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FISCAL ANALYSIS

HOUSE BILL 4454 AS PASSED HOUSE/SENATE
Sponsor: Rep. Bruce Patterson
House Committee: Tax Policy

REVISED FLOOR ANALYSIS - 6/28/02
Analyst(s): William E. Hamilton

SUMMARY

Among other things, HB 4454 would amend the Airport Parking Tax Act (PA 248 of 1987) to reduce the current tax rate from 30% to 15%, and to effect a redirection of the current earmark of Airport Parking Tax revenue. The House and Senate-passed bills differ with regard to how the funds are earmarked. Based on FY 2001-02 revenue estimates, the House passed-bill would increase state-restricted state aeronautics fund (SAF) revenue by $5.3 million, decrease revenue to the city of Romulus by $1.2 million, and decrease revenue to Wayne County by $12.1 million per year. The Senate-passed bill would increase state-restricted SAF revenue by $6.0 million, increase revenue to the city of Romulus by $754,000, and decrease revenue to Wayne County by $14.7 million per year. The net revenue reduction under both bills would be $8.0 million.

A more detailed comparison of the House and Senate-passed bills is found as Appendix A below, or in the House Fiscal Agency Revised Floor Analysis dated 6/28/2002 on the LSIS system.

Summary/Fiscal Impact - The Governor's February 2002 budget message to the Legislature included a proposed five-year $1.1 billion Aeronautics capital improvement program, the Airport Safety and Protection (ASAP) Plan. On May 9, 2002 the Michigan Department of Transportation (the department) unveiled additional information about the ASAP Plan. Among other things, the plan would provide funding for airport safety and security projects initiated in response to the terrorist attacks of September 11, 2001.

The fiscal keystone of the plan is the proposed sale of $60.0 million in Comprehensive Transportation Fund (CTF) bonds. The bond proceeds, together with state and local funds, would be used to match federal funds available for airport improvement programs - including new programs designated for improved airport security. The total program would be comprised of federal, state, and local funds as follows:

Executive Recommendation ASAP Plan	
Fund Sources	***Five-Year Total ****
Federal	$800,000,000
Local	215,000,000
State Aeronautics Fund	10,000,000
State GF/GP	12,000,000
CTF Bond Proceeds	60,000,000
Total	$1,097,000,000
* See Table 1 for a more detailed program breakdown.	

Although the ASAP bonds would be issued as CTF revenue bonds, annual debt service, estimated at $5.0 million starting in FY 2002-03, would actually be made from the State Aeronautics Fund (SAF). In the Governor's proposal, the additional SAF revenue needed to make the debt service payments would come from an earmark of Airport Parking Tax Act revenue. The Governor has proposed earmarking a total of $6.0 million of Airport Parking Tax revenue to the SAF - $5.0 million for ASAP debt service, and $1.0 million for Aeronautics projects not eligible for bond financing. Some safety and security projects may be mandated by the new Federal Transportation Security Administration. Specific security projects are not known at this time.

HB 4454 (H-5) would amend the Airport Parking Tax Act (PA 248 of 1987) to reduce the current tax rate from 30% to 15%, and to effect a redirection of the current earmark of Airport Parking Tax revenue. Based on FY 2001-02 revenue estimates, the bill would increase state-restricted (SAF) revenue by $5.3 million, decrease revenue to the City of Romulus by $1.2 million and decrease revenue to Wayne County by $12.1 million per year. [1] The earmarking provided in the bill would generate $5.3 million of the $6.0 in additional funds for Aeronautics requested by the Governor for the ASAP program.

The bill would also make a current year (FY 2001-02) supplemental appropriation of $55.0 million for the Department of Transportation, Airport Safety and Protection Plan. The fund sources are federal revenue, $40.0 million; local revenue, $15.0 million. Other provisions of the bill are discussed further below.

*[**See Appendix A for a comparison with Senate passed bill, HB 4454 (S-4)**.]*

The balance of this memo will discuss in additional detail: 1) the proposed ASAP program, 2) ASAP fund sources and fiscal impacts, and 3) legislation related to the ASAP program.

The ASAP Program

The proposed ASAP plan is largely a continuation of the current Airport Improvement Program (AIP). The department's list of ASAP projects (dated February 2002) includes a number of projects which were proposed or funded in previous Capital Outlay bills as AIP projects. The department indicates that there is no practical way to distinguish between "ASAP" projects and "AIP" projects on its list.

