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112TH CONGRESS, 1st Session | HOUSE OF REPRESENTATIVES | REPT. 112–41 Part 1

AIRPORT AND AIRWAY EXTENSION ACT OF 2011

MARCH 29, 2011.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. MICA, from the Committee on Transportation and Infrastructure, submitted the following

REPORT

[To accompany H.R. 1079]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 1079) to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend the airport improvement program, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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PURPOSE OF LEGISLATION

The bill, H.R. 1079, extends the Federal Aviation Administration's (FAA) programs, taxes, and expenditure authority through

99–006

May 31, 2011, and allows Congress time to negotiate a final, multi-year FAA Reauthorization bill.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 1079, the "Airport and Airway Extension Act of 2011", extends aviation programs, taxes, and expenditure authority for two additional months, through May 31, 2011, pending completion of a multi-year FAA reauthorization bill. Without this short-term extension, the FAA's capital, research, and airport grant programs would shut down after March 31, 2011, and several thousand FAA employees would be furloughed. Additionally, the FAA would be unable to fund important airport safety and capacity projects, putting at risk a number of critical, job-creating projects throughout the country.

SUMMARY OF THE LEGISLATION

Section 1. Short title

Section 1 states that this Act may be cited as the "Airport and Airway Extension Act of 2011".

Section 2. Extension of taxes funding Airport and Airway Trust Fund

Section 2 extends the aviation excise taxes that support the Airport and Airway Trust Fund through May 31, 2011.

Section 3. Extension of Airport and Airway Trust Fund expenditure authority

Section 3 extends the FAA's authority to make expenditures from the Airport and Airway Trust Fund through May 31, 2011.

Section 4. Extension of airport improvement program

Section 4 provides $2,466,666,667 in contract authority for the FAA's Airport Improvement Program (AIP) for the eight-month period beginning on October 1, 2010. In addition, section 4 extends the FAA's authority to make new AIP project grants through May 31, 2011.

Section 5. Extension of expiring authorities

Section 5 extends various provisions of law that would otherwise have expired when the last long-term FAA reauthorization act (Vision 100–Century of Aviation Reauthorization Act, P.L. 108–176) expired on September 30, 2007.

Subsection (a) extends through May 31, 2011, the pilot program for passenger facility fee authorizations at nonhub airports.

Subsection (b) requires the extension of aviation war risk insurance policies at least through May 31, 2011.

Subsection (c) extends through May 31, 2011, the authority of the Secretary of Transportation to limit an airline's third-party liability for any claims arising from a terrorist event.

Subsection (d) extends through May 31, 2011, the requirement for airports that have been unable to accommodate a request by an air carrier for access to gates or airport facilities to report to the Secretary of Transportation on such unfulfilled requests.

Subsection (e) extends through May 31, 2011, the eligibility of airports located in the Republic of the Marshall Islands, Federated States of Micronesia, and the Republic of Palau to receive AIP grants.

Subsection (f) extends through May 31, 2011, the FAA's authority to make grants to State and local governments to support planning and projects with a goal of reducing non-compatible land uses around airports.

Subsection (g) extends through May 31, 2011, the FAA's authority to approve an application of the Metropolitan Washington Airports Authority to receive an airport development project grant or to impose a passenger facility fee.

Subsection (h) extends through May 31, 2011, the temporary increase in the Federal share of AIP project costs at small airports.

Subsection (i) extends through May 31, 2011, the FAA's authority to provide AIP discretionary grant funds (at a maximum level of $2.5 million per year) for airport development projects at Midway Island airport.

Subsection (j) provides that the amendments made by this section shall take effect on April 1, 2011.

LEGISLATIVE HISTORY AND COMMITTEE CONSIDERATION

On March 15, 2011, Chairman John L. Mica, Chairman Dave Camp, Chairman Thomas E. Petri, Ranking Member Nick J. Rahall, and Ranking Member Jerry F. Costello introduced H.R. 1079, the "Airport and Airway Extension Act of 2011." This bill has not been introduced in a previous Congress. On March 16, 2011, the Committee on Transportation and Infrastructure met in open session, and ordered the bill reported favorably to the House by voice vote with a quorum present. The Committee on Transportation and Infrastructure has not held any hearings on H.R. 1079.

RECORD VOTES

Clause 3(b) of rule XIII of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. During consideration of H.R. 1079, no record votes were taken. The bill was reported to the House with a favorable recommendation after a voice vote.

COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures' or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the enclosed cost estimate for H.R. 1079 from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 17, 2011.

