

# Touring the Past and Possible Future of Toll Roads in Michigan

By Jane Meland

**F**unding the construction, maintenance, and preservation of Michigan roads is a problem that has vexed legislators for decades.<sup>1</sup> The primary revenue source for road construction and revitalization projects in Michigan has been vehicle registration fees and motor fuel taxes at the state and federal levels.<sup>2</sup> Fuel taxes are a rational choice given that these levies represent a user fee and, theoretically, the more one uses the roads the more one should pay in taxes. But reliance on fuel taxes as a funding source has become unsustainable. More fuel-efficient cars and expanded use of electric vehicles means less money in the road construction coffers.<sup>3</sup> Additionally, fuel taxes have failed to keep up with inflation; the cost to repair roads has risen while increases in fuel taxes have not kept pace.<sup>4</sup>

The perennial issue of road funding has intensified since Governor Gretchen Whitmer's election. One of her top priorities when she took office was to "fix the damn roads," and since taking office she has proposed a variety of fixes. One successful remedy was the recent authorization of road funding bonds;<sup>5</sup> however, a proposed 45-percent increase in fuel taxes was defeated.<sup>6</sup> In their ongoing effort to explore alternative funding options, Michigan lawmakers enacted Public Act 140 last July requiring the state to conduct a feasibility study on the tolling of Michigan highways.<sup>7</sup>

The tolling of Michigan highways is not a new idea; in fact, the state came close to establishing toll roads in the 1950s when the state legislature enacted Public Act 176, commonly referred to as the Michigan Turnpike Act.<sup>8</sup> The act established the Michigan Turnpike Authority, the purpose of which "was to investigate the feasibility of and if financially feasible to build two turnpikes."<sup>9</sup>

The Michigan Turnpike Authority was active from 1953–1958. During that time progress was made on the planning and financing of the two turnpike projects, but construction of the turnpikes was stymied by passage of the Federal Aid Highway Act of 1956,<sup>10</sup> which provided federal funding for the construction of new highways. Federal funds received by Michigan were diverted to the construction of freeways parallel to the proposed turnpike routes and Michigan's highway commissioner declared the turnpikes unnecessary, shuttering the turnpike project.<sup>11</sup>

Records of the Michigan Turnpike Authority have been preserved in the Michigan Archives, but some records are available electronically through Hathi Trust. These electronic records include:

- Finding Aid for the Records of the Michigan Turnpike Authority, 1953–1958<sup>12</sup>
- Michigan Turnpike Review, July 1, 1955<sup>13</sup>

In addition to providing federal funds for freeway construction, the Federal Aid Highway Act of 1956 also established a general prohibition on the imposition of tolls on federal-aid highways.<sup>14</sup> The prohibition remains in place but has been relaxed over time by federal legislation.<sup>15</sup> Tolling of interstate highways is now permitted in limited circumstances and tolling projects must qualify under one of the many exceptions

to the ban.<sup>16</sup> For instance, newly constructed "interstate routes and added interstate lane capacity may be tolled."<sup>17</sup> Additionally, tolling programs designed to alleviate highway congestion are included in the exceptions.<sup>18</sup> Despite Congress's efforts to expand tolling options, the conversion of existing highways to toll roads remains protected by the tolling ban.<sup>19</sup> However, existing highways may qualify for tolling under a special program known as the Interstate System Reconstruction and Rehabilitation Pilot Program (ISRRPP).<sup>20</sup>

The ISRRPP "allows a State to collect tolls on a facility on the Interstate System in order to reconstruct or rehabilitate an Interstate highway corridor that could not otherwise be adequately maintained or functionally improved without the collection of tolls."<sup>21</sup> Up to three states may participate in the ISRRPP.<sup>22</sup> States seeking to participate in the program must make an application to the Federal Highway Administration and then receive provisional approval.<sup>23</sup> Once provisional approval is granted the state has three years to fully satisfy the program criteria. Program criteria are rigorous—of the states that received provisional approval none was able to meet the criteria within the time limit. Under PA 140, Michigan would seek provisional approval under the ISRRPP and any other tolling programs authorized by federal law.

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Michigan's tolling feasibility study won't be issued until July 2022, and I must admit I'm eager to see what the consulting firm recommends regarding tolling in Michigan. Clearly, the answer to Michigan's road funding problems won't be solved by tolls alone, but they may provide a much-needed piece to the road funding puzzle. And given the bipartisan support behind PA 140, perhaps there's reason to think that Michigan may finally move forward on fixing the damn roads. ■



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## ENDNOTES

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11. *Michigan Drops Toll Road Plans*, New York Times (August 26, 1956), p 46.
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14. *Federal Highway Tolling Programs*, Federal Highway Admin, US Dep't of Transportation <[https://www.fhwa.dot.gov/ipd/fact\\_sheets/tolling\\_programs.aspx](https://www.fhwa.dot.gov/ipd/fact_sheets/tolling_programs.aspx)> [<https://perma.cc/S9BW-EXDD>] and 23 USC 301.
15. *Id.*
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## MONEY JUDGMENT INTEREST RATE

MCL 600.6013 governs how to calculate the interest on a money judgment in a Michigan state court. Interest is calculated at six-month intervals in January and July of each year, from when the complaint was filed, and is compounded annually.

For a complaint filed after December 31, 1986, the rate as of July 1, 2020 is 1.699 percent. This rate includes the statutory 1 percent.

But a different rule applies for a complaint filed after June 30, 2002 that is based on a written instrument with its own specified interest rate. The rate is the lesser of:

- (1) 13 percent a year, compounded annually; or
- (2) the specified rate, if it is fixed—or if it is variable, the variable rate when the complaint was filed if that rate was legal.

For past rates, see <http://courts.mi.gov/Administration/SCAO/Resources/Documents/other/interest.pdf>.

*As the application of MCL 600.6013 varies depending on the circumstances, you should review the statute carefully.*