Congressional Research Service Issue Brief IB10026 describes the AIP as follows:

"The Airport Improvement Program (AIP) has provided federal grants for airport development and planning since the passage of the Airport and Airway Improvement Act of 1982 (P.L. 97-248). AIP funding is usually spent on projects that support aircraft operations including runways, taxiways, aprons, noise abatement, land purchase, and safety, emergency or snow removal equipment. Funds obligated for the AIP are drawn from the Airport and Airway Trust Fund, which is supported by user fees and fuel taxes." [2]

The AIP is administered in Michigan by the Michigan Department of Transportation's Bureau of Aeronautics. The federal funds for the program, plus state and local matching funds, are appropriated in state Capital Outlay budget bills. A six-year appropriations history is found in Table 2.

As noted above, "*Airport Improvement Program*" is the federal program of airport capital assistance and has been included by that name as a line item in state Capital Outlay budgets for a number of years. The line item designation "*Airport Security and Protection Plan (ASAP*)" would simply represent the current Airport Improvement Program with following additional elements:

1. **Bond financing** - The Executive has proposed using bond proceeds to match federal funds because of reduced SAF and GF/GP revenue. The decline in SAF and GF/GP revenue and the proposed ASAP bond program are discussed further below.

2. **Security and Safety** - The events of September 11 have resulted in increased attention to airport security and safety issues. Some new security requirements may be included as elements of the existing AIP program. Other

[1] Revenue estimates for FY 2001-02 from the Michigan Department of Treasury, Office of Revenue and Tax Analysis (ORTA). ORTA's recently issued a paper on the Airport Parking Tax which is available on-line at the following address: http://www.michigan.gov/documents/AirportParkingTax_88_03_12325_7.pdf

[2] The Congressional Research Service Issue Brief IB10026, "Airport Improvement Program" is available on-line at http://www.cnie.org/nle/crsreports/transportation/trans-39.cfm.

security measures may be authorized or mandated in new federal programs, including programs of the new Federal Transportation Security Administration. The full extent and fiscal impacts (costs, federal revenue, local matching) of additional federal airport security requirements are not yet known. To some extent, the ASAP package is proposed in anticipation of new, as yet unidentified, federal security programs. An April 2002 department position paper states that: "No one is sure how extensive or expensive these [safety and security] improvements will be. The ASAP package will ensure that Michigan has the funding in place to maximize federal security dollars as they become available."

ASAP Fund Sources and Fiscal Impacts

The Revenue Problem - The proposed bond financing of ASAP projects is, in part, a response to a reduction in state SAF and GF/GP funds available to match federal aid.

The current Airport Improvement Program has been funded in state Capital Outlay appropriations acts using a combination of federal, state, and local funds. Federal revenue generally provides 90% funding for airport improvement programs; the 10% match is generally split between the state and the local units of government which own project airports. The current-year Capital Outlay budget includes $98.7 million in federal funds, $26.0 million in local funds, $26.0 million in GF/GP, and $2.0 million from the SAF (See Table 3).

The state Transportation budget also provides SAF funding for the Bureau of Aeronautics. The current-year Transportation budget includes $8.3 million in SAF appropriations - primarily for Bureau programs, operations, and administration. [3] (See Table 2)

SAF revenue is derived primarily from aviation fuel taxes. Revenue from those taxes has been in decline over the last several years. Available SAF revenue will not be sufficient to provide a state match for all available federal funds. Coinciding with the reduction in SAF revenue has been a reduction in available GF/GP revenue.

Without additional revenue sources, there may not be sufficient state revenue to match available federal funds for Aeronautics capital programs. The Bureau of Aeronautics estimates that without additional revenue from bonding, there would be enough state and local funds to match only $50.0 million in federal funds - of which only $20.0 million would be available for airports outside of Metropolitan Detroit.

Bond Program - The Governor proposed to sell $60.0 million in Comprehensive Transportation Fund (CTF) bonds to match available federal funds [4]. The Bureau of Aeronautics estimates that bond proceeds could help provide a match for at least $120.0 million in federal funds - $160.0 million if the state is able to obtain available federal discretionary funds. Projects would include a combination of security, safety, and capacity projects.

The program would use bonds secured by CTF revenue because there is no statutory authority to sell SAF revenue bonds. The authority for the department to sell CTF revenue bonds is provided in Section 18b of Public Act 51 of 1951.

Although the ASAP bonds would be issued as CTF revenue bonds, annual debt service, estimated at $5.0 million starting in FY 2002-03, would actually be made from the State Aeronautics Fund (SAF). In the Governor's proposal, the additional SAF revenue needed to make the debt service payments would come from an earmark of Airport Parking Tax Act revenue. The Governor has proposed earmarking a total of $6.0 million of Airport Parking Tax revenue to the SAF - $5.0 million for ASAP debt service, and $1.0 million to other Aeronautics projects not eligible for bond financing. See below for additional discussion of the Airport Parking Tax Act.

