

### Testimony in Opposition to HB 1323

Mr. Chairman and members of the committee. My name is Stephen McDonough. I worked as a pediatrician in North Dakota for 40 years including 15 at the North Dakota Department of Health. In 1989, I authored a book on 100 years of public health. I am here in opposition to HB 1323 which is one of the worst pieces of public health legislation in our 131-year history. This bill should be called "North Dakota doesn't give a darn about grandmas and grandpas."

Let us remember where we were just a few months ago, in October and November, when our state had the highest COVID death rate in the world for most of two months, when outside public health experts said this was "what could be expected in a war torn county."<sup>1</sup> Nearly 500 (499) North Dakotans alone died in the month of November and by the end of the year our state had the 4<sup>th</sup> highest cumulative death rate in the US and 14 of our counties had death rates higher than New York City, most of these were rural counties. During most of 2020, North Dakota had the third lowest mask use and very poor social distancing when the emphasis was on "personal responsibility."

What happened in our state was the result of a "light touch of government." North Dakotans living in our 39 rural counties were 2x as likely to die of COVID as the average American by 12/31/20. Tragically, 846 North Dakotans died in long term care from COVID last year, or 62 percent of our deaths compared to 38 percent nationally. North Dakota had the third lowest rate of mask use and 4<sup>th</sup> highest death rate long term care COVID deaths, not by accident! North Dakota was unable to prevent an overwhelmed health care system and was unsuccessful with the Vulnerable Population Protection (VP3) Plan.

I believe I was the first physician in North Dakota to call for a statewide mask mandate which I did on August 12 in a letter to the editor to the Bismarck Tribune. It was obvious to me that we were heading for a horrific disaster with the rise in cases which occurred this past summer. However, it was not until my fifth attempt (KXMB-TV August 30, Fargo Forum September 2, Fargo Forum September 20), a letter to the editor to the Fargo Forum on October 12, that things began to change. If a mask mandate had been implemented on September 1, I estimate that 658 deaths could have been prevented in September, October and November.

There is no questions that masks have saved hundreds of lives in North Dakota and mask mandates have been very effective. Unfortunately, North Dakota was months too late in having a mask mandate. Minnesota (July 25, 2020) and Montana (July 15, 2020) have done a much better job in saving the lives of their grandma and grandpas than did North Dakota and South Dakota. Mask mandates are a proven public health strategy in reducing COVID transmission<sup>2</sup> and they were supported by Dr. Deborah Birx, the White House coronavirus response coordinator in the Trump administration who observed on October 26 that Bismarck had the worst mask wearing of any of the 38 states she had visited.<sup>34</sup>

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<sup>1</sup> <https://www.usatoday.com/story/news/health/2020/11/14/covid-19-north-south-dakota-masks-kristi-noem/6237635002/>

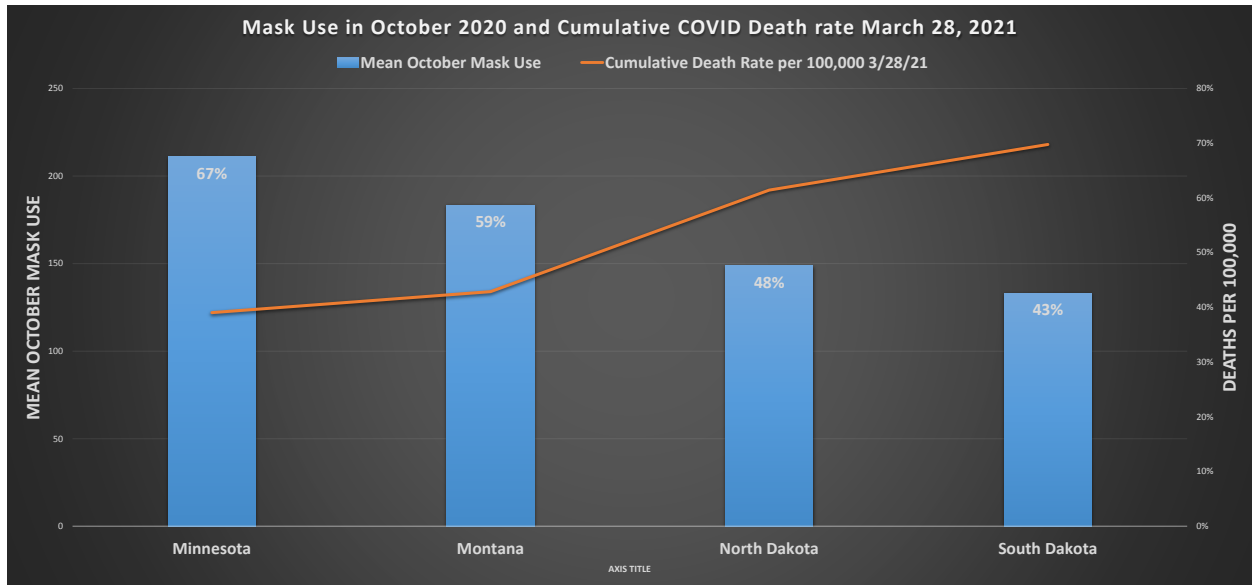
<sup>2</sup> <https://www.cdc.gov/mmwr/volumes/69/wr/mm6947e2.htm#:~:text=The%20governor%20of%20Kansas%20issued,81%20counties%20without%20mask%20mandates.>

