

House Bill 2212

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for State Department of Energy)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Expands residential alternative energy device tax credit to permit increased capacity wind electric systems and fuel cell systems to qualify for credit. Makes conforming changes.

Applies to alternative energy devices constructed or installed on or after January 1, 2007.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to renewable energy; creating new provisions; amending ORS 316.116, 469.160, 469.165,
3 469.170, 469.172, 469.176 and 469.180 and section 5a, chapter 832, Oregon Laws 2005; and pre-
4 scribing an effective date.

5 **Be It Enacted by the People of the State of Oregon:**

6 **SECTION 1.** ORS 469.160 is amended to read:

7 469.160. As used in ORS 316.116, 317.115 and 469.160 to 469.180:

8 *[(1) "Alternative energy device" means:]*

9 *[(a) Any system, mechanism or series of mechanisms, including photovoltaic systems, that uses so-*
10 *lar radiation or wind for space heating, cooling or electrical energy for one or more dwellings;]*

11 *[(b) Any system that uses solar radiation for:]*

12 *[(A) Domestic water heating; or]*

13 *[(B) Swimming pool, spa or hot tub heating and that meets the requirements set forth in ORS*
14 *316.116;]*

15 *[(c) A ground water heat pump and ground loop system;]*

16 *[(d) A wind powered turbine that generates electricity;]*

17 *[(e) Any wind powered device used to offset or supplement the use of electricity by performing a*
18 *specific task such as pumping water;]*

19 *[(f) Equipment used in the production of alternative fuels;]*

20 *[(g) A generator powered by alternative fuels and used to produce electricity;]*

21 *[(h) A fuel cell;]*

22 *[(i) An energy efficient appliance; or]*

23 *[(j) An alternative fuel device.]*

24 **(1) "Alternative energy device" means a category one alternative energy device or a**
25 **category two alternative energy device.**

26 **(2) "Alternative fuel device" means any of the following:**

27 **(a) An alternative fuel vehicle;**

28 **(b) Related equipment; or**

29 **(c) A fueling station necessary to operate an alternative fuel vehicle.**

30 **(3) "Alternative fuel vehicle" means a motor vehicle as defined in ORS 801.360 that is:**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (a) Registered in this state; and

2 (b) Manufactured or modified to use an alternative fuel, including but not limited to electricity,
 3 natural gas, ethanol, methanol, propane and any other fuel approved in rules adopted by the Direc-
 4 tor of the State Department of Energy that produces less exhaust emissions than vehicles fueled by
 5 gasoline or diesel. Determination that a vehicle is an alternative fuel vehicle shall be made without
 6 regard to energy consumption savings.

7 **(4) “Category one alternative energy device” means:**

8 **(a) Any system, mechanism or series of mechanisms that uses solar radiation for space**
 9 **heating or cooling for one or more dwellings;**

10 **(b) Any system that uses solar radiation for:**

11 **(A) Domestic water heating; or**

12 **(B) Swimming pool, spa or hot tub heating and that meets the requirements set forth in**
 13 **ORS 316.116;**

14 **(c) A ground water heat pump and ground loop system;**

15 **(d) Any wind powered device used to offset or supplement the use of electricity by per-**
 16 **forming a specific task such as pumping water;**

17 **(e) Equipment used in the production of alternative fuels;**

18 **(f) A generator powered by alternative fuels and used to produce electricity;**

19 **(g) An energy efficient appliance;**

20 **(h) An alternative fuel device; or**

21 **(i) A premium efficiency biomass combustion device that includes a dedicated outside**
 22 **combustion air source and that meets minimum performance standards that are established**
 23 **by the State Department of Energy.**

24 **(5) “Category two alternative energy device” means a fuel cell system, solar electric**
 25 **system or wind electric system.**

26 [(4)] **(6) “Coefficient of performance” means the ratio calculated by dividing the usable output**
 27 **energy by the electrical input energy. Both energy values must be expressed in equivalent units.**

28 [(5)] **(7) “Contractor” means a person whose trade or business consists of offering for sale an**
 29 **alternative energy device, construction service, installation service or design service.**

30 [(6)(a)] **(8)(a) “Cost” means the actual cost of the acquisition, construction and installation of**
 31 **the alternative energy device [or solar electric system] paid by the taxpayer for the alternative en-**
 32 **ergy device [or solar electric system].**

33 (b) For an alternative fuel vehicle, “cost” means the difference between the cost of the alter-
 34 native fuel vehicle and the same vehicle or functionally similar vehicle manufactured to use con-
 35 ventional gasoline or diesel fuel or, in the case of modification of an existing vehicle, the cost of the
 36 modification. “Cost” does not include any amounts paid for remodification of the same vehicle.

