

MEMORANDUM



DATE: March 7, 2017
TO: Interested Parties
FROM: William E. Hamilton
RE: Toll Credits

To recognize states with a high reliance on toll facilities, federal law allows use of capital expenditures made by toll facilities, such as toll bridges and toll roads, as a "soft match" for federal funds. According to the American Association of State Highway and Transportation Officials' "Innovative Finance" website, *"Toll credits are earned when the state, a toll authority, or a private entity funds a capital transportation investment with toll revenues earned on existing toll facilities (excluding revenues needed for debt service, returns to investors, or the operation and maintenance of toll facilities). The amount of credit earned equals the amount of excess toll revenues spent on nonfederal highway capital improvement projects."*

To be eligible to use toll credits, a state must meet federal maintenance of effort (MOE) requirements.

The Michigan Department of Transportation established a toll facility credit program in 1994 and began computing toll credits based on toll-financed capital expenditures at three publically owned toll facilities, the Mackinac Bridge, the Blue Water Bridge, and the International Bridge. Because the department had adequate revenue to match all available federal funds, toll credits were not used as a financing tool until 2005. In 2005, because of a shortfall in available Comprehensive Transportation Fund revenue, the department began using toll credits to provide the non-federal share of federal transit grants for local transit agencies.

Through 2010, the department has requested, and the FHWA approved, \$99.4 million in toll credits related to the three publically owned toll facilities. Those toll credits recognize toll-financed capital expenditures made in years 1995 through 2003, and 2008. Because the state did not meet MOE requirements, toll-financed expenditures made in FY 2003-04 through FY 2006-07, and FY 2008-09, could not be recognized for use as toll credits.

Federal law allows the recognition of capital investments made at private toll facilities in calculating a state's toll credits. The state, (not the toll facility) still has to meet the federal MOE requirements. In addition, the private toll facility has to identify toll-financed capital expenditures. Prior to 2011, neither the Ambassador Bridge, a private toll facility owned by the Detroit International Bridge Company (DIBC), nor the Detroit-Windsor Tunnel, were included in the state's toll credit calculation.

In 2011, the department and DIBC came to an agreement that provided for third party review of DIBC records in order to include DIBC capital expenditures in the department's toll credit calculation. The review identified \$50.6 million in toll credits related to DIBC 1998, 2001, 2002, 2003, and 2008 toll-financed capital expenditures. On May 18, 2011, the FHWA approved the department's request to use these private facility toll credits for non-federal match for either federal-aid highway programs or federal transit programs. These toll credits were recognized in the FY 2011-12 budget agreement as a source of matching funds for federal-aid highway funds appropriated in the FY 2011-12 state transportation budget. Note that that the toll credits were not represented in the budget bill itself; since toll credits are not actual money, they are not appropriated.

Also in 2011, the department and the Detroit-Windsor Tunnel Company came to an agreement that allowed the recognition of that company's toll-financed capital expenditures for years 1994, 1996, 1997, 1999, and 2008 in the department's toll credit calculation. In December 2011, the FHWA approved \$5.8 million in toll credits related to the Detroit-Windsor Tunnel.

Toll credits should be considered a short-term or one-time financing mechanism, and not a solution to the state's structural transportation funding problems. Because there is no assurance that the state will continue to meet MOE requirements, there is no assurance that the state will continue to earn toll credits for matching future federal aid.