

**First Regular Session  
Sixty-third General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 01-0724.01 John Hershey

**HOUSE BILL 01-1322**

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**HOUSE SPONSORSHIP**

**Decker,**

**SENATE SPONSORSHIP**

**Phillips,**

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**House Committees**  
Finance

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING THE EXEMPTION OF SPECIFIED PRINTED MATERIALS**  
102 **FROM THE STATE SALES AND USE TAX.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Exempts the purchase of magazines and periodicals purchased by subscription from the state sales and use tax in state fiscal years commencing on or after July 1, 2001, for which there were excess state revenues in the immediately preceding state fiscal year.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

1           **SECTION 1.** 39-26-114, Colorado Revised Statutes, is amended  
2 BY THE ADDITION OF A NEW SUBSECTION to read:

3           **39-26-114. Exemptions - disputes - credits or refunds -**  
4 **definitions - creation of fund.** (24) (a) SUBJECT TO THE PROVISIONS OF  
5 SECTION 39-26-127, ALL SALES AND PURCHASES OF MAGAZINES AND  
6 PERIODICALS BY SUBSCRIPTION SHALL BE EXEMPT FROM TAXATION UNDER  
7 THIS PART 1.

8           (b) FOR PURPOSES OF THIS SUBSECTION (24), "MAGAZINES AND  
9 PERIODICALS" DO NOT INCLUDE NEWSPAPERS, TRADE JOURNALS, OR OTHER  
10 ASSOCIATION PUBLICATIONS.

11           **SECTION 2.** 39-26-203 (1), Colorado Revised Statutes, is  
12 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

13           **39-26-203. Exemptions - definitions.** (1) This part 2 is declared  
14 to be supplementary to the "Emergency Retail Sales Tax Act of 1935",  
15 part 1 of this article, and shall not apply:

16           (mn) (I) SUBJECT TO THE PROVISIONS OF SECTION 39-26-127, TO THE  
17 STORAGE, USE, OR CONSUMPTION OF SUBSCRIPTION MAGAZINES AND  
18 PERIODICALS.

19           (II) FOR PURPOSES OF THIS PARAGRAPH (mn), "MAGAZINES AND  
20 PERIODICALS" DO NOT INCLUDE NEWSPAPERS, TRADE JOURNALS, OR OTHER  
21 ASSOCIATION PUBLICATIONS.

22           **SECTION 3.** Part 1 of article 26 of title 39, Colorado Revised  
23 Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

24           **39-26-127. Fiscal years commencing on or after July 1, 2001 -**  
25 **temporary exemption of subscription magazines and periodicals from**  
26 **state sales and use tax - authority of executive director.** (1) FOR ANY  
27 FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 2002, IF, BY SEPTEMBER

1 1 OF THE CALENDAR YEAR IN WHICH THAT FISCAL YEAR ENDED, THE  
2 CONTROLLER HAS CERTIFIED IN ACCORDANCE WITH THE PROVISIONS OF  
3 SECTION 24-77-106.5, C.R.S., THAT THE AGGREGATE AMOUNT OF STATE  
4 REVENUES EXCEEDS THE LIMITATION ON STATE FISCAL YEAR SPENDING  
5 IMPOSED BY SECTION 20 (7) (a) OF ARTICLE X OF THE STATE CONSTITUTION  
6 FOR SUCH FISCAL YEAR, AND VOTERS STATEWIDE EITHER HAVE NOT  
7 AUTHORIZED THE STATE TO RETAIN AND SPEND ALL OF THE EXCESS  
8 REVENUES FOR THAT FISCAL YEAR OR HAVE AUTHORIZED THE STATE TO  
9 RETAIN AND SPEND ONLY A PORTION OF THE EXCESS STATE REVENUES FOR  
10 THAT FISCAL YEAR, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF  
11 REVENUE SHALL, FOR THE PERIOD OF OCTOBER 1 OF THE CALENDAR YEAR  
12 DURING WHICH THAT FISCAL YEAR ENDED THROUGH JUNE 30 OF THE  
13 CALENDAR YEAR IMMEDIATELY SUBSEQUENT TO THE CALENDAR YEAR IN  
14 WHICH SUCH FISCAL YEAR ENDED, TEMPORARILY EXEMPT FROM THE STATE  
15 SALES AND USE TAX IMPOSED PURSUANT TO SECTIONS 39-26-104 AND  
16 39-26-202, SALES OF MAGAZINES OR PERIODICALS IN ACCORDANCE WITH  
17 SECTIONS 39-26-114 (24) AND 39-26-203 (1) (nn).

