Legislative Analysis

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RENEWABLE ENERGY PORTFOLIO ACT:
FOUR PERCENT BY 2012;
TEN PERCENT BY 2015

House Bill 5548 (Substitute H-2)
Sponsor: Rep. Jeff Mayes

House Bill 5549 (Substitute H-1)
Sponsor: Rep. David Palsrok
Committee: Energy and Technology

Complete to 2-1-08

A PRELIMINARY SUMMARY OF HOUSE BILLS 5548 & 5549 AS REPORTED FROM COMMITTEE

The bills would create the "Renewable Energy Portfolio Act" to require all electric service providers (e.g. regulated utilities, municipal utilities, electricity cooperatives, and alternative energy suppliers) to produce or purchase a specified percentage of the electricity they sell to retail customers in Michigan from renewable energy resources, as defined in the bill. Each provider would have to achieve a renewable portfolio standard (RPS) of **four percent by the end of 2012 and ten percent by the end of 2015,** unless the provider has been granted an extension of time, the PSC determines that the provider's compliance would be too costly, or another exception applied. Other key features of the bills include:

- Definition of renewable energy resource. The definition of renewable energy resource was expanded to include: (1) biomass, as defined in the bills; (2) solar energy; (3) wind energy; (4) kinetic energy of moving water, as specified; (5) hydrogen synthesis gas produced from the plasma gasification of industrial by-products or electronic waste; (5) geothermal energy; and (6) industrial thermal energy.
- Plans. Within 180 days of the act's effective date, all providers would have to file a plan with the PSC setting forth how it plans to meet the RPS requirements and projecting its incremental cost of compliance with the RPS requirements for a 20-year period, which would be deemed a cost of service. Subsequent material amendments to the plan would also have to be filed with the PSC.
- Cost recovery mechanism/RPS reduction. Within 90 days after a plan is filed, the PSC would be required to approve, reject, or modify the plan, and determine a mechanism for recovery of the incremental costs of compliance within the provider's rates. The cost recovery could not exceed the maximum allowable impact on rates described below. The PSC would reduce the RPS for a provider by an amount necessary to limit the impact on rates.
- Maximum retail rate impact. A provider would not be required to comply with the RPS to the extent that the PSC determined that recovery of the incremental

cost of compliance with the standard under the provider's approved plan under, as calculated over 20 years and subject to annual revision, would have a retail rate impact exceeding any of the following:

- Residential customers: $3 per month.
- Commercial secondary customer: $15.83 per month.
- Commercial primary or industrial: $187.50 per month

- Renewable energy credits or RECs. Providers would use renewable energy credits (RECs) to meet its RPS, which could be obtained three ways: (1) by producing renewable energy, (2) by purchasing renewable energy, or (3) by obtaining credits from a renewable energy system inside Michigan (or outside Michigan if in the service territory of a Michigan provider). In general, credits would be issued at the rate of one credit per one megawatt of electricity to the owner of the renewable energy system, although some categories of renewable energy, notably solar, would be granted additional credits. Unused credits would be good for three years; credits would extinguish upon being used to meet the standard. In some cases specified in the bill, however, ownership of the RECS would be transferred to purchasers of the power.
- PSC responsibilities. The Public Service Commission (PSC) would establish a system for certifying and tracking renewable energy credits. The PSC would also review the reasonableness of the terms of new renewable energy contracts and issue a temporary order followed by administrative rules to implement the act.
- Reports. Providers would have to file an annual report with the PSC on their efforts to comply with the act; the PSC would have to report to the Legislature every two years. Municipal and cooperative electric utilities would also have to provide information to their directors or board and their customers.
- Extensions of time. For good cause, the PSC could grant a provider one two-year extension of time to meet the 2012 or 2015 RPS. If a local zoning ordinance prevented a provider from meeting the standard, the PSC would have to grant an extension.
- Consequences of non-compliance. If a provider (except for a municipal utility or member-regulated cooperative utility) didn't meet its standard by the deadline or last extended deadline, if applicable, it would have to purchase RECs and could not recover the cost of doing so from ratepayers.
- Consequences of non-compliance for municipal and cooperative utilities. Municipal and cooperative electric utilities could *not* be required to purchase renewable energy credits if they fail to produce or purchase sufficient renewable energy. The act would be enforced against these utilities through civil actions. The attorney general or a customer could seek an injunction to force a municipal or cooperative utility to comply with the act after providing notice of intent to sue and meeting to attempt to resolve the alleged non-compliance.
- Severability. Both bills contain severability clauses, meaning that if any portion of the bills were ruled invalid by a court, remaining sections would continue in effect.