Hon. JOHN L. MICA,
Chairman, Committee on Transportation and Infrastructure, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1079, the Airport and Airway Extension Act of 2011.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Megan Carroll.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 1079—Airport and Airway Extension Act of 2011

H.R. 1079 would extend through May 31, 2011, the existing taxes that are dedicated to the Airport and Airway Trust Fund (AATF) as well as the Federal Aviation Administration's (FAA's) authority to expend amounts credited to that fund. In addition, the bill would provide nearly $2.5 billion of contract authority (the authority to incur obligations in advance of appropriations, a mandatory form of budget authority) for the Airport Improvement Program (AIP) through May 2011—or $3.7 billion on an annualized basis. (Outlays from AIP contract authority are controlled by limitations on obligations set in annual appropriation acts and are therefore considered discretionary.)

Previously, the Airport and Airway Extension Act of 2010, Part IV (Public Law 111–329) extended aviation-related taxes through March 31, 2011, and the FAA's authority to expend amounts in the AATF through April 1, 2011. That act also provided nearly $1.9 billion of contract authority to AIP through March 31, 2011—or $3.7 billion on an annualized basis.

Pursuant to rules that govern the calculation of CBO's baseline, certain expiring programs—such as taxes credited to the AATF and contract authority for AIP—are assumed to continue beyond the scheduled expiration date for budget projection purposes. H.R. 1079 would continue both aviation-related taxes and AIP contract authority at levels that are consistent with those projected in CBO's baseline for 2011. As a result, CBO and the Joint Committee on Taxation estimate that enacting the bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO has determined that the nontax provisions of H.R. 1079 contain no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Megan Carroll. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objectives of this legislation are to extend the Federal Aviation Administration's (FAA) programs, taxes, and expenditure authority through May 31, 2011.

ADVISORY OF EARMARKS

In compliance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 1079 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of Rule XXI.

FEDERAL MANDATE STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the "Unfunded Mandates Reform Act" (P.L. 104–4).

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee states that H.R. 1079 does not preempt any state, local, or tribal law.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act are created by this legislation.

APPLICABILITY OF LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (P.L. 104–1).

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

INTERNAL REVENUE CODE OF 1986

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Subtitle D—Miscellaneous Excise Taxes

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CHAPTER 32—MANUFACTURERS EXCISE TAXES

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Subchapter A—Automotive and Related Items

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PART III—PETROLEUM PRODUCTS

* * * * * * *

Subpart A—Motor and Aviation Fuels

SEC. 4081. IMPOSITION OF TAX.

(a) * * *

* * * * * * *

(d) TERMINATION.—

(1) * * *

(2) AVIATION FUELS.—The rates of tax specified in subsection (a)(2)(A)(ii) and (a)(2)(C)(ii) shall be 4.3 cents per gallon—

(A) * * *

(B) after [March 31, 2011] *May 31, 2011*.

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CHAPTER 33—FACILITIES AND SERVICES

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Subchapter C—Transportation by Air

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PART I—PERSONS

SEC. 4261. IMPOSITION OF TAX.

(a) * * *

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(j) APPLICATION OF TAXES.—

(1) IN GENERAL.—The taxes imposed by this section shall apply to—

(A) transportation beginning during the period—

(i) * * *

(ii) ending on [March 31, 2011] *May 31, 2011*, and

(B) amounts paid during such period for transportation beginning after such period.

* * * * * * *

PART II—PROPERTY

SEC. 4271. IMPOSITION OF TAX.

(a) * * *

* * * * * * *

(d) APPLICATION OF TAX.—

(1) IN GENERAL.—The tax imposed by subsection (a) shall apply to—

(A) transportation beginning during the period—

(i) * * *

(ii) ending on [March 31, 2011] *May 31, 2011*, and

(B) amounts paid during such period for transportation beginning after such period.

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Subtitle I—Trust Fund Code

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CHAPTER 98—TRUST FUND CODE

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Subchapter A—Establishment of Trust Funds

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SEC. 9502. AIRPORT AND AIRWAY TRUST FUND.

