

**SENATE BILL NO. 2100**

Introduced by

Finance and Taxation Committee

(At the request of the Tax Commissioner)

1 A BILL for an Act to amend and reenact sections 23-15-01 and 57-15-01.1 of the North Dakota  
2 Century Code, relating to the removal of a reference to personal property taxes on fireworks  
3 and to delete a duplicate reference to mill levy limitations; and to provide an effective date.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 23-15-01 of the 1997 Supplement to the North  
6 Dakota Century Code is amended and reenacted as follows:

7 **23-15-01. Fireworks defined.** The term fireworks means and includes any  
8 combustible or explosive composition, or any substance or combination of substances or article  
9 prepared for the purpose of producing a visible or an audible effect by combustion, explosion,  
10 deflagration, or detonation, and includes blank cartridges, toy pistols, toy cannons, toy canes, or  
11 toy guns in which explosives other than toy paper caps are used, the type of balloons which  
12 require fire underneath to propel the same, firecrackers, torpedoes, skyrockets, Roman  
13 candles, daygo bombs, sparklers, or other fireworks of like construction, any fireworks  
14 containing any explosive or flammable compound, or any tablets or other device containing any  
15 explosive substance. Nothing in this regulation may be construed as applying to toy paper caps  
16 containing not more than twenty-five hundredths of a grain [16.20 milligrams] of explosive  
17 composition per cap.

18 Any person, firm, corporation, or limited liability company having operated a retail  
19 business ~~wherein merchandise was assessed by the local taxing authority, on April first~~  
20 ~~immediately preceding thereto,~~ and having a retail license as provided in section 23-15-04 may  
21 offer for sale and sell at retail, to persons of twelve years of age or more, only during the period  
22 beginning June twenty-seventh and ending July fifth, both dates inclusive, the following items:

23 1. Star lights, with wood spike cemented in one end, total pyrotechnic composition not  
24 to exceed twenty grams each in weight (10 ball).

- 1           2. Helicopter type flyers, total pyrotechnic composition not to exceed twenty grams  
2           each in weight.
- 3           3. Cylindrical fountains, total pyrotechnic composition not to exceed seventy-five  
4           grams each in weight. The inside tube diameter may not exceed three-fourths inch  
5           [19.05 millimeters].
- 6           4. Cone fountains, total pyrotechnic composition not to exceed fifty grams each in  
7           weight.
- 8           5. Wheels, total pyrotechnic composition not to exceed sixty grams in weight, for each  
9           driver unit, but there may be any number of drivers on any one wheel. The inside  
10          bore of driver tubes may not be over one-half inch [12.7 millimeters].
- 11          6. Illuminating torches and colored fire in any form, total pyrotechnic composition not  
12          to exceed one hundred grams each in weight.
- 13          7. Sparklers and dipped sticks, total pyrotechnic composition not to exceed one  
14          hundred grams each in weight. Pyrotechnic composition containing any chlorate  
15          may not exceed five grams.
- 16          8. Comets and shells, of which the mortar is an integral part, except those designed  
17          to produce an audible effect, total pyrotechnic composition not to exceed forty  
18          grams each in weight.
- 19          9. Soft shell firecrackers not to exceed one and one-half inches [38.1 millimeters] in  
20          length and one-fourth inch [6.35 millimeters] in diameter, total pyrotechnic  
21          composition not to exceed fifty milligrams each in weight.
- 22          10. Whistles without report, total pyrotechnic composition not to exceed forty grams  
23          each in weight.