<sup>3</sup> <https://www.duluthnewtribune.com/newsmd/coronavirus/6734268-White-House-COVID-19-doctor-clashes-with-North-Dakota-governor-on-mask-mandate>

<sup>4</sup> <https://www.kxnet.com/news/local-news/top-white-house-health-official-says-bismarcks-virus-protocols-the-worst-shes-seen/>

There is a direct relationship between mask use and saving lives. Of the four states in the north central US, Minnesota has by far the best mask use and lowest death rate. Minnesota's cumulative COVID death rate per 100,000 of 122 is substantially below the national death rate of 164 per 100,000 (CDC). So is Montana's of 134 but not North Dakota's of 192 or South Dakota's of 218. One of the main reasons is mask use. The following chart and table shows that mask use in October (University of Washington) during the height of the pandemic is inversely related to cumulative death rates. If North Dakota's death rate was the same as Minnesota's, 533 more North Dakotans would be alive today.

State	Mean October Mask Use	Cumulative Death Rate per 100,000 3/28/21
Minnesota	67%	122
Montana	59%	134
North Dakota	48%	192
South Dakota	43%	218

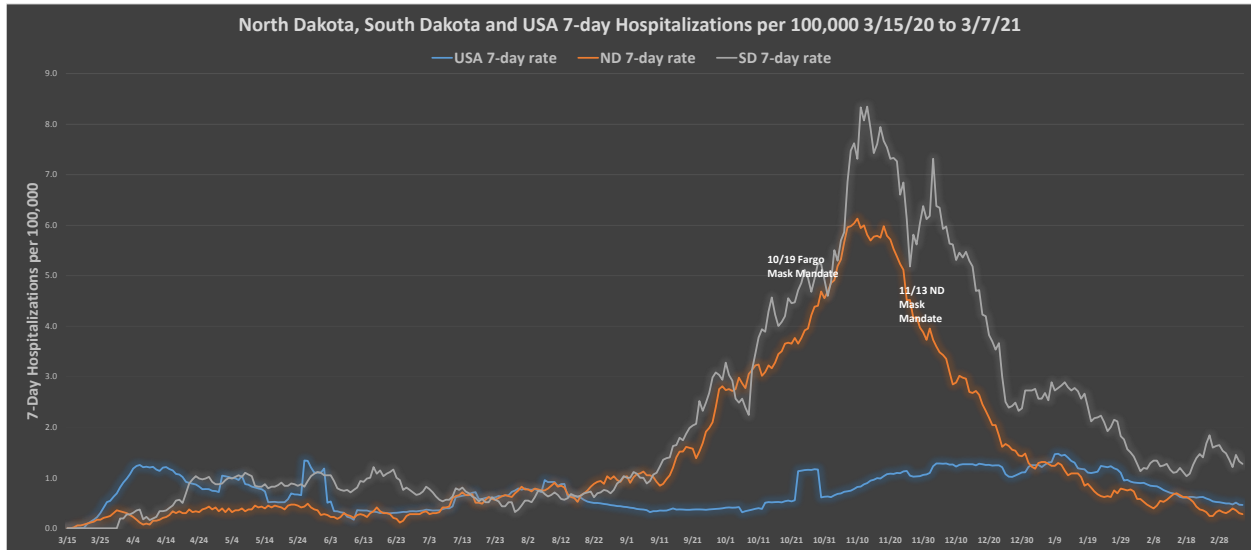


The anti-mask leaders proclaim that only 1.4 percent of those infected with COVID die so why should they wear a mask. That ignorant and selfish statement belies the fact that COVID was overall 14 times as deadly in North Dakota. When the anti-maskers get an infection and spread to others, including staff in the nursing homes, then it isn't as funny anymore. The COVID case fatality rate North Dakota's nursing homes was 26 percent or 260 times as deadly as average influenza. That is right, 1 out of four grandmas and grandpas in nursing homes infected with COVID died a horrible death, smothered by pneumonia witnessed by hundreds physicians and thousands of nurses and therapists, often without family present. Of course, not all counties were equally affected. In Emmons County, which had the highest case rate in the US and therefore the world in late September, COVID was 31 times as deadly as influenza. In Ward County, where nearly 70 percent of the 191 deaths were in long-term-care, COVID was 20 times as deadly as influenza.