(a) * * *

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(d) EXPENDITURES FROM AIRPORT AND AIRWAY TRUST FUND.—

(1) AIRPORT AND AIRWAY PROGRAM.—Amounts in the Airport and Airway Trust Fund shall be available, as provided by appropriation Acts, for making expenditures before [April 1, 2011] *June 1, 2011*, to meet those obligations of the United States—

(A) incurred under title I of the Airport and Airway Development Act of 1970 or of the Airport and Airway Development Act Amendments of 1976 or of the Aviation Safety and Noise Abatement Act of 1979 or under the Fiscal Year 1981 Airport Development Authorization Act or the provisions of the Airport and Airway Improvement Act of 1982 or the Airport and Airway Safety and Capacity Expansion Act of 1987 or the Federal Aviation Administration Research, Engineering, and Development Authorization Act of 1990 or the Aviation Safety and Capacity Expansion Act of 1990 or the Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992 or the Airport Improvement Program Temporary Extension Act of 1994 or the Federal Aviation Administration Authorization Act of 1994 or the Federal Aviation Reauthorization Act of 1996 or the provisions of the Omnibus Consolidated and Emergency Supplemental Appropriations

Act, 1999 providing for payments from the Airport and Airway Trust Fund or the Interim Federal Aviation Administration Authorization Act or section 6002 of the 1999 Emergency Supplemental Appropriations Act, Public Law 106-59, or the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century or the Aviation and Transportation Security Act or the Vision 100--Century of Aviation Reauthorization Act or any joint resolution making continuing appropriations for the fiscal year 2008 or the Department of Transportation Appropriations Act, 2008 or the Airport and Airway Extension Act of 2008 or the Federal Aviation Administration Extension Act of 2008 or the Federal Aviation Administration Extension Act of 2008, Part II or the Federal Aviation Administration Extension Act of 2009 or any joint resolution making continuing appropriations for the fiscal year 2010 or the Fiscal Year 2010 Federal Aviation Administration Extension Act or the Fiscal Year 2010 Federal Aviation Administration Extension Act, Part II or the Federal Aviation Administration Extension Act of 2010 or the Airport and Airway Extension Act of 2010 or the Airport and Airway Extension Act of 2010, Part II or the Airline Safety and Federal Aviation Administration Extension Act of 2010 or the Airport and Airway Extension Act of 2010, Part III or the Airport and Airway Extension Act of 2010, Part IV *or the Airport and Airway Extension Act of 2011*;

* * * * * * *

(e) LIMITATION ON TRANSFERS TO TRUST FUND.—

(1) * * *

(2) EXCEPTION FOR PRIOR OBLIGATIONS.—Paragraph (1) shall not apply to any expenditure to liquidate any contract entered into (or for any amount otherwise obligated) before [April 1, 2011] *June 1, 2011*, in accordance with the provisions of this section.

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TITLE 49, UNITED STATES CODE

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SUBTITLE VII—AVIATION PROGRAMS

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PART A—AIR COMMERCE AND SAFETY

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SUBPART I—GENERAL

* * * * * * *

CHAPTER 401—GENERAL PROVISIONS

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§ 40117. Passenger facility fees

(a) * * *

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(l) PILOT PROGRAM FOR PASSENGER FACILITY FEE AUTHORIZATIONS AT NONHUB AIRPORTS.—

(1) * * *

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(7) SUNSET.—This subsection shall cease to be effective beginning on [April 1, 2011.] *June 1, 2011.*

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SUBPART III—SAFETY

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CHAPTER 443—INSURANCE

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§ 44302. General authority

(a) * * *

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(f) EXTENSION OF POLICIES.—

(1) IN GENERAL.—The Secretary shall extend through [March 31, 2011,] *May 31, 2011,* and may extend through [June 30, 2011,] *August 31, 2011,* the termination date of any insurance policy that the Department of Transportation issued to an air carrier under subsection (a) and that is in effect on the date of enactment of this subsection on no less favorable terms to the air carrier than existed on June 19, 2002; except that the Secretary shall amend the insurance policy, subject to such terms and conditions as the Secretary may prescribe, to add coverage for losses or injuries to aircraft hulls, passengers, and crew at the limits carried by air carriers for such losses and injuries as of such date of enactment and at an additional premium comparable to the premium charged for third-party casualty coverage under such policy.

* * * * * * *

§ 44303. Coverage

(a) * * *

(b) AIR CARRIER LIABILITY FOR THIRD PARTY CLAIMS ARISING OUT OF ACTS OF TERRORISM.—For acts of terrorism committed on or to an air carrier during the period beginning on September 22, 2001, and ending on [June 30, 2011,] *August 31, 2011,* the Secretary may certify that the air carrier was a victim of an act of terrorism and in the Secretary's judgment, based on the Secretary's analysis and conclusions regarding the facts and circumstances of each case, shall not be responsible for losses suffered by third par-

ties (as referred to in section 205.5(b)(1) of title 14, Code of Federal Regulations) that exceed $100,000,000, in the aggregate, for all claims by such parties arising out of such act. If the Secretary so certifies, the air carrier shall not be liable for an amount that exceeds $100,000,000, in the aggregate, for all claims by such parties arising out of such act, and the Government shall be responsible for any liability above such amount. No punitive damages may be awarded against an air carrier (or the Government taking responsibility for an air carrier under this subsection) under a cause of action arising out of such act. The Secretary may extend the provisions of this subsection to an aircraft manufacturer (as defined in section 44301) of the aircraft of the air carrier involved.

