**County Authority**

**Mix of Home Rule and Dillon’s Rule:** In North Dakota, 12 counties have adopted a home rule charter and 41 are governed under Dillon’s Rule. A board of county commissioners may draft a home rule charter to be voted on by residents. Home rule counties have the same powers as general law counties and additional freedoms to establish financial authority (including countywide sales tax) and the structure of county government, including elected and appointed officers, if consistent with state law. Counties may adopt a multi-county home rule charter with one or more additional counties. Additionally, counties may restructure all statutorily elected row offices except for the sheriff.

**TOP REVENUE SOURCES FOR NORTH DAKOTA COUNTIES**

<table>
<thead>
<tr>
<th>Revenue Source</th>
<th>Amount</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Intergovernmental</td>
<td>$582 M</td>
<td>51%</td>
</tr>
<tr>
<td>Property Taxes</td>
<td>$351 M</td>
<td>31%</td>
</tr>
<tr>
<td>Charges and Fees</td>
<td>$65 M</td>
<td>6%</td>
</tr>
<tr>
<td>Sales Taxes</td>
<td>$57 M</td>
<td>5%</td>
</tr>
</tbody>
</table>

Source: NACo Analysis of U.S. Census Bureau - Census of Individual Governments: Finance, 2017

1“Government Form” refers to the distribution of executive decision making authority in a county. “Traditional” county states mandate that counties exercise executive decision making power solely through the board of elected officials (commissioners, supervisors, etc.). “Reformed” county states mandate that counties employ an elected or appointed county executive, manager or similar position to take on at least some of the county’s executive decision making authority. “Mixed” county states mandate that some counties in that state are “traditional” and some are “reformed.”

2NACo Analysis of U.S. Census Bureau - 2020 Decennial Census

**Summary of County Services**

**Services counties MUST provide:**
- Construct and maintain roads and bridges.
- Provide courtroom space and district court support.
- Provide veterans and public health services.

**Services counties MAY provide:**
- Construct airports, public service districts and libraries.
- Establish a job development authority.
- Administer noxious weed control, rural sewer and water distribution and emergency communication systems.

**Services counties CANNOT provide:**
- Provide gas or electric utilities.
## SUMMARY

Each county in North Dakota is governed by a board of 3-5 commissioners that serves as both the legislative and executive decision-making body. Counties cannot create a chief executive officer position (in Dillon’s Rule counties); however, counties may choose to adopt a county managership form of government which creates the county manager position. The county manager serves as the chief administrative officer for county affairs as delegated by the board of commissioners. Depending on the form of managership adopted, county managers may be either elected by residents or appointed by the county board of commissioners. Home rule powers would allow the creation of a county managership through election or appointment as well.

*All mandatory officers, except for the sheriff, may be combined, shared among counties or redesignated through statutory or home rule provisions.*

### COUNTY STRUCTURE

**Legislative Branch:** A board of 3-5 commissioners serves as the lead legislative decision-making body.

**Executive Branch:** A board of 3-5 commissioners serves as the lead executive decision-making body. Counties cannot elect a chief executive officer, but counties may adopt a managership form of government with an appointed or elected county manager.

**Judicial Branch:** North Dakota’s district court system is split into eight judicial districts that serve all 53 counties. District courts have general jurisdiction in all cases, have exclusive jurisdiction in criminal cases and serve as juvenile courts.

**Optional Forms of Government:**
- County Consolidated Office Form
- County Manager Form – either elected or appointed
- Home Rule Charter – can modify structure with the exception of commission and sheriff

### COUNTY AUTHORITY

**Executive Power:** Executive power resides in the board of county commissioners. A board may institute and prosecute civil actions, make orders regarding county property, levy taxes within state limitations, perform any duties prescribed by state law and more.

**Ability to Form Partnerships:** A political subdivision may, by mutual agreement, transfer any power or function to the county in which it is located. A county and any other political subdivision may also form an intergovernmental agreement to jointly administer any county power or function. In addition, two or more counties may adopt a multicounty home rule charter.

**Call a State of Emergency:** The chairperson, acting as the principal executive officer of a county, may declare a local disaster, emergency or mandatory evacuation order.

**Special Districts:** There are over 750 special purpose districts throughout North Dakota. These consist of approximately 16 different types of special districts and authorities, including water and park districts.

