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## HOUSE CONCURRENT RESOLUTION

REQUESTING THE DEPARTMENT OF TRANSPORTATION TO PROVIDE AN  
EXEMPTION FROM ENVIRONMENTAL ASSESSMENT REQUIREMENTS FOR  
WORK BEING DONE BY THE GAS COMPANY TO EXTEND A UTILITY GAS  
LINE UNDER MOANALUA ROAD FOR KAISER PERMANENTE AND MOANALUA  
MEDICAL CENTER.

1           WHEREAS, the legislature recognizes that the quality of  
2 humanity's environment is critical to humanity's well being, as  
3 stated in Chapter 343, Hawaii Revised Statutes; and  
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5           WHEREAS, state laws that address the preparation of  
6 environmental impact statements were enacted to provide for  
7 appropriate consideration of environmental concerns in decision  
8 making, along with economic and technical considerations; and  
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10           WHEREAS, generally, an environmental assessment is required  
11 for actions that propose the use of state or county lands or the  
12 use of state or county funds, with limited exceptions; and  
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14           WHEREAS, Section 343-6(7), Hawaii Revised Statutes,  
15 requires the Environmental Council to adopt rules that provide  
16 procedures to establish exemptions from the preparation of an  
17 environmental assessment for specific types of actions that will  
18 likely have minimal or no significant effects on the  
19 environment; and  
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21           WHEREAS, Kaiser Permanente's new expansion of its Moanalua  
22 Medical Center facility is scheduled to officially open on April  
23 17, 2008; and  
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25           WHEREAS, to meet The Joint Commission's accreditation  
26 requirements, the Moanalua Medical Center is required, among  
27 other things, to provide a reliable emergency power system for  
28 critical parts of the facility if electricity is interrupted;  
29 and



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2 WHEREAS, to connect Moanalua Medical Center to the primary  
3 fuel source for its emergency generators and steam boilers, the  
4 Center must install a six-inch diameter, one thousand six  
5 hundred feet long, synthetic natural gas utility line that will  
6 cross the Center's property, abut State-owned land along  
7 Moanalua Road, and pass under a section of Moanalua Road; and  
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9 WHEREAS, in March 2008, the Department of Transportation  
10 communicated to Kaiser Permanente that The Gas Company's  
11 extension of the utility gas line will require an environmental  
12 assessment because the installation of the section of line that  
13 passes underneath Moanalua Road comes into contact with state  
14 property; and  
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16 WHEREAS, the Department of Transportation, in requiring  
17 environmental assessments for other recent projects, has relied  
18 upon the Hawaii's Supreme Court's decisions in *Kahana Sunset*  
19 *Owners Association v. County of Maui*, 86 Hawaii 66 (1997) and  
20 *Sierra Club v. Office of Planning, State of Hawaii*, 109 Hawaii  
21 411 (2006), which require an environmental assessment for any  
22 project that "touches a public roadway" or any "access  
23 improvement, easement, drainage, waterline, etc."; and  
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25 WHEREAS, a careful reading of these cases would suggest  
26 that only large or intrusive projects would require an  
27 environmental assessment; for instance, the *Kahana* case  
28 addressed the installation of a thirty-six inch diameter drain  
29 pipe under a public roadway that would provide drainage for a  
30 new water system serving a subdivision of three hundred homes;  
31 and  
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33 WHEREAS, because these two Hawaii Supreme Court opinions do  
34 not address the minimal or no significant effects on the  
35 environment that would result from installing a section of  
36 utility gas line under Moanalua Road to connect the Moanalua  
37 Medical Center to its emergency power supply, they cannot be  
38 relied upon as a basis to require that an environmental  
39 assessment be conducted for the gas company's extension of the  
40 utility gas line; and  
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1 WHEREAS, an environmental assessment for the Moanalua  
2 Medical Center utility gas line extension project cannot be  
3 completed in time for the opening of the Moanalua Medical Center  
4 expansion facility on April 17, 2008; now, therefore,  
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6 BE IT RESOLVED by the House of Representatives of the  
7 Twenty-fourth Legislature of the State of Hawaii, Regular  
8 Session of 2008, the Senate concurring, that the Department of  
9 Transportation is requested to provide an environmental  
10 assessment exemption to The Gas Company for work being done to  
11 extend a utility gas line under Moanalua Road for Kaiser  
12 Permanente and Moanalua Medical Center, pursuant to Section 11-  
13 200-8(A)(3), Hawaii Administrative Rules; recognizing that the  
14 utility gas line extension requires minimal intrusion into state  
15 or county lands and does not significantly affect the  
16 environment; and  
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18 BE IT FURTHER RESOLVED that the Department of  
19 Transportation is requested to submit a report to the  
20 Legislature no later than twenty days prior to the convening of  
21 the Regular Session of 2009, on the Department's plans to  
22 distinguish between significant and non-significant projects in  
23 a manner that resolves this issue with respect to future  
24 projects that could trigger the environmental impact statement  
25 process; and  
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27 BE IT FURTHER RESOLVED that the Department of  
28 Transportation is requested to submit a report to the  
29 Legislature no later than twenty days prior to the convening of  
30 the Regular Session of 2009 as to whether the Department  
31 currently has the necessary resources to monitor work required  
32 by the environmental impact statement process under chapter 343,  
33 Hawaii Revised Statutes; and  
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35 BE IT FURTHER RESOLVED that certified copies of this  
36 Concurrent Resolution be transmitted to the Governor, the  
37 Director of Transportation, the Attorney General, the Director  
38 of Health, the Director of the Office of Environmental Quality  
39 Control, the Chairperson of the Environmental Council, and the  
40 Chief Executive Officer of the Moanalua Medical Center.

