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Legislators grill health official; discussion of state mask mandate grows heated at times

by [Jeannie Roberts](#) | July 28, 2020 at 7:36 a.m.

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FILE — The state Capitol is shown in this file photo.

State lawmakers spent more than six hours Monday peppering experts and policymakers with covid-19 questions so they could better answer their constituents' concerns, with some reading from a prepared list of questions directly from the people they represent.

No. 1 on the agenda of the Senate and House Committees on Public Health, Welfare and Labor was discussion about Gov. Asa Hutchinson's Executive Order 20-37 -- better known as the state's mask mandate.

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The discussion on masks was heated at times, with state Department of Health interim Secretary Jose Romero peppered with questions about where the line would be drawn on mandates.

Most of the nearly two dozen legislators present wore masks during the meeting, but a few didn't. The lawmakers' seats were spaced about 4 feet apart, but some were regularly seen hovering at a colleague's station, leaning in to hear one another.

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During breaks in the session, most legislators and guests wore masks, but few maintained the social distance recommendation of 6 feet apart.

Romero attempted, sometimes unsuccessfully, to debunk mask myths. He declared masks one of the top three leading tools -- masks, social distancing and hand washing -- in the arsenal against the growing pandemic.

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"None of these are onerous. None of these are above and beyond the reach of everybody in the state. This simple measure of wearing a mask has been shown numerous times in numerous studies over and over again to decrease the spread of covid," said Romero, who wore a black face mask. "There are now studies that show that by the use of this mask we can prevent infection of individuals that are exposed to persons that have active covid disease.

"If we think that if we all, as citizens, did this simple measure, we could drive the rates of covid infection down in our state. This is essential to moving forward in the control and mitigation of covid. This is essential in providing a safe environment for our children in schools. This is essential to overcoming the disease until we have an effective vaccine available."

The legislators questioned Romero for nearly two hours and became heated at times.

Rep. Mary Bentley, R-Perryville, questioned Romero's use of an anecdotal story of two masked Missouri hairdressers who saw 140 clients in May while symptomatic with the virus, yet did not pass the disease on to any of the clients. Bentley suggested that the story lacked scientific validity because it was not a controlled study.

Bentley suggested instead that people should get healthier, "get out and get some fresh air," in order to build up their immunity to the disease. She also said some of her constituents told her about employees wearing masks for eight hours a day and struggling with coughs and sore throats because of it.

"I just want to bring that into the discussion," she said.

Romero said nutrition is indeed the basis of all health, but masks are necessary to prevent spreading the virus from one person to the next.

Rep. John Payton, R-Wilburn, asked Romero where the mandates stop with the broad authority given to the health secretary under the state Emergency Powers Act.

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"Are you going to mandate hand-washing and social distancing?" Payton said, asking where Romero saw as the limits to his authority.

"The executive branch?" Payton said. "Or is it just you?"

Bentley asked if Romero would force people to get vaccinated when a vaccine becomes available.

Romero said he could not answer that because "we do not have a vaccine at this time."

Bentley countered that people were being forced by the state to wear masks, so mandating a vaccine was not far-fetched. She pushed Romero for a yes or no answer.

"Like I said, we don't have a vaccine at this time," he said. "I'm not dodging your question."

Rep. Jana Della Rosa, R-Rogers, asked Romero if he truly understood why people in Arkansas were against wearing masks.

"It's not just the masks," she said, but about personal freedom and not knowing where the mandates end.

"At what point do we subjectively decide that we are no longer in an emergency?" Della Rosa said, her voice growing louder and faster the longer she spoke.

"Think of all the things that could be mandated. That is the crux of why people oppose the mandate," Della Rosa said. "You have to do something for the good of others. The Legislature is angry. We're very angry."

Sen. Alan Clark, R-Lonsdale, echoed Della Rosa's concern.

"It's so open-ended," he said.

Sen. Trent Garner, R-El Dorado, asked Romero if there is a "massive mandate" of this nature in the future, if he would advocate for the Legislature to be called into session "instead of this back-door executive power."

Romero said he couldn't say if he would or would not.

Among the last to talk about the mask mandate was Rep. Frederick Love, D-Little Rock, who said he understood his colleagues' frustration, but masks are necessary to control the pandemic, which the state does not have "anywhere near controlled."

"I'm dumbfounded why we are against the masks," Love said.

The legislators also debated the merits of a third contact-tracing contract, this one at \$7 million to test and trace the virus in Hispanic and Marshallese populations in Northwest Arkansas. The request was denied previously by the Arkansas Legislative Council, but it will be considered again today.

Sen. Missy Irvin, R-Mountain View, raised the subject several times throughout the day, saying that \$40 million has already been approved for the service. She added that the lag in the turn-around time of test results makes contact tracing "useless."

A committee co-chairman, Rep. Jack Ladyman, R-Jonesboro, echoed Irvin's sentiments.

"Why do we need a third company that we cannot vet?" he asked.

Hutchinson, in the nearly-daily covid-19 news conference Monday afternoon, said he hopes the Legislative Council will approve the request this time. He said he believes legislators "care about the coronavirus and its spread in Arkansas," despite nixing the third contract Friday at its regular meeting.

"They're frustrated because it's an emergency, and I have to exercise decision-making authority in this situation, and they want to be engaged in policy," Hutchinson said. "And so I think they're acting in good faith, but the challenge is there is an urgency and there might be 10 different ways to do something, and I've got to pick the right way to do it."

The lawmakers need to give some flexibility to the executive branch to "actually execute on the appropriations that are out there" so that the state can implement recommendations of the U.S. Centers for Disease Control and Prevention, Hutchinson added.

Close to 50% of federal coronavirus aid money is still available for use because some of the funds were set aside in reserve for cities and counties, Hutchinson said.

"What we really need is to give the tools to the Department of Health and its partners to get the job done out there in the infrastructure of testing, contact tracing, personnel and that's what we're trying to accomplish," Hutchinson said.