18 (2) (a) ANY STATE SALES AND USE TAX EXEMPTION ALLOWED  
19 PURSUANT TO THE PROVISIONS OF THIS SECTION SHALL BE PUBLISHED IN  
20 RULES PROMULGATED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT  
21 OF REVENUE IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., AND  
22 SHALL BE INCLUDED IN SUCH NOTICES AND PUBLICATIONS AS ARE  
23 CUSTOMARILY ISSUED BY THE DEPARTMENT OF REVENUE ON AT LEAST A  
24 QUARTERLY BASIS CONCERNING EXEMPTIONS FROM THE STATE SALES AND  
25 USE TAX.

26 (b) IF ONE OR MORE BALLOT QUESTIONS THAT SEEK AUTHORIZATION  
27 FOR THE STATE TO RETAIN AND SPEND ALL OR ANY PORTION OF THE

1 AMOUNT OF EXCESS STATE REVENUES FOR THE IMMEDIATELY PRECEDING  
2 FISCAL YEAR ARE SUBMITTED TO THE VOTERS AT A STATEWIDE ELECTION  
3 TO BE HELD IN NOVEMBER OF ANY CALENDAR YEAR COMMENCING ON OR  
4 AFTER JANUARY 1, 2001, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT  
5 OF REVENUE SHALL NOT PUBLISH RULES PROVIDING FOR ANY STATE SALES  
6 AND USE TAX EXEMPTION ALLOWED PURSUANT TO THIS SECTION UNTIL  
7 SUCH RULES ARE ABLE TO REFLECT THE IMPACT OF THE RESULTS OF SUCH  
8 ELECTION ON THE EXEMPTION FROM THE STATE SALES AND USE TAX  
9 ALLOWED PURSUANT TO SECTIONS 39-26-114 (24) AND 39-26-203 (1)(nn).

10 **SECTION 4.** 29-2-105 (1) (d), Colorado Revised Statutes, is  
11 amended to read:

12 **29-2-105. Contents of sales tax ordinances and proposals.**

13 (1) The sales tax ordinance or proposal of any incorporated town, city,  
14 or county adopted pursuant to this article shall be imposed on the sale of  
15 tangible personal property at retail or the furnishing of services, as  
16 provided in paragraph (d) of this subsection (1). Any countywide or  
17 incorporated town or city sales tax ordinance or proposal shall include the  
18 following provisions:

19 (d) A provision that the tangible personal property and services  
20 taxable pursuant to this article shall be the same as the tangible personal  
21 property and services taxable pursuant to section 39-26-104, C.R.S.,  
22 except as otherwise provided in this paragraph (d). The tangible personal  
23 property and services taxable pursuant to this article are subject to the  
24 same exemptions as those specified in section 39-26-114, C.R.S., except  
25 the exemption allowed by section 39-26-114 (11), C.R.S., for purchases  
26 of machinery or machine tools, the exemption of sales and purchases of  
27 those items in section 39-26-114 (1) (a) (XXI), C.R.S., the exemption for

