

**ALASKA STATE LEGISLATURE
HOUSE TRANSPORTATION STANDING COMMITTEE**

March 29, 2012

2:09 p.m.

MEMBERS PRESENT

Representative Peggy Wilson, Chair
Representative Lance Pruitt, Vice Chair
Representative Eric Feige
Representative Cathy Engstrom Munoz
Representative Max Gruenberg
Representative Pete Petersen

MEMBERS ABSENT

Representative Craig Johnson

COMMITTEE CALENDAR

HOUSE BILL NO. 321

"An Act requiring certain airports in the state to apply for the federal security screening opt-out program; providing reimbursement to a municipality that applies for the federal security screening opt-out program; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 321

SHORT TITLE: STATE/MUNI. AIRPORT SECURITY SCREENING

SPONSOR(S): REPRESENTATIVE(S) CISSNA

02/15/12	(H)	READ THE FIRST TIME - REFERRALS
02/15/12	(H)	TRA, FIN
03/29/12	(H)	TRA AT 1:00 PM CAPITOL 120

WITNESS REGISTER

REPRESENTATIVE SHARON CISSNA
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified and answered questions as the sponsor of HB 321.

ANNA WHITE, Staff
Representative Sharon Cissna
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified on behalf of the sponsor of HB 321, Representative Sharon Cissna

MARK SABEL, Staff
Representative Sharon Cissna
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified on behalf of Representative Sharon Cissna, sponsor of HB 321.

BRENDA HEWITT, Legislative Liaison;
Chief Communications Officer
Department of Transportation & Public Facilities (DOT&PF)
Juneau, Alaska

POSITION STATEMENT: Testified and answered questions during the discussion of HB 321.

ACTION NARRATIVE

[2:09:19 PM](#)

CHAIR PEGGY WILSON called the House Transportation Standing Committee meeting to order at 2:09 p.m. Representatives Feige, Pruitt, Petersen and Wilson were present at the call to order. Representatives Munoz and Gruenberg arrived as the meeting was in progress.

HB 321-STATE/MUNI. AIRPORT SECURITY SCREENING

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CHAIR P. WILSON announced that the only order of business would be HOUSE BILL NO. 321, "An Act requiring certain airports in the state to apply for the federal security screening opt-out program; providing reimbursement to a municipality that applies for the federal security screening opt-out program; and providing for an effective date."

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REPRESENTATIVE SHARON CISSNA, Alaska State Legislature, introduced herself and her staff.

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ANNA WHITE, Staff, Representative Sharon Cissna, Alaska State Legislature, on behalf of the sponsor, stated that in early December 2011, the U.S. Department of Homeland Security (DHS) began installing and using full body scanners at four Alaska hub airports. Since then residents in the Lower 48, constituents, and Alaskans have complained of personal losses of carry-on items, embarrassment, harm to themselves and their necessary medical equipment, and of inappropriate touch and treatment by Transportation Security Agency (TSA) personnel. She reported Alaskans fly eight times more than the national average. Additionally, the TSA has greater impact on Alaska's transportation mobility given the necessity of using commercial airlines for interstate and intrastate travel. This bill would add a new section to Alaska's uncodified law to require Alaska's airports covered by the TSA screening apply for participation in TSA's Screening Partnership Program (SPP) by December 31, 2013. The federal SPP application is a simple four-page form. Inclusion in the SPP allows airports to opt-out from the TSA's hands-on management screening by specifically enabling privatization of that function, which will return high quality local control of security screening. The bill would also require the Alaska Department of Transportation & Public Facilities (DOT&PF) to reimburse reasonable costs incurred by airports for the SPP application process. She highlighted that opting out of TSA's screening by participating in the SPP will enhance security, bring local oversight, local accountability, and local jobs to Alaska's residents at the state's key airports.

