MAKING HAWAII SAFE FOR TRAVEL

RECOMMENDATIONS TO REOPEN HAWAII'S VISITOR INDUSTRY

Presented to the House Select COVID-19 Committee
for adoption by

REPRESENTATIVE BOB MCDERMOTT
Minority Committee Member

With participation from Representative Gene Ward, Minority Leader

May 18, 2020

TABLE OF CONTENTS

Letter to House Select Committee on COVID-19.....2

Executive Summary.....3

COVID-19 Testing Framework.....4

Pre-Departure Testing (Graphic) 5

COVID-19 Testing Feasibility 6

Risks of Not Testing (Graphic).....7

Summary and Conclusion by Rep. Gene Ward.....8

Appendix.....10
Letter to Gov. Ige re Quarantine Plan - 4/3/20.....11
Letter to Gov. Ige re Testing - 4/19/20.....13
Letter to Gov. Ige re Quarantine Enforcement - 5/6/20.....15
Letter to Gov. Ige re Urging FAA Action - 5/14/20.....17
Legal Memo re Testing Incoming Travelers - 4/14/20.....19

Acknowledgments and Biographies.....22

HOUSE OF REPRESENTATIVES

STATE OF HAWAII
STATE CAPITOL
HONOLULU, HAWAII 96813

Monday, May 18, 2020

The Honorable Scott K. Saiki
Speaker of the House of Representatives
House Select Committee on COVID-19 Co-Chair
State Capitol Room 431
Honolulu, Hawaii 96813

Chief Executive Officer Peter Ho
Chairman, President and CEO of Bank of Hawaii
House Select Committee on COVID-19 Co-Chair
111 South King Street
Honolulu, Hawaii 96813

RE: RECOMMENDATIONS TO HOUSE SELECT COMMITTEE ON COVID-19

Aloha Gentlemen:

Thank you for leading this committee. The opportunity to listen to the many distinguished members share their wisdom, ideas and concerns has been quite illuminating.

In this regard, I have prepared a set of recommendations for re-opening the visitor industry; it is a policy framework as a departure point for implementation. While many ideas have been floated, I have not yet seen a plan; specifically, a set of ideas to protect our local residents from importation of the virus.

As an island state, we have options and opportunities that can keep the incoming viral load at bay (literally and figuratively). We must aggressively insist on the testing of all travelers within 72 hours of their departure to Hawaii. Great Britain has announced they are going to require testing of air travelers. Taiwan requires testing of travelers from risk areas. Although these are countries, they are also islands like our State.

In my view, not requiring tests, when we can, is neglecting the duty we owe to the people of Hawaii. I submit this to you both and the committee, with the utmost respect.

With much aloha,

Rep. Bob McDermott

EXECUTIVE SUMMARY
KEEPING HAWAII SAFE FOR TRAVEL

Representative Bob McDermott

We cannot re-open tourism without COVID-19 tests for ALL arrivals.

The purpose of this document is to provide recommendations to the House Select COVID-19 Committee and the Executive Branch as a starting point for bringing the visitor industry back to strength and Keeping Hawaii Virus Free.

Representative Gene Ward and I have had private conversations with Airline and Hospitality Industry leaders. We have implored them to "take the lead" about safety measures and testing. They are talented and can develop a system far better than a government mandate developed by non-business folks. To date, none have expressed a desire to get out in front and lead.

Hawaii has a huge marketing advantage by being geographically isolated. By implementing this plan, we can advertise Hawaii as essentially COVID-19 free. Travelers will gladly pay a premium for airfare and accommodations knowing that a rigorous testing system is in place. We owe it to our employees in the visitor industry to keep them, and their families, infection free.

As a member of the committee, I have had a front row seat to observe some of the best minds in the state of Hawaii discussing the challenges their various industries are facing. Through it all, I have yet to see anyone address the elephant in the room ***in detail*** - how do we bring visitors back without having a surge of new COVID-19 cases? Fully one-third of our economy has evaporated. We need to rectify this, at least partially, immediately.

The House Select COVID-19 Committee is a policy committee, generating ideas, suggestions and formulations that the Legislative and Executive branches may or may not implement. The Ige Administration's participation in these meetings has been inconsistent. This, combined with some obvious friction, leads me to believe we need a more clear and concise voice to chart the path forward.

The Minority recommendations are a simple framework. We do not go into the mechanics of each implementation, nor too much detail into cost or other issues. We believe the implementors are in the best position to figure those out. This is a policy outline to present the vision that it can be done. While we have been working on this since early April, we have seen a groundswell of support building through public comments. We only get one chance to reopen the visitor industry. Let's do it correctly!

