

A-Engrossed
Senate Bill 688

Ordered by the Senate April 28
Including Senate Amendments dated April 28

Sponsored by COMMITTEE ON FINANCE AND REVENUE

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.

Extends sunsets for tax credits for use of biofuel and fuel blends, for use of biodiesel in home heating and for construction or installation of alternative energy devices. **For tax years beginning on or after January 1, 2012, limits total amount of residential energy tax credits that may be claimed. Disallows credits claimed for alternative energy devices that do not meet or exceed government energy efficiency requirements. Limits amount of credit for whole house heat pumps or hydronic air handlers.**

Requires State Department of Energy to take evolving market conditions into account in prescribing minimum performance criteria for alternative energy devices. Requires department to report to Legislative Assembly on utilization of residential energy tax credit.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to residential energy; creating new provisions; amending ORS 316.116, 469.160, 469.165,
3 469.170 and 469.172 and sections 5a and 8a, chapter 832, Oregon Laws 2005, and section 29,
4 chapter 739, Oregon Laws 2007; and prescribing an effective date.

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

6 **SECTION 1.** Section 29, chapter 739, Oregon Laws 2007, as amended by section 17, chapter 913,
7 Oregon Laws 2009, is amended to read:

8 **Sec. 29.** ORS 315.465 and 315.469 apply to tax years beginning on or after January 1, 2007, and
9 before January 1, *[2012]* **2018.**

10 **SECTION 2.** Section 5a, chapter 832, Oregon Laws 2005, as amended by section 35, chapter 843,
11 Oregon Laws 2007, and section 12, chapter 913, Oregon Laws 2009, is amended to read:

12 **Sec. 5a. (1)** A taxpayer may not be allowed a credit under ORS 316.116 if the first tax year for
13 which the credit would otherwise be allowed with respect to an alternative energy device *[or alter-*
14 *native fuel vehicle or related equipment is]* **begins** on or after January 1, *[2012]* **2018.**

15 **(2) A taxpayer may not be allowed a credit under ORS 316.116 if the first tax year for**
16 **which the credit would otherwise be allowed with respect to an alternative fuel vehicle or**
17 **related equipment begins on or after January 1, 2012.**

18 **SECTION 3.** Section 8a, chapter 832, Oregon Laws 2005, as amended by section 13, chapter 913,
19 Oregon Laws 2009, is amended to read:

20 **Sec. 8a. (1)** The State Department of Energy may not issue a contractor's certification
21 certificate[,] **or an** alternative energy device system certificate *[or alternative fuel vehicle or related*
22 *equipment certificate]* under ORS 469.170 after January 1, *[2012]* **2018.**

23 **(2) The State Department of Energy may not issue an alternative fuel vehicle or related**

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 equipment certificate under ORS 469.170 after January 1, 2012.

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

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

6 (1) Assist taxpayers to save energy and produce clean energy; and

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

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

13 (1) Data about the following, as applicable to tax credits allowable under ORS 316.116 and
14 469.160 to 469.180:

15 (a) Applications for certification received.

16 (b) Total amounts of tax credits certified and claimed by tax year.

17 (c) Any new types of alternative energy devices for which the department has begun al-
18 lowing tax credits during the immediately preceding tax year.

19 (d) Any types of alternative energy devices for which the department has ceased allowing
20 tax credits during the immediately preceding tax year.

21 (e) Developments in market conditions for various types of alternative energy devices.

22 (f) Amounts of credits allowed for particular types of alternative energy devices.

23 (2) Recommendations for legislation, including proposals for:

24 (a) Modifications of the limits established in section 7 of this 2011 Act.

25 (b) Procedures for allocating credit amounts within the limits established in section 7 of
26 this 2011 Act.

27 (c) Removal of or addition to the types of alternative energy devices for which credits
28 are allowed.

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

31 (2) In the event that the State Department of Energy receives during a tax year appli-
32 cations for certification under ORS 469.170 that, in the estimation of the Director of the
33 State Department of Energy, will exceed the limit established in subsection (1) of this sec-
34 tion, the department may issue a certificate for a credit amount that is less than the maxi-
35 mum amount provided in ORS 316.116 (2), or may deny certification under ORS 469.170.

