

**ALASKA STATE LEGISLATURE
LEGISLATIVE COUNCIL**

**JANUARY 13, 2022
2:00 PM**

MEMBERS PRESENT

Representative Sara Hannan, Chair
Senator Lora Reinbold, Vice Chair
Representative Matt Claman
Representative Bryce Edgmon
Representative Neal Foster
Representative Louise Stutes
Representative Cathy Tilton
Representative Chris Tuck
Senator Click Bishop
Senator Peter Micciche
Senator Mike Shower
Senator Bert Stedman
Senator Gary Stevens

MEMBERS ABSENT

Senator Lyman Hoffman
Senator Shelley Hughes (alternate)

OTHER MEMBERS PRESENT

Representative DeLena Johnson

AGENDA

APPROVAL OF AGENDA
COMMITTEE BUSINESS
COMMITTEE BUSINESS - EXECUTIVE SESSION

SPEAKER REGISTER

Jessica Geary, Executive Director, Legislative Affairs Agency
(LAA)
Dr. Tom Hennessy, Captain, US Public Health Service (retired)

[2:05:25 PM](#)

I. CALL TO ORDER

CHAIR HANNAN called the Legislative Council meeting to order at 2:05pm in the House Finance Committee Room. Present at the call were: Representatives Claman, Edgmon, Foster, Hannan, Stutes, Tuck; Senators Bishop, Micciche, Reinbold, Shower, Stedman, Stevens.

Members absent were Senators Hoffman, Hughes.

Twelve members present.

Representative Tilton joined the meeting at 2:08pm.

REPRESENTATIVE CLAMAN moved that Legislative Council rescind their actions in failing to approve the transfer of funds to 2022 session per diem that took place at the December 16, 2021, Legislative Council Meeting.

CHAIR HANNAN asked if members wanted to speak to the motion.

SENATOR REINBOLD asked that the motion be restated.

CHAIR HANNAN said the motion is to rescind the Council's action that took place December 16, 2021 - specifically that Legislative Council approve the transfer of one million, nine hundred and ninety-five thousand dollars (\$1,995,000) from existing legislative capital funds to the legislative operating budget salaries and allowances allocation for the purpose of paying FY22 legislator session per diem, and further move that Legislative Council support the restoration of the governor's FY22 veto in a supplemental appropriation; once approved the transfer will be reversed. She asked if there was any discussion on the motion to rescind.

SENATE PRESIDENT MICCICHE asked the maker of the motion to please explain the motion's impact.

REPRESENTATIVE CLAMAN responded that the purpose of the motion, considering the governor's veto of the legislature's per diem for the 2022 session, would allow the legislature to pay per diem to members now at the beginning of session and would be reimbursed later in the year when the money is appropriated.

CHAIR HANNAN noted that Representative Tilton joined the meeting at 2:08pm. She asked if there was other discussion on the motion to rescind action.

SENATOR SHOWER asked if this was specific to regular session 2022.

CHAIR HANNAN responded yes, the original motion that did not pass was just regular session per diem.

SENATOR STEVENS said it makes sense to proceed this way. The other option was to wait until a supplemental passed and the Co-Chair of Senate Finance indicated that may not happen until very late in the session. If so, then members would spend the entire session without receiving per diem which he said was unfair. He said this is an excellent motion and intended to vote for it.

CHAIR HANNAN asked if members were ready for a vote on the motion to rescind and clarified that a yes vote puts back before the committee the main motion. She then requested a roll call vote.

[2:11:14 PM](#)

A roll call vote was taken.

YEAS: Representatives Claman, Edgmon, Foster, Hannan, Stutes, Tuck; Senators Bishop, Micciche, Reinbold, Shower, Stedman, Stevens.

NAYS: Representative Tilton.

The motion to rescind passed 12-1.

CHAIR HANNAN restated the original motion and moved that legislative council approve the transfer of one million, nine hundred and ninety-five thousand dollars (\$1,995,000) from existing legislative capital funds to the legislative operating budget salaries and allowances allocation for the purpose of paying FY22 legislator session per diem. She further moved that Legislative Council support the restoration of the governor's FY22 veto in a supplemental appropriation; once approved the transfer would be reversed. She asked if there was discussion.

