

SENATE BILL NO. 624

BY SENATOR MARIONNEAUX

1 AN ACT

2 To enact R.S. 51:2366, relative to economic development; to provide for the Louisiana  
3 Mega Project Energy Assistance Rebate; to provide for the businesses eligible for  
4 such rebate; to provide for the amount of such rebate; to provide certain authority to  
5 the secretary of the Department of Economic Development and the Department of  
6 Revenue; and to provide for a penalty for failure to file certain reports; and to  
7 provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 51:2366 is hereby enacted to read as follows:

10 **§2366. Louisiana Mega Project Energy Assistance Rebate**

11 **A. In addition to the funding for an economic development mega-project**  
12 **provided for in R.S. 51:2365 or as a separate incentive, the secretary of the**  
13 **Department of Economic Development with the concurrence of the governor**  
14 **may enter into a cooperative endeavor agreement to grant assistance to a mega-**  
15 **project as defined in R.S. 51:2365(F) the Louisiana Mega Project Energy**  
16 **Assistance Rebate as provided for in this Section, subject to approval of the**  
17 **cooperative endeavor agreement by the Joint Legislative Committee on the**  
18 **Budget.**

19 **B. The assistance may be granted if the secretary determines that the**  
20 **consumption of energy will be a major cost component of the operation of a**  
21 **mega fund project and assistance in moderating the cost of such energy will be**  
22 **a major factor in inducing a mega fund project to locate, expand, or remain in**  
23 **the state. Also, the assistance may be granted only if the secretary of the**  
24 **Department of Economic Development certifies to the governor and the Joint**  
25 **Legislative Committee on the Budget that the grant of the energy assistance**  
26 **rebate shall not harm any business located in the state which may be a**  
27 **competitor of the business to be undertaken by the mega fund project.**

1           **C. The Louisiana Mega Project Energy Assistance Rebate to the mega-**  
2           **project shall be granted in the form of a rebate of Louisiana severance taxes**  
3           **that were paid to the state on any natural gas consumed or used directly in the**  
4           **operation of the mega-project facility or consumed indirectly in the**  
5           **manufacture or creation of energy sold to the mega-project facility for its**  
6           **operation, determined as follows:**

7           **(1) Prior to implementation of the energy assistance rebate, the**  
8           **Department of Revenue, at the request of the secretary of the Department of**  
9           **Economic Development, shall consult with the operators of the mega-project**  
10          **facility and the following businesses:**

11          **(a) The suppliers of natural gas for operation of the mega-project**  
12          **facility.**

13          **(b) The utilities or other suppliers of energy which themselves use or**  
14          **consume natural gas for the production of energy which they are expected to**  
15          **sell to the mega-project facility for its operation. Utilities shall be entitled to use**  
16          **estimates for reporting purposes.**

17          **(c) Any business or series of businesses back to the ultimate severance**  
18          **tax payer, which are expected to sell natural gas to the businesses described in**  
19          **Subparagraphs (a) and (b) of this Paragraph.**

20          **(2)(a) Based upon such consultation, the Department of Revenue shall**  
21          **require periodic reports from any such supplier or utility provided for in**  
22          **Paragraph (1) of this Subsection which will enable the department to make the**  
23          **best estimate of the amount of natural gas which is consumed or used directly**  
24          **in the operation of the mega-project facility or consumed indirectly in the**  
25          **manufacture or creation of energy sold to the mega-project facility for its**  
26          **operation which bears a Louisiana severance tax and the amount of the**  
27          **severance tax paid to the state.**

28          **(b) If the department finds that a supplier or utility not involved in such**  
29          **consultation is in the chain of supply of natural gas to the mega-project facility**  
30          **or the utilities or other suppliers as provided in Paragraph (1) of this**

1            Subsection, that supplier or utility may also be required to file the reports  
2            provided for in this Paragraph.

3            (3) Based upon the reports, the secretary of the Department of Economic  
4            Development may award the Louisiana Mega Project Energy Assistance Rebate  
5            in an amount up to the Louisiana severance tax that has been paid to the state  
6            on natural gas for energy consumed or used in the mega-project facility  
7            operations as determined by the Department of Revenue at such times as  
8            provided for in the cooperative endeavor agreement.

9            (4) For purposes of establishing the amount of severance taxes which  
10           have been paid to the state relative to the granting of a rebate pursuant to this  
11           Section, the amount shall be determined by reducing the total amount of  
12           severance taxes estimated to have been paid by the amount of such tax which  
13           would have been allocated by the state to political subdivisions pursuant to  
14           Article VII, Section 4(D) and (E) of the Constitution of Louisiana.

15           D.(1) The secretary of the Department of Economic Development shall  
16           promulgate such rules and regulations for the implementation of this Section  
17           in the manner provided for in the Administrative Procedure Act.

18           (2)(a) The Department of Revenue shall promulgate such rules and  
19           regulations for the implementation of the consultation and the reports required  
20           by the department in order to make the determination of the amount of rebate  
21           which may be granted, all in the manner provided for in the Administrative  
22           Procedure Act. Where specific identification of the amount of severance tax  
23           paid on natural gas consumed directly or indirectly in the operation of the  
24           mega-project is determined by the department not to be reasonably possible, the  
25           rules and regulations shall provide for the determination by estimate of the  
26           amount to be rebated.

27           (b) In addition, in preparing such report, the department shall have any  
28           authority provided to it for examination and investigation pursuant to Part II  
29           of Chapter 18 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950,  
30           (R.S. 47:1541 et seq.).

1                    (c) Failure to file the periodic reports by any supplier or utility required  
 2                    to do so by the department as provided for in Paragraph (C)(1) of this Section  
 3                    shall make the supplier or utility subject to the same penalty provided for  
 4                    failure to file the severance tax report provided for in R.S. 47:642(A).

5                    Section 2. This Act shall become effective on July 1, 2010; if vetoed by the governor  
 6                    and subsequently approved by the legislature, this Act shall become effective on July1, 2010,  
 7                    or on the day following such approval by the legislature, whichever is later.

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 PRESIDENT OF THE SENATE

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 SPEAKER OF THE HOUSE OF REPRESENTATIVES

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 GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_