37 (c) For a fueling station necessary to operate an alternative fuel vehicle, “cost” means the cost
 38 to the contractor of constructing or installing the fueling station in a dwelling and of making the
 39 fuel station operational in accordance with the specifications issued under ORS 469.160 to 469.180
 40 and any rules adopted by the Director of the State Department of Energy.

41 (d) For related equipment, “cost” means the cost of the related equipment and any modifications
 42 or additions to the related equipment necessary to prepare the related equipment for use in con-
 43 verting a vehicle to alternative fuel use.

44 [(7)] **(9) “Domestic water heating” means the heating of water used in a dwelling for bathing,**
 45 **clothes washing, dishwashing and other related functions.**

1 [(8)] (10) “Dwelling” means real or personal property ordinarily inhabited as a principal or
 2 secondary residence and located within this state. “Dwelling” includes, but is not limited to, an in-
 3 dividual unit within multiple unit residential housing.

4 [(9)] (11) “Energy efficient appliance” means a clothes washer, clothes dryer, water heater,
 5 refrigerator, freezer, dishwasher, appliance designed to heat or cool a dwelling or other major
 6 household appliance that has been certified by the State Department of Energy to have premium
 7 energy efficiency characteristics.

8 [(10)] (12) “First year energy yield” of an alternative energy device is the usable energy
 9 produced under average environmental conditions in one year.

10 (13) **“Fuel cell system” means any system, mechanism or series of mechanisms that uses**
 11 **fuel cells or fuel cell technology to generate electrical energy for a dwelling.**

12 [(11)] (14) “Fueling station” includes but is not limited to a compressed natural gas compressor
 13 fueling system or an electric charging system for vehicle power battery charging.

14 [(12)] (15) “Placed in service” means:

15 (a) The date an alternative energy device [*or solar electric system*] is ready and available to
 16 produce usable energy or save energy.

17 (b) For an alternative fuel vehicle:

18 (A) In the case of purchase, the date that the alternative fuel vehicle is first purchased as an
 19 alternative fuel vehicle ready and available for use.

20 (B) In the case of modification, the date that the modification is completed and the vehicle is
 21 ready and available for use as an alternative fuel vehicle.

22 (c) For a fueling station necessary to operate an alternative fuel vehicle, the date that the fu-
 23 eling station is first operational.

24 (d) For related equipment, the date that the equipment is first operational.

25 [(13)] (16) “Related equipment” means equipment necessary to convert a vehicle to use an al-
 26 ternative fuel.

27 [(14)] (17) “Solar electric system” means any system, mechanism or series of mechanisms, in-
 28 cluding photovoltaic systems, that uses solar radiation to generate electrical energy for a dwelling.

29 (18) **“Wind electric system” means any system, mechanism or series of mechanisms that**
 30 **uses wind to generate electrical energy for a dwelling.**

31 **SECTION 2.** ORS 316.116 is amended to read:

32 316.116. (1)(a) A resident individual shall be allowed a credit against the taxes otherwise due
 33 under this chapter for costs paid or incurred for construction or installation of [*an*] **one or more**
 34 alternative energy [*device*] **devices** in a dwelling.

35 (b) A resident individual shall be allowed a credit against the taxes otherwise due under this
 36 chapter for costs paid or incurred to modify or purchase an alternative fuel vehicle or related
 37 equipment.

38 [*(c) A resident individual shall be allowed a credit against the taxes otherwise due under this*
 39 *chapter for costs paid or incurred for construction or installation of a solar electric system in a*
 40 *dwelling.*]

41 (2)(a) [*Except in the case of an alternative fuel device or a solar electric system*] **In the case of**
 42 **a category one alternative energy device that is not an alternative fuel device**, the credit shall
 43 be based upon the first year energy yield of the alternative energy device that qualifies under ORS
 44 469.160 to 469.180. The amount of the credit shall be the same whether for collective or noncollec-
 45 tive investment.