COVID-19 TESTING FRAMEWORK

1) Governor David Ige must petition the Federal Government to require all Hawaii bound passengers be tested within 72 hours prior to arrival. Until then we will implement the following steps.

2) Request ALL travelers be tested up to 72 hours prior to their departure to Hawaii. Travelers can get a rapid test and have the negative results electronically transmitted to the airline with an identifying record number. Travelers that test positive shall receive a full refund of airfare and not travel to Hawaii.

3) All travelers receive a temperature screen and board the airplane with negative COVID-19 test results bound for Hawaii.

4) While we cannot legally mandate testing nor infringe one's right to travel, we can ensure travelers are aware of the consequences of not being tested prior to arrival. We shall inform travelers they have a final chance to obtain a COVID-19 test at the airport or they will quarantine for 14 days. Testing at the airport will be cumbersome and could take up to 12 hours. If the traveler tests positive, they will be quarantined.[1]

5) The first preference is for travelers to be tested prior to departing for Hawaii but back up airport testing will be available for those who arrive without being tested. The National Guard shall oversee this effort. We suggest they use Abbott Rapid test machines. A sufficient quantity (100 Machines @ 4 tests per hour/ 400 *24 = 9600 per day capacity) should be available within 30 to 60 days to meet the residual demand of arrivals who are not already tested.

6) National Guard shall assist in the enforcement of the quarantine of ALL non-tested or positive testing arrivals. Quarantine must be strict as outlined in our letters to the Governor (attached) and must include returning Hawaii residents. The state shall designate a safe location for the quarantine. We suggest that this be run by MG Hara and the National Guard. Gov. Ige said the 14 Day-Quarantine was a huge success. It was a success in the sense of keeping visitors away, but in tracking visitors and returning residents, it has proven unenforceable and ultimately useless.

7) In addition to predeparture testing, the airline shall ensure travel declaration forms are submitted, accurate and verified. This is critical in case contact tracing is required. The Department of Health (DOH) shall oversee the contact tracing efforts when needed.

8) Visitors shall be tested every seven calendar days by a local testing facility approved by the DOH during their stay.

9) To ensure the safety of airport, airline and travel-related employees all departures require testing.

10) All visitor industry employees shall be tested once a week. Testing shall be free to employees and coordinated by the employer and respective labor groups.

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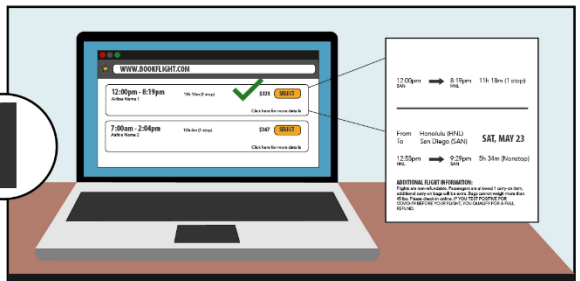
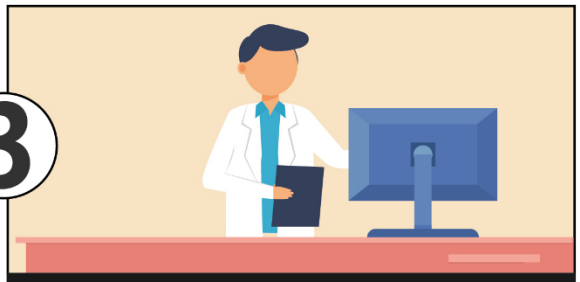
[1] *State and Local Travel Restrictions or Orders* *It is possible that some state and local governments may put in place travel restrictions, stay-at-home or shelter-in-place orders, mandated quarantines upon arrival, or even state border closures while you are traveling. Darcie L. Johnston, Director, Intergovernmental Affairs, U.S. Department of Health and Human Services, Office of the Secretary*

PRE-DEPARTURE TESTING



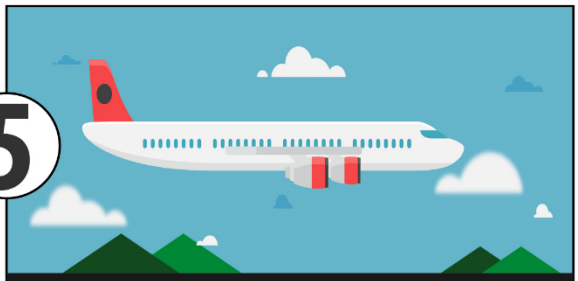
Traveler buys ticket.

Traveler goes to local drugstore or clinic for testing 72 hours prior to departure.