The problem with mask mandates in North Dakota was that they were implemented late in the pandemic when health care facilities were overwhelmed. They were not started in time to prevent the nursing home deaths in the late summer and fall nor the preceding widespread transmission in young adults during the summer and early fall. Like most of North Dakota's public health strategy, our state was constantly chasing the virus, getting further and further behind until contact tracing became overwhelmed and abandoned for 2 months during the pandemic's peak. It was not until mask mandates were implemented that things turned around.

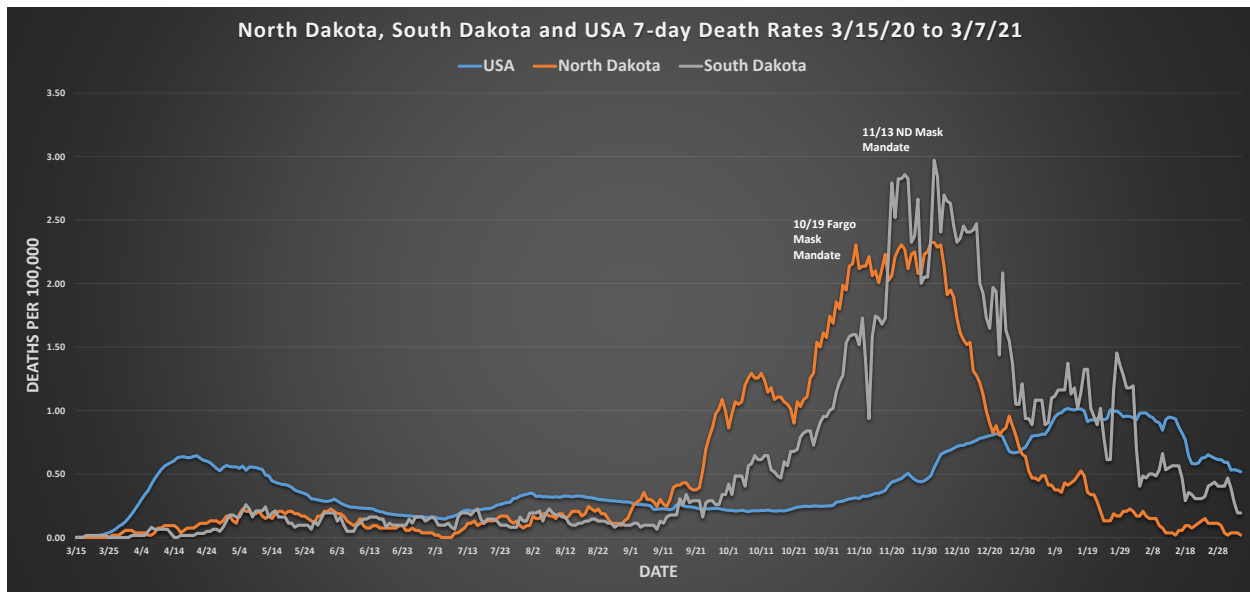
Fargo has been a leader in mask use and saving lives in our state. Cass County's cumulative death rate of 108.8 as of March 28, 2021, was lower than even Minnesota's! This is remarkable considering that Fargo was hit early on with nursing home deaths in the spring of 2020. Cass County's low death rate has been due to better mask use and social distancing than the rest of North Dakota.

I compared North Dakota's, South Dakota's and USA's 7-day hospitalizations and death rates per 100,000. I estimate 1040 hospitalizations were saved in North Dakota by mask mandates over 3 months from December 1, 2020 to March 7, 2021.



Hospitalizations per Month				Total
Year	2020	2021	2021	
Month	December	January	February	
North Dakota	548	216	101	865
South Dakota	1170	618	336	2124

I estimate 421 deaths were saved in North Dakota by mask mandates over 3 months from December 1, 2020 to March 7, 2021.