1 (b) The credit allowed under this section for **category one alternative energy devices** for each
2 dwelling [shall] **may** not exceed the lesser of:

3 (A) \$1,500 or the first year energy yield in kilowatt hours per year multiplied by 60 cents per
4 dwelling utilizing the alternative energy device used for space heating, cooling, electrical energy or
5 domestic water heating for tax years beginning on or after January 1, 1990, and before January 1,
6 1996.

7 (B) \$1,200 or the first year energy yield in kilowatt hours per year multiplied by 48 cents per
8 dwelling utilizing the alternative energy device used for space heating, cooling, electrical energy or
9 domestic water heating for tax years beginning on or after January 1, 1996, and before January 1,
10 1998.

11 (C) \$1,500 or the first year energy yield in kilowatt hours per year multiplied by 60 cents per
12 dwelling utilizing the alternative energy device used for space heating, cooling, electrical energy or
13 domestic water heating for tax years beginning on or after January 1, 1998.

14 (c) For [an] **a category one** alternative energy device used for swimming pool, spa or hot tub
15 heating, the credit allowed under this section shall be based upon 50 percent of the cost of the de-
16 vice or the first year's energy yield in kilowatt hours per year multiplied by 15 cents, whichever is
17 lower, up to:

18 (A) \$1,500 for tax years beginning on or after January 1, 1990, and before January 1, 1996.

19 (B) \$1,200 for tax years beginning on or after January 1, 1996, and before January 1, 1998.

20 (C) \$1,500 for tax years beginning on or after January 1, 1998.

21 (d) For an alternative fuel device, the credit allowed under this section is 25 percent of the cost
22 of the alternative fuel device but the total credit shall not exceed \$750 if the device is placed in
23 service on or after January 1, 1998.

24 (e)(A) For **a category two alternative energy device that is a solar electric system or fuel**
25 **cell system**, the credit allowed under this section shall equal \$3 per watt of installed output, but
26 the installed output that is used to determine the amount of credit under this paragraph may not
27 exceed 2,000 watts.

28 **(B) For a category two alternative energy device that is a wind electric system, the credit**
29 **allowed under this section may not exceed the lesser of \$6,000 or the first year energy yield**
30 **in kilowatt hours per year multiplied by \$2.**

31 [(B)] (C) Notwithstanding subparagraph (A) **or (B)** of this paragraph, the amount of the credit
32 allowed in any one tax year may not exceed the tax liability of the taxpayer or \$1,500, whichever
33 is less. Unused credit amounts may be carried forward as provided in subsection (7) of this section,
34 but may not be carried forward to a tax year that is more than five tax years following the first tax
35 year for which any credit was allowed with respect to the [solar electric system] **category two al-**
36 **ternative energy device** that is the basis for the credit.

37 [(C)] (D) Notwithstanding subparagraph (A) **or (B)** of this paragraph, the total amount of the
38 credit allowed under this paragraph may not exceed 50 percent of the total installed cost of the
39 [solar electric system] **category two alternative energy device.**

40 (3)(a) In the case of a credit for [an] **a category one** alternative energy device that is an energy
41 efficient appliance, the credit allowed to a resident individual under this section shall equal:

42 (A) 48 cents per first year kilowatt hour saved, or the equivalent for other fuel saved, not to
43 exceed \$1,200 for each tax year beginning on or after January 1, 1998, and before January 1, 1999;
44 and

45 (B) 40 cents per kilowatt hour saved, or the equivalent for other fuel saved, not to exceed \$1,000

1 for each tax year beginning on or after January 1, 1999.

2 (b) Notwithstanding paragraph (a) of this subsection, the credit allowed for an energy efficient
3 appliance *[shall]* **may** not exceed 25 percent of the cost of the appliance.

4 (4) To qualify for a credit under this section, all of the following are required:

5 (a) The alternative energy device *[or solar electric system]* must be purchased, constructed, in-
6 stalled and operated in accordance with ORS 469.160 to 469.180 and a certificate issued thereunder.

