



# Southwest Regional Development Commission

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## Legislative Priority Issue #1 2010 Legislative Session

### Legislation Concerning Renewable Energy

#### **Background**

The Southwest Regional Development Commission (SRDC) is a nine-county Regional Development Commission as established under Minnesota Statute §462.381-462.398 the “Regional Development Act.” As a representative of local units of government in Cottonwood, Jackson, Lincoln, Lyon, Murray, Nobles, Pipestone, Redwood and Rock counties, the SRDC represents an area with vast potential wind energy resources and also contains a large amount of installed wind generation. The SRDC provides staff services to the Rural Minnesota Energy Board, a seventeen county joint powers located in southwest and south-central Minnesota. The Energy Board’s purpose is to promote renewable energy production and help to eliminate barriers to renewable energy development.

#### **Priority Renewable Energy Issues**

##### **1. Wind Energy Production Tax**

Explanation: During the negotiations that concluded the 2008 Legislative session, language pertaining to a levy limit for counties was inserted. In this language, revenue received by counties from the wind energy production tax was included in the calculations used to determine a counties maximum levy. The wind energy production tax was treated as a general revenue, and any revenue from this tax was added to the counties’ bottom line and resulted in a decrease in county revenue equal to the wind energy production tax generated. This is a direct conflict with the original legislative intent of the wind energy production tax. The production tax was designed to be used by counties to offset the damage to infrastructure caused by wind energy conversion system installation and to provide funds for the increased cost of fire protection and other public safety expenses. The production tax was also designed to be used as an incentive to counties to promote the development of wind production in their counties. Eliminating the benefits of the production tax results in counties increasing their list of infrastructure needs that they cannot afford to meet.

Policy Position: The SRDC supports the efforts of the Rural Minnesota Energy Board to have the wind energy production tax eliminated from the levy limit language enacted by the 2008 Legislature as it is clearly a violation of the legislative intent of the language that established the wind energy production tax as a solution to basic infrastructure maintenance needed in counties that have wind energy conversion systems installed.

## 2. Federal Production Tax Credit

Explanation: Currently only those who “materially participate” in a wind energy conversion system or investors with passive income are eligible for the federal Production Tax Credit, the Investment Tax Credit or the Treasury Grant programs on wind energy conversion systems. This tax credit is essential to the development of locally owned wind projects but currently is not available to local investors forcing developers to seek outside sources of capital and sending wealth out of the region.

Local investors, primarily farmers, are looking to invest in locally owned projects but currently cannot. Passive income does not include income from the farmer's active farming business, wage income, or interest and dividend income. Unless a farmer materially participates in the production of wind power, the production tax credit cannot offset tax liability attributable to income from these sources. Since many farmers do not have passive income and do not materially participate in wind power production, this passive versus non-passive income distinction limits the number of farmers that are able to take advantage of the renewable energy production tax credit.

Policy Position: The SRDC supports Congressman Walz’s efforts to allow local investors in wind projects to utilize the Production Tax Credit, the Investment Tax Credit and the Treasury Grant Programs by making up to \$40,000 of ordinary income eligible for the programs.

Resources for Information on the Production Tax Credit:

<http://www.awea.org/legislative/#PTC>  
<http://www.windustry.org/federal-production-tax-credit>

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