<table>
<thead>
<tr>
<th>Row Officers*</th>
<th>Elected/ Appointed</th>
<th>Required/ Optional</th>
</tr>
</thead>
<tbody>
<tr>
<td>Attorney</td>
<td>Elected</td>
<td>Mandatory</td>
</tr>
<tr>
<td>Auditor</td>
<td>Elected</td>
<td>Mandatory</td>
</tr>
<tr>
<td>Coroner</td>
<td>Appointed</td>
<td>Mandatory</td>
</tr>
<tr>
<td>Recorder</td>
<td>Elected</td>
<td>Mandatory</td>
</tr>
<tr>
<td>Sheriff</td>
<td>Elected</td>
<td>Mandatory</td>
</tr>
<tr>
<td>Superintendent of Schools</td>
<td>Appointed</td>
<td>Mandatory</td>
</tr>
<tr>
<td>Surveyor</td>
<td>Appointed</td>
<td>Optional</td>
</tr>
<tr>
<td>Treasurer</td>
<td>Elected</td>
<td>Mandatory</td>
</tr>
</tbody>
</table>
OVERVIEW OF COUNTY SERVICES

North Dakota counties have jurisdiction over many services with a focus on providing for rural communities. Counties may establish roads, provide fire services and create airports. Moreover, counties assist in providing state services, such as social services through a welfare board and a housing authority. Counties may carry out additional services with voter approval, including hospital districts, libraries and rural ambulance services.

HEALTH AND HUMAN SERVICES

Health Departments/Districts: Counties must provide public health services. Counties may establish a public health unit by appointing five members to a board of health. Two public health units (if they serve a population of at least 15,000) or three or more public health units may form a regional public health network. Counties without a public health unit may contract with a city’s public health unit to provide services. Counties may form a single county, multi-county, city-county or tribal health district.

Hospitals: If petitioned and voters approve, counties (individually or jointly) must create a hospital district and impose a levy to support the district.

Human Services: Counties must establish a human services zone board or participate in a multi-county human service zone and appoint members to the governing board. The board reviews services and programs and makes recommendations for improvements. The board must also efficiently coordinate and conduct human service activities within the human service zone by private and public organizations.

Mental Health Facilities: Under home rule, counties may establish mental health facilities; however, this is primarily a state function.

INFRASTRUCTURE

Roads: Counties must acquire land for, construct, maintain and operate the county road system.

Airports: Counties either individually or jointly with another county, city, park district or township, may acquire, establish and construct airports and landing fields.

Recreation Service District: If petitioned, counties may call an election regarding service provision, including police protection, sewer and water, garbage removal services and public road construction and maintenance.

Utilities: Counties may design recreation service districts to provide sewer, water and trash removal services.

- Sewer Water: Counties may provide water and sewage services.
- Solid Waste: Counties may provide garbage removal services.
- Communications: Counties may fund enhanced communications infrastructure.
- Electric: Counties cannot provide electric services.
- Gas: Counties cannot provide gas services.
Parks and Recreation: Each board of county commissioners may establish a 5-7 member board of county park commissioners. The county commissioners must consider the budget and levy request from the park commissioners and may fund park expenses from the general fund. A board of county park commissioners may establish special service districts to provide police protection and garbage removal for park areas.

Libraries: If petitioned by voters, counties must establish and maintain public library services, either individually or jointly with the state library, or with one or more cities or counties. Counties may establish a library fund and levy taxes, not to exceed county tax limits.

Cemeteries: Counties must determine if cemeteries are abandoned and if so, maintain them.

Memorials: Counties may build a memorial for county veterans and may provide funds out of the county general fund to pay for the construction. Counties may cooperate with a city, school district or other public or private nonprofit organization to build and operate a memorial.

County Agricultural Fair Association: Counties may organize a fair association. Annual funding must be approved by citizen vote.

Zoning Power: Incorporated cities and organized townships have primary zoning authority. The board of county commissioners may regulate and restrict the location and use of buildings and structures and the use, condition or occupancy of lands for residence, recreation and other purposes. Counties may authorize permits and charge permitting fees for construction, reconstruction or repair of any building or structure. To use this zoning power a county must establish a county planning commission.

Regional Planning and Zoning Commissioners: Counties, cities and organized townships may cooperate to form, organize and administer a regional planning and zoning commission.

Zoning Restriction: Counties cannot regulate or impose zoning restrictions or requirements on animal feeding operations or other agricultural operations beyond the expressed limitations of state law.

Housing Authority: The state creates a housing authority in each county; however, the authority only has power if residents petition and the county governing body approves. The authority must operate public housing facilities, issue bonds and conduct research and make recommendations for improving housing conditions.

Job (Economic) Development Authorities: Counties may, individually or jointly with another county, establish a job development authority. A job authority may encourage and assist employment development and tourism promotion.
NORTH DAKOTA COUNTIES EMPLOY 5,405 GOVERNMENT EMPLOYEES

**Public Safety**

**Law Enforcement:** Counties must elect a sheriff to serve as the chief law enforcement officer whose responsibilities include making warrant arrests and supporting county court operations.

**Jails:** Counties must provide jail services through a county jail, multi-county jail or through contract with another entity. The sheriff is responsible for a single county jail.

**Courthouses:** Counties must provide facilities for district court services, though court services are funded and operated by the state.

**Fire:** Counties may create a firebreak fund, appoint a fire warden and provide fire control services; however, in reality, rural fire districts have been created by petition and counties levy a property tax to support them.

