

New International Trade Crossing Legislation Highlights

- Creates a new act that is specific to the New International Trade Crossing (NITC) project.
- Creates an authority for a “New International Trade Crossing” and grants it Type I Agency status.
- Specifies that the authority board shall have 5 members who shall be appointed by the Governor with the advice and consent of the Senate. One member shall be appointed from a list of 3 or more names submitted by the Senate Majority Leader and one shall be appointed from a list of 3 or more names submitted by the Speaker of the House.
- Authorizes the authority to enter into an Interlocal Agreement with the owner of the Canadian portion of the bridge to create a joint US-Canadian body to run the bridge.
- Authorizes the authority to enter into a public-private (P3) agreement, not to exceed 50 years, with a concessionaire to finance, build, operate, and maintain the NITC.
- Requires the P3 agreement to state that ownership of the bridge is vested in the authority.
- Authorizes the authority to issue revenue bonds, payable solely from bridge revenues and non-match-related federal dollars.
- Clearly states that the principal and interest payments on the bonds do not constitute a “general or moral obligation” of the state and that the bonds do not pledge the full faith and credit or taxing power of the state or any of its political subdivisions.
- Prohibits the state from expending any state funds on the NITC project, including making availability payments. The department would be allowed to expend state funds for certain administrative, planning, and procurement costs associated with the project, subject to appropriation.
- Prohibits the authority from incurring any indebtedness or liability on behalf of or payable by the state.
- Covers all components necessary for bridge operations, including the plaza and interchange, in the definitions of "crossing" and “project.” This would ensure that no state resources are used for the interchange and toll plaza, as well as for the bridge itself.
- Allows the department or the authority to accept financial contributions from Canada and prohibits the state, the department, or the authority from having to repay the contributions from any funds other than bridge revenues and non-match-related federal dollars.

- Requires the Canadian contribution to be spent in a way that maximizes federal aid to the department.
- Does not allow a governance agreement or P3 agreement to prohibit the construction of any transportation project that is already in MDOT's long-range plan or to prohibit a private entity from proceeding with a construction project that is otherwise authorized by law (i.e., these agreements would NOT be permitted to contain a non-compete clause).
- Clearly states that the state shall not be liable for the acts or omissions of the concessionaire, the authority, or a Canadian public agency.
- Requires parties to a P3 agreement to appear before the legislature without subpoena.
- Requires the concessionaire to submit written plans for security and disaster recovery and cooperate with the authority and any other appropriate public agencies on all matters concerning the security of the crossing.
- Requires RFPs to be competitively bid and requires the authority to conduct at least one public hearing on a proposed RFP.
- Allows the authority to consider a private entity's proposed plan for hiring legal US residents when considering its bid.
- Prohibits the authority from condemning land, but allows it to receive land from the department (which already has the power of eminent domain).
- Prohibits any governmental unit (e.g., Detroit) from regulating or taxing the project or tolls derived from the project.
- Allows legislative oversight hearings on activities of the authority at any time.
- Requires the authority to establish a website and provide timely updates on its activities and transactions.
- Subjects the authority to FOIA and OMA.
- Exempts the authority and its lands from property taxes.
- Provides penalties for individuals who fail to pay tolls.
- Contains 4 enacting sections--one that would repeal the act if the authority has not entered into a governance agreement by December 31, 2014; one that references constitutional and statutory provisions authorizing the legislation; one that declares the act to be severable; and one that provides a June 1, 2011, effective date.