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

39 **SECTION 8.** ORS 316.116 is amended to read:

40 316.116. (1)(a) A resident individual shall be allowed a credit against the taxes otherwise due
41 under this chapter for costs paid or incurred for construction or installation of each of one or more
42 alternative energy devices in a dwelling.

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

1 **(c) A credit against the taxes otherwise due under this chapter is not allowed for an al-**
2 **ternative energy device that does not meet or exceed all applicable federal, state and local**
3 **requirements for energy efficiency, including the state building code and any specialty codes.**

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

8 (b) The credit allowed under this section for each category one alternative energy device **that**
9 **is not an alternative energy device described in paragraph (c) of this subsection** for each
10 dwelling may not exceed the lesser of[:]

11 [(A) \$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, 1990, and before January 1,
14 1996.]

15 [(B) \$1,200 or the first year energy yield in kilowatt hours per year multiplied by 48 cents per
16 dwelling utilizing the alternative energy device used for space heating, cooling, electrical energy or
17 domestic water heating for tax years beginning on or after January 1, 1996, and before January 1,
18 1998.]

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

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

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

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

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

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

33 [(d)] **(e)** For each alternative fuel device, the credit allowed under this section is 25 percent of
34 the cost of the alternative fuel device but the total credit shall not exceed \$750 if the device is
35 placed in service on or after January 1, 1998.

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

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

43 (C) Notwithstanding subparagraph (A) or (B) of this paragraph, the total amount of the credits
44 allowed in any one tax year may not exceed the tax liability of the taxpayer or \$1,500 for each al-
45 ternative energy device, whichever is less. Unused credit amounts may be carried forward as pro-

1 vided in subsection [(7)] **(6)** of this section, but may not be carried forward to a tax year that is more
2 than five tax years following the first tax year for which any credit was allowed with respect to the
3 category two alternative energy device that is the basis for the credit.

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

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

10 [(A) *48 cents per first year kilowatt hour saved, or the equivalent for other fuel saved, not to exceed*
11 *\$1,200 for each tax year beginning on or after January 1, 1998, and before January 1, 1999; and]*

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

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

16 [(4)] **(3)** To qualify for a credit under this section, all of the following are required:

17 (a) The alternative energy device must be purchased, constructed, installed and operated in ac-
18 cordance with ORS 469.160 to 469.180 and a certificate issued thereunder.

19 (b) Except for credits claimed for alternative fuel devices, the taxpayer who is allowed the credit
20 must be the owner or contract purchaser of the dwelling or dwellings served by the alternative en-
21 ergy device or the tenant of the owner or of the contract purchaser and must:

22 (A) Use the dwelling or dwellings served by the alternative energy device as a principal or
23 secondary residence; or

24 (B) Rent or lease, under a residential rental agreement, the dwelling or dwellings to a tenant
25 who uses the dwelling or dwellings as a principal or secondary residence[, *unless the basis for the*
26 *credit is the installation of an energy efficient appliance. If the basis for the credit is the installation*
27 *of an energy efficient appliance, the credit shall be allowed only to the taxpayer who actually occupies*
28 *the dwelling as a principal or secondary residence*].

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

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

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

41 [(5)] **(4)** The credit provided by this section does not affect the computation of basis under this
42 chapter.

43 [(6)] **(5)** The total credits allowed under this section in any one year may not exceed the tax
44 liability of the taxpayer.

45 [(7)] **(6)** Any tax credit otherwise allowable under this section that is not used by the taxpayer

1 in a particular year may be carried forward and offset against the taxpayer's tax liability for the
2 next succeeding tax year. Any credit remaining unused in the next succeeding tax year may be
3 carried forward and used in the second succeeding tax year, and likewise any credit not used in that
4 second succeeding tax year may be carried forward and used in the third succeeding tax year, and
5 any credit not used in that third succeeding tax year may be carried forward and used in the fourth
6 succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried
7 forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year
8 thereafter.

9 [(8)] (7) A nonresident shall be allowed the credit under this section in the proportion provided
10 in ORS 316.117.

11 [(9)] (8) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if
12 the Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit
13 allowed by this section shall be prorated or computed in a manner consistent with ORS 314.085.

14 [(10)] (9) If a change in the status of a taxpayer from resident to nonresident or from nonresi-
15 dent to resident occurs, the credit allowed by this section shall be determined in a manner consist-
16 ent with ORS 316.117.

