House Research
Act Summary

CHAPTER: 40 **SESSION:** 2005 Regular Session

TOPIC: Renewable energy production incentives

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Overview

The Renewable Energy Production Incentive (REPI) enacted by the Minnesota Legislature to support the development of wind energy pays owners of wind energy conversion systems with a capacity of 2 MW or less 1.5 cents for each kilowatt-hour (kWh) produced for 10 years.[1] The incentive payment is available to only 200 MW of total capacity statewide.[2] Projects deemed eligible by the Department of Commerce must be operational within 18 months, or approval to receive the incentive payment is withdrawn.

Another important financing component for wind projects is the federal Production Tax Credit (PTC), which investors can apply against other passive income (other than interest and dividends) to reduce their tax liability. The credit is currently 1.8 cents per kWh produced, and is paid for 10 years.

The PTC was enacted in 1992 and expired in June 1999. Since then, Congress has reauthorized it for shorter periods, creating a boom-and-bust cycle in wind development, since fewer projects can secure additional financing without the PTC. The credit expired at the end of 2001, and again at the end of 2003.

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1 Minnesota Statutes 2004, section 216C.41, subdivisions 4 and 5. Wind energy conversion systems owned by certain cooperatives qualify for the incentive if their capacity is 7 MW or less, as set forth in subdivision 1(c)(3).

2 Incentive payments from the first 100 MW are paid from the general fund (Minn. Stat. § 216C.41, subd. 5); payments for the second block of 100 MW are disbursed from the renewable development account (Minn. Stat. § 216C.41, subd. 5a and Minn. Stat. § 116C.779, subd. 2).

In Minnesota, the 10-month period from January to October 22, 2004, when Congress reauthorized the PTC, coincided with the 18-month eligibility period for most wind projects comprising the second 100 MW block eligible to receive the REPI. Eligibility for many of these projects expires in May 2005.

Chapter 40 extends the eligibility period for projects that can provide evidence of their viability by the amount of time the PTC was unavailable during the 18-month eligibility period. It reduces the REPI from 1.5 cents per kilowatt-hour to 1.0 cent for these projects and for projects replacing those that cannot provide evidence of viability, but allows for higher payments if all $4.5 million in REPI funds is not spent.

1 **Eligibility window.** Extends eligibility for incentive payments for qualified hydroelectric facilities by two years, to the end of 2007.

2 **Renewable development fund; renewable energy production incentive extension.** Allows applicants to seek an extension of the 18-month period they have to make the project operational in order to receive the REPI if the federal production tax credit was unavailable during that time. Applicants must submit to the commissioner of commerce evidence that:

(1) All interconnection and delivery studies have been completed and an interconnection agreement has been signed and executed. If the agreement requires transmission upgrades to be made, the applicant must also submit evidence that financing of the upgrades has been secured and that their construction can be completed before the extension expires.

(2) The applicant has secured equity and debt financing sufficient to complete the project before extension expires.

If these documents are submitted, the commissioner shall grant an extension equal to the time the PTC was unavailable during the eligibility period. If the PTC is unavailable when the commissioner makes this determination, eligibility is extended for 12 months.

Applicants on the current waiting list who submit the above documents to the commissioner also qualify to receive the incentive.

Applicants receiving a letter of approval after January 1, 2005 must first offer to sell the wind generated by their projects to the public utility operating a nuclear power plant in this state, and must negotiate a price that is binding for 120 days. The applicant may seek and accept a higher price from another utility; if a higher price is not offered, the applicant must sell to the first utility at the previously-negotiated binding price.

If the amounts in the renewable development account allocated to fund the REPI are insufficient to fully fund all qualifying projects, additional funds shall be used from the balance of the account (which also funds innovative renewable energy demonstration projects) to make up the deficiency.

If REPI payments fall below the $4.5 million allocated annually, the commissioner shall distribute the unspent balance among the projects receiving payments of 1.0 cent per kWh in proportion to each project's kilowatt-hours generated, up to a maximum of 1.5 cents per kWh.