1 sales of food specified in section 39-26-114 (1) (a) (XX), C.R.S., the  
2 exemption for vending machine sales of food set forth in section  
3 39-26-114 (7.5), C.R.S., the exemption for occasional sales by a  
4 charitable organization set forth in section 39-26-114 (18), C.R.S., the  
5 exemption for sales and purchases of farm equipment and farm equipment  
6 under lease or contract specified in section 39-26-114 (20), C.R.S., and  
7 the exemption for sales of low-emitting motor vehicles, power sources, or  
8 parts used for converting such power sources as specified in section  
9 39-26-114 (22), C.R.S., AND THE EXEMPTION OF SALES OF MAGAZINES AND  
10 PERIODICALS BY SUBSCRIPTION AS PROVIDED IN SECTION 39-26-114 (24),  
11 C.R.S. Sales of food, as defined in section 39-26-102 (4.5), C.R.S.,  
12 exempted from the state sales tax pursuant to section 39-26-114 (1) (a)  
13 (XX), C.R.S., vending machine sales of food as described in section  
14 39-26-114 (7.5), C.R.S., sales and purchases of those items exempted  
15 from the state sales tax pursuant to section 39-26-114 (1) (a) (XXI),  
16 C.R.S., purchases of machinery or machine tools as provided in section  
17 39-26-114 (11), C.R.S., occasional sales by a charitable organization as  
18 provided in section 39-26-114 (18), C.R.S., sales and purchases of farm  
19 equipment or farm equipment under lease or contract exempted from the  
20 state sales tax pursuant to section 39-26-114 (20), C.R.S., or sales of  
21 low-emitting motor vehicles, power sources, or parts used for converting  
22 such power sources as specified in section 39-26-114 (22), C.R.S., OR  
23 SALES OF MAGAZINES AND PERIODICALS BY SUBSCRIPTION AS PROVIDED IN  
24 SECTION 39-26-114 (24), C.R.S., may be exempted from said town, city,  
25 or county sales tax only by the express inclusion of such exemption either  
26 at the time of adoption of the initial sales tax ordinance or resolution or  
27 by amendment thereto. Any such amendment shall be adopted in the

1 same manner as the initial ordinance or resolution. In the absence of an  
2 express provision for the exemption for sales of food, as defined in section  
3 39-26-102 (4.5), C.R.S., or for the exemption of vending machine sales  
4 of food as provided in section 39-26-114 (7.5), C.R.S., or for the  
5 exemption of purchases of machinery or machine tools as provided in  
6 section 39-26-114 (11), C.R.S., or for the exemption of sales and  
7 purchases of those items in section 39-26-114 (1) (a) (XXI), C.R.S., or for  
8 the exemption of occasional sales by a charitable organization as provided  
9 in section 39-26-114 (18), C.R.S., or exemption of sales and purchases of  
10 farm equipment or farm equipment under lease or contract as provided in  
11 section 39-26-114 (20), C.R.S., or exemption of sales of low-emitting  
12 motor vehicles, power sources, or parts used for converting such power  
13 sources as specified in section 39-26-114 (22), C.R.S., OR FOR THE  
14 EXEMPTION OF SALES OF MAGAZINES AND PERIODICALS BY SUBSCRIPTION  
15 AS PROVIDED IN SECTION 39-26-114 (24), C.R.S., all sales tax ordinances  
16 or resolutions, whether adopted prior to, on, or subsequent to July 1,  
17 1979, which provide in substance that the tangible personal property and  
18 services taxed shall be the same as the tangible personal property and  
19 services taxable pursuant to section 39-26-104, C.R.S., or any predecessor  
20 statute, except as otherwise provided in this paragraph (d), and subject to  
21 the same exemptions as those specified in section 39-26-114, C.R.S., or  
22 any predecessor statute, shall be construed as imposing or continuing to  
23 impose the town, city, or county sales tax on food, as defined in section  
24 39-26-102 (4.5), C.R.S., vending machine sales of food as described in  
25 section 39-26-114 (7.5), C.R.S., purchases of machinery and machine  
26 tools as described in section 39-26-114 (11), C.R.S., sales or purchases of  
27 those items described in section 39-26-114 (1) (a) (XXI), C.R.S.,