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MARK SABEL Staff, Representative Sharon Cissna, Alaska State Legislature, recapped that HB 321 would require Alaska's airports covered by the TSA must apply for the federal SPP. He explained that the TSA developed the SPP to meet mandates outlined in the Aviation and Transportation Security Act in order to benefit from private sector expertise. Under the program, airports work in partnership to hire private screening companies to provide screening services under federal oversight. She stated that until recently the TSA was reluctant to initiate the program. He read a portion of a letter dated March 13, 2012, from the U.S. House of Representatives Chairman John Mica sent to all relevant airports, as follows:

Given the newly enacted changes to the SPP and the importance of good customer service and efficiency for airport operators, the Act provides you with the opportunity to consider converting to a certified private screening operation. Our committee is pleased to offer support should you consider such action at your airport.

MR. SABEL also read from the page two of the March 13, 2012 letter Chairman John Mica - the second to the last paragraph - which read:

I strongly encourage you to look closely at this program and to consider what participating in the SPP can do for your airport and the travelers that you serve ... In addition, security will not be compromised while screening costs and oversight will continue to be the responsibility of the TSA.

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MR. SABEL referred to the fiscal note, noting the state would not incur any expenses. He also referred to the application and instructions, which he characterized as a simple four-page application, including a signature page. Once approved, a private screening company would take over airport security screening, under supervision, noting the control would be by Alaska's companies. He pointed out that an airport can recommend specific screening companies as vendors, but are not required to do so. The recommendation does not need to be followed either, he said. He stated that U.S. Representative Mica would like further enhancements by allowing airports to control who they would like to hire for private screening. He referred to a list of Alaska's airports in members' packets. He related that most of the airports are owned by the DOT&PF, except for Red Dog mine, Ketchikan, and Juneau. He reiterated that the bill has a zero fiscal note, is pro-Alaska business, and would return control of screening to Alaskans.

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REPRESENTATIVE CISSNA expressed concern that the X-ray process TSA currently uses may cause health problems. The larger problem exists with the DHS's TSA since that agency does not receive oversight by the Congress or the DHS due to an agreement made in about 2005. She emphasized that the lack of oversight means the public does not have any proof of problems. She

viewed herself as somewhat of an authority since she had a personal experience with TSA and was public about it. She said she received about a thousand e-mails and letters in response to her personal experience. She estimated she received another 1,000 letters, telephone calls, emails, and personal contacts in the past year - often daily.

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REPRESENTATIVE CISSNA said that she has found the inconsistencies are consistent throughout airports. She related that the government and the Congress recognized additional screening was necessary in the early days after 9/11. She said she thought the TSA was put in place at that point. She offered her belief that while the Congress recognized the need for the TSA to provide screening, the SPP was developed to allow local airports to do an even better job. It began as a pilot program, which after several years became a permanent program to allow airports to privatize the service.

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REPRESENTATIVE CISSNA referred to the four-page application, which has been completely revised by the federal government. She pointed out that while the application process existed, the TSA's administrator did not approve any private contractors. The Congress held hearings and recently approved and demanded that the TSA accept the applications unless the airport could not prove it can meet the newly-enacted standards. She recapped the form was recently approved as part of the FAA Modernization and Reform Act of 2012, which was signed by President Obama. She recapped that the Act mandates that the TSA shall approve an SPP applicant if the newly-enacted standards are met. She referred to the outcome as a partnership with TSA ensuring that the airport screening is done in a professional manner.

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REPRESENTATIVE CISSNA alleged that unimaginable things have happened to people. She has heard two horror stories from Juneau alleging personal possessions have been stolen, other possessions have been removed from their hands, things are missing from their wallets, and people have experienced the types of touch that can be traumatic for people who have had prior trauma. She pointed out that this bill is critical since many competent companies exist and local companies benefit. She emphasized the importance of local oversight, since local

Alaskans understand the necessity for air travel in Alaska and to the Lower 48. She offered her belief that with DOT&PF's oversight, local companies can train personnel, which will help ensure that inappropriate touching does not occur. She suggested that some bizarre behaviors have resulted at airports. She further emphasized that with the appropriate supervision - and passengers have reported some Lower 48 airports in which they never experience problems - airports can treat people appropriately. She pointed out that the SPP program would initially be available to four airports in Alaska, which could be expanded to about 20 airports. She stressed that personnel will receive appropriate supervision and can perform the screening services appropriately, which will lead to local control. She predicted that the time is right and the likelihood for airports to be able to opt-out of the TSA's screening program. She offered her belief that Alaskans are different than other states. She suggested that this bill offers the potential for a very good solution.

