

First Regular Session  
Sixty-fifth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 05-0517.01 Ed DeCecco

SENATE BILL 05-023

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SENATE SPONSORSHIP

Hanna,

HOUSE SPONSORSHIP

Merrifield,

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Senate Committees

House Committees

Business, Labor and Technology

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A BILL FOR AN ACT

101 CONCERNING A PROHIBITION ON STATE CONTRACTS FOR SERVICES  
102 BEING PERFORMED OUTSIDE OF THE UNITED STATES, AND, IN  
103 CONNECTION THEREWITH, ENACTING THE "KEEP JOBS IN  
104 AMERICA ACT".

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Bill Summary

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Prohibits a state contract for services from being awarded to a contractor who performs, or hires a subcontractor to perform, the services outside of the United States. Prior to executing a state contract for services, requires each prospective contractor to certify that all services will be performed in the United States. Requires such certification to be

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

included in any bid submitted to a state agency. Establishes consequences if a contractor or subcontractor performs any part of a state contract for services outside of the United States.

Defines terms.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** Title 24, Colorado Revised Statutes, is amended  
3 BY THE ADDITION OF A NEW ARTICLE to read:

4 **ARTICLE 115**

5 **Keep Jobs in America Act**

6 **24-115-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND  
7 MAY BE CITED AS THE "KEEP JOBS IN AMERICA ACT".

8 **24-115-102. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE  
9 CONTEXT OTHERWISE REQUIRES:

10 (1) "CONTRACTOR" MEANS ANY PERSON HAVING A STATE  
11 CONTRACT FOR SERVICES WITH A STATE AGENCY.

12 (2) "PERSON" MEANS ANY BUSINESS, INDIVIDUAL, UNION,  
13 COMMITTEE, CLUB, OTHER ORGANIZATION, OR GROUP OF INDIVIDUALS.

14 (3) "SERVICES" MEANS THE FURNISHING OF LABOR, TIME, OR  
15 EFFORT BY A CONTRACTOR OR A SUBCONTRACTOR NOT INVOLVING THE  
16 DELIVERY OF A SPECIFIC END PRODUCT OTHER THAN REPORTS THAT ARE  
17 MERELY INCIDENTAL TO THE REQUIRED PERFORMANCE.

18 (4) "STATE AGENCY" MEANS ANY DEPARTMENT, COMMISSION,  
19 COUNCIL, BOARD, BUREAU, COMMITTEE, INSTITUTION OF HIGHER  
20 EDUCATION, AGENCY, GOVERNMENT CORPORATION, OR OTHER  
21 GOVERNMENTAL UNIT OF THE EXECUTIVE, LEGISLATIVE, OR JUDICIAL  
22 BRANCH OF STATE GOVERNMENT.

23 (5) "STATE CONTRACT FOR SERVICES" MEANS ANY TYPE OF

1 AGREEMENT BY A STATE AGENCY, REGARDLESS OF WHAT IT MAY BE  
2 CALLED, FOR THE PROCUREMENT OF SERVICES.

3 (6) "SUBCONTRACTOR" MEANS ANY PERSON OTHER THAN THE  
4 CONTRACTOR WHO PERFORMS ANY SERVICES INCLUDED IN A STATE  
5 CONTRACT FOR SERVICES ON BEHALF OF THE CONTRACTOR.

6 **24-115-103. Prohibition on the performance of state contracts**  
7 **for services outside of the United States.** (1) NOTWITHSTANDING ANY  
8 PROVISION OF LAW TO THE CONTRARY, THE FOLLOWING PROVISIONS SHALL  
9 APPLY TO ALL STATE CONTRACTS FOR SERVICES:

10 (a) NO STATE CONTRACT FOR SERVICES SHALL BE AWARDED TO A  
11 CONTRACTOR WHO PERFORMS, OR HIRES A SUBCONTRACTOR TO PERFORM,  
12 THE SERVICES OUTSIDE OF THE UNITED STATES.

13 (b) PRIOR TO EXECUTING A STATE CONTRACT FOR SERVICES, EACH  
14 PROSPECTIVE CONTRACTOR SHALL CERTIFY THAT ALL SERVICES RELATED  
15 TO THE STATE CONTRACT FOR SERVICES WILL BE PERFORMED IN THE  
16 UNITED STATES. SUCH CERTIFICATION SHALL BE INCLUDED IN ANY BID  
17 SUBMITTED TO A STATE AGENCY.

18 (c) EACH STATE CONTRACT FOR SERVICES SHALL INCLUDE A  
19 PROVISION THAT REQUIRES ALL SERVICES RELATED TO THE STATE  
20 CONTRACT FOR SERVICES TO BE PERFORMED IN THE UNITED STATES.

21 (2) IF, DURING THE LIFE OF A STATE CONTRACT FOR SERVICES, A  
22 CONTRACTOR OR A SUBCONTRACTOR PERFORMS WORK RELATED TO THE  
23 CONTRACT OUTSIDE OF THE UNITED STATES, THE STATE AGENCY SHALL  
24 TERMINATE THE CONTRACT FOR NONCOMPLIANCE WITH THE PROVISIONS  
25 OF THIS SECTION AND BREACH OF THE CONTRACT. IN THE EVENT THE  
26 CONTRACT IS TERMINATED FOR SUCH NONCOMPLIANCE:

27 (a) THE CONTRACTOR SHALL PAY DAMAGES TO THE STATE AGENCY

1 IN AN AMOUNT EQUAL TO THE AMOUNT PAID BY THE STATE AGENCY FOR  
2 THE PERCENTAGE OF WORK THAT IS PERFORMED OUTSIDE OF THE UNITED  
3 STATES AND ANY OTHER DAMAGES RELATED TO THE TERMINATION OF THE  
4 STATE CONTRACT FOR SERVICES.

5 (b) THE CONTRACTOR SHALL BE INELIGIBLE TO RECEIVE A STATE  
6 CONTRACT FOR SERVICES FOR A PERIOD OF THREE YEARS FROM THE DATE  
7 THAT THE STATE CONTRACT FOR SERVICES IS TERMINATED.

8 (3) THE STATE AGENCY SHALL BE ENTITLED TO BRING A CIVIL  
9 ACTION IN STATE OR FEDERAL COURT TO COMPEL ENFORCEMENT UNDER  
10 THIS SECTION.

11 **SECTION 2. Effective date - applicability.** This act shall take  
12 effect July 1, 2005, and shall apply to all state contracts for services  
13 entered into on or after said date.

14 **SECTION 3. Safety clause.** The general assembly hereby finds,  
15 determines, and declares that this act is necessary for the immediate  
16 preservation of the public peace, health, and safety.