7 (b) Except for credits claimed for alternative fuel devices, the taxpayer who is allowed the credit
8 must be the owner or contract purchaser of the dwelling or dwellings served by the alternative en-
9 ergy device *[or solar electric system]* or the tenant of the owner or of the contract purchaser and
10 must:

11 (A) Use the dwelling or dwellings served by the alternative energy device *[or solar electric sys-
12 tem]* as a principal or secondary residence; or

13 (B) Rent or lease, under a residential rental agreement, the dwelling or dwellings to a tenant
14 who uses the dwelling or dwellings as a principal or secondary residence, unless the basis for the
15 credit is the installation of an energy efficient appliance. If the basis for the credit is the installation
16 of an energy efficient appliance, the credit shall be allowed only to the taxpayer who actually oc-
17 cupies the dwelling as a principal or secondary residence.

18 (c) In the case of an alternative fuel device, if the device is a fueling station necessary to op-
19 erate an alternative fuel vehicle, unless the verification form and certificate are transferred as au-
20 thorized under ORS 469.170 (8), the taxpayer who is allowed the credit must be the contractor who
21 constructs the dwelling that incorporates the fueling station into the dwelling or installs the fueling
22 station in the dwelling. If the **category one** alternative energy device is an alternative fuel vehicle,
23 the credit must be claimed by the owner as defined under ORS 801.375 or contract purchaser. If the
24 **category one** alternative energy device is related equipment **for an alternative fuel vehicle**, the
25 credit may be claimed by the owner or contract purchaser.

26 (d) The credit must be claimed for the tax year in which the alternative energy device *[or solar
27 electric system]* was purchased if the device *[or system]* is operational by April 1 of the next following
28 tax year.

29 (5) The credit provided by this section does not affect the computation of basis under this
30 chapter.

31 (6) The credit allowed under this section in any one year may not exceed the tax liability of the
32 taxpayer.

33 (7) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a
34 particular year may be carried forward and offset against the taxpayer's tax liability for the next
35 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried
36 forward and used in the second succeeding tax year, and likewise any credit not used in that second
37 succeeding tax year may be carried forward and used in the third succeeding tax year, and any
38 credit not used in that third succeeding tax year may be carried forward and used in the fourth
39 succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried
40 forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year
41 thereafter.

42 (8) A nonresident shall be allowed the credit under this section in the proportion provided in
43 ORS 316.117.

44 (9) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the
45 Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit al-

1 lowed by this section shall be prorated or computed in a manner consistent with ORS 314.085.

2 (10) If a change in the status of a taxpayer from resident to nonresident or from nonresident to
3 resident occurs, the credit allowed by this section shall be determined in a manner consistent with
4 ORS 316.117.

5 (11) A husband and wife who file separate returns for a taxable year may each claim a share
6 of the tax credit that would have been allowed on a joint return in proportion to the contribution
7 of each. However, a husband or wife living in a separate principal residence may claim the tax
8 credit in the same amount as permitted a single person.

9 (12) As used in this section, unless the context requires otherwise:

10 (a) "Collective investment" means an investment by two or more taxpayers for the acquisition,
11 construction and installation of an alternative energy device for one or more dwellings.

12 [(b) "First year energy yield" has the meaning given in ORS 469.160.]

13 [(c) (b) "Noncollective investment" means an investment by an individual taxpayer for the ac-
14 quisition, construction and installation of an alternative energy device for one or more dwellings.

15 [(13) (c) [As used in this section,] "Taxpayer" includes a transferee of a verification form under
16 ORS 469.170 (8).

17 [(14) (13) Notwithstanding any provision of subsection (1) or (2) of this section, the sum of the
18 credit allowed under subsection (1) of this section plus any similar credit allowed for federal income
19 tax purposes [shall] **may** not exceed the cost to the taxpayer for the acquisition, construction and
20 installation of the alternative energy device [or solar electric system].

21 **SECTION 3.** ORS 469.165 is amended to read:

22 469.165. (1) For the purposes of carrying out ORS 469.160 to 469.180, the State Department of
23 Energy may adopt rules prescribing minimum performance criteria for alternative energy devices for
24 dwellings [and solar electric systems].

