

HOUSE AMENDMENTS TO HOUSE BILL 2522

By COMMITTEE ON ENERGY, ENVIRONMENT AND WATER

April 28

1 In line 2 of the printed bill, after the semicolon insert “creating new provisions;” and after
2 “amending” insert “ORS 316.116, 469.165, 469.170 and 469.172 and”.

3 After line 23, insert:

4 **“SECTION 4. Sections 5 to 7 of this 2011 Act are added to and made a part of ORS 469.160**
5 **to 469.180.**

6 **“SECTION 5. It is the intention of the Legislative Assembly, through the allowance of**
7 **tax credits to personal income taxpayers for the use of alternative energy devices, to:**

8 **“(1) Assist taxpayers to save energy and produce clean energy; and**

9 **“(2) Attain environmental, economic and job creation benefits for this state beyond those**
10 **possible through incentives that are directed to utilities and that are appropriately measured**
11 **by cost-effectiveness.**

12 **“SECTION 6. Not later than February 1 of each year, the State Department of Energy**
13 **shall report to the Legislative Assembly on utilization of the credit allowed under ORS**
14 **316.116. The report required under this section shall include:**

15 **“(1) Data about the following, as applicable to tax credits allowable under ORS 316.116**
16 **and 469.160 to 469.180:**

17 **“(a) Applications for certification received.**

18 **“(b) Total amounts of tax credits certified and claimed by tax year.**

19 **“(c) Any new types of alternative energy devices for which the department has begun**
20 **allowing tax credits during the immediately preceding tax year.**

21 **“(d) Any types of alternative energy devices for which the department has ceased allow-**
22 **ing tax credits during the immediately preceding tax year.**

23 **“(e) Developments in market conditions for various types of alternative energy devices.**

24 **“(f) Amounts of credits allowed for particular types of alternative energy devices.**

25 **“(2) Recommendations for legislation, including proposals for:**

26 **“(a) Modifications of the limits established in section 7 of this 2011 Act.**

27 **“(b) Procedures for allocating credit amounts within the limits established in section 7**
28 **of this 2011 Act.**

29 **“(c) Removal of or addition to the types of alternative energy devices for which credits**
30 **are allowed.**

31 **“SECTION 7. (1) The total amount of tax credits allowed to taxpayers under ORS 316.116**
32 **may not, in any tax year that begins after January 1, 2012, exceed \$_____ million.**

33 **“(2) In the event that the State Department of Energy receives during a tax year appli-**
34 **cations for certification under ORS 469.170 that, in the estimation of the Director of the**
35 **State Department of Energy, will exceed the limit established in subsection (1) of this sec-**

1 tion, the department may issue a certificate for a credit amount that is less than the maxi-
2 mum amount provided in ORS 316.116 (2) or (3), or may deny certification under ORS 469.170.

3 **“(3) The Director of the State Department of Energy shall by rule establish criteria and**
4 **procedures for allocating credits to taxpayers during tax years in which the conditions de-**
5 **scribed in subsection (2) of this section exist.**

6 **“SECTION 8.** ORS 316.116 is amended to read:

7 “316.116. (1)(a) A resident individual shall be allowed a credit against the taxes otherwise due
8 under this chapter for costs paid or incurred for construction or installation of each of one or more
9 alternative energy devices in a dwelling.

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

13 **“(c) A credit against the taxes otherwise due under this chapter is not allowed for an**
14 **alternative energy device that does not meet or exceed all applicable federal, state and local**
15 **requirements for energy efficiency, including the state building code and any specialty codes.**

16 “(2)(a) In the case of a category one alternative energy device that is not an alternative fuel
17 device, the credit shall be based upon the first year energy yield of the alternative energy device
18 that qualifies under ORS 469.160 to 469.180. The amount of the credit shall be the same whether for
19 collective or noncollective investment.

20 “(b) The credit allowed under this section for each category one alternative energy device **that**
21 **is not an alternative energy device described in paragraph (c) of this subsection** for each
22 dwelling may not exceed the lesser of[.]