- Tie-bars. House Bills 5548 and 5549 are tie-barred to each other and to the following bills, meaning that neither bill will go into effect unless all of the other bills are also enacted:

  - House Bill 5383 (Brown) (allow electricity co-ops to set own rates)
  - House Bill 5384 (Nofs) (loosen restrictions on municipal joint action agencies)
  - House Bill 5520 (Miller) (limited or no PSC review of sale of generation assets)
  - House Bill 5521 (Gaffney) (PSC certifications, including certificates of need)
  - House Bill 5522 (LaJoy) (reallocate costs among ratepayer groups)
  - House Bill 5523 (Clemente) (allow gas and electric utilities to implement proposed rate increases before PSC approval)
  - House Bill 5524 (Accavitti) (modify electric choice program)
  - House Bill 5525 (Angerer) (energy efficiency)

DETAILED SUMMARY:

This summary combines House Bills 5548 & 5549, but indicates the bill, section, and page number for each provision.

Submissions of renewable energy portfolio plans; inclusion of expected 20-year incremental cost as cost of service. Within 180 days after the act's effective date, a provider would have to file a renewable energy portfolio plan with the PSC that does the following:

- Describes how the *utility* would meet the RPS requirements of this section. [Clarification may be needed as to whether this provision as written applies to all providers, or just utilities.]
- Includes the expected incremental cost of compliance with the renewable portfolio standard for a 20-year period beginning on the effective date of the act. The expected incremental cost of compliance for the 20-year period would be considered a cost of service. [HB 5548, §7(1), p.6]

PSC review; cost recovery; exclusion of alternative electric suppliers from cost recovery. Within 90 days after a plan is filed, the PSC would be required to:

- Approve, reject, or modify the plan. [HB 5548, §7(1)(b)]
- Determine a mechanism for the recovery of the incremental costs of compliance within the provider's customer rates. The revenue recovery mechanism for the incremental costs of compliance could not exceed the maximum impact on rates allowed by Section 9. If the PSC determined that the incremental costs of compliance would have an unacceptable impact on rates, it would reduce the RPS for that provider by an amount necessary to limit recovery to the maximum allowed impact on rates. This subsection does not apply to alternative electric suppliers. [HB 5548, §7(1)(a), p.6]

Subsequent material amendments. The provider would have to file any subsequently-adopted material amendments to the plan with the PSC. (The bill is silent as to whether the PSC would have the same authority to approve, reject, or modify subsequent material amendments as it does initial plans.) [HB 5548, §7(2), p.6]

Standard: 4% by 2012, 10% by 2015, with exceptions. Unless it has received an extension of time for compliance under Section 15, as described below, each provider would have to achieve a renewable energy portfolio of at least four percent by December 31, 2012 and at least ten percent by December 31, 2015. [HB 5548, §§7(3)-(4), pp.6-7]

[Note, however, that other provisions of the bill also contain exceptions: For example, in House Bill 5048 Section 7(1)(a), if the PSC determines that full compliance with the standard would raise the provider's retail rates more than allowable amounts, the PSC would have to reduce the provider's RPS. Also, under House Bill 5048, Section 7(10), described below, if a regulated investor-owned utility transfers ownership of certain credits to a municipal or co-op utility under certain power purchase agreements, the regulated investor-owned utility's required portfolio standard would be reduced accordingly.]

Allowable methods of obtaining renewable energy credits. Credits could be obtained by any of the following methods:

- Producing electric energy from renewable energy systems.
- Purchasing electric energy through a renewable energy contract.
- Purchasing renewable energy credits (RECs) from a renewable energy system. [HB 5548, §7(5), p. 7]

Energy or RECs from systems outside Michigan but in the service territory of a Michigan provider. As introduced, House Bill 5548 only allowed providers to purchase RECs from systems located in Michigan. As reported from committee (proposed Substitute H-2), providers could produce, purchase energy from, or purchase RECs from a renewable energy system located inside or outside Michigan so long as the system, if outside Michigan, was in "the retail electric customer service territory of any provider that is not an alternative energy supplier." Service territories would be those recognized by the Public Service Commission as of January 1, 2008 or in a subsequent PSC-recognized expansion of the territory. [HB 5548, §7(6), p.7]