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CHAIR P. WILSON referred to the title, which read, in part, "An Act requiring certain airports in the state to apply for the federal security screening opt-out program...." She questioned why the legislature would require airports to apply for an opt-out program.

REPRESENTATIVE CISSNA responded that she previously stated the reasons for the bill. She reiterated that Alaskans travel eight times more than the national average. She explained that every time Alaskans travel, in particular, to the Lower 48, many of them tend to combine trips and extend their travel, which results in numerous stops at airports during their trips. She related her understanding that people will not experience problems at some airports, but will at others.

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CHAIR P. WILSON pointed out the bill does not give any control over airports in the Lower 48.

REPRESENTATIVE CISSNA agreed. She related that most states have laws prohibiting touch and sexual actions. She said, "And in our state and in huge percentages of these other states the way that the TSA employees are told to touch are illegal." She characterized the way the TSA touches people as immoral touch. She acknowledged the reason is for security, but she pointed out

that not one person in U.S. in the past 10 years who has boarded a plane with anything that came close to explosives. She acknowledged two incidents happened that originated in other countries, but the perpetrators were apprehended by passengers on the planes. She said, "We have ten years of zero cases where the TSA has caught someone or for that matter we haven't had any cases where someone tried to get on a plane with explosive devices or trying to do any real damage."

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REPRESENTATIVE CISSNA related she is hyper vigilant due to issues she experienced in her childhood, noting that is a mental health issues, but approximately 2,000 people have been touched inappropriately, lost things, or had damage. She noted that federal law trumps state law, but this bill would give a doorway to ensure the administrative procedures provide some remedy for people who cannot handle touching.

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CHAIR P. WILSON referred to page 2, line 3, indicates this is subject to appropriation. She interpreted that to mean every municipality will need to apply to the program without any guarantee they will receive reimbursement for their costs.

REPRESENTATIVE CISSNA deferred to the DOT&PF. She added that the DOT&PF has submitted a zero fiscal note because after application, the costs are covered by the TSA.

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CHAIR P. WILSON related her understanding the only costs covered by TSA is the application process.

REPRESENTATIVE CISSNA reiterated that Alaska is unusual as a state since most airports are owned by the DOT&PF or municipal airports. She pointed out that the TSA does not pay rent or fees to the municipal or state airports.

MR. SABEL pointed out that the bill would establish a contractual arrangement between TSA and the private screeners. He quoted from a March 15, 2012 New York Times article which read, "... The private screeners have to follow T.S.A. guidelines and fall under its supervision, although the agency will not conduct private screeners' training. The T.S.A. will pay for the private screeners." He recapped that the screening

process would be done through a contractual arrangement between the private contractor - the security company - and the federal government.

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CHAIR P. WILSON related her understanding that essentially the state would place the cost extra cost on the federal government.

MR. SABEL answered no. He said that it would not be extra cost, but a transfer of cost since it would be private contractors and not the TSA personnel. He referred to an executive summary of a report that details the potential cost savings to the federal government from implementing the SPP.

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CHAIR P. WILSON did not envision the program. She related her understanding that private people performing the screening with TSA supervising, which seemed to translate to more people providing the services.

REPRESENTATIVE CISSNA stated that the TSA budget is several billion dollars per year, with a huge number of employees at airports. She has not heard any indication that of any cost to the state, although she acknowledged it must cost something. She was unsure of the detailed financial information, but stated that the contract is paid for by the TSA.

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CHAIR P. WILSON questioned who would provide the training.

REPRESENTATIVE CISSNA answered that the TSA will provide the training.

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CHAIR P. WILSON questioned how this process will improve the screening outcome since TSA currently trains screening personnel, which allegedly is problematic, but under the program the TSA will continue to train the airport screeners, which will be SPP's personnel.

REPRESENTATIVE CISSNA offered her belief that the outcomes will change with the administration.

