

HB 55      INTRODUCED BY HARRINGTON  
          STATUTE OF LIMITATIONS FOR PUBLIC SERVICE COMMISSION  
                  AND CONSUMER COUNSEL TAX  
          BY REQUEST OF DEPARTMENT OF REVENUE

1/05    INTRODUCED  
1/05    REFERRED TO TAXATION  
1/09    HEARING  
1/09    COMMITTEE REPORT--BILL NOT PASSED AS AMENDED  
1/10    ADVERSE COMMITTEE REPORT ADOPTED            63 31

1                    HOUSE      BILL NO. 55  
 2    INTRODUCED BY HARRINGTON  
 3                    BY REQUEST OF THE DEPARTMENT OF REVENUE  
 4  
 5    A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE A 5-YEAR  
 6    STATUTE OF LIMITATIONS FOR THE FEES WHICH FUND THE  
 7    DEPARTMENT OF PUBLIC SERVICE REGULATION AND THE CONSUMER  
 8    COUNSEL; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND  
 9    APPLICABILITY DATES."

10  
 11    BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12            Section 1. Statute of limitations. (1) Except as  
 13 otherwise provided in this section, no deficiency may be  
 14 assessed or collected with respect to the year for which a  
 15 return is filed unless the notice of additional fee proposed  
 16 to be assessed is mailed within 5 years from the date the  
 17 return was filed. For the purposes of this section, a return  
 18 filed before the last day prescribed for filing is  
 19 considered as filed on the last day. If the taxpayer, before  
 20 the expiration of the period prescribed for assessment of  
 21 the fee, consents in writing to an assessment after that  
 22 time, the fee may be assessed at any time prior to the  
 23 expiration of the period agreed upon.

24            (2) No refund or credit may be allowed or paid with  
 25 respect to the year for which a return is filed after 5

1    years from the last day prescribed for filing the return or  
 2    after 1 year from the date of the overpayment, whichever  
 3    period expires later, unless before the expiration of the  
 4    period the taxpayer files a claim therefor or the department  
 5    of revenue determines the existence of the overpayment and  
 6    approves the refund or credit thereof. If the taxpayer  
 7    agrees in writing under the provisions of subsection (1) to  
 8    extend the time within which the department may propose an  
 9    additional assessment, the period within which a claim for  
 10    refund or credit may be filed or a credit or refund allowed  
 11    if no claim is filed is automatically extended.

12            (3) If a return is required to be filed and the  
 13 taxpayer fails to file the return, the fee may be assessed  
 14 or an action to collect the fee may be brought at any time.  
 15 If a return is required to be filed and the taxpayer files a  
 16 fraudulent return, the 5-year period provided for in  
 17 subsection (1) does not begin until discovery of the fraud  
 18 by the department.

19            Section 2. Codification instruction. Section 1 is  
 20 intended to be codified as an integral part of Title 69,  
 21 chapter 1, parts 2 and 4, and the provisions of Title 69,  
 22 chapter 1, parts 2 and 4, apply to section 1.

23            Section 3. Extension of authority. Any existing  
 24 authority of the department of revenue to make rules on the  
 25 subject of the provisions of this act is extended to the



-2-      INTRODUCED BILL  
 HB-55

1 provisions of this act.

2 Section 4. Effective date -- applicability. (1) This  
3 act is effective on passage and approval and, except as  
4 provided in subsection (2), applies retroactively, within  
5 the meaning of 1-2-109, to taxable periods covered by  
6 returns due after December 31, 1984.

7 (2) Subsection (3) of section 1 is retroactively  
8 applicable, within the meaning of 1-2-109, for all taxable  
9 years prior to the effective date of this act.

-End-