No service territory requirement for energy from wind farms located outside Michigan under contracts in effect on January 1, 2008 or under construction and owned by a Michigan provider on that date. Electricity or credits could be purchased from a wind farm or turbine located outside of Michigan and not in the service territory of a Michigan provider if either: (1) the contract for the purchase of the electricity or credits was in effect on January 1, 2008; or (2) the wind farm or turbine was under construction and owned by a provider on January 1, 2008. [The bill is silent as to whether a wind farm owned *in part* by a provider would qualify under this section.] [HB 5548, §7(7), p.7-8]

Limit on use of energy from industrial cogeneration. A provider could use energy from industrial cogeneration for up to 1/10 of its RPS. [HB 5548, 7(8), p.8]

Ownership of renewable energy credits. As introduced, the *generator*, not the purchaser, of renewable energy would own associated renewable energy credits, unless the parties' contract provided otherwise. As reported from committee, the following rules would apply:

- If a provider obtained renewable energy for resale to retail or wholesale customers under an agreement under the federal Public Utilities Regulatory Policies Act (PURPA), Public Law 617 of 1995, the associated RECs "would be considered transferred" to the *provider*, not the generator, unless otherwise provided for in the agreement. [HB 5548, §7(9), p. 8]
- If a municipal or cooperative electric utility obtains all or substantially all of its electricity for resale under one or more power purchase agreements in existence on the act's effective date, the associated renewable energy credits "would be considered transferred" to the municipal utility or co-op, if at least one of the following conditions apply: (1) the seller and the municipal utility and the co-op electric utility agree; or (2) if the seller is an independent investor-owned utility with regulated rates (e.g., Consumers or DTE), the number of credits required under the seller's RPS would be reduced by the number of credits it transfers to the municipal or co-op utility under this subsection. [HB 5548, §7(10), p.8-9]

- The following formula for allocating RECs to the municipal or cooperative electric utility would be used when applicable:

Energy purchased under agreement Total power supply of seller during term Of agreement	x	Total RECs associated with the total power supply of seller during term

[It is unclear whether the same formula would apply to providers purchasing energy under PURPA. Note also that under Section 13(3), described below, the *owner* of a renewable energy system owns the associated RECs. [HB 5548, §7(10), p.8-9].

Maximum retail rate impact. A provider would not be required to comply with the RPS to the extent that the PSC determined that recovery under Section 11 of the incremental cost of compliance with the standard pursuant to the approved plan under Section 7, as calculated over 20 years and subject to annual revision, would have a retail rate impact exceeding any of the following:

- Residential customers: $3 per month.
- Commercial secondary customer: $15.83 per month.
- Commercial primary or industrial: $187.50 per month. [HB 5549, §9, p. 5-6]

Cost recovery; good faith effort as compliance. In general, for providers with regulated rates, the PSC would have to consider all actual costs reasonably and prudently incurred

in meeting the requirements of the act to be a cost of service and determine a mechanism for the recovery of those costs. In addition:

- Costs incurred purchasing renewable energy credits under Section 15(3) would *not* be a recoverable cost of service.
- In any given month, a provider could spend more to comply with the act than the revenue actually generated by the revenue recovery mechanism. [Presumably, "revenue recovery" here means "cost recovery."]
- For any given year, a provider that made a good faith effort to spend the full amount of incremental costs of compliance for that year as outlined in its approved plan under Section 7 (and possibly revised under Section 19), would be considered in compliance with the act.
- At the end of 20 years, the revenues required for continued compliance with the act would be considered costs of service, and the PSC would determine a mechanism for recovery of these costs.
- Alternative electric suppliers are excluded from these provisions. [HB 5549, §11, p. 6-7]

REC Certification and Tracking Program. The PSC would be required to establish an REC certification and tracking program, which could be contracted to a third party after competitive bidding. The program would have to include:

- All existing renewable energy systems operating on the bill's effective date would be certified as eligible to receive credits. [It is unclear whether this means that all existing renewable energy systems would be eligible for certification without PSC review.]
- Certification that a renewable energy system is a "qualified" renewable energy system under this act. [It is unclear what the difference is between a "qualified" system and one eligible to receive credits.]
- Certification that the operator of a renewable energy system is in compliance with state and federal law applicable to the operation of the renewable energy system at the time the certification was granted. RECs would not be granted for the energy generated by the system if it later became noncompliant. [It is unclear whether the PSC would be required to certify systems located out of the state of Michigan and, if so, whether that state's law, Michigan law, or both would apply.]
- A method for transferring credits.
- A determination of the date that a REC could be transferred.
- A method for ensuring the proper accounting of each REC traded and sold under the act. [HB 5548, §13(1)(a)-(f), pp. 9-10]