17 [(11)] (10) A husband and wife who file separate returns for a taxable year may each claim a
18 share of the tax credit that would have been allowed on a joint return in proportion to the contri-
19 bution of each. However, a husband or wife living in a separate principal residence may claim the
20 tax credit in the same amount as permitted a single person.

21 [(12)] (11) As used in this section, unless the context requires otherwise:

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

24 (b) "Noncollective investment" means an investment by an individual taxpayer for the acqui-
25 sition, construction and installation of an alternative energy device for one or more dwellings.

26 (c) "Taxpayer" includes a transferee of a verification form under ORS 469.170 (8).

27 [(13)] (12) Notwithstanding any provision of subsection (1) or (2) of this section, the sum of the
28 credit allowed under subsection (1) of this section plus any similar credit allowed for federal income
29 tax purposes may not exceed the cost to the taxpayer for the acquisition, construction and instal-
30 lation of the alternative energy device.

31 **SECTION 9.** ORS 469.160 is amended to read:

32 469.160. As used in ORS 316.116, 317.115 and 469.160 to 469.180:

33 (1) "Alternative energy device" means a category one alternative energy device or a category
34 two alternative energy device.

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

36 (a) An alternative fuel vehicle;

37 (b) Related equipment; or

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

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

40 (a) Registered in this state; and

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

- 1 (4) “Category one alternative energy device” means:
- 2 (a) Any system, mechanism or series of mechanisms that uses solar radiation for space heating
3 or cooling for one or more dwellings;
- 4 (b) Any system that uses solar radiation for:
- 5 (A) Domestic water heating; or
- 6 (B) Swimming pool, spa or hot tub heating and that meets the requirements set forth in ORS
7 316.116;
- 8 (c) A ground water heat pump and ground loop system;
- 9 (d) Any wind powered device used to offset or supplement the use of electricity by performing
10 a specific task such as pumping water;
- 11 (e) Equipment used in the production of alternative fuels;
- 12 (f) A generator powered by alternative fuels and used to produce electricity;
- 13 [(g) *An energy efficient appliance;*]
- 14 [(h)] (g) An alternative fuel device; or
- 15 [(i)] (h) A premium efficiency biomass combustion device that includes a dedicated outside
16 combustion air source and that meets minimum performance standards that are established by the
17 State Department of Energy.
- 18 (5) “Category two alternative energy device” means a fuel cell system, solar electric system or
19 wind electric system.
- 20 (6) “Coefficient of performance” means the ratio calculated by dividing the usable output energy
21 by the electrical input energy. Both energy values must be expressed in equivalent units.
- 22 (7) “Contractor” means a person whose trade or business consists of offering for sale an alter-
23 native energy device, construction service, installation service or design service.
- 24 (8)(a) “Cost” means the actual cost of the acquisition, construction and installation of the al-
25 ternative energy device paid by the taxpayer for the alternative energy device.
- 26 (b) For an alternative fuel vehicle, “cost” means the difference between the cost of the alter-
27 native fuel vehicle and the same vehicle or functionally similar vehicle manufactured to use con-
28 ventional gasoline or diesel fuel or, in the case of modification of an existing vehicle, the cost of the
29 modification. “Cost” does not include any amounts paid for remodification of the same vehicle.
- 30 (c) For a fueling station necessary to operate an alternative fuel vehicle, “cost” means the cost
31 to the contractor of constructing or installing the fueling station in a dwelling and of making the
32 fuel station operational in accordance with the specifications issued under ORS 469.160 to 469.180
33 and any rules adopted by the Director of the State Department of Energy.
- 34 (d) For related equipment, “cost” means the cost of the related equipment and any modifications
35 or additions to the related equipment necessary to prepare the related equipment for use in con-
36 verting a vehicle to alternative fuel use.
- 37 (9) “Domestic water heating” means the heating of water used in a dwelling for bathing, clothes
38 washing, dishwashing and other related functions.
- 39 (10) “Dwelling” means real or personal property ordinarily inhabited as a principal or secondary
40 residence and located within this state. “Dwelling” includes, but is not limited to, an individual unit
41 within multiple unit residential housing.
- 42 [(11) *“Energy efficient appliance” means a clothes washer, clothes dryer, water heater, refrigerator,*
43 *freezer, dishwasher, appliance designed to heat or cool a dwelling or other major household appliance*
44 *that has been certified by the State Department of Energy to have premium energy efficiency charac-*
45 *teristics.*]

1 [(12)] (11) "First year energy yield" of an alternative energy device is the usable energy
2 produced under average environmental conditions in one year.