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BRENDA HEWITT, Legislative Liaison/Chief Communications Officer, Department of Transportation & Public Facilities (DOT&PF), related her understanding that under the program the TSA will contract with the private contractor to train private contractor personnel. She also related her understanding that the cost will remain the same.

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CHAIR P. WILSON again questioned how this process would improve the screening outcome.

MS. HEWITT answered that different people would conduct the screening.

CHAIR P. WILSON asked how the department knows the people will be different ones.

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REPRESENTATIVE CISSNA agreed the questions were good ones. She acknowledged that additional expertise is needed. She offered from her own experience that she has contracted out services. She pointed out the DOT&PF will select the private firms to fill the contractor. She recalled that San Francisco has privatized airport screening, which has resulted in significantly fewer complaints, faster service, and with significant less cost to the TSA.

MS. HEWITT pointed out that 18 airports have privatized the screening process.

REPRESENTATIVE CISSNA related that airports will have until March 2013 to opt-out. She has reviewed the forms and the contractors must indicate why their service will be better than the current service offered by the TSA.

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REPRESENTATIVE PETERSEN asked whether the state would be allowed to set up its own criteria, which would be different than the TSA's criteria for an airport that has opted-out by using the SPP or if the airport would still need to follow the TSA's criteria.

MS. HEWITT answered that the TSA has the criteria that must be met and contracts with the private contractor to do so. She characterized it as more of who wears the shirt; however, she offered her belief that hiring from the private sector would likely be hiring someone from Alaska.

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REPRESENTATIVE CISSNA said she has a strong belief hiring screening can be put in place so pedophiles cannot be hired. She emphasized that information is not available, that TSA does not have open reports. Further there is not any third-party oversight so it is not possible to determine if a TSA employee has been arrested. She surmised from conversations she has held that some people have problems.

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REPRESENTATIVE PETERSEN recalled an earlier comment that people are able to go through the screening process more quickly in San Francisco. He questioned what might account for that and whether the San Francisco airport decided not to search babies or wheelchairs, which takes considerable time. He suggested that screeners could use more common sense and judgment since the likelihood is pretty low a mother would strap a bomb on her baby so he suggested that eliminating that type of search could lead to security screening lines that flow more quickly and be less intrusive.

REPRESENTATIVE CISSNA offered her belief that the TSA employees are not trained to screen people who are medically needy or have contagious diseases, including those who have just had surgery. She pointed out that Alaskans regularly travel to major hospitals in the Lower 48. She expressed concern that she heard from people that TSA's personnel have put their fingers in open wounds or bandages have been removed. She offered her belief that those types of things would not happen if airports had local control. She pointed out that the current costs are astounding in this multi-billion dollar screening program. While the Congress is slow to act it seems to be a hot topic right now. She offered her belief that privatizing the TSA screening may end up helping Alaskans gain employment. She surmised that the SPP program process may help change TSA rules.

CHAIR P. WILSON pointed out that the TSA employees at the Wrangell airport are local people.

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REPRESENTATIVE MUNOZ asked whether the TSA employees are unionized.

REPRESENTATIVE CISSNA recalled unions may something the Congress is currently considering, which could open up the process and would be a good thing.

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MR. SABEL referred to the U.S. House of Representatives Committee on Transportation and Infrastructure report dated June 3, 2011 in members' packets. He then referred to page 3, item (9), which read, "There is evidence that TSA officials erroneously claimed no communication with union representatives about the SPP."

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REPRESENTATIVE MUNOZ asked whether they are trying to be unionized.

MR. SABEL answered he was unsure of the current status.

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REPRESENTATIVE MUNOZ recalled four airports with existing private programs. She inquired as to whether they were approved through this process.

MR. SABEL answered that 16 airports nationwide are privatized.

REPRESENTATIVE MUNOZ asked whether they were approved using the opt-out process.

REPRESENTATIVE CISSNA answered that Juneau is municipal airport. She was unsure of the Ketchikan airport's administration.

REPRESENTATIVE MUNOZ clarified that she was interested in the Lower 48 airports that have been privatized, such as San Francisco airport.

REPRESENTATIVE CISSNA answered that initially they were approved post 9/11.