**Ambulance:** If petitioned, counties may establish a rural ambulance district and elected board of directors. If voters approve, counties may levy a property tax of up to 15 mills.

**Emergency Management Agency:** Counties must either maintain an emergency management organization that serves the entire county or join a regional emergency management organization that serves more than one county. Each local or regional emergency management organization must prepare a local disaster or emergency operational plan for its area.

**Schools**

**Education, Generally:** The county superintendent of schools, with the approval of the board of county commissioners, must appoint a county committee for school district annexations, dissolutions and reorganizations. The state board of education must assist county committees.

**School Board:** The board of a school district must be composed of 5-7 members. Each board of county commissioners must employ a county superintendent of schools to serve schools without a district superintendent of schools.

### North Dakota County Government Employees by Top Functional Categories

<table>
<thead>
<tr>
<th>Category</th>
<th>Full-time</th>
<th>Part-time</th>
</tr>
</thead>
<tbody>
<tr>
<td>Justice &amp; Public Safety</td>
<td>1,651</td>
<td></td>
</tr>
<tr>
<td>Human Services</td>
<td>1,067</td>
<td></td>
</tr>
<tr>
<td>Administrative</td>
<td>831</td>
<td></td>
</tr>
<tr>
<td>Transportation</td>
<td>772</td>
<td></td>
</tr>
<tr>
<td>Health and Hospitals</td>
<td>473</td>
<td></td>
</tr>
</tbody>
</table>

Source: NACo Analysis of U.S. Census Bureau - Census of Individual Governments: Employment, 2017
OVERVIEW OF COUNTY FINANCE STRUCTURE

North Dakota counties only have the taxing authority authorized by the state legislature, but have broad jurisdiction over real property taxes. Property taxes may be levied for general purposes, an emergency fund and other specific funds, but the tax levies are limited to a rate necessary to meet budget demands. Home rule counties may levy a sales and use tax as well as a restaurant and lodging tax. Counties may incur general debt and issue bonds to fund revenue-generating utilities.

FINANCES, TAXES AND LIMITATIONS

**Property Tax:** Without a home rule charter, counties may levy property taxes up to a limit based on mills per dollar of taxable value. Taxable value is 4.5 percent of true and full value of residential property and 5 percent for commercial and agricultural value. Agricultural value is determined by productivity. Counties have numerous special fund levies, some of which may be increased by voter approval every 10 years.

**Personal Property:** Personal property cannot be assessed for property taxes.

**Income Tax:** Counties cannot impose an income tax.

**Sales Tax:**
- **Local Sales Tax:** Home rule counties may impose a sales tax, but items exempt from state sales tax cannot be taxed locally.
- **Restaurant Tax:** Home rule counties may levy a sales tax on any food and beverage consumption already subject to state sales tax.
- **Lodging Tax:** In unincorporated areas, counties may impose a tax of up to 2 percent on gross receipts of retailers on leasing or renting hotel, motel or other accommodations. All proceeds must be deposited in the county visitors' promotion fund.

**Mineral Tax:** Counties cannot impose a mineral tax.

**Gas/Fuel Taxes:** Counties cannot impose a gas or fuel tax.

**Debt and Debt Limit:** Counties may take on debt of up to 5 percent of assessed value of taxable property. If voters approve, counties may issue bonds on utilities not exceeding the value of the utility. An annual tax must cover the interest and principal of any debt counties take on.

**Emergency Fund:** Counties may levy a tax for emergency purposes. The tax does not need to be considered in determining the budget or the tax levy for general tax purposes. The levy cannot exceed 2 mills in a county with a population of 30,000 or more, 4 mills in a county with a population under 30,000 but more than 5,000 or 6 mills in a county with a population under 5,000.

NORTH DAKOTA COUNTIES INVEST $1.3 BILLION ANNUALLY

Top Investment Categories

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transportation</td>
<td>$525 M</td>
<td>41%</td>
</tr>
<tr>
<td>Justice and Public Safety</td>
<td>$240 M</td>
<td>19%</td>
</tr>
<tr>
<td>Public Amenities</td>
<td>$140 M</td>
<td>11%</td>
</tr>
<tr>
<td>Health and Human Services</td>
<td>$126 M</td>
<td>10%</td>
</tr>
<tr>
<td>Administration</td>
<td>$95 M</td>
<td>7%</td>
</tr>
</tbody>
</table>

Source: NACo Analysis of U.S. Census Bureau - Census of Individual Governments: Finance, 2017

NORTH DAKOTA COUNTIES RECEIVE $582 MILLION FROM INTERGOVERNMENTAL SOURCES

Intergovernmental Sources:
- County-Generated Revenue: 3%
- From State Government: 46%
- From Local Government: 49%
- From Federal Government: 2%

Source: NACo Analysis of U.S. Census Bureau - Census of Individual Governments: Finance, 2017

County Structures: North Dakota