SENATOR SHOWER said he thinks per diem is a little high, however the loss of income from his primary job during session is concerning. This issue makes it difficult for many members to serve and reinforces that per diem's purpose is to help

offset the cost. He said he supports this motion because he supports a citizen legislature.

SENATOR STEDMAN said this year, the governor's veto was an anomaly, there has always been an agreement over multiple governors to let each branch run their own affairs. He said we need to reconstitute the per diem and move forward with the session. He also noted that it can be very hard financially for some legislators, especially those with families, to maintain a second household during session and he was in favor of the motion.

REPRESENTATIVE TILTON said she agrees with the points made by previous speakers about the financial impact to legislators in Juneau for session but believes a better option is to quickly pass the supplemental budget, which includes an appropriation for session per diem. She said while she does not necessarily agree with the fact that it was vetoed in the first place she does not support this motion.

CHAIR HANNAN, in response to questions by Senator Reinbold about the State Officers Compensation Committee report, said the report had not yet been finalized and believed the committee would meet again on Monday to vote on a final plan. The Legislature has 60 days to act on the final report.

SENATOR REINBOLD said the executive and legislative branches have become too entwined, that the Legislature is about two percent of the overall budget, and while she agreed per diem should be reduced, she supports this motion.

SENATOR STEVENS said just because they pass the motion, it does not mean that everyone must apply for per diem. In the past, there have been legislators who chose not to take per diem because they were wealthy, did not need it, or maybe had a moral objection to per diem. He said that everyone on Legislative Council received per diem. It was something they apply for and anyone who chose not to receive per diem will not receive it.

CHAIR HANNAN clarified that not all members of Legislative Council received per diem, herself being one of them. She asked Jessica Geary if members had to apply for regular session per diem.

EXECUTIVE DIRECTOR GEARY said that during a regular session, per diem was paid automatically, though members had the option to reject per diem by issuing something in writing to the accounting office.

REPRESENTATIVE CLAMAN noted that the salary commission's action would not go into effect until after the next election, so it would not have any effect this year. He said he supported getting per diem started.

[2:24:02 PM](#)

A roll call vote was taken.

YEAS: Representatives Claman, Edgmon, Foster, Stutes, Tuck; Senators Bishop, Micciche, Shower, Stedman, Stevens, Reinbold, Hannan.

Nays: Representative Tilton.

12 YEAS, 1 NAY.

The motion passed 12-1.

II. APPROVAL OF THE AGENDA

[2:25:57 PM](#)

SENATE PRESIDENT MICCICHE moved and asked unanimous consent that the agenda be approved.

The agenda was approved.

III. COMMITTEE BUSINESS

A. Review of Legislative Council COVID-19 Mitigation Policy and Related Matters

CHAIR HANNAN said the first item on the agenda was a review of the COVID mitigation policy and related matters, that Executive Director Geary was on hand for discussion of the COVID mitigation policy, and Dr. Hennessey was available for questions.

SENATOR SHOWER said there was an epidemiologist and a health expert from Anchorage who had called in. He requested that they be allowed, if there were questions to be answered so there would be a broader perspective.

CHAIR HANNAN said they have vetted one doctor who had advised them for the last two years on the development of their COVID-19 protocols and they have continued that relationship with Dr. Hennessey through his generosity to donate his time. She asked if there was a question about the current mitigation

policy. She asked Senator Shower if he had a proposal to amend it.

SENATOR SHOWER said there were several that were going to come up, but he wanted to have the debate first and the question he had was whether the efficacy of masks was useful and what type of masks should be worn, social distancing, the various shots, etc. He said he hoped to have a differing perspective from the epidemiologist.

CHAIR HANNAN said it was not a debate over COVID-19 or state policies, only policies that would affect the Capitol Complex and workers, and they were not there to engage in executive branch powers or agencies. If Senator Shower had a specific action, wished to amend the policy, or had a specific question to address he could raise it.