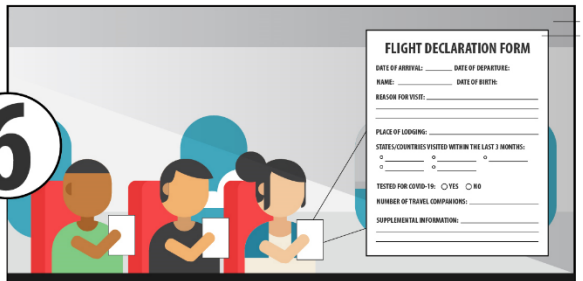


Clinic electronically communicates results to patient and airline.

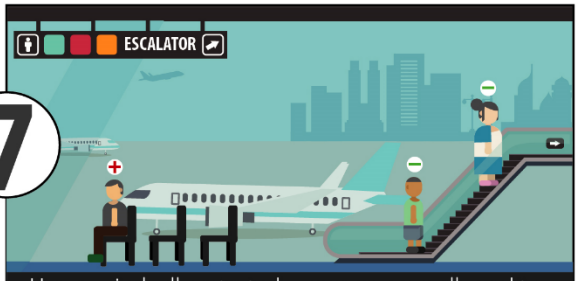
Travelers that test positive can get a full refund on tickets. Reminded of 14-day mandatory quarantine.



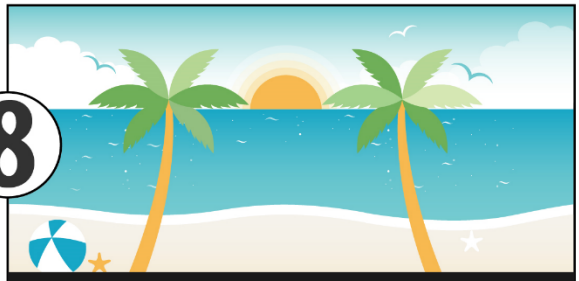
Departure from Non-Hawaii Airport.



In flight, traveler fills out declaration form with required tracking data (hotel, address, cell number, etc.)



Upon arrival, all pretested passengers are allowed to leave the gate. Untested or symptomatic travelers will need to stand by under National Guard supervision and be tested in dedicated area.



Negative tests are free to resume trip. Positive are sent to State Quarantine or allowed to return to point of origin if an airline willtransport them.

COVID-19 TESTING FEASIBILITY

Abbott and other manufacturers are quickly ramping up production of COVID-19 tests to make widespread testing available as early as July 2020. The public's ability to access tests is key to reopening Hawaii for tourists. Those who can show that they have a negative COVID-19 test within 72 hours of arriving in Hawaii will not have to quarantine for 14-days upon arrival.

Abbott ID NOW is the only rapid testing technology currently available for use in the state of Hawaii. Abbott recently announced they have increased the manufacturing and shipping of their testing products to all fifty states including Washington D.C., Puerto Rico, and the Pacific Islands. Abbott's ID NOW system yields quick results with positive results detected in as little as five minutes and negative results in 13 minutes. Abbott is currently manufacturing 50,000 ID NOW tests per day, with a plan to increase its capacity to 2 million a month by June 2020.

The Hawaii Department of Health State Laboratories has distributed a total of 12 Abbott ID NOW COVID-19 machines to all counties. Six have been sent to county medical systems (two each to DOH District Health Office laboratories on Kauai, Maui and Hawaii) and six to clinical laboratories and health systems on Oahu (two each to Diagnostic Laboratory Services, Clinical Laboratories of Hawaii, and Kaiser Permanente).

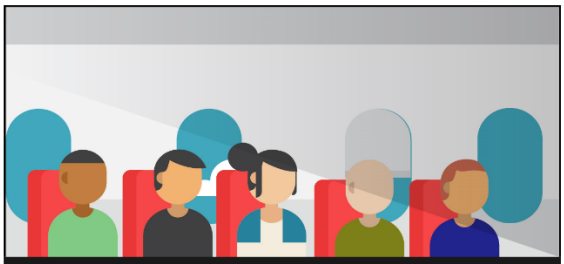
Bosch Healthcare Solutions has also developed a rapid testing instrument, known as a Bosch Vivalytic Analyzer for COVID-19, which can detect a COVID-19 infection along with nine other respiratory viruses in under 2.5 hours. Like the ID NOW test, samples are taken from a patient's nose or throat with a swab, then inserted into a cartridge containing all the essential elements required to identify the virus. Analyzers can perform up to 10 tests in the span of 24 hours.

BioMedomics has developed one of the world's first rapid antibody testing kits to detect IgM and IgG antibodies by a finger prick (capillary) or by venous (vein) blood, serum, and plasma samples. Results can be detected in 10 to 15 minutes per test, and no special equipment is needed. On May 4th, 2020 the FDA authorized the distribution of this product for use in laboratories that are capable of processing high-complexity testing, so distribution is just beginning. Because this is only an antibody test, suspected infected patients would be required to get a COVID-19 test.

