# AMEND AIRPORT PARKING TAX ACT



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HOUSE BILL 4454 AS ENACTED (PA 680 OF 2002)

**Sponsor:** Rep. Bruce Patterson **House Committee:** Tax Policy

**ANALYSIS COMPLETED - 4/10/2003** 

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#### **SUMMARY**

House Bill 4454, enacted December 2002 as PA 680 of 2002, amended the Airport Parking Tax Act (PA 248 of 1987, MCL 207.371 et. seq.) to reduce the tax rate from 30% of the amount of each parking transaction, to 27%. The tax reduction would reduce revenue by \$1.7 million on an annual basis <sup>1</sup>. However, because the bill did not take effect until March 31, 2003, the tax reduction impacts only half of the 2002-03 fiscal year. Consequently, the revenue reduction for FY 2002-03 would be only \$850,000 <sup>2</sup>.

The bill also changed the statutory distribution of Airport Parking Tax revenue. On an annual basis, HB 4454 would increase state-restricted State Aeronautics Fund (SAF) revenue by \$6.0 million, increase revenue to the city of Romulus by \$172,000, and decrease revenue to Wayne County by \$7.9 million. The effect of HB 4454, as enacted, on tax revenue and distribution is also shown in **Appendix 1**.

Section 7a(1)(a) of the bill provides that funds distributed to the SAF be restricted "exclusively for safety and security projects at state airports, including reimbursement to the comprehensive transportation fund of amounts used to pay principle and interest on bonds issued on or before December 31, 2007 by the state transportation commission under Section 18b of 1951 PA 51, MCL 247.668b, to provide the matching funds by this state for federal funds to be used for safety and security at state airports." The bill lists 97 specific airports which are "state airports" as used in the above subsection. State airport safety, security, and improvement programs are reviewed further in this analysis below.

Under HB 4454, as enacted, funds distributed to a "qualified county", i.e. Wayne County, are restricted and may be used "only for indigent health care." The bill requires that each fiscal year Wayne County provide written documentation to the Michigan State Treasurer that all funds provided to the county from the Airport Parking Tax distribution were used for indigent health care. The bill further requires that the county provide

<sup>&</sup>lt;sup>1</sup> Our estimate of fiscal impacts for FY 2002-03 and subsequent years is based on a FY 2002-03 revenue estimate made by the Michigan Department of Treasury, Office of Revenue and Tax Analysis (ORTA) in February 2002. The ORTA estimate for FY 2002-03 of \$17.0 million was based on collections at the then-current 30% tax rate. As a result, a 10% reduction in the tax would reduce revenue by \$1.7 million for the year. Our analysis does not consider potential changes in parking lot utilization or rates.

<sup>&</sup>lt;sup>2</sup> Although Section 3 of the bill indicates that the 27% tax rate becomes effective "beginning January 1, 2003", the bill did not take effect until March 31, 2003. Our analysis assumes that parking lot owners will not be entitled to a refund of the difference between the 30% and 27% tax rate for the period January 1, 2003 through March 31, 2003.

to the Michigan State Treasurer written documentation of all other revenues used for indigent health care in that fiscal year. The bill also requires the county to repay amounts not used for indigent health care as determined by the Michigan State Treasurer. See **Appendix 3** for a history of the statutory earmark of Airport Parking Tax revenue to Wayne County.

HB 4454, as enacted, would repeal the Airport Parking Tax Act when all bonds described in Section 7a(1)(a) are retired, or on December 31, 2007, whichever is later.

The balance of this memo will discuss in additional detail state airport safety, security and improvement programs, including the Airport Safety and Protection (ASAP) Plan. The memo also reviews funding support for those programs, including the use of Comprehensive Transportation Fund (CTF) bond proceeds, and Airport Parking Tax revenue.

#### The ASAP Plan

As noted above, Section 7a(1)(a) of enacted House Bill 4454, provides that Airport Parking Tax funds distributed to the SAF be restricted "exclusively for safety and security projects at state airports, including reimbursement to the comprehensive transportation fund of amounts used to pay principle and interest on bonds issued on or before December 31, 2007 by the state transportation commission under Section 18b of 1951 PA 51, MCL 247.668b, to provide the matching funds by this state for federal funds to be used for safety and security at state airports."