1 occasional sales by a charitable organization as described in section  
2 39-26-114 (18), C.R.S., sales and purchases of farm equipment and farm  
3 equipment under lease or contract as described in section 39-26-114 (20),  
4 C.R.S., and sales of low-emitting motor vehicles, power sources, or parts  
5 used for converting such power sources as specified in section 39-26-114  
6 (22), C.R.S., AND SALES OF MAGAZINES AND PERIODICALS BY  
7 SUBSCRIPTION AS PROVIDED IN SECTION 39-26-114 (24), C.R.S. Any  
8 incorporated town, city, or county that adopts or has adopted a sales tax  
9 ordinance or resolution pursuant to this article shall levy a sales tax on  
10 pesticides that are registered by the commissioner of agriculture for use  
11 in the production of agricultural and livestock products pursuant to the  
12 provisions of the "Pesticide Act", article 9 of title 35, C.R.S., and offered  
13 for sale by dealers licensed to sell such pesticides pursuant to section  
14 35-9-115, C.R.S., notwithstanding the removal of such pesticides from the  
15 state sales tax base pursuant to House Bill 99-1381, enacted at the first  
16 regular session of the sixty-second general assembly, unless exempted by  
17 local ordinance or resolution. Any incorporated town, city, or county that  
18 adopts or has adopted a sales tax ordinance or resolution pursuant to this  
19 article shall levy a sales tax upon all sales and purchases of parts used in  
20 the repair or maintenance of farm equipment, all shipping pallets or aids  
21 paid for by a farm operation, and aircraft designed or adapted to undertake  
22 agricultural applications, notwithstanding the removal of such items from  
23 the state sales tax base pursuant to House Bill 00-1162, enacted at the  
24 second regular session of the sixty-second general assembly, unless  
25 exempted by local ordinance or resolution. The regional transportation  
26 district may, in its discretion, continue to levy a sales tax on vending  
27 machine sales of food as described in section 39-26-114 (7.5), C.R.S., and

1 on purchases of machinery or machine tools, as provided in section  
2 39-26-114 (11), C.R.S., AND SALES OF MAGAZINES AND PERIODICALS BY  
3 SUBSCRIPTION AS PROVIDED IN SECTION 39-26-114 (24), C.R.S.

4 **SECTION 5.** 29-2-106 (4) (a), Colorado Revised Statutes, is  
5 amended to read:

6 **29-2-106. Collection - administration - enforcement.**

7 (4) (a) The executive director of the department of revenue shall, at no  
8 charge, administer, collect, and distribute the sales tax of any home rule  
9 municipality, upon request of the governing body of such municipality, if  
10 the provisions of the sales tax ordinance of said municipality, other than  
11 those provisions relating to local procedures followed in adopting the  
12 ordinance and whether or not the ordinance applies the sales tax to the  
13 sale of food, as defined in section 39-26-102 (4.5), C.R.S., SUBSCRIPTION  
14 MAGAZINES AND PERIODICALS AS DEFINED IN SECTION 39-26-114 (24),  
15 C.R.S., or purchases of machinery or machine tools as provided in section  
16 39-26-114 (11), C.R.S., or sales or purchases of electricity, coal, wood,  
17 gas, fuel oil, or coke as provided in section 39-26-114 (1) (a) (XXI),  
18 C.R.S., or vending machine sales of food as described in section  
19 39-26-114 (7.5), C.R.S., or sales or purchases of farm equipment or farm  
20 equipment under lease or contract, parts used in the repair or maintenance  
21 of farm equipment, all shipping pallets or aids paid for by a farm  
22 operation, and aircraft designed or adapted to undertake agricultural  
23 applications, as provided in section 39-26-114 (20), C.R.S., or sales of  
24 low-emitting motor vehicles, power sources, or parts used for converting  
25 such power sources as specified in section 39-26-114 (22), C.R.S., or to  
26 pesticides that are registered by the commissioner of agriculture for use  
27 in the production of agricultural and livestock products pursuant to the



1 provisions of the "Pesticide Act", article 9 of title 35, C.R.S., and offered  
2 for sale by dealers licensed to sell such pesticides pursuant to section  
3 35-9-115, C.R.S., as provided in section 29-2-105 (1) (d), correspond to  
4 the requirements of this article for sales taxes imposed by counties, towns,  
5 and cities and if no use tax is to be collected by the department except as  
6 provided in section 39-26-208, C.R.S. At the time of making such  
7 request, said governing body shall certify to the executive director of the  
8 department of revenue a true copy of said sales tax ordinance.