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PART B—AIRPORT DEVELOPMENT AND NOISE

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CHAPTER 471—AIRPORT DEVELOPMENT

SUBCHAPTER I—AIRPORT IMPROVEMENT

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§ 47104. Project grant authority

(a) * * *

* * * * * * *

(c) EXPIRATION OF AUTHORITY.—After [March 31, 2011,] *May 31, 2011,* the Secretary may not incur obligations under subsection (b) of this section, except for obligations of amounts—

(1) * * *

* * * * * * *

§ 47107. Project grant application approval conditioned on assurances about airport operations

(a) * * *

* * * * * * *

(s) COMPETITION DISCLOSURE REQUIREMENT.—

(1) * * *

* * * * * * *

(3) SUNSET PROVISION.—This subsection shall cease to be effective beginning [April 1, 2011.] *June 1, 2011.*

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§ 47115. Discretionary fund

(a) * * *

* * * * * * *

(j) MARSHALL ISLANDS, MICRONESIA, AND PALAU.—For fiscal years 2004 through 2010, and for the portion of fiscal year 2011 ending before [April 1, 2011,] *June 1, 2011,* the sponsors of airports located in the Republic of the Marshall Islands, Federated

States of Micronesia, and Republic of Palau shall be eligible for grants under this section and section 47116.

* * * * * * *

§ 47141. Compatible land use planning and projects by State and local governments

(a) * * *

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(f) SUNSET.—This section shall not be in effect after [March 31, 2011.] *May 31, 2011.*

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PART C—FINANCING

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CHAPTER 481—AIRPORT AND AIRWAY TRUST FUND AUTHORIZATIONS

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§ 48103. Airport planning and development and noise compatibility planning and programs

The total amounts which shall be available after September 30, 2003, to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to make grants for airport planning and airport development under section 47104 of this title, airport noise compatibility planning under section 47505(a)(2) of this title, and carrying out noise compatibility programs under section 47504(c) of this title shall be—

(1) * * *

* * * * * * *

[(8) $1,850,000,000 for the 6-month period beginning on October 1, 2010.

[(8) $925,000,000 for the 3-month period beginning on October 1, 2010.]

(8) $2,466,666,667 for the 8-month period beginning on October 1, 2010.

Such sums shall remain available until expended.

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PART D—PUBLIC AIRPORTS

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CHAPTER 491—METROPOLITAN WASHINGTON AIRPORTS

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§ 49108. Limitations

After [March 31, 2011,] *May 31, 2011,* the Secretary of Transportation may not approve an application of the Metropolitan Washington Airports Authority—

(1) * * *

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VISION 100—CENTURY OF AVIATION REAUTHORIZATION ACT

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TITLE I—AIRPORT AND AIRWAY IMPROVEMENTS

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Subtitle C—AIP Modifications

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SEC. 161. TEMPORARY INCREASE IN GOVERNMENT SHARE OF CERTAIN AIP PROJECT COSTS.

Notwithstanding section 47109(a) of title 49, United States Code, the Government's share of allowable project costs for a grant made in fiscal year 2009 or 2010, or in the portion of fiscal year 2011 ending before [April 1, 2011,] *June 1, 2011,* under chapter 471 of that title for a project described in paragraph (2) or (3) of that section shall be 95 percent.

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Subtitle D—Miscellaneous

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SEC. 186. MIDWAY ISLAND AIRPORT.

(a) * * *

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(d) FUNDING TO SECRETARY OF THE INTERIOR FOR MIDWAY ISLAND AIRPORT.—The Secretary of Transportation may enter into a reimbursable agreement with the Secretary of the Interior for the purpose of funding airport development, as defined in section 47102(3) of title 49, United States Code, at Midway Island Airport for fiscal years ending before October 1, 2010, and for the portion of fiscal year 2011 ending before [April 1, 2011,] *June 1, 2011,* from amounts available in the discretionary fund established by section 47115 of such title. The maximum obligation under the agreement for any such fiscal year shall be $2,500,000.

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