This language provides a fund source for a program of state airport safety and security capital improvements. In February 2002, the Engler administration, as part of its FY 2002-03 budget presentation, proposed a five-year, \$1.1 billion, "Airport Safety and Protection (ASAP) Plan <sup>3</sup>. On May 9, 2002 the Michigan Department of Transportation unveiled the ASAP Plan project list and additional program detail.

The fiscal keystone of the plan was 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.

Although the \$60.0 million in ASAP bonds would be issued as CTF revenue bonds, annual debt service, estimated at \$5.0 million, would actually be made from the State Aeronautics Fund (SAF). The additional SAF revenue needed to make the debt service payments would come from an earmark of Airport Parking Tax Act revenue, as amended by HB 4454. HB 4454, as enacted, earmarks a total of \$6.0 million of Airport Parking Tax revenue to the SAF. Of the \$6.0 million, \$5.0 million would be designated for ASAP debt service, and \$1.0 million would be used for Aeronautics projects not eligible for bond financing.

The proposed ASAP program was to be comprised of federal, state, and local funds as follows:

ASAP Plan As proposed in FY 2002-03 Executive Budget recommendation Source: State budget office, February 2002						
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 <b>Appendix 4</b> for a breakdown by year.						
** Subsequently replaced by CTF bond proceeds. See note below.						

Note: Executive Order 2003-3 eliminated the \$12.0 million General Fund/General Purpose (GF/GP) revenue. This \$12.0 million GF/GP revenue would be replaced with \$12.0 million CTF bond proceeds, as authorized by supplemental appropriations bill HB 4032 (2003 Session). This \$12.0 million would be in addition to the \$60.0 million in CTF bond proceeds originally proposed in the ASAP Plan, and would come from a reprogramming of CTF bonds sold in August 2002. Unlike the debt service on the \$60.0 million CTF bond issue, which was to come from the SAF Airport Parking Tax revenue, debt service on the additional \$12.0 million in CTF bond proceeds would be made from CTF revenue.

<sup>&</sup>lt;sup>3</sup> See page A-10 of the FY 2002-03 Executive Budget presentation. http://www.michigan.gov/documents/FY03budgetdocument 35344 7.pdf

#### **Airport Improvement Program**

Although the department briefing material on the ASAP plan described it as a safety and security program, a review of the ASAP project list suggests that ASAP is largely a continuation of the current Airport Improvement Program (AIP). The department's list of ASAP projects (dated February 2002) included a number of projects which were proposed and funded in previous Capital Outlay bills as AIP projects <sup>4</sup>. The department had indicated that was no practical way to distinguish between "ASAP" projects and "AIP" projects on its list <sup>5</sup>.

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." <sup>6</sup>

The Michigan AIP is administered by the Michigan Department of Transportation's Bureau of Aeronautics <sup>7</sup>. The federal funds for the program, plus state and local matching funds, are appropriated in state Capital Outlay budget bills. A history of Aeronautics Capital Outlay appropriations is found in **Appendix 5** 

As noted above, the "Airport Improvement Program" is the federal program of airport capital assistance which 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)" is effectively continuation of the current Airport Improvement Program with two additional elements – **bond financing**, and new **security and safety** programs.

**Bond financing** - The use of bond financing in the ASAP Plan was in response to a reduction in available SAF and GF/GP revenue needed to match federal funds.

SAF revenue is used to support the AIP in the Capital Outlay appropriations bills, and the Bureau of Aeronautics in state transportation budget bills <sup>8</sup>. SAF revenue is derived primarily from aviation fuel taxes. Revenue from those taxes has been in decline over the last several years. In addition, there has been a reduction in available GF/GP revenue.

In 2002, the Bureau of Aeronautics was concerned that there would not be sufficient state revenue to match available federal funds for Aeronautics capital programs. The Bureau estimated 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. See **Appendix 6** for a history of SAF appropriations and revenue sources.