9 **SECTION 6.** 32-9-119 (2) (a), Colorado Revised Statutes, is  
10 amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

11 **32-9-119. Additional powers of district.** (2) (a) To provide  
12 revenue to finance the operations of the district, to defray the cost of  
13 construction of capital improvements and acquisition of capital  
14 equipment, and to pay the interest and principal on securities of the  
15 district, the board, for and on behalf of the district after approval by  
16 election held pursuant to articles 1 to 13 of title 1, C.R.S., shall have the  
17 power to levy uniformly throughout the district a sales tax at the rate of  
18 six-tenths of one percent upon every transaction or other incident with  
19 respect to which a sales tax is now levied by the state, pursuant to the  
20 provisions of article 26 of title 39, C.R.S.; except that:

21 (III) SUCH SALES TAX MAY BE LEVIED ON SUBSCRIPTION MAGAZINES  
22 AND PERIODICALS THAT ARE OTHERWISE EXEMPT PURSUANT TO SECTION  
23 39-26-114, C.R.S.

24 **SECTION 7.** 32-13-107 (1) (a), Colorado Revised Statutes, is  
25 amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

26 **32-13-107. Sales and use tax imposed - collection -**  
27 **administration of tax - use.** (1) (a) Except as otherwise provided in

1 paragraph (b) of this subsection (1), upon the approval of the registered  
2 electors pursuant to the provisions of section 32-13-105, the board shall  
3 have the power to levy such uniform sales and use taxes throughout the  
4 district created in section 32-13-104 upon every transaction or other  
5 incident with respect to which a sales and use tax is levied by the state,  
6 pursuant to the provisions of article 26 of title 39, C.R.S.; except that such  
7 sales and use tax shall be levied on:

8 (IV) SALES OF SUBSCRIPTION MAGAZINES AND PERIODICALS  
9 PURSUANT TO SECTION 39-26-114, C.R.S.

10 **SECTION 8.** 32-15-110 (1), Colorado Revised Statutes, is  
11 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

12 **32-15-110. Sales tax imposed - collection - administration of tax**  
13 **- discontinuance.** (1) Upon the approval of the registered electors  
14 pursuant to the provisions of section 32-15-107, the board shall have the  
15 power to levy such uniform sales tax upon the adoption of a resolution for  
16 a period commencing after the termination of the sales tax levied and  
17 collected by the Denver metropolitan major league baseball stadium  
18 district pursuant to section 32-14-105 and continuing for a period not to  
19 extend beyond January 1, 2012, throughout the district created in section  
20 32-15-104 upon every transaction or other incident with respect to which  
21 a sales tax is levied by the state, pursuant to the provisions of article 26  
22 of title 39, C.R.S.; except that such sales tax shall be levied on:

23 (d) SUBSCRIPTION MAGAZINES AND PERIODICALS THAT ARE  
24 OTHERWISE EXEMPT PURSUANT TO SECTION 39-26-114, C.R.S.

25 **SECTION 9. Effective date.** This act shall take effect July 1,  
26 2002, unless a referendum petition is filed during the ninety-day period  
27 after final adjournment of the general assembly that is allowed for

1 submitting a referendum petition pursuant to article V, section 1 (3) of the  
2 state constitution. If such a referendum petition is filed against this act or  
3 an item, section, or part of this act within such period, then the act, item,  
4 section, or part, if approved by the people, shall take effect on April 1,  
5 2003.