SENATOR STEVENS asked what the City of Juneau's requirement was. He said he wanted to make sure they were following current CBJ guidance.

CHAIR HANNAN said CBJ's policy was that with indoor public settings people were masked.

SENATOR STEVENS said as part of the community, and the legislature certainly appreciates the generosity of the community of Juneau, he thought they needed to comply with the rules they have established.

SENATE PRESIDENT MICCICHE said he wanted to remind the body that Legislative Council was representing the legislature in a building that was not subject to CBJ laws.

CHAIR HANNAN said she wanted to constrain the discussion to the COVID mitigation policy. She asked if members wanted to make a motion or had a question about the current mitigation policy.

SENATOR REINBOLD said she had thirteen questions that she emailed to Chair Hannan's office. She had sent a letter to Dr. Zink about a month ago with thirteen critical questions and they were directly related to the policy, and she wanted to ask some here.

CHAIR HANNAN said they did not have the questions, Dr. Zink was not with them, and reminded members that the questions needed to be about the COVID mitigation policy, or she would rule them out of order. The issue was exclusively on the

mitigation policy that Legislative Council oversaw. She asked Senator Reinbold to ask her first question.

SENATOR REINBOLD asked several detailed COVID-19 related questions that CHAIR HANNAN ruled out of order because they were not related to the policy.

SENATOR REINBOLD asked how her questions were ruled out of order.

CHAIR HANNAN said Senator Reinbold was asking for clinical evidence. She asked if the Senator would like to rephrase her questions so that it addressed their policy.

SENATOR REINBOLD said that if someone chose to wear a mask, they should wear one, by requiring it, they need the clinical evidence that they work and she believed in medical choice, most of them either had COVID-19 or were vaccinated. She said her point was it has been a masquerade and people did not wear them in their offices or meetings, they pulled them down, touched them, they were full of bacteria, they were not being used like they were in surgical settings, etc. She said it was ridiculous to require testing for people in the building every four days, and not the public. She said it was illegal to mandate something that was under emergency use and the science was all over the place on masks. It would possibly have all sorts of negative side effects. She moved that masks be optional in the Capitol, in addition to testing.

CHAIR HANNAN asked Senator Reinbold if she wanted to rephrase her comment as a motion.

SENATOR REINBOLD moved masks and testing would be available, but optional.

SENATE PRESIDENT MICCICHE moved to separate the question.

CHAIR HANNAN asked Senator Reinbold if she was ok with the separation of the question so that masks and testing were two separate motions.

SENATE PRESIDENT MICCICHE, responding to a request for explanation by Senator Reinbold, said he thought there was different logic in different areas, and he wanted to discuss the testing option at length, he has some points about required cycle testing and he thought they are separate from the mask issue.

SENATOR REINBOLD said she would prefer they were together, but she knows they must go with the will of the body.

CHAIR HANNAN called a brief at ease to confirm parliamentary procedure that the motion to separate was not a debatable motion.

2:38:56 PM

A roll call vote was taken on Senator Micciche's motion to amend.

YEAS: Representatives Claman, Edgmon, Foster, Stutes, Tilton, Tuck, Hannan; Senators Bishop, Micciche, Shower, Stedman, Stevens.

NAYS: Senator Reinbold

12 YEAS, 1 NAY.

The motion to amend passed 12-1.

SENATOR REINBOLD, at Chair Hannan's request, repeated her motion that masks be optional in the COVID-19 mitigation policy.

SPEAKER STUTES asked if the policy change affected only legislators and staff in the building, or the public visiting the building as well. She said if masking was optional for legislators, staff, and the public in the building, what would the purpose of the masks be then? She understood that masks were to protect others and somewhat yourself, but if that's a hit or miss, she was a little confused as to the benefit.

SENATOR STEVENS said this is not his area of expertise, so he relies on what he learns from others. He said that recently Dr. Jones in Kodiak shared how he always wore a mask in public not for himself, but for other people because he is exposed to the disease in his line of work; Dr. Jones said that people should just grow up and wear masks to protect other people. Senator Stevens thought that was a strong statement so he would be in favor of continuing the mask policy, but would like to hear from the epidemiologist, Dr. Hennessey, on the issue of masks before a vote.