Deaths per Month				Total
Year	2020	2021	2021	
Month	December	January	February	
North Dakota	282	76	21	379
South Dakota	542	290	110	942

South Dakota continues to struggle with 11.0% positivity, 91 people hospitalized, 2293 active cases and 1933 deaths compared to North Dakota's 3.93% positivity, 18 currently hospitalized, 921 active cases and 1466 deaths on March 29, 2021. In the case you need more information about the horrific South Dakota experiment, please consider this: on February 15, the Sioux Falls Argus Leader reported that the entire body of the South Dakota House of Representatives was considered a close contact for COVID. More than 30 South Dakota lawmakers were now known to have or have had COVID-19.<sup>5</sup>

A study in Utah showed consumer spending improves with countywide mask mandates compared to counties without mask mandates but a statewide mask mandate was associated with even more consumer spending. In time of a pandemic, a statewide mask mandate is good for the economy.<sup>6</sup> So it appears that a statewide mask mandate is the real way to “save lives and livelihood!” The right way for a truly “Smart Restart.”

North Dakota mask mandates were supported by the majority of North Dakotans. The North Dakota Newspaper Association found 60 percent of North Dakotans supported a statewide mask mandate when asked in the first half of November. In that survey, 24 percent knew someone who had died of COVID.<sup>7</sup> To my knowledge, these are some of the mask mandates and strategies implemented in North Dakota:

<sup>5</sup> <https://www.argusleader.com/story/news/2021/02/15/south-dakota-legislature-house-representatives-considered-close-contacts-positive-covid-cases/6750396002/>

<sup>6</sup> <https://coronavirus.utah.gov/impact-of-masks-on-the-economy/>

<sup>7</sup> [https://bismarcktribune.com/news/local/health/quarter-of-north-dakotans-know-someone-who-has-died-of-covid-19/article\\_8b95bb6a-669a-50fd-aa1c-233210384686.html](https://bismarcktribune.com/news/local/health/quarter-of-north-dakotans-know-someone-who-has-died-of-covid-19/article_8b95bb6a-669a-50fd-aa1c-233210384686.html)

<b>Date</b>	<b>Locality</b>	<b>Issuing Authority</b>
<b>July 24, 2020</b>	<b>Spirit Lake Reservation</b>	<b>Tribal Chairman</b>
<b>July 31, 2020</b>	<b>Turtle Mountain Reservation</b>	<b>Tribal Council</b>
<b>October 19, 2020</b>	<b>Fargo</b>	<b>Fargo Mayor</b>
<b>October 20, 2020</b>	<b>Minot</b>	<b>Minot City Council 5-2 vote</b>
<b>October 21, 2020</b>	<b>West Fargo</b>	<b>City Commission 4-1 vote</b>
<b>October 21, 2020</b>	<b>Valley City</b>	<b>Mayor, Commission 4-1 Nov 6</b>
<b>October 22, 2020</b>	<b>Three Affiliated Tribes</b>	<b>Tribal Chairman</b>
<b>October 26, 2020</b>	<b>Devils Lake</b>	<b>City Commission unanimous</b>
<b>October 26, 2020</b>	<b>Grand Forks</b>	<b>City Council 7-0 vote</b>
<b>October 27, 2020</b>	<b>Standing Rock Reservation</b>	<b>Tribal Chairman</b>
<b>October 27, 2020</b>	<b>Bismarck</b>	<b>Bismarck City Commission 3-2</b>
<b>October 28, 2020</b>	<b>Jamestown</b>	<b>Jamestown Mayor</b>
<b>November 2, 2020</b>	<b>Rugby</b>	<b>City Council 5-4 vote</b>
<b>November 2, 2020</b>	<b>New Rockford</b>	<b>City Commission</b>
<b>November 9, 2020</b>	<b>Williston</b>	<b>Williston Mayor</b>
<b>November 10, 2020</b>	<b>Mandan</b>	<b>City Commission 3-2 vote</b>
<b>November 12, 2021</b>	<b>Jamestown</b>	<b>Jamestown City Council 4-0 vote</b>
<b>November 13, 2021</b>	<b>North Dakota</b>	<b>Governor Burgum</b>

What happened during our mask mandate? On Nov. 13, the day the mandate was announced, North Dakota had the highest death rate in the world and AARP reported that our state had the highest nursing home death rate, the highest nursing home staff infection rate and the highest staff shortage in the US over 4 weeks in September and October.<sup>8</sup> On Jan. 15, the day the end of the mandate was announced, North Dakota had the third lowest case rate the U.S., among the best where we should have been all along. The mask mandate worked wonderfully. Mask use and social distancing improved dramatically and cases, hospitalizations and deaths plummeted. Active cases dropped 85% from 10,173 to 1,513 and hospitalizations dropped 70% from 319 to 95. Deaths have dropped by 86% from an average 16.6 per day in November to 2.2 in January.