The proposed ASAP bond program would involve the sale of up to \$60.0 million in Comprehensive Transportation Fund (CTF) bonds which would be used to match available federal funds. The Bureau

<sup>&</sup>lt;sup>4</sup> One of the largest projects identified as an ASAP project was the completion of the Midfield Terminal Project at Detroit Wayne County Metro Airport. This project was first funded in FY 1996-97 through Capital Outlay appropriation act PA 321 of 1996

<sup>&</sup>lt;sup>5</sup> PA 518 of 2002 (SB 1099), which provided supplemental appropriations for FY 2002-03, listed a number of Aeronautics airport projects. The act provided \$212.0 million for AIP projects, and \$17.0 million for ASAP projects, but did not identify which projects were AIP, and which were ASAP.

<sup>&</sup>lt;sup>6</sup> The Congressional Research Service Issue Brief IB10026, "Airport Improvement Program" is available on-line at <a href="http://www.cnie.org/nle/crsreports/transportation/trans-39.cfm">http://www.cnie.org/nle/crsreports/transportation/trans-39.cfm</a>.

<sup>&</sup>lt;sup>7</sup> In a 2002 reorganization, the department combined the Bureau of Aeronautics and the Bureau of Urban and Public Transportation into a new "Multi-modal Bureau".

<sup>&</sup>lt;sup>8</sup> The appropriation of SAF revenue in the state transportation budget supports Bureau of Aeronautics administration, operations, and programs, including the Air Service Program. The Air Service Program provides state grant assistance for commercial service airports for projects not eligible for federal aid in the Airport Improvement Program.

of Aeronautics estimated 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, rather than SAF revenue, because the State Transportation Commission has no statutory authority to sell SAF revenue bonds. The Commission's authority 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) using Airport Parking Tax revenue. HB 4454, as enacted, earmarks \$6.0 million in Airport Parking Tax revenue to the SAF, of which \$5.0 million would be used for ASAP debt service, and \$1.0 million to other Aeronautics projects not eligible for bond financing.

**Security and Safety** - The events of September 11, 2001 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 security measures may be authorized or mandated in new federal programs, including programs of the new Federal Transportation Security Administration (TSA). The full extent and fiscal impacts (costs, federal revenue, local matching) of additional federal airport security requirements are not yet known. The ASAP package was proposed in anticipation of new, but not yet identified, federal security programs. An April 2002 department position paper stated 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." That statement is apparently still valid at this time - April 2003. Although some airport safety and security projects may be mandated by the TSA, the federal government has not yet identified what specific security measures will be required at public airports.

#### Appendix 1

The following tables show the fiscal impact of HB 4454, as enacted (PA 680 of 2002) in FY 2002-03 and subsequent fiscal years.

Airport Parking Tax Revenue/Distribution

FY 2002-03								
Wayne County Romulus SAF Total								
Prior Law #	\$15,672,000	\$1,328,000	\$0	\$17,000,000				
HB 4454, as enacted ##	8,650,000	1,500,000	6,000,000	16,150,000				
Difference	(\$7,022,000)	\$172,00	\$6,000,000	(\$850,000)				

Because HB 4454 went into effect until March 31, 2003, only six months of the 2002-03 fiscal year will be affected.

FY 2003-04								
Wayne County Romulus SAF Total								
Prior Law #	\$15,672,000	\$1,328,000	\$0	\$17,000,000				
HB 4454, as enacted ##	7,800,000	1,500,000	6,000,000	15,300,000				
Difference	(\$7,872,000)	\$172,000	\$6,000,000	(\$1,700,000)				

Source: Revenue/distribution based Michigan Department of Treasury, Office of Revenue and Tax Analysis estimates for FY 2002-03

#### Notes:

# - Prior law - i.e. the Airport Parking Tax prior to amendment by HB 4454, as enacted (PA 680 of 2002):

The tax rate equals 30% of the amount of parking transactions.

A "qualified county" would receive 100% of tax on "on premises" parking, and 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 20% 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.

## - HB 4454, as enacted – amended PA 248 of 1987, the Airport Parking Tax Act (MCL 207.373 et. seq.) to change the tax rate from 30% to 27%, "beginning January 1, 2003", although the bill effective date is March 31, 2003.

The State Aeronautics Fund (SAF) would receive the first \$6.0 million, the city of Romulus would receive the next \$1.5 million, and 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". The bill also requires the county report annually to the Michigan State Treasurer on the use of the funds.