Sources and More Information

Abbott: https://www.abbott.com/corpnewsroom/product-and-innovation/an-update-on-abbotts-work-on-COVID-19-testing.html
Hawaii Department of Health: https://health.hawaii.gov/news/newsroom/hawaii-department-of-health-distributes-covid-19-rapid-test-equipment-and-supplies-to-public-health-and-clinical-laboratories-in-all-counties/
Bosch Healthcare Solutions: https://www.bosch.com/stories/vivalytic-rapid-test-for-covid-19/
BioMedomics: https://www.biomedomics.com/products/infectious-disease/covid-19-rt/
World Health Organization: https://www.who.int/news-room/commentaries/detail/advice-on-the-use-of-point-of-care-immunodiagnostic-tests-for-covid-19#.Xo_1jdsCuUE.twitter

THE RISKS OF NOT TESTING BEFORE ARRIVAL



AIRPLANES

Breathing in the same air for hours at a time and being in such close proximity, untested passengers in airplanes pose a potential risk of transmitting the virus to crew members and other passengers.

AIRPORT DEPARTURE/ARRIVAL LOUNGE AREA

With hundreds of passengers, crew members, and airport workers frequently passing through, the virus can easily be transferred onto lounge seats, escalators, and other surfaces.

OUR LOCAL WORKFORCE

Upon arrival, untested passengers are in direct contact with our local workforce - airport, transportation, hotel and restaurant staff.

OUR LOCAL RESIDENTS

Untested residents returning home from other states or other countries could spread the virus within their local communities.

SUMMARY AND CONCLUSION

By Representative Gene Ward

The goal behind these recommendations is to safely open Hawaii's economy.

Hawaii must establish procedures to become a safer place to visit. We must overcome the psychological barrier of the fear of contracting COVID-19 felt by those returning to work in the visitor industry or visiting Hawaii.

The saying, "if we build it – they will come" is now more applicable as "if they don't feel safe - they won't come."[2] Testing all visitors within 72 hours of traveling to Hawaii, with no exceptions, is imperative. To reestablish Hawaii as a safe place to visit, we must first assure safe air travel. Likewise, our airport and hotel and rental car employees must feel safe when travelers exit our airports for lodging, working, or playing. Any break in the chain of safety will slow the recovery of our economy both domestically and internationally.

The framework we are suggesting starts with the psyche of people trying to decide when, if, and where they will travel. A recent study of Americans indicates a small number of people will be traveling between now and the end 2020, with the year 2021 as the only time a majority felt that they would likely travel or begin vacationing again.

Hawaii scores high on safety compared to other places around the world. Hawaii has enjoyed one of the lowest infections and death rates of the COVID-19 virus, but so have places like Thailand, New Zealand, Taiwan and American Samoa – where not a single case has appeared. Though these virus-safe destinations are not major visitor destinations, they will attract a certain number of visitors because they are "safe."

Our goal is to keep Hawaii at the top of the list of safe places to visit. To do so will require a scientific approach heavily based on psychology to let people know of the safety precautions Hawaii has put in place. Naysayers will try to promote a type of "null hypothesis" that testing or not testing will make no difference to our visitor industry or our local workers. They will also claim that a COVID-19 test taken before boarding the plane could also expose passengers to the virus because of possible re-exposure in the interim 72 hours after the test.

This opposition against testing will endanger the entire reopening of the Hawaii economy because:

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[2] *Based on Maslow's Hierarchy of Needs: "Feeling safe" is one of our basic and evolutionary needs and drives a desire as a primary concern for our well-being and that of our loved ones. This drive is carried over into user and consumer behavior. For this reason, products must not only be sold to us with strong indications that they will protect us from potential threats, but they must also back these claims up with clear evidence that they do, in fact, offer some protection and/or 'shelter'. Consequently, what we do as designers in this regard is vital.**Source: McKay, E. (2010)* *http://www.uxdesignedge.com/2010/06/are-you-sure-how-to-write-effective-confirmations/*

- It assumes the task is too massive, impossible to implement, and even contact tracing is already too difficult for our state agencies to manage; and
- Not testing passengers allows people to board a plane with no health considerations or stipulations and discount prices will continue to reign supreme; and
- Not testing also sends the message that our residents are not important because they will be exposed to infected tourists; or
- Local hotel and other visitor industry workers will feel threatened by tourists who may be virus carriers; and
- If a second wave of COVID-19 is caused by untested tourists will create an anti-tourist sentiment in the community.

