

# NORTH DAKOTA

## COUNTY GOVERNMENT OVERVIEW

### Counties

53

### Government Form

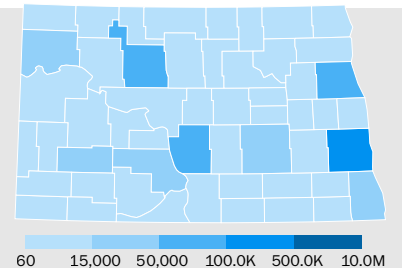
Traditional<sup>1</sup>

### Governing Body Size

3-5

### Population (2020)

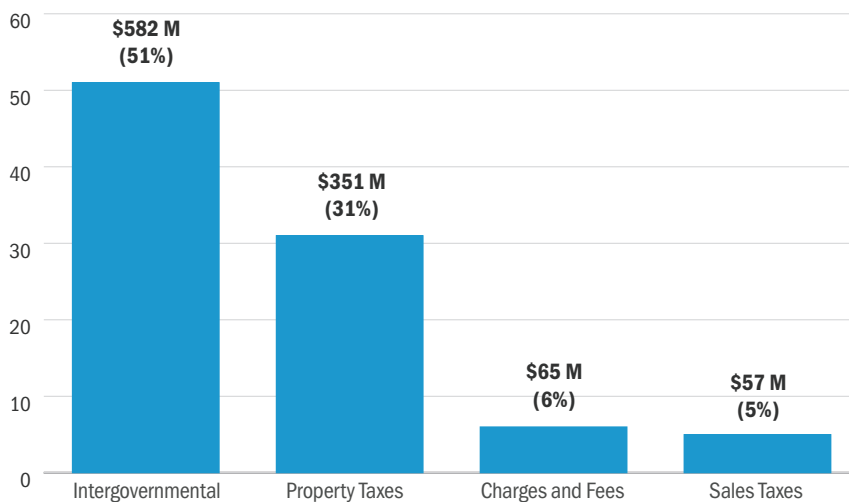
779,000<sup>2</sup>



### 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 cause a home rule charter to be drafted and submitted for adoption, pending the approval by the county voters. Home rule counties have the same powers as general law counties as well as additional freedoms for establishing financial authority (including countywide sales tax) and the structure of county government, including elected and appointed officers, so long as nothing is inconsistent with state law. State statute also empowers counties to adopt a multi-county home rule charter with one or more additional counties. Additionally, counties have the authority to restructure all statutorily elected row offices except for the sheriff.

## TOP REVENUE SOURCES FOR NORTH DAKOTA COUNTIES



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

<sup>1</sup>"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 means that some counties in that state are "traditional" and some are "reformed."

<sup>2</sup>NACo Analysis of U.S. Census Bureau - 2020 Decennial Census

### Summary of County Services

#### Services counties MUST provide:

- Construct and maintain roads and bridges.
- Administer criminal prosecution.
- Provide courtroom space and district court support.
- Provide veterans and public health services.

#### Services counties CAN provide:

- Construct airports, public service districts and libraries.
- Establish a job development authority.
- Provide agricultural extension services.
- Administer noxious weed control, rural sewer and water distribution and emergency communication systems.



# STRUCTURE/AUTHORITY

## 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 for the county government. State law does not allow for the authority to 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 and is responsible for the administration of county affairs as delegated by the board of commissioners. Depending on the form of managership adopted, county managers may be either elected by the county 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, can be combined, shared among counties or redesignated through statutory or home rule provisions.*

*\*\* The public administrator is appointed by the presiding judge of the judicial district in which a county is located.*

Row Officers*	Elected/ Appointed	Required/ Optional
9-1-1 Coordinator	Appointed	Optional
Attorney	Elected	Mandatory
Auditor	Elected	Mandatory
Coroner	Appointed	Mandatory
Director of Tax Equalization	Appointed	Mandatory
Emergency Manager	Appointed	Mandatory
Highway Engineer	Appointed	Optional
Human Service Director	Appointed	Mandatory
Public Administrator**	Appointed	Optional
Public Health Admin.	Appointed	Mandatory
Recorder	Elected	Mandatory
Sheriff	Elected	Mandatory
Superintendent of Schools	Appointed	Mandatory
Surveyor	Appointed	Optional
Treasurer	Elected	Mandatory
Veterans Service Officer	Appointed	Mandatory



## 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 for each county. Counties cannot elect a chief executive officer, but counties can adopt a managership form of government in which a county manager is either appointed or elected.

**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 as long they are within the limits set by state law, perform any duties prescribed by state law and more.

**Ability to Form Partnerships:** A political subdivision may, by mutual agreement, transfer to the county in which it is located any of its powers or functions. 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 also 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.

# SERVICES

## OVERVIEW OF COUNTY SERVICES

North Dakota counties have jurisdiction over many services with a focus on providing for rural communities. Counties have the full authority to 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 also have the option to carry out additional services with voter approval, including hospital districts, libraries and rural ambulance services.