#### Appendix 2

## **Aeronautics Capital Programs – Recent Legislative History**

## PA 680 of 2002 (HB 4454) Airport Parking Tax Act

This bill amended the Airport Parking Tax Act to, among other things, earmark \$6.0 million to the SAF for safety and security projects at state airports, including reimbursement to the CTF for debt service on bonds used to provide state matching funds for federal funds.

# PA 530 of 2002 (HB 4343) FY 2001-02 Supplemental Appropriations

This bill appropriated \$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 did not appropriate bond proceeds.

# PA 518 of 2002 (SB 1099) FY 2002-03 Capital Outlay Appropriations

The bill appropriated \$212.0 million for the *Airport improvement programs* line item, and \$17.0 million for the *Airport safety and protection* line item. There was no clear distinction between the two line items. The Michigan Department of Transportation and the State Budget Office supported maintaining a single line item. Although not apparent in the bill, the State Budget Office indicates that the \$17.0 million ASAP appropriation, was comprised of \$15.0 million in federal funds and \$2.0 million from the SAF. The AIP appropriation was comprised of \$143.0 million in federal funds, \$43.0 million in local matching funds, \$12.0 million in CTF bond proceeds, and \$12.0 million GF/GP. The GF/GP funds were subsequently eliminated through EO 2003-3, and would be replaced with replaced with additional CTF bond proceeds HB 4032 (2003 Session).

# PA 561 of 2002 (HB 5651) FY 2002-03 Transportation Appropriations

The bill appropriates \$5.0 million from the SAF for ASAP debt service. The additional SAF revenue necessary to pay debt service would come from the redirection of Airport Parking Tax revenue made in HB 4454. Boilerplate language in Section 805 which made the appropriation contingent on the passage of HB 4454 was repealed by PA 560 of 2002 (SB 287) and replaced with new boilerplate section. The boilerplate change was made to correct a technical bill-drafting error.

#### Subsequent Events

The department has indicated that it will ask the State Transportation Commission at its April 2003 meeting for authority to issue up to \$60.0 million in CTF revenue bonds for various state airport capital programs. The department indicates that the initial bond sale, expected in early summer of this year, would be for \$24.0 million.

The Executive Capital Outlay budget recommendation for FY 2003-04 includes \$216.8 million for the line item "Airport safety, protection, and improvement program". The identified fund sources are \$160.0 million in federal revenue, \$42.8 million in local matching funds, \$12.0 million in CTF bond proceeds, and \$2.0 million from the SAF. The Executive budget does not make a distinction between the Airport Improvement Program projects, and "ASAP" projects. In fact, the Executive Capital Outlay budget does not include references to the "Airport Safety and Protection Plan" or to the "ASAP Plan". The Executive Transportation budget recommendation for FY 2003-04 also changes the name of the Aeronautics debt service line item from "Airport Safety and Protection Plan" to "Airport safety, protection, and improvement program"

#### Appendix 3

# Airport Parking Tax Revenue History of Statutory Earmark

The Airport Parking Tax Act, prior to amendment by HB 4454 (PA 680 of 2002), distributed approximately \$16.0 million per year to the Wayne County. The law did not designate how the county was to use the funds; Wayne County's share of Airport Parking Tax revenue was credited to the county 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. Specifically, there was no statutory requirement that the county use the Airport Parking Tax revenue for indigent heath care.

Nonetheless, 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.

The Airport Parking Tax was first enacted in 1987 as part of a package of bills of fiscal assistance to the county. Although Act did not require that the county use Airport Parking Tax revenue for indigent health care, 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."

HB 4454, as enacted, reduces Wayne County's share of Airport Parking Tax revenue from approximately \$16.0 million per year, to approximately \$7.8 million per year. HB 4454 also requires that the county use those funds for indigent health care.