25 (2) The department, in adopting rules under this section for solar heating and cooling systems,
26 shall take into consideration applicable standards of federal performance criteria prescribed pursu-
27 ant to the provisions of section 5506, title 42, United States Code (Solar Heating and Cooling Act
28 of 1974).

29 (3) The Director of the State Department of Energy shall adopt rules governing the determi-
30 nation of eligibility, verification and certification of an alternative fuel device for purposes of the
31 tax credits granted under ORS 316.116 and 317.115, including but not limited to rules that further
32 define an alternative fuel vehicle, related equipment or fueling station necessary to operate an al-
33 ternative fuel vehicle, that govern the computation of costs eligible for credit and that require eq-
34 uitable allocation of the tax credit benefits between the lessor and the lessee of an alternative fuel
35 vehicle as a condition of tax credit eligibility.

36 **SECTION 4.** ORS 469.170 is amended to read:

37 469.170. (1) Any person may claim a tax credit under ORS 316.116 (or ORS 317.115, if the person
38 is a corporation) if the person:

39 (a) Meets the requirements of ORS 316.116 (or ORS 317.115, if applicable);

40 (b) Meets the requirements of ORS 469.160 to 469.180; and

41 (c) Pays, subject to subsection (9) of this section, all or a portion of the costs of an alternative
42 energy device [or a solar electric system].

43 (2) A credit under ORS 317.115 may be claimed only if the alternative energy device is a fueling
44 station necessary to operate an alternative fuel vehicle.

45 (3)(a) In order to be eligible for a tax credit under ORS 316.116 or 317.115, a person claiming a

1 tax credit for construction or installation of an alternative energy device (including a fueling sta-
2 tion) *[or a solar electric system]* shall have the device *[or system]* certified by the State Department
3 of Energy or constructed or installed by a contractor certified by the department under subsection
4 (5) of this section. This paragraph does not apply to an alternative fuel vehicle or to related equip-
5 ment.

6 (b) Certification of an alternative fuel vehicle or related equipment shall be accomplished under
7 rules that shall be adopted by the Director of the State Department of Energy.

8 (4) Verification of the purchase, construction or installation of an alternative energy device *[or*
9 *solar electric system]* shall be made in writing on a form provided by the Department of Revenue and,
10 if applicable, shall contain:

11 (a) The location of the alternative energy device *[or solar electric system]*;

12 (b) A description of the type of device *[or system]*;

13 (c) If the device *[or system]* was constructed or installed by a contractor, evidence that the
14 contractor has any license, bond, insurance and permit required to sell and construct or install the
15 alternative energy device *[or solar electric system]*;

16 (d) If the device *[or system]* was constructed or installed by a contractor, a statement signed by
17 the contractor that the applicant has received:

18 (A) A statement of the reasonably expected energy savings of the device *[or system]*;

19 (B) A copy of consumer information published by the State Department of Energy;

20 (C) An operating manual for the alternative energy device *[or solar electric system]*; and

21 (D) A copy of the contractor's certification certificate or alternative energy device system cer-
22 tificate for the alternative energy device *[or solar electric system]*, as appropriate;

23 (e) If the device *[or system]* was not constructed or installed by a contractor, evidence that:

24 (A) The State Department of Energy has issued an alternative energy device system certificate
25 for the alternative energy device *[or solar electric system]*; and

26 (B) The taxpayer has obtained all building permits required for construction or installation of
27 the device *[or system]*;

28 (f) A statement, signed by both the taxpayer claiming the credit and the contractor if the device
29 *[or system]* was constructed or installed by a contractor, that the construction or installation meets
30 all the requirements of ORS 469.160 to 469.180 or, if the device is a fueling station and the taxpayer
31 is the contractor, a statement signed by the contractor that the construction or installation meets
32 all of the requirements of ORS 469.160 to 469.180;

33 (g) The date the alternative energy device *[or solar electric system]* was purchased;

34 (h) The date the alternative energy device *[or solar electric system]* was placed in service; and

35 (i) Any other information that the Director of the State Department of Energy or the Depart-
36 ment of Revenue determines is necessary.