[3] The SAF Bureau of Aeronautics appropriation in the State Transportation Budget also funds the Air Service Program which provides state grant assistance for commercial service airports. Projects include items not eligible for federal aid in the Airport Improvement Program.

[4] The department has indicated that it may attempt to sell all $60.0 million in ASAP bonds in the first year , or may stagger bond sales over the five-year program period.

Legislation related to the ASAP Program
The proposed ASAP plan would be authorized in four separate bills currently before the Legislature:

*SB 287 (S-1) - as passed the Senate (*FY 2001-02 Supplemental Appropriations)
This bill would appropriate an additional $55.0 million for a new *Airport safety and protection* line item, $40.0 million federal revenue, and $15.0 million local matching revenue. The bill does not appropriate bond proceeds. The bill also includes boilerplate section 409 which would prohibit use of Airport Parking Tax funds for the program.

*SB 1099 (S-1) - as passed the Senate (*FY 2002-03 Capital Outlay Appropriations)
The bill would appropriate $212.0 million for the *Airport improvement programs* line item, and $17.0 million for a new *Airport safety and protection* line item. There is no clear distinction between the two line items. The Michigan Department of Transportation and the State Budget Office support maintaining a single line item consistent with the Executive budget recommendation.

Funding for the programs would come from $160.0 million federal revenue, $43.0 million local matching revenue, $12.0 million GF/GP (earmarked for the Midfield terminal project at Detroit Wayne County Metro Airport), and $2.0 million from the SAF. The bill also appropriates $12.0 million in CTF bond proceeds. The Michigan Department of Transportation and the State Budget Office oppose the inclusion of bond proceeds in the appropriations bill. They consider the appropriation of bond proceeds as unnecessary and are concerned that it may limit the department's flexibility in managing the program. Historically, state restricted transportation bond proceeds have not been included in appropriations bills.

HB 5651 - (FY 2002-03 Transportation Appropriations)
The Executive recommended the appropriation of $5.0 million from the SAF for ASAP debt service. The additional SAF revenue necessary to make the Executive's $5.0 million debt service would come from a proposed redirection of Airport Parking Tax revenue. The House-passed version of this bill includes only a $100 placeholder for this line. The Senate-passed substitute did not provide funding for ASAP debt service.

*HB 4454 (H-5) - Airport Parking Tax Act [****See Appendix A for a comparison with Senate passed bill****.]*
The bill would amend PA 248 of 1987, the Airport Parking Tax Act, (MCL 207.373 et. seq.) to change the tax rate from 30% to 15%. This would reduce annual tax revenue from $16.0 million to $8.0 million. The bill would also change the distribution of revenue collected as follows:

Airport Parking Tax Revenue/Distribution

	Wayne County	**Romulus**	**SAF**	**Total**
Current law #	$14,724,000	$1,246,000	$0	$15,970,000
HB 4454 (H-5) ##	$2,672,000	$0	$5,328,000	$8,000,000
Difference	($12,052,000)	($1,246,000)	$5,328,000	($7,970,000)

- Under current law a "qualified county" receives 100% of tax on "on premises" parking, 80% of tax on "off-premises" parking. Wayne County is the only "qualified county" as defined in the act. Tax revenue is credited to the county general fund. Cities with a "regional airport facility" receive 80% of tax on "off-premises" parking. The city of Romulus is the only city with a “regional airport facility” (Detroit Wayne County Metro Airport) as defined in the act.

- Under HB 4454 (H-5) the city of Romulus would no longer receive a distribution of tax revenue. The State Aeronautics Fund (SAF) would receive 66.6% of the total tax collected up to a $6.0 million ceiling. Wayne County would receive the remaining tax revenue. The bill directs that the funds be distributed to the county general fund "to be used only for indigent health care, sheriff department operations, and the operation of the county jail with not less than 30% of the amount for sheriff department operations for accelerating the process of concealed weapon license applications". The bill also requires the county report annually to the Legislature on the use of the funds.

Revenue/distribution based on FY 2001-02 Michigan Department of Treasury, Office of Revenue and Tax Analysis estimates.

As noted above, HB 4454 (H-5) would direct $5.3 million annually in Airport Parking Tax revenue to the SAF (based on FY 2001-02 revenue estimates). Governor's requested that a total of $6.0 million per year be directed from Airport Parking Tax revenue to the SAF - $5.0 million for debt service on ASAP bonds, and $1.0 million to support projects not eligible for bond financing.