Hawaii already knows about the dangers that can tear at its social fabric. One need only recall the history of diseases brought to Hawaii in the past when the whaling ships and the cargo boats of sandalwood visited our shores and devastated the native population. This memory though dormant, could resurface if this virus is not stopped at our shores. We have already seen signs of this type of backlash to COVID-19 on the island of Molokai where locals have protested the arrival of visitors who might possibly be COVID-19 infected.[3] Magnify the Molokai situation and you have a very volatile Hawaii with a backlash against visitors because of the suspicion that they are the carriers and none of them have been tested.

While testing will not be 100 percent effective, it has the best probability of protecting us against outside carriers to our shores. The testing requirements outlined in this roadmap are the best and most viable solution to reopening a tourism economy that is vulnerable, volatile and could result in a serious backlash from our community – which in turn will cause visitors to turn away.

The bottom line is this: the health of our economy depends on COVID-19 testing. If we are serious about restarting the visitor industry, all incoming travelers must be tested within 72 hours of arrival. Our future economic prosperity as well as civil tranquility depend on it. On May 11th during a House committee hearing Maj. Gen. Kenneth Hara, incident commander for Hawaii's coronavirus response, warned about the possibility of rioting in Hawaii if "we let the economy go the way it's going."[4] Hawaii has lived off its beauty in the past, and if we are wise about reopening, we will have to lean heavily on public health and safety.

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[3] ** *Source*: Molokai Protestors at Airport: **Mar 18, 2020; www.hawaiinewsnow.com**

[4] https://www.staradvertiser.com/2020/05/12/hawaii-news/delay-in-reopening-economy-could-lead-to-rioting/

APPENDIX

HOUSE OF REPRESENTATIVES

STATE OF HAWAII
STATE CAPITOL
HONOLULU, HAWAII 96813

Friday, April 3, 2020

The Honorable David Y. Ige
Governor of Hawaii
State Capitol Executive Chambers
415 South Beretania Street
Honolulu, HI 96813

RE: HAWAII STATEWIDE QUARANTINE PLAN AND MEASURES TO BE CONSIDERED

Dear Governor Ige,

While we appreciate your efforts to limit the spread of COVID-19, they do not go far enough. Because of Hawaii's location, we have the opportunity to dramatically decrease the influx of outside cases. Let us share our two major concerns and offer a solution.

First, while most reasonable visitors will cancel their trip upon hearing of the 14-day quarantine upon arrival in Hawaii, some may still come. With few controls and no effective monitoring criteria, it leads us to believe that visitors will be on the "honor system."

Under your plan, a visitor would be free to infect their Uber driver on the way to their Waikiki hotel from the airport and will pay his/her own hotel bills for two weeks of confinement in a room without venturing out to see Oahu. This isn't realistic, nor does it have the precision of a serious quarantine operation.

Second, for our returning Hawaii residents, you have called for "home quarantines," but in reality, this means very little or no quarantine at all. If you think a healthy young man returning from college in California, who feels fine and exhibits no symptoms, is going to stay in his room for 14 days, you are not living in the real world.

As draconian as it may sound, our suggestion is to turn the quarantine operations over to the Hawaii National Guard under the supervision of HIEMA (Hawaii Emergency Management Agency), then the quarantine is for real. One of our empty hotels could

serve as the quarantine property while all arrivals are gathered several times daily and bused to the "Quarantine Hotel" in a controlled environment. We have the resources to do it.

Arrivals shall be given an air-conditioned room, TV and three meals a day for 14 days. They will be free to walk the property and access the Guard's medical resources and personnel as needed. Unlike the current plan, the state of Hawaii pays the costs for this real quarantine. The quarantine hotel may also mobilize its workforce to provide services such as meals, housekeeping, etc. This would be a boost to many of its employees who were suddenly left jobless.

Again, this is not draconian, nor a half measure, it is isolating our islands from possibly infected persons and is the only proven method of flattening the spiking curve we are now experiencing. Plus, this plan can be applicable to all islands.

We shall have knowledge and control of all arrivals, with military precision, and most importantly it will save lives.

(Rep. McDermott served as a Captain in the U.S. Marine Corps in Desert Storm, and Rep. Ward served in Vietnam as a translator-interpreter.)

Mahalo,

Bob McDermott
State Representative
Ewa Beach, Iroquois Point, Ewa by Gentry
Phone: (808) 371-4605
Email: repmcdermott@capitol.hawaii.gov

Gene Ward
State Representative
Hawaii Kai, Kalama Valley
Phone: (808) 781-9931
Email: repward@capitol.hawaii.gov

HOUSE OF REPRESENTATIVES

STATE OF HAWAII
STATE CAPITOL
HONOLULU, HAWAII 96813

April 19, 2020

The Honorable David Y. Ige
Governor, State of Hawaii
Executive Chambers
Hawai'i State Capitol
Honolulu, HI 96813

Dear Gov. Ige,

It's imperative that we take the necessary steps to open the state to tourism and get people back to work. As you said yourself this week, our economy is at a complete standstill. Every day that passes costs Hawaii dearly.

