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# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB238  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (02/06/02): \_\_\_\_\_ Dept. Affected: DOT&PF  
 Title An act relating to state plans and BRU Statewide Aviation  
programs for the safety and security of facilities and systems... Component Statewide Aviation  
 Sponsor Rules by Request  
 Requester SSTA Component No. 1811

**Expenditures/Revenues (Thousands of Dollars)**

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual	10.0					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>10.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>	***	***	***	***	***	***
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**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF	10.0					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other	0.0					
<b>TOTAL</b>	<b>10.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2002) cost: 0.0  
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)  
 \*\*\*The department expects to generate a small amount of revenue \$25.0-\$50.0 in the first year of fine implementation. However, annual revenues should decrease as the fines force users to pay more attention to security procedures.  
  
 The funding request is to cover the cost of adopting regulations to implement section 1 of the bill. These costs are split between the Alaska International Airport System and Statewide Aviation.

Prepared by: Dennis R. Poshard, Assistant to the Commissioner Phone 465-3904  
 Division: Commissioner's Office Date/Time 2/7/02 2:03 PM  
 Approved by: Joseph L. Perkins, Commissioner Date 2/7/2002  
 Agency: Alaska Department of Transportation and Public Facilities

# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB238  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (02/15/02): \_\_\_\_\_ Dept. Affected: DOT&PF  
 Title An act relating to state plans and BRU Ted Stevens Anchorage International  
programs for the safety and security of facilities and systems... Component Anchorage Airport Safety  
 Sponsor Rules by Request  
 Requester SSTA Component No. 610

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual	10.0					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>10.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>	***	***	***	***	***	***
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (International Airports Revenue Fund)	10.0					
<b>TOTAL</b>	<b>10.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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Prepared by: Dennis R. Poshard, Assistant to the Commissioner Phone 465-3904  
 Division: Commissioner's Office Date/Time 2/7/02 2:01 PM  
 Approved by: Joseph L. Perkins, Commissioner Date 2/7/2002  
 Agency: Alaska Department of Transportation and Public Facilities

22-GS2091\C  
Bannister  
2/12/02

**CS FOR SENATE BILL NO. 238( )**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-SECOND LEGISLATURE - SECOND SESSION**

**BY**

**Offered:  
Referred:**

**Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to state safety plans, programs, and procedures and to systems,  
2 facilities, and infrastructure in the state; exempting from public inspection as public  
3 records certain records and information relating to state safety plans, programs, and  
4 procedures; and providing for an effective date."

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 \* Section 1. AS 40.25.120(a) is amended by adding a new paragraph to read:

7 (10) records or information pertaining to a plan, program, or  
8 procedures for establishing, maintaining, or restoring security in the state, or to a  
9 detailed description or evaluation of systems, facilities, or infrastructure in the state,  
10 but only to the extent that the production of the records or information

11 (A) could reasonably be expected to interfere with the  
12 implementation or enforcement of the security plan, program, or procedures;

13 (B) would disclose confidential guidelines for investigations or  
14 enforcement and the disclosure could reasonably be expected to risk

1 circumvention of the law; or

2 (C) could reasonably be expected to endanger the life or  
3 physical safety of an individual or to present a real and substantial risk to the  
4 public health and welfare.

5 \* Sec. 2. AS 44.17.032 is amended by adding a new section to read:

6 **Sec. 44.17.032. Orders for state security plans, programs, and procedures.**

7 (a) Notwithstanding any contrary provision of law, the principal executive officer of  
8 each state agency may issue an order to implement its statutory authority relating to  
9 the adoption of a plan, program, or procedure for establishing, maintaining, or  
10 restoring security within the state. An order issued under this section is not subject to  
11 AS 44.62 (Administrative Procedure Act) and takes effect immediately unless a later  
12 effective date is specified. An announcement shall be publicly issued concerning an  
13 order issued under this section. This section applies only to plans, programs, or  
14 procedures for which the principal executive officer certifies in the order that  
15 compliance with the regulation adoption provisions of AS 44.62

16 (1) could reasonably be expected to interfere with the implementation  
17 or enforcement of the security plan, program, or procedures;

18 (2) would disclose confidential guidelines for investigations or  
19 enforcement and the disclosure could reasonably be expected to risk circumvention of  
20 the law; or

21 (3) could reasonably be expected to endanger the life or physical safety  
22 of an individual.

23 (b) An order issued under this section is enforceable in the same manner as a  
24 regulation adopted under the issuing officer's statutory authority relating to the plan,  
25 program, or procedure that is the subject of the order.

26 \* Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

## SECTIONAL ANALYSIS OF SB 238

(Re state plans and programs for safety and security of facilities and systems)

Section 1 adds a new section to the Alaska Aeronautics Act (AS 02.15) to allow the Department of Transportation and Public Facilities (DOT/PF) to impose civil administrative penalties of up to \$1100 per incident for violations of an airport security program. Currently, under federal law the Federal Aviation Administration (FAA) may assess a civil penalty of up to this amount for violation of the airport security programs (which are FAA approved). However, the penalty is levied against the state even though nearly all violations are the result of the conduct of airport tenants and contractors. Presently DOT/PF can only pass these fines through to the tenants and contractors under applicable contracts. This amendment will allow DOT/PF to directly fine the responsible parties. This should encourage quicker resolution of airport security violations.

Section 2 amends the exceptions to the public records statute (AS 40.25.120) to provide that records or information pertaining to a security plan, program, or procedures or to a detailed description or evaluation of systems, facilities, or infrastructure in the state are not publicly accessible, to the extent one of the following factors exists. These records or information will be excluded from disclosure to the extent that dissemination: (A) could reasonably be expected to interfere with the implementation or enforcement of the security plan, program, or procedures; (B) would disclose confidential guidelines for investigations or enforcement and the disclosure could reasonably be expected to risk circumvention of the law; or (C) could reasonably be expected to endanger the life or physical safety of an individual or to present a real and substantial risk to the public health and welfare.

Section 3 amends AS 44.17 (organization and administration of departments) to add a new section providing that the principal executive officer of each state agency, or board or commission with regulation adoption authority, may adopt a security plan, program, or procedure within its statutory authority by order. The order adopting the security plan, program, or procedure is not subject to the Administrative Procedure Act (APA, AS 44.62), therefore a public notice, review, and comment process is not required. For this section to apply, the principal executive officer must certify that compliance with the APA either: (A) could reasonably be expected to interfere with the implementation or enforcement of the security plan, program, or procedures; (B) would disclose confidential guidelines for investigations or enforcement and the disclosure could reasonably be expected to risk circumvention of the law; or (C) could reasonably be expected to endanger the life or physical safety of an individual.

3-mechanisms

FAA fine for violation of FAA regs

① ↳ contractual arrangement allows pass-through (tenants only)  
• FAA fine  
• They report to FAA

② Badged security individual can be stripped

③ Criminal charge (misdemeanor) can be filed

they need another tool to enforce rules/regs.

Int'l Airports don't run into very many problems

↳ IA Security Personnel

Rural, smaller airports are where they have the most difficulty

What about "secure" programs not subject to APA?

↳ if it requires a change in the way the public interacts or uses a public facility, it has to go through APA