There is currently no statutory earmark of the Wayne County's share of Airport Parking Tax revenue; funds are credited to the county's general fund. The county general fund, like the state general fund, is the primary operating fund. It is the least restricted governmental fund and can be used for any governmental purpose.

There is no statutory requirement that the county use the Airport Parking Tax revenue for indigent heath care. None-the-less, the county does use general fund revenue to support indigent health care programs. The county's audited financial statements identify county general fund expenditures for indigent health care as follows: $16.7 million in FY 1999, $16.5 million in FY 2000, $16.7 million in 2001.

Although there is no statutory earmark of the county's share of Airport Parking Tax revenue for indigent health care, the tax was first enacted in 1987 as part of a package of bills of fiscal assistance to the county. Wayne County's fiscal problems at that time were primarily due to the costs of state-mandated indigent health care. The House Legislative Analysis Section's 1988 analysis of the bill package stated "the causes of the [county's fiscal] problems are manifold and complex, but there is little doubt that the cost of providing health care to indigents is a major contributor to the county's fiscal woes."

Other Fiscal Impacts

HB 4454 (H-5) would also make a current-year (FY 2001-02) supplemental appropriation of $55.0 million for the Department of Transportation, Airport Safety and Protection Plan. The fund sources are federal revenue, $40.0 million; local revenue, $15.0 million. This appropriation appears to be identical to the appropriation for this line item in Supplemental appropriations bill SB 287, as passed the Senate. With one exception, the list of projects contained in the bill appears to be identical to the list in the FY 2002-03 Capital Outlay bill, SB 1099, as passed the Senate.

The bill contains a new subsection which would prohibit the use of funds appropriated in the bill for the extension, expansion, or realignment of any existing runway or for the construction of a new runway at Detroit City Airport or Willow Run Airport.

Appendix A

The following tables show the proposed distribution of Airport Parking Tax revenue under the House and Senate passed versions of HB 4454, as compared to current law:

HB 4454 (H-5) - As passed the House

The bill would amend PA 248 of 1987, the Airport Parking Tax Act, (MCL 207.373 et. seq.) to change the tax rate from 30% to 15%. This would reduce annual tax revenue from $16.0 million to $8.0 million. The bill would also change the distribution of revenue collected as follows:

Airport Parking Tax Revenue/Distribution				
	Wayne County	**Romulus**	**SAF**	**Total**
Current law #	$14,724,000	$1,246,000	$0	$15,970,000
HB 4454 (H-5) ##	$2,672,000	$0	$5,328,000	$8,000,000
Difference	($12,052,000)	($1,246,000)	$5,328,000	($7,970,000)

- Under current law a "qualified county" receives 100% of tax on "on premises" parking, 80% of tax on "off-premises" parking. Wayne County is the only "qualified county" as defined in the act. Tax revenue is credited to the county general fund. Cities with a "regional airport facility" receive 80% of tax on "off-premises" parking. The city of Romulus is the only city with a “regional airport facility” (Detroit Wayne County Metro Airport) as defined in the act.

- Under HB 4454 (H-5) the city of Romulus would no longer receive a distribution of tax revenue. The State Aeronautics Fund (SAF) would receive 66.6% of the total tax collected up to a $6.0 million ceiling. Wayne County would receive the remaining tax revenue. The bill directs that the funds be distributed to the county general fund "to be used only for indigent health care, sheriff department operations, and the operation of the county jail with not less than 30% of the amount for sheriff department operations for accelerating the process of concealed weapon license applications". The bill also requires the county report annually to the Legislature on the use of the funds.

Revenue/distribution based on FY 2001-02 Michigan Department of Treasury, Office of Revenue and Tax Analysis estimates.

HB 4454 (S-4) - As passed the Senate

The bill would amend PA 248 of 1987, the Airport Parking Tax Act, (MCL 207.373 et. seq.) to change the tax rate from 30% to 15%. This would reduce annual tax revenue from $16.0 million to $8.0 million. The bill would also change the distribution of revenue collected as follows:

Airport Parking Tax Revenue/Distribution				
	Wayne County	**Romulus**	**SAF**	**Total**
Current law #	$14,724,000	$1,246,000	$0	$15,970,000
HB 4454 (S-4) ##	$0	$2,000,000	$6,000,000	$8,000,000
Difference	($14,724,000)	$754,000	$6,000,000	($7,970,000)

- Under current law a "qualified county" receives 100% of tax on "on premises" parking, 80% of tax on "off-premises" parking. Wayne County is the only "qualified county" as defined in the act. Tax revenue is credited to the county general fund. Cities with a "regional airport facility" receive 80% of tax on "off-premises" parking. The city of Romulus is the only city with a “regional airport facility” (Detroit Wayne County Metro Airport) as defined in the act.