RECS purchased from a Michigan system would not have to be used in Michigan. [HB 5548, §13(2), p.10]

Granting of RECs. In general, one credit would be granted to the *owner* of a renewable energy system for each megawatt hour of electricity from a renewable energy resource,

with extra credits for some types, as described below. [But see also Sections 7(9)-(10), described above, which transfers ownership of the credits to power purchasers in specified circumstances.] The following rules also apply:

- Mixed systems. If a system produces energy from both renewable and non-renewable resources, the PSC would grant RECs based on the percentage of the electricity generated from the renewable resources.
- Incinerators. RECS would not be granted to energy generated by an incinerator to the extent that the incinerator was being operated in excess of its boilerplate capacity on January 1, 2008. [HB 5548, §13(3), p.10]

Michigan incentive RECs. Additional credits, called "Michigan Incentive Renewable Energy Credits" would be granted to some types of renewable energy:

- **Solar**: Additional 2 credits per megawatt hour (was 1.5 credits as introduced).
- **Michigan-located system:** As introduced, energy from systems located in Michigan would earn additional RECs. This provision has been eliminated.
- **Renewable energy from system built with Michigan-made equipment** (as determined by the PSC): Additional 0.10 credit per megawatt hour.
- **Renewable energy from system built by Michigan workers** (as determined by the PSC)**:** Additional 0.10 credit per megawatt hour.
- **Renewable energy produced at peak demand time** (as determined by the PSC)**, from a source other than wind**: Additional 0.05credits per megawatt hour. [HB 5548, §13(3)-(4), pp,. 10-11]

Expiration and use of credits; use of a REC created in a subsequent year to satisfy the previous year's RPS. A REC would expire when used by a provider to satisfy its RPS, or three years after the generation of the electricity resulting in the REC. A provider would be allowed to use an REC associated with electricity generated in the first 120 days of a subsequent year to satisfy the prior year's RPS. [HB 5548, §13(5), pp. 11-12]

Extensions of time to meet RPS. Upon petition by a provider, the PSC could for good cause grant a provider one extension of the 2012 or 2015 deadline to meet the RPS for up to two years. [It is not clear if this means one two-year extension would be available for both 2012 and 2015 or if a provider that received an extension for 2012 would not be eligible for an extension for 2015.]

- The PSC would have to approve an extension petition if it determines that a provider could not meet its portfolio standard because of a local zoning ordinance.
- A petitioner would have to provide information requested by the PSC for its deliberations on the extension request.
- Relevant factors would include the cost, availability, time requirements for electric transmission and interconnection, consumer impacts, and other economic impacts. [HB 5549, §§15(1)-(2), p.7]

Consequences of not meeting RPS. If a provider, except for a municipal or member-regulated cooperative utility, fails to meet its RPS by the deadline or last extended deadline, if applicable, the provider would have to purchase sufficient RECS to meet the renewable portfolio standard but would be prohibited from recovering the cost of obtaining these credits from its ratepayers. A provider would not have to purchase RECS if it spent the amount authorized in its plan under Section 7. [HB 5549, §15(3)-(4), pp. 7-8]

Municipal utilities and "member-regulated" cooperatives. The following provisions would apply only to municipally-owned electric utilities and "member-regulated' electric cooperatives. [A "member-regulated" electric cooperative is one that has opted out of PSC regulation of its rates and other specified matters as would be allowed by House Bill 5383, part of the tie-barred energy package.]

- Could not be required to purchase RECs. The PSC could not require municipally-owned utilities or member-regulated cooperatives to purchase RECs if they did not meet their RPS.
- Enforcement of act through civil lawsuits. The attorney general or any customer could sue for injunctive relief in state court if the municipal or cooperative electric utility fails to comply with the act. The suit would have to be brought in the circuit court for the circuit in which the alleged violation occurred.
- Notice of intent to sue and meeting. Before filing a civil action, the attorney general or customer would have to give the municipal or cooperative utility and the PSC at least 60 days' written notice of intent to sue, the basis for the suit, and the relief sought. Within 30 days after receiving the notice, the utility and the attorney general or customer would have to meet "and make a good faith attempt to determine if a credible basis for such action exists." If they agree that there is a basis for the action, the utility would have to take "all reasonable steps" necessary to comply with the act within 90 days.
- Award of costs, including attorney fees. In a final order, the court could award the costs of litigation including reasonable attorney and expert witness fees, to the prevailing or substantially prevailing party. [HB 5548, §17, pp.12-13]