3 [(13)] (12) "Fuel cell system" means any system, mechanism or series of mechanisms that uses
4 fuel cells or fuel cell technology to generate electrical energy for a dwelling.

5 [(14)] (13) "Fueling station" includes but is not limited to a compressed natural gas compressor
6 fueling system or an electric charging system for vehicle power battery charging.

7 [(15)] (14) "Placed in service" means:

8 (a) The date an alternative energy device is ready and available to produce usable energy or
9 save energy.

10 (b) For an alternative fuel vehicle:

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

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

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

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

18 [(16)] (15) "Related equipment" means equipment necessary to convert a vehicle to use an al-
19 ternative fuel.

20 [(17)] (16) "Solar electric system" means any system, mechanism or series of mechanisms, in-
21 cluding photovoltaic systems, that uses solar radiation to generate electrical energy for a dwelling.

22 [(18)] (17) "Wind electric system" means any system, mechanism or series of mechanisms that
23 uses wind to generate electrical energy for a dwelling.

24 **SECTION 10.** ORS 469.165 is amended to read:

25 469.165. (1) For the purposes of carrying out ORS 469.160 to 469.180, the State Department of
26 Energy may adopt rules prescribing minimum performance criteria for alternative energy devices for
27 dwellings. **The department may, in prescribing criteria, rely on applicable federal, state and**
28 **local requirements for energy efficiency, including the state building code and any specialty**
29 **codes.**

30 **(2) The department shall take into consideration evolving market conditions in prescrib-**
31 **ing minimum performance criteria for alternative energy devices and in determining credit**
32 **amounts, consistent with ORS 316.116 and section 7 of this 2011 Act.**

33 [(2)] (3) The department, in adopting rules under this section for solar heating and cooling sys-
34 tems, shall take into consideration applicable standards of federal performance criteria prescribed
35 pursuant to the provisions of section 5506, title 42, United States Code (Solar Heating and Cooling
36 **Demonstration Act of 1974).**

37 [(3)] (4) The Director of the State Department of Energy shall adopt rules governing the deter-
38 mination of eligibility, verification and certification of an alternative fuel device for purposes of the
39 tax credits granted under ORS 316.116 and 317.115, including but not limited to rules that further
40 define an alternative fuel vehicle, related equipment or fueling station necessary to operate an al-
41 ternative fuel vehicle, that govern the computation of costs eligible for credit and that require eq-
42 uitable allocation of the tax credit benefits between the lessor and the lessee of an alternative fuel
43 vehicle as a condition of tax credit eligibility.

44 **SECTION 11.** ORS 469.170 is amended to read:

45 469.170. (1) **Subject to the limitations in section 7 of this 2011 Act,** any person may claim a

1 tax credit under ORS 316.116 (or ORS 317.115, if the person is a corporation) if the person:

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

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

4 (c) Pays, subject to subsection (9) of this section, all or a portion of the costs of an alternative
5 energy device.

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

8 (3)(a) In order to be eligible for a tax credit under ORS 316.116 or 317.115, a person claiming a
9 tax credit for construction or installation of an alternative energy device (including a fueling sta-
10 tion) shall have the device certified by the State Department of Energy or constructed or installed
11 by a contractor certified by the department under subsection (5) of this section. This paragraph does
12 not apply to an alternative fuel vehicle or to related equipment.

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

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

18 (a) The location of the alternative energy device;

19 (b) A description of the type of device;

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

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

25 (A) A statement of the reasonably expected energy savings of the device;

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

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

28 (D) A copy of the contractor's certification certificate or alternative energy device system cer-
29 tificate for the alternative energy device, as appropriate;

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

31 (A) The State Department of Energy has issued an alternative energy device system certificate
32 for the alternative energy device; and

33 (B) The taxpayer has obtained all building permits required for construction or installation of
34 the device;

35 (f) A statement, signed by both the taxpayer claiming the credit and the contractor if the device
36 was constructed or installed by a contractor, that the construction or installation meets all the re-
37 quirements of ORS 469.160 to 469.180 or, if the device is a fueling station and the taxpayer is the
38 contractor, a statement signed by the contractor that the construction or installation meets all of
39 the requirements of ORS 469.160 to 469.180;

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

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

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

44 (5)(a) When the State Department of Energy finds that an alternative energy device can meet
45 the standards adopted under ORS 469.165, the Director of the State Department of Energy may issue

1 a contractor system certification to the person selling and constructing or installing the alternative
2 energy device.