- Under HB 4454 (S-4) the State Aeronautics Fund (SAF) would receive would receive a fixed amount of $6.0 million per year, and the city of Romulus a fixed amount of $2.0 million. Wayne County would receive the remaining tax revenue. Based on ORTA revenue projections there would be no revenue left for Wayne County after the earmarks to the SAF and city of Romulus.

Revenue/distribution based on FY 2001-02 Michigan Department of Treasury, Office of Revenue and Tax Analysis estimates.

The Senate-passed bill indicates that the $6.0 million distributed to the SAF shall be used exclusively for safety and security projects at state airports. The Senate bill also indicates that the SAF funds may be pledged to pay principal and interest on CTF bonds issued to provide matching funds for federal funds to be used for safety and security projects at state airports.

The Senate bill does not include the House subsection (4) language which would prohibit the use of funds appropriated in the bill for the extension, expansion, or realignment of any existing runway or for the construction of a new runway at Detroit City Airport or Willow Run Airport.

Table 1
Airport Safety and Protection Plan
Executive Capital Outlay Recommendation

Fund Sources	FY 2001-02 Enacted [1]	FY 2001-02 Supplemental [1]	FY 2001-02 Total	FY 2003 [2] (Exec. Rec.)	FY 2004	FY 2005	FY 2006	FY 2007	Total Proposed ASAP Plan (shaded columns)
Federal	$98,722,000	$40,000,000	$138,722,000	$160,000,000	$160,000,000	$160,000,000	$160,000,000	$120,000,000	$800,000,000
Local	26,000,000	15,000,000	41,000,000	43,000,000	43,000,000	43,000,000	43,000,000	28,000,000	215,000,000
SAF	2,000,000	0	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000	10,000,000
GF/GP	26,000,000	0	26,000,000	12,000,000	0	0	0	0	12,000,000
Bond Proceeds	0	6,000,000	6,000,000	12,000,000	12,000,000	12,000,000	12,000,000	6,000,000	60,000,000
Total	$152,722,000	$61,000,000	$213,722,000	$229,000,000	$217,000,000	$217,000,000	$217,000,000	$156,000,000	$1,097,000,000

(1) With regard to FY 2001-02, the Executive describes only funds included in the FY 2001-02 Supplemental appropriations bill as part of the ASAP Plan. The Senate supplemental bill, SB 287, does not appropriate bond proceeds.
(2) The Capital Outlay bill for FY 2002-03 (SB 1099) does appropriate bond proceeds.

Table 2

STATE AERONAUTICS FUND
APPROPRIATION & REVENUE HISTORY
FY97 - FY03

	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02	Exec. Rec FY 03
Operating Appropriations	$7,716,300	$8,508,400	$9,048,500	$7,897,100	$7,773,200	$6,952,200	$5,830,600
IDGs, Administration, Planning	1,226,500	1,224,400	1,320,500	1,158,900	1,270,200	1,373,300	1,275,400
Capital Outlay Appropriations	2,000,000	4,000,000	4,000,000	4,000,000	2,000,000	2,000,000	2,000,000
Total Appropriations	$10,942,800	$13,732,800	$14,369,000	$13,056,000	$11,043,400	$10,325,500	$9,106,000
Revenue - Actual through FY 1999-2001	$9,951,363	$9,031,028	$10,539,029	$9,799,000	$8,564,000		
- ORTA estimate @ 12/20/2001						$7,992,000	$8,106,000
Difference	-$991,437	-$4,701,772	-$3,829,971	-$3,257,000	-$2,479,400	-$2,333,500	-$1,000,000
Unreserved SAF Balance at Year-end - per CAFR	$4,578,000	$935,000	$1,000	$1,000	$865,000		

Table 3

Michigan Capital Outlay Appropriations
Airport Improvement Programs

Fiscal Year	**1997**	**1998**	**1999**	**2000**	**2001**	**2002 YTD**
Federal funds	$61,442,500	$65,511,000	$65,511,000	$83,069,000	$98,976,000	$98,722,000
State						
GF/GP	0	19,000,000	10,000,000	14,900,000	21,300,000	26,000,000
SAF	2,000,000	4,000,000	4,000,000	4,000,000	2,000,000	2,000,000
Local	26,067,500	23,129,000	23,129,000	12,871,000	18,483,200	26,000,000
Total Appropriation	$89,510,000	$111,640,000	$102,640,000	$114,840,000	$140,759,200	$152,722,000