23 “[A] \$1,500 or the first year energy yield in kilowatt hours per year multiplied by 60 cents per
24 dwelling utilizing the alternative energy device used for space heating, cooling, electrical energy or
25 domestic water heating for tax years beginning on or after January 1, 1990, and before January 1,
26 1996.]

27 “[B] \$1,200 or the first year energy yield in kilowatt hours per year multiplied by 48 cents per
28 dwelling utilizing the alternative energy device used for space heating, cooling, electrical energy or
29 domestic water heating for tax years beginning on or after January 1, 1996, and before January 1,
30 1998.]

31 “[C] \$1,500 or the first year energy yield in kilowatt hours per year multiplied by 60 cents per
32 dwelling utilizing the alternative energy device used for space heating, cooling, electrical energy or
33 domestic water heating for tax years beginning on or after January 1, 1998.

34 **“(c) For each category one alternative energy device that is a whole house air-to-air heat**
35 **pump or a hydronic air handler, the credit allowed under this section may not exceed the**
36 **lesser of \$750 or the first year energy yield in kilowatt hours per year multiplied by 30 cents**
37 **per dwelling utilizing the alternative energy device.**

38 “[c] (d) For each category one alternative energy device used for swimming pool, spa or hot
39 tub heating, the credit allowed under this section shall be based upon 50 percent of the cost of the
40 device or the first year’s energy yield in kilowatt hours per year multiplied by 15 cents, whichever
41 is lower, up to[.]

42 “[A] \$1,500 for tax years beginning on or after January 1, 1990, and before January 1, 1996.]

43 “[B] \$1,200 for tax years beginning on or after January 1, 1996, and before January 1, 1998.]

44 “[C] \$1,500 for tax years beginning on or after January 1, 1998.

45 “[d] (e) For each alternative fuel device, the credit allowed under this section is 25 percent

1 of the cost of the alternative fuel device but the total credit shall not exceed \$750 if the device is
2 placed in service on or after January 1, 1998.

3 “[(e)(A)] (f)(A) For each category two alternative energy device that is a solar electric system
4 or fuel cell system, the credit allowed under this section shall equal \$3 per watt of installed output,
5 but the installed output that is used to determine the amount of credit under this paragraph may
6 not exceed 2,000 watts.

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

10 “(C) Notwithstanding subparagraph (A) or (B) of this paragraph, the total amount of the credits
11 allowed in any one tax year may not exceed the tax liability of the taxpayer or \$1,500 for each al-
12 ternative energy device, whichever is less. Unused credit amounts may be carried forward as pro-
13 vided in subsection (7) of this section, but may not be carried forward to a tax year that is more
14 than five tax years following the first tax year for which any credit was allowed with respect to the
15 category two alternative energy device that is the basis for the credit.

16 “(D) Notwithstanding subparagraph (A) or (B) of this paragraph, the total amount of the credit
17 for each device allowed under this paragraph may not exceed 50 percent of the total installed cost
18 of the category two alternative energy device.

19 “(3)(a) In the case of a credit for a category one alternative energy device that is an energy
20 efficient appliance, the credit allowed for each appliance to a resident individual under this section
21 *[shall equal:] may not exceed*

22 “[(A) 48 cents per first year kilowatt hour saved, or the equivalent for other fuel saved, not to ex-
23 ceed \$1,200 for each tax year beginning on or after January 1, 1998, and before January 1, 1999;
24 and]

25 “[(B) 40] _____ cents per kilowatt hour saved, or the equivalent for other fuel saved, not to
26 exceed [\$1,000] _____ for each tax year beginning on or after January 1, 1999.

27 “(b) Notwithstanding paragraph (a) of this subsection, the credit allowed for an energy efficient
28 appliance may not exceed [25] _____ percent of the cost of the appliance.

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

30 “(a) The alternative energy device must be purchased, constructed, installed and operated in
31 accordance with ORS 469.160 to 469.180 and a certificate issued thereunder.