DR. TOM HENNESSEY said he agreed with the physician from Kodiak, that there was strong evidence that masks provided benefit and there was a strong scientific consensus that masks helped prevent the transmission of COVID. They really worked in two ways – many people with COVID were asymptotically

infected and could still spread the virus so putting a mask on that person was a matter of source control; in medical facilities they have people wear a mask so they do not spread the virus inadvertently and so there was a value in preventing the spread of it that way, and then for the wearer of the mask in encountering somebody who may be infected, there was a reduction in the risk of acquiring COVID for the mask wearer. So, the best situation was really to have everyone masked since about fifty percent of transmission of COVID occurs from people who did not know that they had the infection. Since that is the situation with influenza, they knew that mask use could prevent the spread in those settings, so he said that by making masks optional, it exposes the legislature to increased risk of COVID transmission and threatened transmission in an outbreak in their setting. He said the most conservative approach would be to maintain the mask requirement that was endorsed by public health, scientific, and medical experts.

REPRESENTATIVE TILTON said there was also a CNN article that said masks were basically a face decoration and not effective with the Omicron virus. She said she hoped there was somebody online who could give them another viewpoint. She said that even with masking in the City and Borough of Juneau, even with masking and a high level of vaccination, Juneau had a high rate of the virus. So, if masking and vaccination had worked, there should not be a high rate and if compared to other areas, such as the area she is from where they did not have any kind of mandatory masking or vaccination, they did not have a high rate in comparison. That is why she supported optional masking. She thought it should be a personal responsibility. She requested that they look at that being an option.

CHAIR HANNAN said that Juneau only restored an indoor masking mandate on Monday of this week, well into the Omicron surge that they were experiencing.

SENATOR REINBOLD asked Dr. Hennessey for all the clinical data, types of masks, how to wear them, and proof of asymptomatic transmissions. She asked for backup with clinical research and site references.

CHAIR HANNAN ruled Senator Reinbold's question dilatory and out of order since it did not pertain to their policy.

SENATOR SHOWER asked to hear from another expert who may have called into the meeting.

CHAIR HANNAN said she would not allow witnesses she had not previously spoken with or vetted.

SENATOR SHOWER said this was a one sided-debate and a travesty.

CHAIR HANNAN said that Dr. Hennessey responded to a question, that Senators Shower and Reinbold did not have to take his advice. She said they adequately expressed their concern and asked if there were other members who wanted to ask a specific question of Dr. Hennessey about their policy.

SENATOR SHOWER referenced a pandemic response task force chart and asked Dr. Hennessey if he would discuss types of masks and the protection each provided. The legislature's policy was for a cloth mask, which on this chart gave an exposure time of twenty-seven minutes. He asked Dr. Hennessey to comment on the federally produced chart that talked about the types of masks that would protect them.

DR. HENNESSEY said these masks, as far as protection, is not an "all or nothing," there was a reason why they had social distancing with masking, vaccinations, hand washing as layers of protection, which was not one hundred percent protective all the time. Seatbelts, airbags, and brakes are layers of protection, which could provide a better chance of surviving a car crash. When it came to masks there were different recommendations for quality of masks, a double layer of fabric barriers was better than single layer of fabric barriers, N95 or respirators were better than double layered masks, in terms of filtration and prevention of virus leaving a person's face area or someone inhaling it. However, some people were unable to wear the N95 masks and sometimes they were not available. Some people had respiratory problems and it would not be appropriate to wear those masks. That is why there was a range of options recommended by CDC about types of masks and he believed the policies do reference those. An N95 mask would provide better protection than a double layer mask or a single cotton layer of mask.

SENATOR SHOWER said that the CDC stated cloth-based coverings to cloth-based coverings only provided twenty-seven minutes of protection and they could get more time from N95 to a more fitted mask that filtrated the particles to the appropriate micron level. The CDC itself said that six feet inside of those numbers then they were not protected, it can be spread through the release around the mask because they were not fitted. He asked if the cloth mask was enough as the chart suggested it was not.