The lessons learned from this pandemic should be that a “light touch of government” was a disaster. North Dakota had the third lowest mask use in the United States during the summer and early fall and terrible social distancing. This resulted in North Dakota having the greatest case rate in the United States for over 3 months, the greatest death rate in the world for most of 2 months and devastating spread to North Dakota’s nursing homes, many in rural areas, where hundreds and hundreds of our grandmas and grandpas died, nearly 900 (887) all because we did not have a statewide mask mandate until November 13.

The extent of the terror when COVID arrived in our nursing homes will probably never be known. Data from the Centers for Medicare and Medicaid Services (CMS) showed a case fatality rate of 26 percent overall from 80 skilled nursing facilities in North Dakota. Some were hit so hard that 13 nursing homes

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<sup>8</sup> <https://states.aarp.org/north-dakota/nursing-home-deaths-increase-11-fold-new-covid-19-analysis-shows#:~:text=The%20state%20saw%20resident%20deaths,monthly%20infections%20climbing%20to%20298>

had cumulative deaths exceeding 30 percent of their occupied beds.<sup>9</sup> Six staff members died. All this came to be from community spread from lack of mask use.

The way we needed to protect our grandmas and grandpas in nursing homes was to protect the staff. The way to protect the staff was to prevent community spread. The way to prevent community spread was a mask mandate. We should have all masked up during the summer. We didn't until October and November and hundreds of our grandmas and grandpas died needlessly.

This legislation is irresponsible, selfish and cruel. It will prevent public officials from protecting their citizens and will prohibit an extraordinarily effective, inexpensive public health intervention that has broad public support and is good for our economy, a mindboggling moronic thing to do.

If you are for masks and mask mandates you are for life, for grandmas and grandpas, for health care providers, families and your own health. If you are not for mask and mask mandates then you are most certainly not for protecting the most vulnerable and our grandmas and grandpas. HB 1323 is an absolutely terrible piece of legislation, one of the worst in the history of our state, and should be soundly defeated.

Thank you for this opportunity to oppose this unbelievably foolish legislation on April Fools' Day. I will be happy to answer any questions.

## **Appendices**

### **Methodology in estimating lives saved and hospitalizations prevented by North Dakota's mask mandates**

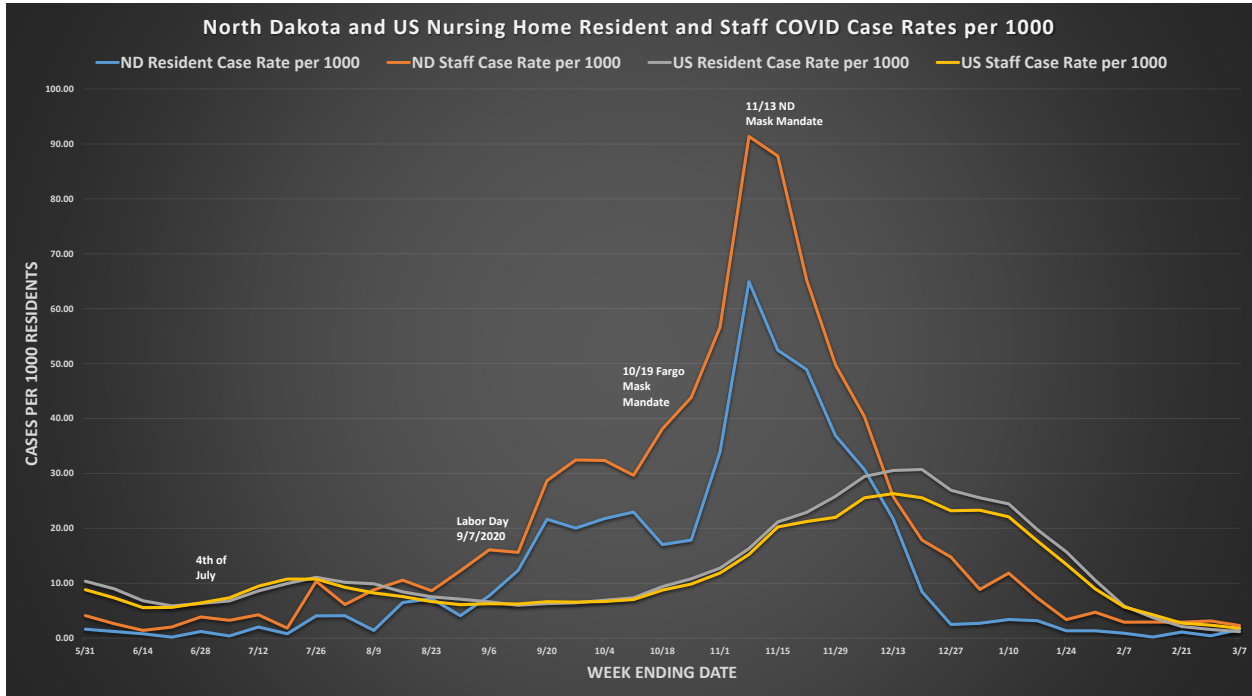
North Dakota's and South Dakota's hospitalizations rates rose in parallel from mid-August until North Dakota's peaked on November 10 at 6.15 while South Dakota's rose to November 13 at 8.35. To compare the impact of North Dakota's community mask mandates beginning on October 19 and statewide mandate on November 13 with South Dakota's lack of a statewide mask mandate, North Dakota's hospitalization rate per day was subtracted from South Dakota's from December 1, 2020 to March 7, 2021. December 1 was chosen as it was 17 days from the North Dakota mask mandate when a decrease in hospitalizations could be expected. Using this analysis, an estimate 1040 hospitalization were saved in North Dakota by mask mandates over 3 months.