37 (5)(a) When the State Department of Energy finds that an alternative energy device *[or solar*
38 *electric system]* can meet the standards adopted under ORS 469.165, the Director of the State De-
39 partment of Energy may issue a contractor system certification to the person selling and con-
40 structing or installing the alternative energy device *[or solar electric system]*.

41 (b) Any person who sells or installs more than 12 alternative energy devices *[or solar electric*
42 *systems]* in one year shall apply for a contractor system certification. An application for a contrac-
43 tor system certification shall be made in writing on a form provided by the State Department of
44 Energy and shall contain:

45 (A) A statement that the contractor has any license, bonding, insurance and permit that is re-

1 quired for the sale and construction or installation of the alternative energy device [*or solar electric*
2 *system*];

3 (B) A specific description of the alternative energy device [*or solar electric system*], including,
4 but not limited to, the material, equipment and mechanism used in the device [*or system*], operating
5 procedure, sizing and siting method and construction or installation procedure;

6 (C) The addresses of three installations of the device [*or system*] that are available for inspection
7 by the State Department of Energy;

8 (D) The range of installed costs to purchasers of the device [*or system*];

9 (E) Any important construction, installation or operating instructions; and

10 (F) Any other information that the State Department of Energy determines is necessary.

11 (c) A new application for contractor system approval shall be filed when there is a change in
12 the information supplied under paragraph (b) of this subsection.

13 (d) The State Department of Energy may issue contractor system certificates to each contractor
14 who on October 3, 1989, has a valid dealer system certification, which shall authorize the sale and
15 installation of the same domestic water heating alternative energy devices authorized by the dealer
16 certification.

17 (e) If the State Department of Energy finds that an alternative energy device [*or solar electric*
18 *system*] can meet the standards adopted under ORS 469.165, the Director of the State Department
19 of Energy may issue an alternative energy device system certificate to the taxpayer constructing
20 or installing or having an alternative energy device [*or solar electric system*] constructed or installed.

21 (f) An application for an alternative energy device system certificate shall be made in writing
22 on a form provided by the State Department of Energy and shall contain:

23 (A) A specific description of the alternative energy device [*or solar electric system*], including,
24 but not limited to, the material, equipment and mechanism used in the device [*or system*], operating
25 procedure, sizing, siting method and construction or installation procedure;

26 (B) The constructed or installed cost of the device [*or system*]; and

27 (C) A statement that the taxpayer has all permits required for construction or installation of the
28 device [*or system*].

29 (6) To claim the tax credit, the verification form described in subsection (4) of this section shall
30 be submitted with the taxpayer's tax return for the year the alternative energy device [*or solar*
31 *electric system*] is placed in service or the immediately succeeding tax year. A copy of the contrac-
32 tor's certification certificate, alternative energy device system certificate or alternative fuel vehicle
33 or related equipment certificate also shall be submitted.

34 (7) The verification form and contractor's certificate, alternative energy device system certif-
35 icate or alternative fuel vehicle or related equipment certificate described under this section shall
36 be effective for purposes of tax relief allowed under ORS 316.116 or 317.115.

37 (8) The verification form and contractor's certificate described under this section may be
38 transferred to the first purchaser of a dwelling or, in the case of construction or installation of a
39 fueling station in an existing dwelling, the current owner, who intends to use or is using the
40 dwelling as a principal or secondary residence.

41 (9) Any person that pays the present value of the tax credit for an alternative energy device
42 [*or solar electric system*] provided under ORS 316.116 or 317.115 and 469.160 to 469.180 to the person
43 who constructs or installs the alternative energy device [*or solar electric system*] shall be entitled
44 to claim the credit in the manner and subject to rules adopted by the Department of Revenue to
45 carry out the purposes of this subsection. The State Department of Energy may establish by rule

1 uniform discount rates to be used in calculating the present value of a tax credit under this sub-
2 section.