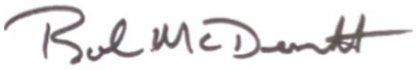
But before we can open our resorts, restaurants and beaches to the world, visitors must be confident that Hawaii is a safe place to visit. In accordance with Dr. Sumner La Croix's recommendation, we urge your administration to begin mass-testing and contact tracing efforts immediately. These tests will be administered to travelers within 48 hours of arrival in Hawaii. Failure to test arrivals combined with the current "voluntary" quarantine system (which has proven defective), will ensure we will never get to the 14-day benchmark of lowering cases.

For example, all visitors, whether traveling inter-island or from overseas, should be tested within 48 hours of their departure. Those who test negative will be given a clearance card to indicate they are COVID-19 negative. Should a visitor not be pretested, they will be tested upon arrival at one at one of our airport facilities. If he or she tests positive, they will be transported to a secure quarantine facility for 14 days. Thanks to innovators such as Abbott Laboratories, test results may be administered in as few as 15 minutes. Appropriate action to receive these machines should be a priority. Banning travel is a federal power; however, implementing the testing of incoming passengers is not an infringement on an individual's right to travel because there is a compelling interest at stake – public health. The testing would still be voluntary in that any individual that refuses to be tested will be sent to a quarantine center for 14 days.

We need to do what it takes to jumpstart the tourism industry – one in which visitors spent close to $18 billion last year. Governor, your leadership in defeating this virus will determine the economic future of our state. With mass testing efforts and an effective strategy to combat the virus early, visitors around the world will view Hawaiʻi as a safe place to visit and our residents can return to work.

Sincerely,

Rep. Gene Ward
Minority Leader
House District 17



Rep. Bob McDermott
Assistant Minority Leader
House District 40
Member, Select Committee on COVID-19 Economic and Financial Preparedness

CC: General Kenneth S. Hara, Adjutant General, State of Hawaiʻi; Dr. Bruce S. Anderson, Hawaiiʻi State Director of Health; Mr. Alan Oshima, CEO, Hawaiian Electric Company.

HOUSE OF REPRESENTATIVES

STATE OF HAWAII
STATE CAPITOL
HONOLULU, HAWAII 96813

Wednesday, May 6, 2020

The Honorable David Y. Ige
Governor of the State of Hawaii
State Capitol Executive Chambers
415 South Beretania Street
Honolulu, HI 96813

RE: ENFORCEMENT OF 14-DAY QUARANTINE FOR TRAVELERS

Dear Governor Ige,

We are writing to supplement our letter dated April 3, 2020. Again, we appreciate your efforts to limit the spread of COVID-19, however they do not go far enough. Despite the Hawaii Department of Transportation's ("DOT") improved measures that were implemented recently, there is still a lack of monitoring that allows visitors to evade the quarantine mandate.

During this global pandemic people need to understand that lives are at stake and this is not the time to travel to Hawaii for a vacation. The Centers for Disease Control and Prevention's ("CDC") website states that "Isolation and quarantine help protect the public by preventing exposure to people who have or may have a contagious disease." The CDC recommends that people stay home, especially if a trip is not essential and further states that travelers should expect quarantines and travel restrictions during the COVID-19 crisis. Those that ignore warnings and continue to engage in non-essential travel are playing with people's lives. Americans thrive on their freedom, but to get back to enjoying freedom, we need to get past this crisis. The state has a legitimate interest in protecting the public's health and safety. It must ensure that the quarantine is adhered to across the board by every non-exempt traveler and returning resident.

The updated DOT measures, while better than the previous procedures, require visitors and returning residents to register on the Safe Travels website, complete the Department of Agriculture declaration form, provide a working mobile number, receive a temperature check, and acknowledge the possible criminal penalties that could result from a violation of the quarantine. The problem is that once these travelers leave the airport, the potential to violate the quarantine skyrockets. While there are DOT employees and some hotels conducting random calls, and police roaming the streets, there is not enough being done to ensure that these travelers

abide by the quarantine. There have already been documented instances of travelers being cited and/or arrested for violations.

One of the best options would be to require all travelers coming to Hawaii, whether visitors or returning residents, to be tested for COVID-19 prior to boarding. Anyone that refuses, or simply cannot be tested in the given timeframe (preferably 48-72 hours prior to their flight) will have to endure the 14-Day Quarantine. This would ensure that a degree of voluntariness remains because one's right to enter Hawaii and enjoy social privileges is conditioned on their cooperation in helping to prevent this disease that has already taken the lives of thousands of people nationwide.