Appendix 4
Airport Safety and Protection Plan
Five Year Funding Proposal

Fund Sources	FY 2001-02 Enacted	FY 2001-02 Supplemental <sup>(1)</sup>	FY 2001-02 Total	FY 2002-03 <sup>(2)</sup>	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	ASAP Total (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

#### Notes:

- 1). The State Budget Office identified Aeronautics programs in the FY 2001-02 supplemental appropriations bill as part of the ASAP Plan. The bill, HB 4373 (PA 530 of 2002) did not include appropriations of bond proceeds. The original FY 2001-02 Capital Outlay appropriation (PA 45 of 2001) was not shown as part of the ASAP Plan.
- 2). The FY 2002-03 Capital Outlay bill was SB 1099, (PA 518 of 2002). Note that the \$12.0 million shown as GF/GP would be replaced with CTF bond proceeds under EO2003-3 and HB 4032 (2003 Session).

Source: State budget office worksheet, February, 2002

Appendix 5
Michigan Capital Outlay Appropriations for Aeronautics
Summary by Fiscal Years 1997 – 2004

Fiscal Year	1996-97	1997-98	1998-99	1999-00	2000-01	2001-02	2002-03	Exec. Rec. 2003-04
Federal funds	\$61,442,500	\$65,511,000	\$65,511,000	\$83,069,000	\$98,976,000	\$138,722,000	\$160,000,000	\$160,000,000
State GF/GP SAF CTF Revenue CTF Bond Proceeds	2,000,000	19,000,000 4,000,000	10,000,000 4,000,000	14,900,000 4,000,000	21,300,000 2,000,000	16,400,000 2,000,000 9,600,000	2,000,000 24,000,000	2,000,000 12,000,000
Local	26,067,500	23,129,000	23,129,000	12,871,000	18,483,200	41,000,000	43,000,000	42,789,600
Total Appropriation	\$89,510,000	\$111,640,000	\$102,640,000	\$114,840,000	\$140,759,200	\$207,722,000	\$229,000,000	\$216,789,600
Line Item Description AIP ASAP Airport safety, protecti	\$89,510,000	\$111,640,000 vement	\$102,640,000	\$114,840,000	\$140,759,200	\$207,722,000 \$55,000,000	\$212,000,000 \$17,000,000	\$216,789,600

Source: Capital outlay appropriations bills

Appendix 6 State Aeronautics Fund Appropriation & Revenue History FY 1996-97 through FY 2003-04

Fiscal Year	<u>1996-97</u>	<u>1997-98</u>	<u>1998-99</u>	<u>1999-00</u>	<u>2000-01</u>	2001-02	2002-03	Exec. Rec. 2003-04
Bureau of Aeronautics Programs	\$7,716,300	\$8,508,400	\$9,048,500	\$7,897,100	\$7,773,200	\$6,952,200	\$5,809,600	\$6,518,900
IDGs, Administration, Planning	1,226,500	1,224,400	1,320,500	1,158,900	1,270,200	1,373,300	1,277,200	1,258,100
Debt Service							5,000,000	5,000,000
Subtotal - Transportation	\$8,942,800	\$9,732,800	\$10,369,000	\$9,056,000	\$9,043,400	\$8,325,500	\$12,086,800	\$12,777,000
Capital Outlay	2,000,000	4,000,000	4,000,000	4,000,000	2,000,000	2,000,000	2,000,000	2,000,000
Total SAF Appropriation	\$10,942,800	\$13,732,800	\$14,369,000	\$13,056,000	\$11,043,400	\$10,325,500	\$14,086,800	\$14,777,000
Revenue - Aeronautics taxes and fees - Airport Parking Tax Total SAF Revenue	\$9,951,363 	\$9,031,028	\$10,539,029 \$10,539,029	\$9,799,000	\$8,564,000	\$8,655,246 \$8,655,246	\$8,040,000 6,000,000 \$14,040,000	\$8,827,400 6,000,000 \$14,827,400
Difference Appropriations/Revenue	(\$991,437)	(\$4,701,772)	(\$3,829,971)	(\$3,257,000)	(\$2,479,400)	(\$1,670,254)	(\$46,800)	\$50,400
SAF Unreserved Year-end Balance - per CAFR	\$4,578,000	\$935,000	\$1,000	\$1,000	\$865,000	\$1,021,000		

Source: MDOT Budget Books, FY 2002-03 and 2003-04 revenue amounts from ORTA estimates, made February 2003. FY 2003-04 appropriations based on Executive Recommendations.