AN ACT

To amend and reenact R.S. 47:2401(B) and Code of Civil Procedure Article 2953(C)(1), to enact R.S. 47:297.7(A) and 2451(A)(5) and 6026, and to repeal Chapter 14 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, comprised of R.S. 47:1201 through 1212, relative to individual and corporate income tax; to provide a tax credit for the installation of certain renewable energy systems; to provide for the promulgation of rules and regulations; to repeal the tax on income of individuals transferred as gifts; to eliminate the tax on income and assets purchased by such income when inherited; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 47:2401(B) is hereby amended and reenacted and R.S. 47:2451(A)(5) and 6026 are hereby enacted to read as follows:

§2401. Levy of tax

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B.(1) For deaths occurring after June 30, 2004, the tax levied under this Part shall not apply when a judgment of possession is rendered or when the succession is judicially opened no later than the last day of the ninth month following the death of the decedent.
(2) With respect to a revocable inter vivos trust in which a succession has been judicially opened no later than the last day of the ninth month following the death of the decedent, the tax levied under this Part shall not apply and a trust declaration as provided in R.S. 47:2426 shall not be required.

(3) With respect to a revocable inter vivos trust in which no succession has been judicially opened on or prior to the last day of the ninth month following the death of the decedent, the tax levied under this Part shall not apply to the trust assets if a trust declaration is filed with the secretary of the Department of Revenue in accordance with the provisions of R.S. 47:2426:

§2451. Claims and suits for refund

A. Claims for refund of any erroneous payment or overpayment made of inheritance, succession, legacy, or estate taxes paid to the secretary of the Department of Revenue shall be filed with the secretary by the latest of the following:

§6026. Wind or solar energy systems tax credit

A. There shall be a credit against the income tax for the cost of purchase and installation of a wind energy system or solar energy system, or both, by a resident individual at his residence located in this state or by the owner of a residential rental apartment project. The credit may be claimed in cases where the resident individual purchases a newly constructed home with such a system already installed or where such a system is purchased and installed at an existing home, or where such systems are installed in new or existing apartment projects.
B.(1) The credit shall be equal to fifty percent of the first twenty-five thousand dollars of the cost of each wind energy system or solar energy system, including installation costs, that is purchased and installed on or after January 1, 2008. The credit may be used in addition to any federal tax credits earned for the same system. A taxpayer shall not receive any other state tax credit, exemption, exclusion, deduction, or any other tax benefit for property for which the taxpayer has received a tax credit under this Section.

(2) In the case of an individual who purchases and installs such a system, the tax credit shall be claimed on the return for the taxable year in which such system is completed and placed in service. In the case of an individual who purchases a newly constructed home with such a system, the tax credit shall be claimed on the return for the taxable year in which the act of sale of the house takes place. In the case of an apartment project owner who purchases and installs such systems, the tax credits for owner entities other than individuals shall be claimed in accordance with the provisions of Subsection E of this Section.

C. Notwithstanding any other provision of law to the contrary, any excess of allowable credit over the aggregate tax liabilities against which such credit may be applied, as provided in this Section, shall constitute an overpayment, as defined in R.S. 47:1621(A), and the secretary shall make a refund of such overpayment from the current collections of the taxes imposed by Chapter 1 or Chapter 5 of Subtitle II of this Title, together with interest as provided in R.S. 47:1624. The right to a credit or refund of any such overpayment shall not be subject to the requirements of R.S. 47:1621(B). All credits and refunds, together with interest thereof, must be paid or disallowed within one year of receipt by the secretary of any such claim for refund or credit. Failure of the secretary to pay or disallow, in whole or in part, any claim for a credit or a refund shall entitle the aggrieved taxpayer to proceed with the remedies provided in R.S. 47:1625.

D. As used in this Section:
(1) "Wind energy system" means a system of apparatus and equipment with the primary purpose of intercepting and converting wind energy into mechanical or electrical energy and transferring this form of energy by a separate apparatus to the point of use or storage.

(2) "Solar energy system" means an energy system with the primary purpose of collecting or absorbing sunlight for conversion into electricity or an energy system with the primary purpose of collecting or absorbing solar energy for conversion into heat for the purposes of space heating, space cooling, or water heating.

E. Credits may be claimed in accordance with the following:

(1) Any entity taxed as a corporation for Louisiana income tax and franchise tax purposes shall claim any credit authorized according to the provisions of this Section on its corporation income and franchise tax return.

(2) Any individual, estate, or trust shall claim any credit authorized according to the provisions of this Section on its income tax return.

(3) Any entity not taxed as a corporation shall claim any credit authorized according to the provisions of this Section on the returns of the partners or members as follows:

(a) Corporate partners or members shall claim their share of the credit on their corporation income tax or franchise tax returns.

(b) Individual partners or members shall claim their share of the credit on their individual income tax or franchise tax returns.

(c) Partners or members that are estates or trusts shall claim their share of the credit on their fiduciary income tax returns.

F. The secretary of the Department of Revenue in consultation with the secretary of the Department of Natural Resources shall promulgate such rules and regulations in accordance with the Administrative Procedure Act as may be necessary to carry out the provisions of this Section. The rules and regulations shall be promulgated within ninety days of the effective date of this Section.
Section 2. Code of Civil Procedure Article 2953(C)(1) is hereby amended and
reenacted to read as follows:

Art. 2953. Evidence as to taxes due, receipt of payment and filing of a return and
inventory or list

C.(1) For deaths occurring after June 30, 2004, proof of the filing with the
secretary of the Department of Revenue of an inheritance tax return, including the
related succession documentation required under Article 2951(A), and proof that no
inheritance taxes are due or that such taxes have been paid shall not be required if
either of the following occur:

(a) A judgment of possession is rendered or if the succession is judicially
opened no later than the last day of the ninth month following the death of the
decedent as provided in R.S. 47:2401(B).

(b) With respect to a revocable inter vivos trust, a trust declaration is filed
with the secretary of the Department of Revenue in accordance with the provisions
of R.S. 47:2426.

Section 3. Chapter 14 of Subtitle II of Title 47 of the Louisiana Revised Statutes of
1950, comprised of R.S. 47:1201 through 1212, is hereby repealed effective July 1, 2008.

Section 4. R.S. 47:297.7(A) as enacted in that Act which originated as House Bill No.678 of the 2007 Regular Session of the Legislature is hereby amended and reenacted to read
as follows:

§297.7. Property insurance tax credit

A. For tax years beginning during 2008 only, there shall be allowed a credit against the individual income tax determined as provided in this Part seven percent of the premiums for a homeowners' insurance policy, condominium owners' insurance policy, or a tenant homeowners' insurance policy paid by the individual during the tax year for the primary residence of the individual, less the amount for which a credit is granted pursuant to R.S. 47:6025.

Coding: Words which are struck through are deletions from existing law; words in boldface type and underscored are additions.
Section 5. The provisions of Sections 1, 2, and 4 of this Act shall be applicable to taxable periods beginning on and after January 1, 2008.

Section 6. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____________

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