3 (b) Any person who sells or installs more than 12 alternative energy devices in one year shall
4 apply for a contractor system certification. An application for a contractor system certification shall
5 be made in writing on a form provided by the State Department of Energy and shall contain:

6 (A) A statement that the contractor has any license, bonding, insurance and permit that is re-
7 quired for the sale and construction or installation of the alternative energy device;

8 (B) A specific description of the alternative energy device, including, but not limited to, the
9 material, equipment and mechanism used in the device, operating procedure, sizing and siting
10 method and construction or installation procedure;

11 (C) The addresses of three installations of the device that are available for inspection by the
12 State Department of Energy;

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

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

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

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

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

22 (e) If the State Department of Energy finds that an alternative energy device can meet the
23 standards adopted under ORS 469.165, the Director of the State Department of Energy may issue
24 an alternative energy device system certificate to the taxpayer constructing or installing or having
25 an alternative energy device constructed or installed.

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

28 (A) 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, siting method
30 and construction or installation procedure;

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

32 (C) A statement that the taxpayer has all permits required for construction or installation of the
33 device.

34 (6) To claim the tax credit, the verification form described in subsection (4) of this section shall
35 be submitted with the taxpayer's tax return for the year the alternative energy device is placed in
36 service or the immediately succeeding tax year. A copy of the contractor's certification certificate,
37 alternative energy device system certificate or alternative fuel vehicle or related equipment certifi-
38 cate also shall be submitted.

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

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

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

7 **SECTION 12.** ORS 469.172 is amended to read:

8 469.172. The following devices are not eligible for the tax credit under ORS 316.116:

9 (1) Standard efficiency furnaces;

10 **(2) Appliances;**

11 **(3) Furnaces with electrically commutated motors that have efficiency ratings of 94 per-**
12 **cent or less;**

13 **(4) Air conditioning systems;**

14 **(5) Boilers;**

15 [(2)] **(6)** Standard back-up heating systems;

16 [(3)] **(7)** Woodstoves or wood furnaces, or any part of a heating system that burns wood, unless
17 the woodstove, furnace or system constitutes a premium efficiency biomass combustion device de-
18 scribed in ORS 469.160 [(4)(i)] **(4)(h);**

19 [(4)] **(8)** Heat pump water heaters that are part of a geothermal heat pump space heating system;

20 [(5)] **(9)** Structures that cover or enclose a swimming pool;

21 [(6)] **(10)** Swimming pools, hot tubs or spas used to store heat;

22 [(7)] **(11)** Above ground, uninsulated swimming pools, hot tubs or spas;

23 [(8)] **(12)** Photovoltaic systems installed on recreational vehicles;

24 [(9)] **(13)** Conversion of an existing alternative energy device to another type of alternative en-
25 ergy device;

26 [(10)] **(14)** Repair or replacement of an existing alternative energy device;

27 [(11)] **(15)** A category two alternative energy device, if the equipment or other property that
28 comprises the category two alternative energy device is the basis for an allowed credit for a cate-
29 gory one alternative energy device under ORS 316.116;

30 [(12)] **(16)** A category one alternative energy device, if the equipment or other property that
31 comprises the category one alternative energy device is also the basis for an allowed credit for a
32 category two alternative energy device under ORS 316.116; or

33 [(13)] **(17)** Any other device identified by the State Department of Energy. The department may
34 adopt rules defining standards for eligible and ineligible devices under this section.

35 **SECTION 13.** Sections 5 to 7 of this 2011 Act and the amendments to ORS 316.116, 469.160,
36 469.165, 469.170 and 469.172 by sections 8 to 12 of this 2011 Act apply to alternative energy
37 devices certified by the State Department of Energy on or after January 1, 2012, and to tax
38 years beginning on or after January 1, 2012.

39 **SECTION 14.** This 2011 Act takes effect on the 91st day after the date on which the 2011
40 regular session of the Seventy-sixth Legislative Assembly adjourns sine die.

41