### HEALTH AND HUMAN SERVICES

**Health Departments/Districts:** A board of county commissioners may establish a public health unit by creating and appointing a board of health of at least five members. Moreover, a group of public health units may be designated as a regional public health network consisting of at least two public health units serving a minimum population of 15,000 or a minimum of three public health units. Counties without a public health unit may contract with a city's public health unit to provide services throughout the county. Upon the adoption of a resolution, counties are also authorized to form a single county, multicounty, city-county or tribal health district. All counties must be served by public health in some form.

**Hospitals:** The county board of any county, or two or more county boards acting jointly, upon the petition of 25 percent of qualified voters, and subsequent approval of at least 60 percent of votes, shall create a hospital district and impose a levy as described in the petition.

**Human Services:** Each county 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 periodic recommendations for improvements. The board must also assist in every reasonable way to efficiently coordinate and conduct human service activities within the human service zone by private as well as public organizations.

**Mental Health Facilities:** Counties do not have jurisdiction over mental health facilities as it is primarily a state function, however it is presumed counties could create this jurisdiction under home rule.



### INFRASTRUCTURE

**Roads:** Each county board has the sole authority and responsibility to acquire land for, construct, maintain and operate the county road system.

**Airports:** Any county, either individually or jointly with another county, city, park district or township, may acquire, establish and construct airports and landing fields within the boundaries of the political subdivisions involved.

**Recreation Service District:** A board of commissioners may, upon the petition of 10 percent of county voters, call an election to decide on a recreation service district for the purpose of providing services including include police protection, sewer and water, garbage removal services and public road construction and maintenance.

**Utilities:** State statute authorizes counties to establish a recreation service district in response to a petition, which may be designed for the provision of sewer, water and trash removal services.

- **Sewer Water:** Counties are authorized to provide water and sewage services.
- **Solid Waste:** Counties are authorized to provide garbage removal services.
- **Communications:** Counties are authorized to expend funds to enhanced communications infrastructure.
- **Electric:** Counties are not authorized to provide electric services.
- **Gas:** Counties are not authorized to provide gas services.



# SERVICES, CONTINUED



## PUBLIC AMENITIES

**Parks and Recreation:** Each board of county commissioners may establish a 5-7 member board of county park commissioners. The county commissioners shall 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 in order to provide police protection and garbage removal for the park areas within the district.

**Libraries:** The board of county commissioners, upon a petition of county voters, must establish and maintain public library services, either individually or jointly with the state library, or with one or more cities or counties. Counties are authorized to establish a library fund and levy taxes, not to exceed county tax limits.

**Cemeteries:** Counties are responsible for determining the abandonment of cemeteries and must maintain those so determined.

**Memorials:** A board of county commissioners may erect a memorial or other suitable recognition to commemorate county veterans and may provide funds out of the county general fund to pay for the construction. Counties may also cooperate with a city, school district or other public or private nonprofit organization on the erection or operation of a memorial.

**County Agricultural Fair Association:** A fair association may be organized in any county. Annual funding must be approved by citizen vote.



## ZONING AND DEVELOPMENT

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

**Regional Planning and Zoning Commissioners:** The governing bodies of counties, cities and organized townships may cooperate to form, organize and administer a regional planning and zoning commission for the region defined by the entities involved in the partnership.

**Zoning Restriction:** A board of county commissioners may not regulate or impose zoning restrictions or requirements on animal feeding operations or other agricultural operations beyond the expressed limitations of state law.

**Housing Authority:** In each county a public body corporate and politic housing authority is created but is only granted power upon the governing body's own motion and upon the petition of 25 residents. The authority shall operate public housing facilities, issue bonds and conduct research and make recommendations for improving housing conditions.

**Job (Economic) Development Authorities:** A board of county commissioners may, individually or jointly with another county, establish a job development authority. A job authority may use its financial and other resources to encourage and assist in the development of employment and promotion of tourism within the county or counties.

# SERVICES, CONTINUED



## PUBLIC SAFETY

**Law Enforcement:** Each county elects a sheriff to serve as the chief law enforcement officer who shall have the authority to make warrant arrests and support county court operations.

**Jails:** Each county must provide for 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:** The county must provide adequate facilities for the district court services in each county, though court services are funded and operated by the state.

**Fire:** A board of county commissioners may create a firebreak fund, appoint a fire warden and provide fire control services; however, in reality, separately organized rural fire districts have been created by petition throughout the state with this responsibility for which the county levies a property tax.

**Ambulance:** A rural ambulance district and elected board of directions may be established by a county in response to a petition. The board or boards of county commissioners covering the district may levy a property tax at a rate approved by the electors of the district that is no higher than 15 mills.