Annual report by provider to PSC. Each provider of electric service would have to submit an annual report to the PSC by a deadline determined by the PSC that describes the actions taken by the provider to comply with the portfolio standard. The report would have to include the following information:

- The amount of electricity and RECs that the provider generated or acquired during the reporting period and the amount of RECS that the provider acquired, sold, or traded to comply with its standard.
- The capacity of each renewable energy system owned, operated, or controlled by the provider, the total amount of electricity generated by each system during the reporting period, and the percentage of that total that was generated directly from renewable energy.
- Whether, during the reporting period, the provider began construction on, acquired, or placed into operation any renewable energy system.

- Expenditures made in the past year and anticipated future expenditures to comply with the act.
- Any other information determined necessary by the PSC.

A municipal and cooperative electric utility would also have to submit a copy of its report to its governing body or board of directors at the same time. [HB 5548, §19(1)-(4), pp. 13-14]

Concurrent filing with PSC by providers other than municipal and cooperative utilities. At the same time it submits its annual report to the PSC, a provider (other than a municipal or member-regulated cooperative electric utility) would have to submit a filing with the PSC to:

- Enable the PSC to review the costs it incurred to comply with the act.
- Propose any necessary modifications of the revenue recovery mechanism (this does not apply to alternative energy suppliers). The PSC could adjust the revenue recovery mechanism for the provider's incremental costs of compliance, but this recovery mechanism could not exceed the maximum retail rate impact set forth in Section 9. [HB 5548, §19(3), p. 14]

Additional requirements of municipal and cooperative utilities. A municipal or cooperative electric utility would have to do the following at the same time it submits its annual report to the PSC:

- Submit a summary of its report to its customers in their bills.
- Submit a summary of its report to its governing body (municipal utilities) or board of directors (cooperatives).
- Make a copy of the report available at its office and on its website.
- Indicate on the summary that the report is available at the office and website. [It is unclear whether these requirements apply to all cooperatives or just member-regulated cooperatives.] [HB 5548, §19(4), pp.14-15]

Biennial report by PSC to Legislature. Every two years, the PSC would have to file a report with the Legislature that (1) summarizes the data it has collected from providers, (2) discusses the status of renewable energy in Michigan and the effect of the act, (3) describes the act's effect on employment on Michigan, and (4) contains recommended changes, if any, to the act, including possible changes in definitions of renewable energy resources or systems to reflect environmentally preferable technology. [HB 5548, §19(5), p.15]

Temporary Order; administrative rules. The PSC would be required to:

- Issue a temporary order implementing the act pending the promulgation of rules within 60 days of the act's effective date.
- Promulgate rules under the Administrative Procedures Act of 1969 within one year. [HB 5548, §21, p.15]

Severability. The act to be created by the bills would be severable—that is, if any portion were later invalidated by a court, remaining sections would continue in effect. [HB 5548, Enacting §1, p.15; HB 5549, Enacting §1, p.8]

Definitions. The following definitions are contained in both bills. Bill, section, and page numbers are as indicated.

"Biomass" would mean "any organic matter than can be converted to usable fuel for the production of energy and is available on a renewable basis" including, but not limited to:

- Agricultural crops and crop wastes.
- Wood and wood wastes, derived from sustainably managed forests or procurement systems, as defined in Section 261c of the Management and Budget Act (MCL 18.1261c), including wood and wood waste from the processing of wood products, of paper, or of recycled waste pulp or other pulp.
- Animal wastes.
- Municipal wastewater sludge.
- Aquatic plants.
- Food production and processing waste.
- Municipal solid waste, including, but not limited to, landfilled municipal solid waste that produces landfill gas.
- Organic by-products from the production of biofuels. [HB 5548, §3(a), p.1/HB 5548, §1(a), p.1]

"Electric utility" would no longer be defined in either bill.

"Electronic waste" would mean any of the following discarded items: computers, including a computer monitors or peripherals; televisions; telephones; personal digital assistants; radios; compact disc or digital video disc players (or discs); and other similar items as determined by the PSC. [HB 5548, §3(c), p.2/HB 5549, §1(c), p.2]

"Incremental cost of compliance with the renewable portfolio standard" or **"incremental cost of compliance"** would mean "the revenue required by a provider to comply with the renewable energy portfolio standard," including, but not limited to, consideration of all of the following:

- Capital, operating, and maintenance costs of generating facilities, including property taxes and insurance.
- Financing costs attributable to capital, operating, and maintenance costs of capital facilities.
- Transmission and substation costs.
- The price of the renewable energy credits under this act.
- Tax credits specifically designed to promote the generation of renewable energy.
- Revenue derived from the sale of environmental attributes associated with the generation of renewable energy.
- Return on equity for renewable energy systems owned by a provider.