North Dakota's death rate rose in late August and began to level off in early November before peaking at 2.32 on December 2 while South Dakota's death rates rose from mid-September until it peaked on December 3 at 2.97. To compare the impact of North Dakota's community mask mandates beginning on October 19 and statewide mandate on November 13 with South Dakota's lack of a statewide mask mandate, North Dakota's death rate per day was subtracted from South Dakota's from December 1, 2020 to March 7. December 1 was chosen as it was 17 days from the North Dakota mask mandate when a decrease in deaths could be expected. Using this analysis, an estimate 421 deaths were saved in North Dakota by mask mandates over 3 months.

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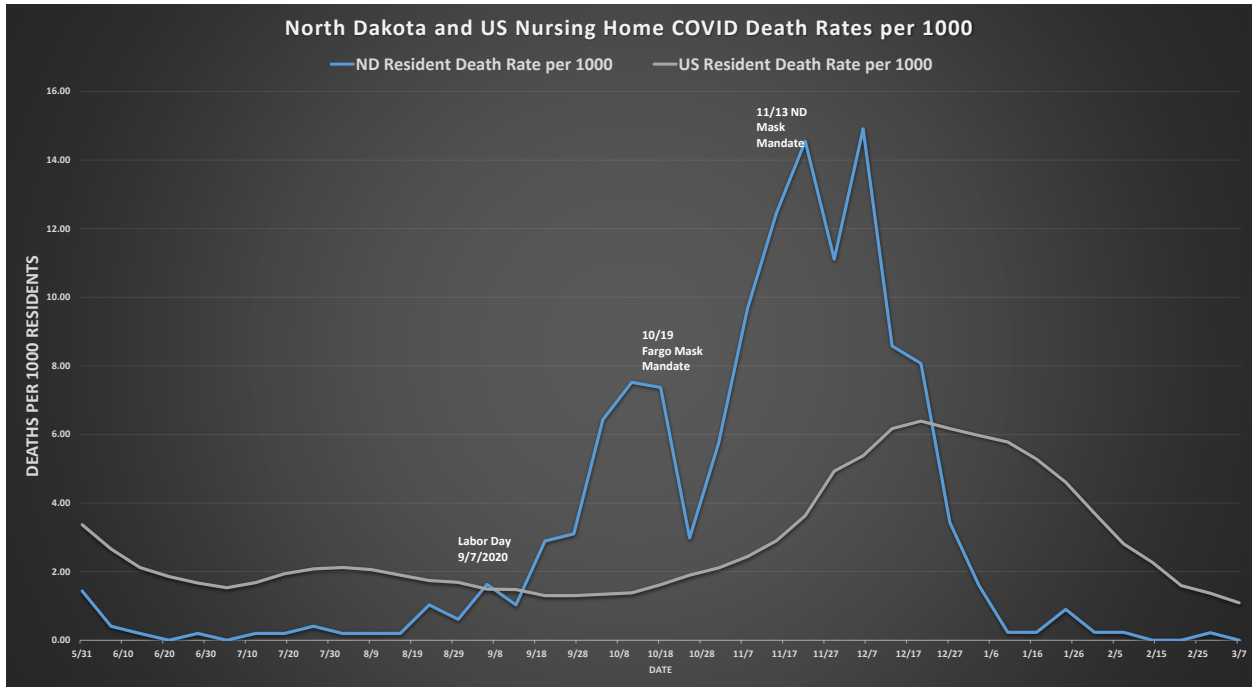
<sup>9</sup> <https://c0dcb948.caspio.com/dp/72678000177588ba3322423c9ee5>