3 **SECTION 5.** ORS 469.172 is amended to read:

4 469.172. The following devices are not eligible for the tax credit under ORS 316.116:

5 (1) Standard efficiency furnaces;

6 (2) Standard back-up heating systems;

7 (3) Woodstoves or wood furnaces, or any part of a heating system that burns wood, **unless the**
8 **woodstove, furnace or system constitutes a premium efficiency biomass combustion device**
9 **described in ORS 469.160 (4)(i);**

10 (4) Heat pump water heaters that are part of a geothermal heat pump space heating system;

11 (5) Structures that cover or enclose a swimming pool;

12 (6) Swimming pools, hot tubs or spas used to store heat;

13 (7) Above ground, uninsulated swimming pools, hot tubs or spas;

14 (8) Photovoltaic systems installed on recreational vehicles;

15 (9) Conversion of an existing alternative energy device [*or solar electric system*] to another type
16 of alternative energy device [*or solar electric system*];

17 (10) Repair or replacement of an existing alternative energy device [*or solar electric system*];

18 (11) A [*solar electric system*] **category two alternative energy device**, if the equipment or other
19 property that comprises the [*solar electric system*] **category two alternative energy device** is
20 [*also*] the basis for an allowed credit for [*an*] **a category one** alternative energy device under ORS
21 316.116;

22 (12) [*An*] **A category one** alternative energy device, if the equipment or other property that
23 comprises the **category one** alternative energy device is also the basis for an allowed credit for a
24 [*solar electric system*] **category two alternative energy device** under ORS 316.116; or

25 (13) Any other device identified by the State Department of Energy. The department may adopt
26 rules defining standards for eligible and ineligible devices under this section.

27 **SECTION 6.** ORS 469.176 is amended to read:

28 469.176. (1) Except for alternative fuel vehicles or related equipment, in order to carry out ORS
29 469.160 to 469.180, the State Department of Energy shall develop performance assumptions and
30 prescriptive measures to determine the eligibility and tax credit amount for alternative energy de-
31 vices [*and solar electric systems*] constructed or installed in a dwelling.

32 (2) The department shall use the performance assumptions and prescriptive measures to develop
33 information for the Department of Revenue to use to allow taxpayers to determine their eligibility
34 and tax credit amount. The State Department of Energy may review this information on an annual
35 basis to take into consideration new technology and performance assumption accuracy.

36 (3) For the purpose of determining the first year energy yield of an alternative energy device,
37 the department shall use the following assumptions and test standards:

38 (a) Solar Rating and Certification Corporation standard SRCC 100, 200, American Society of
39 Heating, Refrigerating and Air-Conditioning Engineers 93-77, or the American Refrigeration Institute
40 standard 325-85 test at 50 degrees entering water temperature, as appropriate. The testing require-
41 ments under this paragraph shall not apply to an owner-built alternative energy device.

42 (b) For an alternative energy device used as a source for domestic water heating energy, a hot
43 water use of 75 gallons per day at 120 degrees Fahrenheit. The load of 75 gallons per day at 120
44 degrees Fahrenheit shall be achieved by including conservation measures in the construction or in-
45 stallation of the alternative energy device.

1 (c) For an alternative energy device used as a source for space heating or cooling, the heating
2 or cooling energy load as determined by a heat loss or gain calculation performed in accordance
3 with the methods established by the American Society of Heating, Refrigerating and Air-
4 Conditioning Engineers. Except for an owner-built or site-built system, an alternative energy device
5 used as a source for domestic hot water heating must meet the SRCC OG 300 systems test or comply
6 with comparable requirements as determined by the department.

7 (d) For an alternative energy device used as a source for electrical energy, the first year energy
8 yield shall be based upon the electrical energy load of the dwelling as determined according to the
9 procedure established by the department.

10 (e) For an alternative energy device used as a source for swimming pool, spa or hot tub heating,
11 the first year energy yield shall be based on the heating load of the swimming pool, spa or hot tub
12 as determined according to the procedure established by the department.

13 **SECTION 7.** ORS 469.180 is amended to read:

14 469.180. (1) Upon the Department of Revenue's own motion, or upon request of the State De-
15 partment of Energy, the Department of Revenue may initiate proceedings for the forfeiture of a tax
16 credit allowed under ORS 316.116 or 317.115 if:

17 (a) The verification was fraudulent because of a misrepresentation by the taxpayer or investor
18 owned utility;

19 (b) The verification was fraudulent because of a misrepresentation by the contractor;

20 (c) In the case of [*a solar electric system or*] an alternative energy device other than an alter-
21 native fuel vehicle or related equipment, the [*solar electric system or*] alternative energy device has
22 not been constructed, installed or operated in substantial compliance with the requirements of ORS
23 469.160 to 469.180; or

24 (d) The taxpayer or investor owned utility failed to consent to an inspection of the constructed
25 or installed alternative energy device [*or solar electric system*] by the State Department of Energy
26 after a reasonable, written request for such an inspection by the State Department of Energy. This
27 paragraph does not apply to an alternative fuel vehicle or to related equipment.