32 “(b) Except for credits claimed for alternative fuel devices, the taxpayer who is allowed the
33 credit must be the owner or contract purchaser of the dwelling or dwellings served by the alterna-
34 tive energy device or the tenant of the owner or of the contract purchaser and must:

35 “(A) Use the dwelling or dwellings served by the alternative energy device as a principal or
36 secondary residence; or

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

42 “(c) In the case of an alternative fuel device, if the device is a fueling station necessary to op-
43 erate an alternative fuel vehicle, unless the verification form and certificate are transferred as au-
44 thorized under ORS 469.170 (8), the taxpayer who is allowed the credit must be the contractor who
45 constructs the dwelling that incorporates the fueling station into the dwelling or installs the fueling

1 station in the dwelling. If the category one alternative energy device is an alternative fuel vehicle,
2 the credit must be claimed by the owner as defined under ORS 801.375 or contract purchaser. If the
3 category one alternative energy device is related equipment for an alternative fuel vehicle, the
4 credit may be claimed by the owner or contract purchaser.

5 “(d) The credit must be claimed for the tax year in which the alternative energy device was
6 purchased if the device is operational by April 1 of the next following tax year.

7 “(e) If the alternative fuel vehicle is a gasoline-electric hybrid vehicle not designed for electric
8 plug-in charging, it must be purchased before January 1, 2010.

9 “(5) The credit provided by this section does not affect the computation of basis under this
10 chapter.

11 “(6) The total credits allowed under this section in any one year may not exceed the tax liability
12 of the taxpayer.

13 “(7) Any tax credit otherwise allowable under this section that is not used by the taxpayer in
14 a particular year may be carried forward and offset against the taxpayer’s tax liability for the next
15 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried
16 forward and used in the second succeeding tax year, and likewise any credit not used in that second
17 succeeding tax year may be carried forward and used in the third succeeding tax year, and any
18 credit not used in that third succeeding tax year may be carried forward and used in the fourth
19 succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried
20 forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year
21 thereafter.

22 “(8) A nonresident shall be allowed the credit under this section in the proportion provided in
23 ORS 316.117.

24 “(9) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the
25 Department of Revenue terminates the taxpayer’s taxable year under ORS 314.440, the credit al-
26 lowed by this section shall be prorated or computed in a manner consistent with ORS 314.085.

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

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

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

35 “(a) ‘Collective investment’ means an investment by two or more taxpayers for the acquisition,
36 construction and installation of an alternative energy device for one or more dwellings.

37 “(b) ‘Noncollective investment’ means an investment by an individual taxpayer for the acqui-
38 sition, construction and installation of an alternative energy device for one or more dwellings.

39 “(c) ‘Taxpayer’ includes a transferee of a verification form under ORS 469.170 (8).

40 “(13) Notwithstanding any provision of subsection (1) [or (2)], (2) or (3) of this section, the sum
41 of the credit allowed under subsection (1) of this section plus any similar credit allowed for federal
42 income tax purposes may not exceed the cost to the taxpayer for the acquisition, construction and
43 installation of the alternative energy device.

44 “**SECTION 9.** ORS 469.165 is amended to read:

45 “469.165. (1) For the purposes of carrying out ORS 469.160 to 469.180, the State Department of

1 Energy may adopt rules prescribing minimum performance criteria for alternative energy devices for
2 dwellings. **The department may, in prescribing criteria, rely on applicable federal, state and**
3 **local requirements for energy efficiency, including the state building code and any specialty**
4 **codes.**

5 **“(2) The department shall take into consideration evolving market conditions in pre-**
6 **scribing minimum performance criteria for alternative energy devices and in determining**
7 **credit amounts, consistent with ORS 316.116 and section 7 of this 2011 Act.**

8 “[2] (3) The department, in adopting rules under this section for solar heating and cooling
9 systems, shall take into consideration applicable standards of federal performance criteria prescribed
10 pursuant to the provisions of section 5506, title 42, United States Code (Solar Heating and Cooling
11 **Demonstration Act of 1974).**

12 “[3] (4) The Director of the State Department of Energy shall adopt rules governing the de-
13 termination of eligibility, verification and certification of an alternative fuel device for purposes of
14 the tax credits granted under ORS 316.116 and 317.115, including but not limited to rules that fur-
15 ther define an alternative fuel vehicle, related equipment or fueling station necessary to operate an
16 alternative fuel vehicle, that govern the computation of costs eligible for credit and that require
17 equitable allocation of the tax credit benefits between the lessor and the lessee of an alternative fuel
18 vehicle as a condition of tax credit eligibility.