## North Dakota and US Nursing Home Resident and Staff Case Rate per 1000 Residents



North Dakota skilled nursing home staff cases increased after 4<sup>th</sup> of July and greatly after Labor Day and preceded skilled nursing home resident cases.<sup>10</sup>

## North Dakota and US Nursing Home Resident Death Rate per 1000 Residents

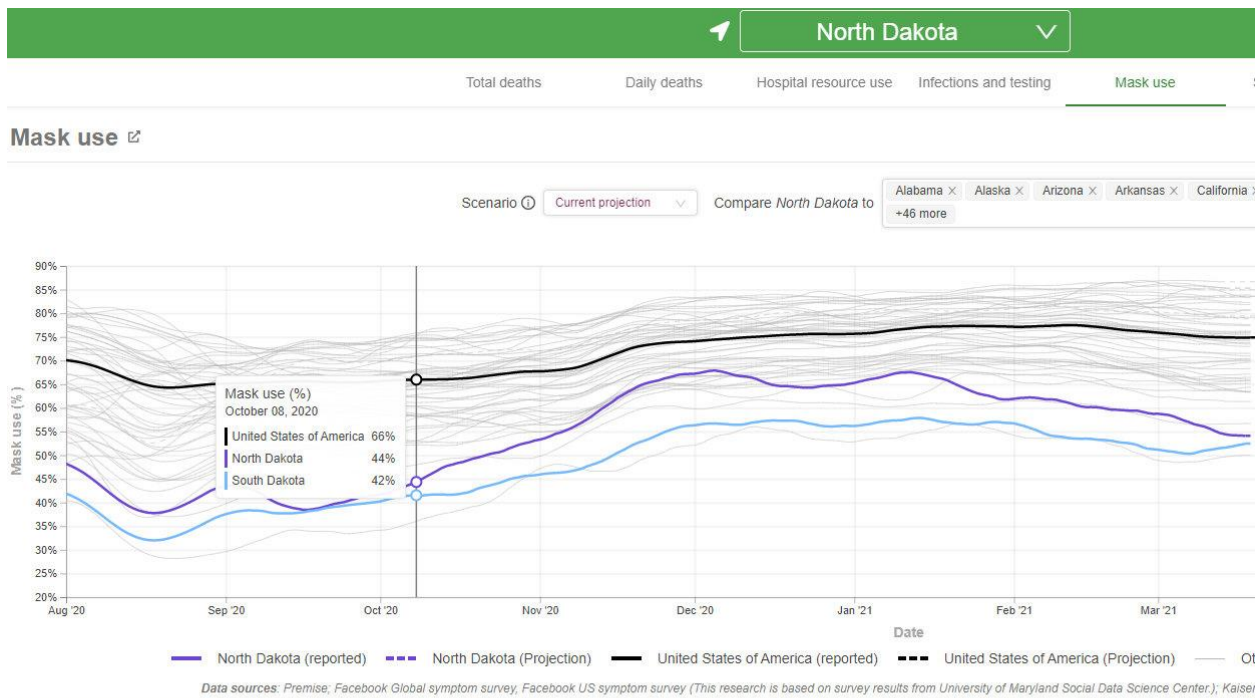


<sup>10</sup> <https://www.cdc.gov/nhsn/covid19/ltc-report-overview.html>

North Dakota nursing home deaths increased dramatically after Labor Day and did not come down until mask mandates were implemented. By the end of 2020, North Dakota had the 4<sup>th</sup> highest nursing home death rate.

Ranking	State	Nursing Home Deaths per 100,000 12/31/20
1	Rhode Island	115.6
2	Connecticut	107.6
3	Massachusetts	106.1
4	North Dakota	100.8
5	New Jersey	83.7
6	South Dakota	69.6
7	Pennsylvania	69.1
8	Illinois	62.4
9	Minnesota	60.2
10	Indiana	57.0

### Poor Mask Use in North Dakota improved with Mask Mandates



### Social distancing

Reducing human contact (as measured by cell phone **mobility** data) can drive down infections so that mask use, testing, isolation, and contact tra