28 (2) Pursuant to the procedures for a contested case under ORS chapter 183, the Director of the
29 State Department of Energy may order the revocation of a contractor certificate issued under ORS
30 469.170 if the director finds that:

31 (a) The contractor certificate was obtained by fraud or misrepresentation by the contractor
32 certificate holder;

33 (b) The contractor's performance for the alternative energy device [*or solar electric system*] for
34 which the contractor is issued a certificate under ORS 469.170 does not meet industry standards;
35 or

36 (c) The contractor has misrepresented to the customer either the tax credit program or the na-
37 ture or quality of the alternative energy device [*or solar electric system*].

38 (3) If the tax credit allowed under ORS 316.116 or 317.115 for the purchase, construction or in-
39 stallation of an alternative energy device [*or solar electric system*] is ordered forfeited due to an
40 action of the taxpayer or investor owned utility under subsection (1)(a), (c) or (d) of this section, all
41 prior tax relief provided to the taxpayer or investor owned utility shall be forfeited and the De-
42 partment of Revenue shall proceed to collect those taxes not paid by the taxpayer or utility as a
43 result of the tax credit relief under ORS 316.116 or 317.115.

44 (4) If the tax credit for the construction or installation of an alternative energy device [*or solar*
45 *electric system*] is ordered forfeited due to an action of the contractor under subsection (1)(b) of this

1 section, the Department of Revenue shall proceed to collect, from the contractor, an amount equiv-
 2 alent to those taxes not paid by the taxpayer or investor owned utility as a result of the tax credit
 3 relief under ORS 316.116 or 317.115. As long as the forfeiture is due to an action of the contractor
 4 and not to an action of the taxpayer or utility, the assessment of such taxes shall be levied on the
 5 contractor and not on the taxpayer or utility. Notwithstanding ORS 314.835, the Department of Re-
 6 venue may disclose information from income tax returns or reports to the extent such disclosure is
 7 necessary to collect amounts from contractors under this subsection.

8 (5) In order to obtain information necessary to verify eligibility and amount of the tax credit,
 9 the State Department of Energy or its representative may inspect an alternative energy device [*or*
 10 *solar electric system*] that has been purchased, constructed or installed. The inspection shall be made
 11 only with the consent of the owner of the dwelling. Failure to consent to the inspection is grounds
 12 for the forfeiture of any tax credit relief under ORS 316.116 or 317.115. The Department of Revenue
 13 shall proceed to collect any taxes due according to subsection (4) of this section. For electrical
 14 generating alternative energy devices [*or solar electric systems*], the State Department of Energy may
 15 obtain energy consumption records for the dwelling the device [*or system*] serves, for a 12-month
 16 period, in order to verify eligibility and amount of the tax credit.

17 **SECTION 8.** Section 5a, chapter 832, Oregon Laws 2005, is amended to read:

18 **Sec. 5a.** A taxpayer may not be allowed a credit under ORS 316.116 if the first tax year for
 19 which the credit would otherwise be allowed with respect to an alternative energy device[, *solar*
 20 *electric system*] or alternative fuel vehicle or related equipment is on or after January 1, 2016.

21 **SECTION 9.** **The amendments to ORS 316.116, 469.160, 469.165, 469.170, 469.172, 469.176 and**
 22 **469.180 and section 5a, chapter 832, Oregon Laws 2005, by sections 1 to 8 of this 2007 Act**
 23 **apply to alternative energy devices constructed or installed on or after January 1, 2007.**

24 **SECTION 10.** **This 2007 Act takes effect on the 91st day after the date on which the**
 25 **regular session of the Seventy-fourth Legislative Assembly adjourns sine die.**