Once the testing requirement is in place the likelihood of infected travelers coming to Hawaii will decrease drastically. The state can then focus on monitoring those under the mandatory quarantine. The best option would likely be to establish a designated place for these travelers to stay. As previously mentioned in our April 3rd letter, a hotel could be utilized for these travelers to ensure compliance. There is also the option to have the National Guard assist in ensuring the quarantine is followed to help alleviate the workload of our police force.

In addition, more focus should be placed on enforcing the quarantine for returning residents. There has been great emphasis on keeping track of visitors, however, monitoring individuals that are returning to Hawaii has less enforcement despite the threat being the same. There should be a zero-tolerance attitude towards all travelers, whether visitors or returning residents. Enforcement methods need to be implemented across the board equally for all travelers.

Hawaii's residents, and many around the country are working together to help slow the spread of COVID-19. During these unprecedented times, the state needs to do what is necessary to protect its people and the well-being of all. Travel to Hawaii is down by more than 99%, yet there are still some people coming for non-essential reasons. It is our responsibility to ensure that the few travelers that continue to arrive understand that now is not the time to take a vacation to our state. If we all work together, we will be able to open the state more quickly and allow everyone to enjoy all Hawaii has to offer.

Mahalo,

Bob McDermott
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Gene Ward
State Representative
Hawaii Kai, Kalama Valley
Phone: (808) 781-9931
Email: repward@capitol.hawaii.gov

HOUSE OF REPRESENTATIVES

STATE OF HAWAII
STATE CAPITOL
HONOLULU, HAWAII 96813

May 14, 2020

Office of the Governor
The Honorable David Y. Ige
Governor, State of Hawaii
Executive Chambers
Hawaii State Capitol
Honolulu, Hawaii 96813

Governor Ige,

Elected officials are looked to as leaders, and as such, are expected provide a vision of a better future and a path to achieve it during crisis. Currently, unemployment has reached 34% in the state. Tourism, approximately 23% of the state's economy, is paralyzed. Plans are being made to shuffle money around to cover budget shortfalls, but that will only stanch the bleeding. Bold decisions must be made that provide a framework for a long-term solution by re-opening businesses, including those related to tourism, in the safest way possible.

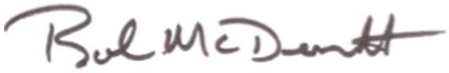
We implore you to ask the federal government to require proof of a negative COVID-19 test prior to boarding a flight where Hawaii is the final destination. Discouraging tourism to prevent this disease is not a long-term option for our state. We must seek out and implement policies that allow us to manage the risk of welcoming tourists, so we can return to productive lives. As leaders we must do everything in our power to find solutions that bring tourists back to the state while protecting its people. We are adamant that proof of testing and negative results for incoming passengers is the corner stone to achieving this goal.

We envision this as being akin to requiring passengers to show passports and visas prior to boarding an international flight. The incentive for airlines to enforce the passport/visa policy has been heavy fines imposed by destination governments. However, we do not want to impose any form of monetary penalty on an already hurting industry. Their incentive to participate in confirming that all passengers have the required proof of testing is automatically built into this problem. If unchecked passengers start a new spike of cases in the state, the government will reimpose quarantines and again discourage tourism.

We recognize this plan is not fool proof. The complexity of modern human interactions means that it will be all but impossible to guarantee no more of this disease is brought to our state. There are countless opportunities for a person to encounter the virus in between testing negative and taking their trip to the airport. The plan will have to be fine-tuned as we move forward, but we must act with the best plan today rather than wait for the perfect plan next year.

We humbly request your assistance in urging the FAA to require a negative COVID-19 test for all flying to Hawaii. Please feel free to contact us to discuss further or if you need additional information.

Sincerely,



Rep. Gene Ward
House District 17 – Hawai‘i Kai, Kalama Valley

Rep. Bob McDermott
House District 40 – ‘Ewa, ‘Ewa Beach, ‘Ewa by Gentry, Iroquois Point

cc: Lieutenant Governor Josh Green

House Minority Research

Memo

To: Julie Yaworsky, HMIR Director
From: Lauren Bradach, HMIR Legislative Attorney
Date: April 14, 2020
Re: Requiring COVID-19 Testing of Incoming Travelers

Nature of Research:

1) Research legality of testing travelers for COVID-19 prior to entering Hawaii.

2) Determine whether airlines could require testing of passengers prior to boarding.

Summary of Research:

The Centers for Disease Control and Prevention ("CDC") and State and local health agencies have both acknowledged community spread of COVID-19 and issued accompanying precautions, Hawaii is likely justified in the implementation of testing for incoming passengers. Testing should be consistent and reliable, ideally performed by medical professionals or environmental health and safety professionals, and results should remain confidential.