Rank	County	2019 population	Rural mostly rural mostly urban	Deaths by Mar 29 2021	Total death rate per 100000 Mar 29	% Greater than US	Cases by Mar 29 2021	% Deaths per Case	Times More Deadly than Flu
1	Dickey	4,872	rural	32	656.8	400.5%	763	4.19%	41.9
2	Pierce	3,975	mostly urban	25	628.9	383.5%	531	4.71%	47.1
3	Foster	3,210	rural	19	591.9	360.9%	571	3.33%	33.3
4	Renville	2,327	rural	13	558.7	340.6%	313	4.15%	41.5
5	Towner	2,189	rural	11	502.5	306.4%	302	3.64%	36.4
6	Nelson	2,879	rural	14	486.3	296.5%	460	3.04%	30.4
7	Logan	1,850	rural	8	432.4	263.7%	223	3.59%	35.9
8	LaMoure	4,046	rural	17	420.2	256.2%	505	3.37%	33.7
9	Kidder	2,480	rural	10	403.2	245.9%	258	3.88%	38.8
10	Emmons	3,241	rural	13	401.1	244.6%	410	3.17%	31.7
11	McHenry	5,745	rural	22	382.9	233.5%	614	3.58%	35.8
12	Stutsman	20,704	mostly urban	79	381.6	232.7%	3325	2.38%	23.8
13	Ransom	5218	rural	17	325.8	198.7%	631	2.69%	26.9
14	Bottineau	6,282	rural	20	318.4	194.1%	704	2.84%	28.4
15	McLean	9,450	rural	30	317.5	193.6%	1236	2.43%	24.3
16	Morton	31,364	mostly urban	98	312.5	190.5%	5005	1.96%	19.6
17	Grant	2,274	rural	7	307.8	187.7%	190	3.68%	36.8
18	Barnes	10,415	mostly urban	31	297.6	181.5%	1324	2.34%	23.4
19	Ward	67,641	mostly urban	192	283.9	173.1%	9349	2.05%	20.5
20	McIntosh	2,497	rural	7	280.3	170.9%	326	2.15%	21.5
21	Benson	6,832	rural	18	263.5	160.7%	1035	1.74%	17.4
22	Eddy	2,287	rural	6	262.4	160.0%	461	1.30%	13.0
23	Ramsey	11519	mostly urban	30	260.4	158.8%	1657	1.81%	18.1
24	Sioux	4,230	rural	11	260.0	158.6%	642	1.71%	17.1
25	Walsh	10,641	mostly rural	24	225.5	137.5%	1790	1.34%	13.4
26	Trails	8,036	rural	18	224.0	136.6%	1006	1.79%	17.9
27	Wells	3,834	rural	8	208.7	127.2%	437	1.83%	18.3
28	Rolette	14,176	rural	28	197.5	120.4%	2132	1.31%	13.1
29	Burleigh	95,626	mostly urban	187	195.6	119.2%	14868	1.26%	12.6
30	Bowman	3,024	rural	5	165.3	100.8%	400	1.25%	12.5
31	Pembina	6,801	rural	11	161.7	98.6%	781	1.41%	14.1
32	Mountrail	10,545	rural	17	161.2	98.3%	1283	1.33%	13.3
33	Hettinger	2,499	rural	4	160.1	97.6%	322	1.24%	12.4
34	Stark	31,489	mostly urban	50	158.8	96.8%	4534	1.10%	11.0
35	Dunn	4,424	rural	7	158.2	96.5%	369	1.90%	19.0
36	Sargent	3,898	rural	6	153.9	93.9%	437	1.37%	13.7
37	Oliver	1,959	rural	3	153.1	93.4%	154	1.95%	19.5
38	Sheridan	1,315	rural	2	152.1	92.7%	105	1.90%	19.0
39	Adams	2,216	rural	3	135.4	82.5%	268	1.12%	11.2
40	Cavalier	3,762	rural	5	132.9	81.0%	425	1.18%	11.8
41	Golden Valley	1,761	rural	2	113.6	69.3%	254	0.79%	7.9
42	Mercer	8,187	mostly rural	9	109.9	67.0%	1095	0.82%	8.2
43	Grand Forks	69,451	mostly urban	76	109.4	66.7%	10016	0.76%	7.6
44	Cass	181,923	mostly urban	198	108.8	66.4%	22480	0.88%	8.8
45	Steele	1,890	rural	2	105.8	64.5%	174	1.15%	11.5
46	Richland	16,177	mostly rural	17	105.1	64.1%	1878	0.91%	9.1
47	Williams	37,589	mostly urban	37	98.4	60.0%	4602	0.80%	8.0
48	Griggs	2,231	rural	2	89.6	54.7%	308	0.65%	6.5
49	Divide	2,264	rural	2	88.3	53.9%	173	1.16%	11.6
50	McKenzie	15,024	rural	12	79.9	48.7%	1199	1.00%	10.0
51	Burke	2,115	rural	1	47.3	28.8%	229	0.44%	4.4
52	Billings	928	rural	0	0.0	0.0%	53	0.00%	0.0
53	Slope	750	rural	0	0.0	0.0%	32	0.00%	0.0
	North Dakota	762,062		1466	192.4	117.3%	102639	1.43%	14.3
	New York City			9	370				
	USA				164				