- Revenue derived from sales of renewable energy to third parties.
- Any other factors considered relevant by the PSC. [HB 5548, §3(d), pp.2-3/HB 5549, §1(d), pp.2-3]

"Industrial cogeneration" would mean "the generation of electricity using industrial thermal energy." [HB 5548, §3(e), p.3/HB 5549, §1(e), p.3]

"Industrial thermal energy" would mean "heat that is a by-product of an industrial or manufacturing process and that would otherwise be wasted. For the purposes of this subdivision, industrial or manufacturing process does not include the generation of electricity." [HB 5548, §3(f), p.3/HB 5549, §1(f), p.3]

"Installed capacity" would mean "the total amount of electricity a renewable energy system can generate in [one] hour at full load." [HB 5548, §3(g), p.3/HB 5549, §1(g), p.3]

"Provider" would mean "any person that is in the business of selling electricity to retail customers" in Michigan, including:

- Any person or entity that is regulated by the PSC for the purpose of selling electricity to retail customers.
- A municipally-owned electric utility.
- A cooperative electric utility.
- An alternative energy supplier.
- An independent investor-owned electric utility. [HB 5548, §3(h), pp.3-4/HB 5549, §1(h), pp.3-4]

"Renewable energy" would mean "electricity produced using a renewable energy resource." [HB 5548, §5(a), p.4/HB 5549, §3(a), p.4]

"Renewable energy contract" would mean "a contract to acquire renewable energy and the associated renewable energy credits from [one] or more renewable energy systems." [HB 5548, §5(b), p.4/HB 5549, §3(b), p.4]

"Renewable energy credit" would mean "a credit certified under this act that represents generated renewable energy." [HB 5548, §5(c), p.4/HB 5549, §3(c), p.4]

"Renewable energy portfolio" would mean "the percentage of the total amount of weather-normalized kilowatt hours of electricity sold by a provider to retail customers in [Michigan] that is produced from renewable energy systems or for which renewable energy credits have been purchased." [HB 5548, §5(d), p.4/HB 5549, §3(d), p.4]
"Renewable energy portfolio standard" would mean "the minimum renewable portfolio required to be achieved under Section 7." [HB 5548, §5(e), p.4/HB 5549, §3(e), p.4]

"Renewable energy resource" would mean any of the following:

- Biomass (see definition above).
- Solar energy.
- Wind energy.
- Kinetic energy of moving water, including all of the following:
    - Waves, tides, or currents.
    - Water released through a dam.
    - Water released from a pumped storage facility to the extent that the water was pumped into the storage facility using energy generated from a renewable energy resource.
- Hydrogen synthesis gas produced from the plasma gasification of industrial by-products or electronic waste.
- Geothermal energy.
- Industrial thermal energy. [HB 5548, §5(f), pp.4-5/HB 5549, §3(f), pp.4-5]

"Renewable energy system" would mean "a facility, electricity generation system, or integrated set of electricity generation systems that use [one] or more renewable energy resources," as defined above, but would *not* include:

- A *hydroelectric facility* that uses a dam constructed after the effective date of the act unless the dam is a repair or replacement of a dam in existence on the effective date of the act.
- An *incinerator* unless the incinerator is a municipal solid waste incinerator as defined in NREPA Section 11504 (MCL 324.11504) that was brought into service before the act's effective date. [HB 5548, §5(g), p.5/HB 5549, §3(g), p.5]

"Terms and conditions" would include "the price that a provider of electric service is to pay to acquire electricity and the associated renewable energy credits under a renewable energy contract, the length of the contract, and other contract provisions." [HB 5548, §5(h), pp.5-6/HB 5549, §3(h), p.5]

FISCAL IMPACT:

These bills are tie-barred to House Bills 5520-5525 (and to two other bills). That group of six bills is expected to require the addition of 25 to 30 staff to the Michigan Public Service Commission to administer the new programs and standards and the resulting caseload. The cost of this additional staff is estimated to be $1.5 million to $1.8 million, assuming that this many staff can be added to the existing MPSC office space. This is a preliminary fiscal analysis.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.