19 **“SECTION 10.** ORS 469.170 is amended to read:

20 **“469.170. (1) Subject to the limitations in section 7 of this 2011 Act,** any person may claim
21 a tax credit under ORS 316.116 (or ORS 317.115, if the person is a corporation) if the person:

22 **“(a) Meets the requirements of ORS 316.116 (or ORS 317.115, if applicable);**

23 **“(b) Meets the requirements of ORS 469.160 to 469.180; and**

24 **“(c) Pays, subject to subsection (9) of this section, all or a portion of the costs of an alternative**
25 **energy device.**

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

28 **“(3)(a) In order to be eligible for a tax credit under ORS 316.116 or 317.115, a person claiming**
29 **a tax credit for construction or installation of an alternative energy device (including a fueling**
30 **station) shall have the device certified by the State Department of Energy or constructed or in-**
31 **stalled by a contractor certified by the department under subsection (5) of this section. This para-**
32 **graph does not apply to an alternative fuel vehicle or to related equipment.**

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

35 **“(4) Verification of the purchase, construction or installation of an alternative energy device**
36 **shall be made in writing on a form provided by the Department of Revenue and, if applicable, shall**
37 **contain:**

38 **“(a) The location of the alternative energy device;**

39 **“(b) A description of the type of device;**

40 **“(c) If the device was constructed or installed by a contractor, evidence that the contractor has**
41 **any license, bond, insurance and permit required to sell and construct or install the alternative en-**
42 **ergy device;**

43 **“(d) If the device was constructed or installed by a contractor, a statement signed by the con-**
44 **tractor that the applicant has received:**

45 **“(A) A statement of the reasonably expected energy savings of the device;**

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

2 “(C) An operating manual for the alternative energy device; and

3 “(D) A copy of the contractor’s certification certificate or alternative energy device system

4 certificate for the alternative energy device, as appropriate;

5 “(e) If the device was not constructed or installed by a contractor, evidence that:

6 “(A) The State Department of Energy has issued an alternative energy device system certificate

7 for the alternative energy device; and

8 “(B) The taxpayer has obtained all building permits required for construction or installation of

9 the device;

10 “(f) A statement, signed by both the taxpayer claiming the credit and the contractor if the de-

11 vice was constructed or installed by a contractor, that the construction or installation meets all the

12 requirements of ORS 469.160 to 469.180 or, if the device is a fueling station and the taxpayer is the

13 contractor, a statement signed by the contractor that the construction or installation meets all of

14 the requirements of ORS 469.160 to 469.180;

15 “(g) The date the alternative energy device was purchased;

16 “(h) The date the alternative energy device was placed in service; and

17 “(i) Any other information that the Director of the State Department of Energy or the Depart-

18 ment of Revenue determines is necessary.

19 “(5)(a) When the State Department of Energy finds that an alternative energy device can meet

20 the standards adopted under ORS 469.165, the Director of the State Department of Energy may issue

21 a contractor system certification to the person selling and constructing or installing the alternative

22 energy device.

23 “(b) Any person who sells or installs more than 12 alternative energy devices in one year shall

24 apply for a contractor system certification. An application for a contractor system certification shall

25 be made in writing on a form provided by the State Department of Energy and shall contain:

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

27 quired for the sale and construction or installation of the alternative energy device;

28 “(B) A specific description of the alternative energy device, including, but not limited to, the

29 material, equipment and mechanism used in the device, operating procedure, sizing and siting

30 method and construction or installation procedure;

31 “(C) The addresses of three installations of the device that are available for inspection by the

32 State Department of Energy;

33 “(D) The range of installed costs to purchasers of the device;

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

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

36 “(c) A new application for contractor system approval shall be filed when there is a change in

37 the information supplied under paragraph (b) of this subsection.