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REPRESENTATIVE MUNOZ asked whether the Lower 48 privatized airports had demonstrated any cost savings and if any cost comparisons were available.

REPRESENTATIVE CISSNA said she did not know.

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REPRESENTATIVE MUNOZ asked whether has the TSA has the authority to deny an application.

REPRESENTATIVE CISSNA answered that TSA Administrator Pistole makes the decision. In further response to Representative Munoz, Representative Cissna answered that she believed this would apply to municipal and state-owned airports.

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MS. HEWITT explained that HB 321 requires the DOT&PF to apply to opt-off of the TSA screening for 24 airports - 18 state and 6 municipal airports.

REPRESENTATIVE MUNOZ related her understanding that once the application is made the state is not guaranteed a positive response.

MS. HEWITT answered no. She related her understanding that if the program is reinstated there is not any guarantee.

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REPRESENTATIVE GRUENBERG asked for the DOT&PF's position on the bill.

MS. HEWITT answered that if the legislature directs the department to apply for the federal SPP program, the DOT&PF will apply for the federal program. Thus it does not necessarily affect the department since the DOT&PF only needs to provide screening at airports.

REPRESENTATIVE GRUENBERG remarked that the department does not seem vehemently opposed to the bill.

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REPRESENTATIVE PETERSEN recalled that a program is being created so people can obtain background checks and obtain cards that will allow them to walk around the screening device. He asked whether large numbers of people have made such applications and if it may be a program that the legislature could encourage Alaskans to use and also inform them the program exists.

REPRESENTATIVE CISSNA agreed Alaskans should be encouraged to fill out those forms. She has not heard of great success with the program. It is difficult to know whether the program is actually issuing cards, but if so, that would be one way to address the issue; however, she pointed out Alaskans travel more and use different modes of travel. Sometimes people use multiple modes of transportation, such as boat or ferry to get to the airport. She highlighted that in some places people can't even obtain driver's licenses let alone a TSA form. She suggested that educating the public is a really tough thing to do. She has observed an increase in the numbers of people that are affected. She emphasized she wants to provide help to people. This bill would provide some certainty in the future.

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CHAIR P. WILSON commented that she set aside this meeting in anticipation of a significant amount of testimony. She suggested that thus far the testimony has been supposition in terms of TSA's rules. She planned to set the bill aside and indicated the committee needs some experts from TSA to explain the program. She suggested uncertainty about the necessity of the program exists since reimbursement for costs is not guaranteed. She noted reimbursement is subject to appropriation. She asked the sponsor to research whether the TSA would allow the state to operate its screening programs differently or if it would need to adhere to TSA's rules. She asked whether the municipalities would receive total reimbursement. She further asked whether the TSA would provide training or if the state [DOT&PF] would provide the training to the private vendors who will conduct the screening. She emphasized that it is difficult to determine the fiscal impact unless these questions are answered.

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REPRESENTATIVE MUNOZ asked whether it would be possible to have someone from TSA answer questions at a subsequent hearing.

REPRESENTATIVE CISSNA offered to do so. She suggested it may take a great deal of effort to compile the information and wondered if the legislature will still have time to address the bill this session. In further response to Chair Wilson, Representative Cissna remarked that things are happening to Alaskans at our airports. The Congress has not made progress for over a year, but they are just now beginning to address the issues. She would like the state to protect Alaskans in every way possible. She said she was fairly positive the federal government will pay for the SPP program since TSA currently has the program and the Congress has passed [the FAA Modernization and Reform Act of 2012] which authorizes changes to screening at airports.

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CHAIR P. WILSON reiterated that the committee needs to know whether Alaska can do the training or if TSA needs to do it.

REPRESENTATIVE CISSNA offered to meet to discuss this further.

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REPRESENTATIVE GRUENBERG asked whether Representative Cissna's staff could recap the questions for her.

MR. SABEL agreed to do so.

REPRESENTATIVE GRUENBERG related his understanding of the direction the sponsor was taking, but he was not certain if the issue was totally fleshed out. He offered to help.

[HB 321 was held over.]

[3:05:36 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Transportation Standing Committee meeting was adjourned at 3:05 p.m.