DR HENNESSEY said he could not provide a specific response to that question because he was not familiar with the document that Senator Shower referred to. He pointed out that protection was not a matter of absolutes, he was not familiar with the twenty-seven-minute timeline in terms of masks. He said it was generally better for both individuals who were interacting to be masked. Higher quality masks, such as N95s are certainly better than cloth masks but cloth masks have been established to provide a barrier for droplet spread and to protect the individual wearer. He said there were levels of protection, the least level was that nobody used a mask, it would be better if both people used an N95 mask and have been appropriately trained and fit to wear one.

SPEAKER STUTES said she thought she heard Dr. Hennessey say that a mask or a vaccination was not an absolute, it was one of the many things that were protective, not just one thing is the "cure all," that a mask was a barrier and one of many protective measures.

DR. HENNESSEY responded to Speaker Stutes and said that had been the approach to mitigation and spread of COVID, there was not one single thing that would absolutely protect everyone all the time. The control and mitigation strategies, which included the legislative policy was based on layers of protection. So, the more layers in place lowered the chance of legislators and staff becoming ill and missing out on the vital business that they were charged with.

REPRESENTATIVE TILTON asked Dr. Hennessey if there was anything that said that a mask had stopped the virus.

DR. HENNESSEY said that the virus is spread through respiratory droplets, small droplets of liquid that are transmitted when people speak or breathe and are caught up in the mask material, which is a physical mechanism of control of the spread of the virus from a person who is infected and transmitting it. The Omicron virus is more transmissible due to the fact that people spread more of the virus per particle, but the size of the particle has not changed and the physical dynamics of stopping a particle going beyond the mask was the same as was for previous versions of the virus. A study done by the CDC last year shows that masks can block fifty to eighty percent of those respiratory droplets at the source of the person wearing them. So that was the physical mechanism behind it, to contain the respiratory droplets from a person who might be infected and not know it, and then the other side is to prevent those droplets from reaching somebody as

they inhale the air around that person. He said he believed, as did the CDC, that there was good evidence that masks helped prevent the transmission of COVID-19.

REPRESENTATIVE TILTON said that Dr. Hennessey could not point to any kind of study that showed that masks have made a significant difference in containing the virus, there was belief that they did, but no supporting data.

DR. HENNESSEY said there were many publications that have provided the evidence, both in the laboratory and in the real-world setting, that showed that mask use has made a big difference, particularly in a hospital setting where they have lots of experience dealing with infectious patients either with influenza or COVID-19 or tuberculosis all where masks were important and used. Some of the earlier evidence of COVID-19 came from hospitals that instituted mask policies and maintained them uniformly throughout the nation so there was really no question about the value of masks in preventing transmission and there were many studies, in a laboratory, real world, and real hospitals within the United States that he would gladly provide with publications that showed the evidence base surrounding masks.

REPRESENTATIVE TILTON said there were many studies that did not support the outcome and that it was his opinion of whether masks have significantly stopped the spread of the virus.

SENATE PRESIDENT MICCICHE said he would support voluntary mask wearing but did not want to get into a battle of the science. He explained that for him there is some hypocrisy about where people who serve in the legislature wear masks. He said he thinks everyone is doing their best to protect others and themselves, but folks are attending outside events unmasked, then coming in to wear a mask for a little while, then going out together after work. He did not want to debate the doctor because he thought there were some benefits to wearing masks. He would vote for voluntary mask wearing because of the way the legislature operates in Juneau. He wanted to explain his vote and does not think that behavior is going to change, therefore that reduces the effectiveness of masks in the building.

CHAIR HANNAN called a brief at ease due to technical issues.

CHAIR HANNAN, noting that the technical issues meant there was not a quorum to conduct business, said she would recess to a call of the chair. In response to a question by Senator Stevens, she confirmed that the current COVID policy remains

in effect. She said there was a time sensitive executive session item for discussion and asked that staff of those members who were unable to reconnect please advise their boss of the plan to reconvene. With that, Chair Hannan recessed the Council to a call of the chair.

[3:21:16 PM](#)