Detailed Information:

1. Testing by State

The act of testing for a disease is intrusive in itself but given the magnitude of the COVID-19 pandemic, and the acquired knowledge that effective testing can reduce or prevent the need for greater intrusions on an individual, the state is likely justified in temporarily testing all incoming passengers. While there may be critics opposed to forced testing, there remains a degree of voluntariness because one's right to enter Hawaii and enjoy social privileges is conditioned on the cooperation in helping to prevent this disease that has already taken the lives of thousands of people. Additionally, one that receives a positive test is likely to voluntarily stay home and forgo travel plans. Across the board testing will help these individuals, and also identify people that may believe they are healthy because they are asymptomatic, but in fact are carriers of the virus.

In countries such as Ireland, Germany, and South Korea, widespread testing has assisted in maintaining low case counts and death tolls because it has revealed individuals with no symptoms that were actually positive for COVID-19. The CDC recommends that travelers avoid all nonessential travel and has provided guidance for testing but has also stated that state and local health departments should ultimately

decide who is tested.[5] One recommendation is that testing be completed when it is likely that local community transmission of COVID-19 will occur within a jurisdiction. Since Hawaii has the most isolated population on Earth, community transmission across the State is likely to occur if the virus is not stopped or slowed.

2. Testing by Airlines

Last week, President Trump announced that airline passengers were being tested for COVID-19 before departure and upon arrival, however, many sources have found that he was most likely referring to screenings at airports in which some travelers are being checked for symptoms or being administered temperature checks.[6] Both the CDC and Department of Homeland Security Customs and Border Protection have implemented enhanced health screenings, but actual COVID-19 testing has not yet occurred. Despite Governor Ige's broad powers pursuant to HRS §127A, regulating airlines is a federal power and any directive to have airlines test its passengers for the virus would most likely fall under federal directives. The federal government would likely be justified in requiring airlines to test given the global pandemic and the compelling interest in protecting the public's health. The testing would need to follow privacy laws (i.e. HIPPA) and be provided equally across the board to all travelers to avoid violations of individuals" rights. However, COVID-19 has been declared a direct threat by the CDC so individuals are not protected under the Americans with Disabilities Act if they test positive. In the event the virus is found to no longer be a direct threat, discrimination claims may begin to arise if testing related to travel continues.[7]

There is also no evidence that major airlines are testing for COVID-19 prior to departure or arrival. However, Set Jet, a membership-based private jet charter company, has partnered with Arizona-based The CORE Institute as the first airline to provide free COVID-19 antibody testing prior to departure. Set Jet's crew is also tested regularly, according to the company.[8] The company claims that the test results are confidential and acquired within fifteen minutes. Furthermore, Set Jet claims to use hospital grade disinfectant before, during, and after its flights to help slow the spread of COVID-19 and offers testing to even non-members if they desire to receive the testing.

3. Conclusion

In conclusion, while there is no evidence of other states testing incoming travelers for COVID-19, it likely could be done temporarily. COVID-19 has been classified as a direct threat to the public's health and safety and the state is likely justified in preventing individuals with the disease from temporarily entering the state without violating rights such as one's right to travel. To best implement the testing, it should be a test that solely checks for COVID-19 and results should remain confidential (absent laws that require certain parties to be notified). The CDC states that the risk of exposure to respirator viruses

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[5] https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/index.html

[6] https://www.cnn.com/2020/04/02/politics/fact-check-trump-plane-and-train-passengers-tested-for-the-coronavirus/index.html

[7] https://thenoblelaw.com/covid-19-americans-with-disabilities-act-ada/

[8] https://www.prnewswire.com/news-releases/set-jet-first-to-provide-covid-19-indicator-testing-for-passengers-prior-to-flights-301034359.html

like COVID-19 may increase in crowded settings, particularly in closed-in settings with little air-circulation, which provides additional justification in testing for airline passengers. Finally, major airlines have yet to implement required COVID-19 testing for their passengers. They likely will need to be directed to do so by the federal government and receive funding for the testing.

Please let me know if you would like further information. Thank you for this opportunity to assist you.

ACKNOWLEDGMENTS

Thank you to the House Select Committee on COVID-19 for taking the time to consider the recommendations contained in this document. Your diligence is appreciated.

We would also like to thank the House Minority Research Office for their assistance in helping to research and prepare this document.

For additional information please contact Rep. Bob McDermott or Rep. Gene Ward at:

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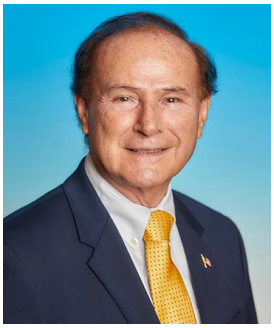
Gulf War Veteran



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Presidential Appointee USAID
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