1 thereafter, the department shall file with the legislative council a
2 report stating:

3 (1) for each contractor awarded a contract under this
4 chapter; and

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

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

12 (d) A contract awarded under this chapter for a public works
13 project is terminated if the department determines that the
14 contractor has failed to:

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

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

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

25 (f) If:

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

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

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

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

38 (h) A contract exempted from the requirements of subsections
39 (a) through (e) may not reference the employment of Indiana
40 residents. The department may not consider the number of
41 employment opportunities for Indiana residents when doing any of
42 the following with respect to a project subject to a contract that is
43 exempted from the requirements of subsections (a) through (e):

44 (1) Issuing a request for proposals.

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

46 (3) Prequalifying a contractor for the contract.

47 (4) Evaluating a bid for the contract.

1 (i) This section does not apply to contracts entered into to
2 perform work:

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

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

- 10 (1) A business whose principal place of business is located in
11 Indiana.
- 12 (2) A business that pays a majority of its payroll (in dollar
13 volume) to residents of Indiana.
- 14 (3) A business that employs residents of Indiana as a majority
15 of its employees.
- 16 (4) A business that makes significant capital investments in
17 Indiana as determined by the Indiana department of
18 administration.
- 19 (5) A business that has a substantial positive economic impact
20 on Indiana as determined by the Indiana department of
21 administration.

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

- 24 (1) submits a bid for the performance of the work on a public
25 works project;
- 26 (2) competes for the contract against at least one (1) bidder
27 domiciled in a state that provides a price preference to
28 bidders from that state; and
- 29 (3) claims the preference under subsection (e).

30 The amount of the preference provided by this subsection is equal
31 to the price preference provided by the state in which the
32 out-of-state bidder is domiciled. If bidders from two (2) or more
33 states granting preferences to in-state bidders bid for the contract,
34 the amount of the preference is equal to the highest preference
35 provided among those states.

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

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

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

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

24 SECTION 27. IC 36-1-12-5.5 IS ADDED TO THE INDIANA
 25 CODE AS A NEW SECTION TO READ AS FOLLOWS
 26 [EFFECTIVE UPON PASSAGE]: **Sec. 5.5. (a) As used in this section,**
 27 **"resident of Indiana" means a person who is at least eighteen (18)**
 28 **years of age and is one (1) of the following:**

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

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

- 1 **(h) This section does not apply to contracts entered into to**
- 2 **perform work:**
- 3 **(1) resulting from an emergency; or**
- 4 **(2) performed by an artisan or by someone in a specialty area**
- 5 **with limited persons able to perform the work."**
- 6 Renumber all SECTIONS consecutively.
(Reference is to HB 1090 as printed January 23, 2012.)

Representative Riecken