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

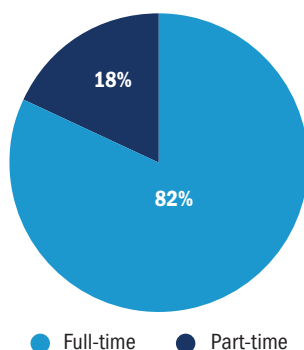


## SCHOOLS

**Education, Generally:** The county superintendent of schools, with the approval of the board of county commissioners, is responsible for appointing a county committee for purposes of school district annexations, dissolutions and reorganizations. The state board of education shall assist county committees in carrying out their duties.

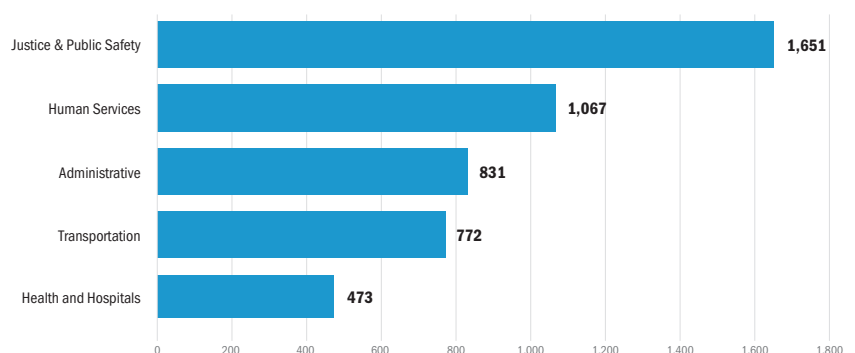
**School Board:** The board of a school district must be composed of 5-7 members. Each board of county commissioners must employ a county superintendent of schools to serve all schools in a county except those in districts that employ a district superintendent of schools.

## NORTH DAKOTA COUNTIES EMPLOY 5,405 GOVERNMENT EMPLOYEES



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

## NORTH DAKOTA COUNTY GOVERNMENT EMPLOYEES BY TOP FUNCTIONAL CATEGORIES



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



# TAXATION/FINANCES

## 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 can 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 additionally may levy a sales and use tax as well as a restaurant and lodging tax. Counties are allowed to incur general debt and issue bonds to fund revenue-generating utilities.



### FINANCES, TAXES AND LIMITATIONS

**Property Tax:** Absent a home rule charter exceeding statutory property tax limitations, county boards can 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 can 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 sales tax on all sales within the county, but items exempt from state sales tax may not be taxed locally.
- **Restaurant Tax:** Home rule counties may levy a sales tax on any food and beverage consumption already subject to the state sales tax.
- **Lodging Tax:** All counties may impose a county tax, not to exceed 2 percent, upon the gross receipts of

retailers on the leasing or renting of hotel, motel or other accommodations within the county, but not within an incorporated city levying this tax. All proceeds must be deposited in the county visitors' promotion fund.

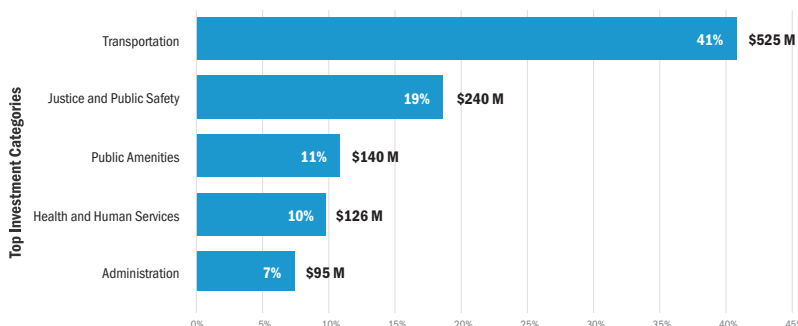
**Mineral Tax:** Counties cannot impose a mineral tax.

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

**Debt and Debt Limit:** County debt is limited to 5 percent of the assessed value of taxable property, but any county, with voter approval, may issue bonds upon any revenue-producing utility owned by such county in amounts not exceeding the physical value of such utility. Any act of taking on debt must also provide for the collection of an annual tax sufficient to pay the interest and the principal of the debt.

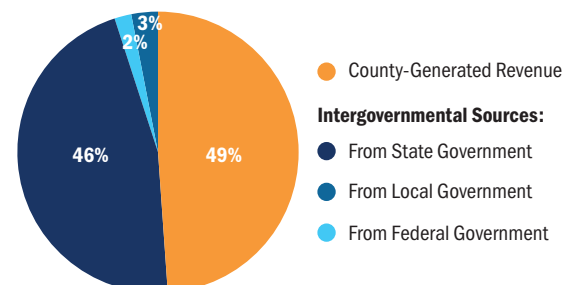
**Emergency Fund:** Counties are authorized to levy a tax for emergency purposes. The tax does not need to be considered in determining the budget or the tax levy for general tax purposes. The levy may not exceed 2 mills in a county with a population of 30,000 or more, 4 mills in a county with a population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



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

## NORTH DAKOTA COUNTIES RECEIVE \$582 MILLION FROM INTERGOVERNMENTAL SOURCES



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