24           **SECTION 2. AMENDMENT.** Section 57-15-01.1 of the 1997 Supplement to the North  
25 Dakota Century Code is amended and reenacted as follows:

26           **57-15-01.1. Protection of taxpayers and taxing districts.** Each taxing district may  
27 levy the lesser of the amount in dollars as certified in the budget of the governing body, or the  
28 amount in dollars as allowed in this section, subject to the following:

- 29           1. No taxing district may levy more taxes expressed in dollars than the amounts  
30           allowed by this section.
- 31           2. For purposes of this section:

- 1           a. "Base year" means the taxing district's taxable year with the highest amount  
2           levied in dollars in property taxes of the three taxable years immediately  
3           preceding the budget year;
- 4           b. "Budget year" means the taxing district's year for which the levy is being  
5           determined under this section;
- 6           c. "Calculated mill rate" means the mill rate that results from dividing the base  
7           year taxes levied by the sum of the taxable value of the taxable property in the  
8           base year plus the taxable value of the property exempt by local discretion or  
9           charitable status, calculated in the same manner as the taxable property; and
- 10          d. "Property exempt by local discretion or charitable status" means property  
11          exempted from taxation as new or expanding businesses under chapter  
12          40-57.1; improvements to property under chapter 57-02.2; or buildings  
13          belonging to institutions of public charity, new single-family residential or  
14          townhouse or condominium property, property used for early childhood  
15          services, or pollution abatement improvements under section 57-02-08.
- 16          3. A taxing district may elect to levy the amount levied in dollars in the base year.  
17          Any levy under this section must be specifically approved by a resolution approved  
18          by the governing body of the taxing district. Before determining the levy limitation  
19          under this section, the dollar amount levied in the base year must be:
- 20           a. Reduced by an amount equal to the sum determined by application of the  
21           base year's calculated mill rate for that taxing district to the final base year  
22           taxable valuation of any taxable property and property exempt by local  
23           discretion or charitable status which is not included in the taxing district for the  
24           budget year but was included in the taxing district for the base year.
- 25           b. Increased by an amount equal to the sum determined by the application of the  
26           base year's calculated mill rate for that taxing district to the final budget year  
27           taxable valuation of any taxable property or property exempt by local  
28           discretion or charitable status which was not included in the taxing district for  
29           the base year but which is included in the taxing district for the budget year.
- 30           c. Reduced to reflect expired temporary mill levy increases authorized by the  
31           electors of the taxing district.

- 1           4. ~~A taxing district may levy an amount in dollars equal to the amount levied in any of~~  
2           ~~the previous three years reduced to reflect expired temporary mill levy increases~~  
3           ~~authorized by the electors of the taxing district and increased by an amount equal~~  
4           ~~to the sum determined by the application of any unused mill levy authority from that~~  
5           ~~year, which was authorized by law or by the electors of that taxing district but not~~  
6           ~~levied for that year, to the budget year taxable valuation of the taxable property in~~  
7           ~~that taxing district. A taxing district electing to increase its levy under this~~  
8           ~~subsection may not add any amount permitted by subsection 3 to the amount~~  
9           ~~levied under this subsection.~~
- 10          5. In addition to any other levy limitation factor under this section, a taxing district may  
11          increase its levy in dollars to reflect new or increased mill levies authorized by the  
12          legislative assembly or authorized by the electors of the taxing district.
- 13          6. 5. Under this section a taxing district may supersede any applicable mill levy  
14          limitations otherwise provided by law, or a taxing district may levy up to the mill  
15          levy limitations otherwise provided by law without reference to this section, but the  
16          provisions of this section do not apply to the following:
- 17               a. Any irrevocable tax to pay bonded indebtedness levied pursuant to  
18               section 16 of article X of the Constitution of North Dakota.
- 19               b. The one-mill levy for the state medical center authorized by section 10 of  
20               article X of the Constitution of North Dakota.
- 21          7. 6. A school district choosing to determine its levy authority under this section may  
22          apply subsection 3 only to the amount in dollars levied for general fund purposes  
23          under section 57-15-14 or, if the levy in the base year included separate general  
24          fund and special fund levies under sections 57-15-14 and 57-15-14.2, the school  
25          district may apply subsection 3 to the total amount levied in dollars in the base year  
26          for both the general fund and special fund accounts. School district levies under  
27          any section other than section 57-15-14 may be made within applicable limitations  
28          but those levies are not subject to subsection 3.
- 29          8. 7. Optional levies under this section may be used by any city or county that has  
30          adopted a home rule charter unless the provisions of the charter supersede state  
31          laws related to property tax levy limitations.

1           **SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable years beginning after  
2   December 31, 1998.