38 “(d) The State Department of Energy may issue contractor system certificates to each contrac-

39 tor who on October 3, 1989, has a valid dealer system certification, which shall authorize the sale

40 and installation of the same domestic water heating alternative energy devices authorized by the

41 dealer certification.

42 “(e) If the State Department of Energy finds that an alternative energy device can meet the

43 standards adopted under ORS 469.165, the Director of the State Department of Energy may issue

44 an alternative energy device system certificate to the taxpayer constructing or installing or having

45 an alternative energy device constructed or installed.

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

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

6 “(B) The constructed or installed cost of the device; and

7 “(C) A statement that the taxpayer has all permits required for construction or installation of
8 the device.

9 “(6) To claim the tax credit, the verification form described in subsection (4) of this section shall
10 be submitted with the taxpayer’s tax return for the year the alternative energy device is placed in
11 service or the immediately succeeding tax year. A copy of the contractor’s certification certificate,
12 alternative energy device system certificate or alternative fuel vehicle or related equipment certifi-
13 cate also shall be submitted.

14 “(7) The verification form and contractor’s certificate, alternative energy device system certifi-
15 cate or alternative fuel vehicle or related equipment certificate described under this section shall
16 be effective for purposes of tax relief allowed under ORS 316.116 or 317.115.

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

21 “(9) Any person that pays the present value of the tax credit for an alternative energy device
22 provided under ORS 316.116 or 317.115 and 469.160 to 469.180 to the person who constructs or in-
23 stalls the alternative energy device shall be entitled to claim the credit in the manner and subject
24 to rules adopted by the Department of Revenue to carry out the purposes of this subsection. The
25 State Department of Energy may establish by rule uniform discount rates to be used in calculating
26 the present value of a tax credit under this subsection.

27 “**SECTION 11.** ORS 469.172 is amended to read:

28 “469.172. The following devices are not eligible for the tax credit under ORS 316.116:

29 “(1) Standard efficiency furnaces;

30 “**(2) Furnaces with electrically commutated motors that have efficiency ratings of 94**
31 **percent or less;**

32 “**(3) Air conditioning systems;**

33 “**(4) Boilers;**

34 “[2] **(5) Standard back-up heating systems;**

35 “[3] **(6) Woodstoves or wood furnaces, or any part of a heating system that burns wood, unless**
36 **the woodstove, furnace or system constitutes a premium efficiency biomass combustion device de-**
37 **scribed in ORS 469.160 (4)(i);**

38 “[4] **(7) Heat pump water heaters that are part of a geothermal heat pump space heating sys-**
39 **tem;**

40 “[5] **(8) Structures that cover or enclose a swimming pool;**

41 “[6] **(9) Swimming pools, hot tubs or spas used to store heat;**

42 “[7] **(10) Above ground, uninsulated swimming pools, hot tubs or spas;**

43 “[8] **(11) Photovoltaic systems installed on recreational vehicles;**

44 “[9] **(12) Conversion of an existing alternative energy device to another type of alternative**
45 **energy device;**

1 “[(10)] (13) Repair or replacement of an existing alternative energy device;

2 “[(11)] (14) A category two alternative energy device, if the equipment or other property that

3 comprises the category two alternative energy device is the basis for an allowed credit for a cate-

4 gory one alternative energy device under ORS 316.116;

5 “[(12)] (15) A category one alternative energy device, if the equipment or other property that

6 comprises the category one alternative energy device is also the basis for an allowed credit for a

7 category two alternative energy device under ORS 316.116; or

8 “[(13)] (16) Any other device identified by the State Department of Energy. The department may

9 adopt rules defining standards for eligible and ineligible devices under this section.

10 “**SECTION 12. Sections 5 to 7 of this 2011 Act and the amendments to ORS 316.116,**

11 **469.165, 469.170 and 469.172 by sections 8 to 11 of this 2011 Act apply to alternative energy**

12 **devices certified by the State Department of Energy on or after January 1, 2012, and to tax**

13 **years beginning on or after January 1, 2012.”.**

14 In line 24, delete “4” and insert “13”.

15 In line 25, before “session” insert “regular”.

16
