

**2023 HOUSE HUMAN SERVICES**

**HB 1290**

# 2023 HOUSE STANDING COMMITTEE MINUTES

## Human Services Committee Pioneer Room, State Capitol

HB 1290  
1/18/2023

Relating to the moratorium on basic care and nursing facility bed capacity.

Chairman Weisz called the meeting to order at 10:18 AM.

Chairman Robin Weisz, Vice Chairman Matthew Ruby, Reps. Karen A. Anderson, Mike Beltz, Clayton Fegley, Kathy Frelich, Dawson Holle, Dwight Kiefert, Todd Porter, Brandon Prichard, Karen M. Rohr, Jayme Davis, and Gretchen Dobervich present. Rep. McLeod not present.

### **Discussion Topics:**

- New nursing homes for North Dakota
- Nursing home beds per capita
- Nursing home occupancy and care

Rep. Kriecht introduced HB 1290, speaking in favor of bill.

Shelly Peterson, President of the North Dakota Long Term Care Association, supportive testimony (#14386).

Chairman Weisz adjourned the meeting at 10:32 AM.

*Phillip Jacobs, Committee Clerk*

# 2023 HOUSE STANDING COMMITTEE MINUTES

## Human Services Committee Pioneer Room, State Capitol

HB 1290  
1/18/2023

Relating to the moratorium on basic care and nursing facility bed capacity.

Chairman Weisz called the meeting to order at 10:47 AM.

Chairman Robin Weisz, Vice Chairman Matthew Ruby, Reps. Karen A. Anderson, Mike Beltz, Clayton Fegley, Kathy Frelich, Dawson Holle, Dwight Kiefert, Todd Porter, Brandon Prichard, Karen M. Rohr, and Jayme Davis present. Rep. McLeod and Rep. Dobervich not present.

### Discussion Topics:

- Committee work

Chairman Weisz called for a discussion on HB 1290.

Rep. Frelich moved a do pass on HB 1290.

Seconded by Rep. Anderson.

### Roll Call Vote:

Representatives	Vote
Representative Robin Weisz	N
Representative Matthew Ruby	Y
Representative Karen A. Anderson	Y
Representative Mike Beltz	Y
Representative Jayme Davis	Y
Representative Gretchen Dobervich	AB
Representative Clayton Fegley	Y
Representative Kathy Frelich	Y
Representative Dawson Holle	Y
Representative Dwight Kiefert	Y
Representative Carrie McLeod	AB
Representative Todd Porter	N
Representative Brandon Prichard	N
Representative Karen M. Rohr	Y

Motion carries 9-3-2.

Carried by Vice Chairman Ruby.

Chairman Weisz adjourned the meeting at 10:49 AM.

House Human Services Committee  
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*Phillip Jacobs, Committee Clerk*

**REPORT OF STANDING COMMITTEE**

**HB 1290: Human Services Committee (Rep. Weisz, Chairman)** recommends **DO PASS** (9 YEAS, 3 NAYS, 2 ABSENT AND NOT VOTING). HB 1290 was placed on the Eleventh order on the calendar.

**2023 SENATE HUMAN SERVICES**

**HB 1290**

# 2023 SENATE STANDING COMMITTEE MINUTES

**Human Services Committee**  
Fort Lincoln Room, State Capitol

HB 1290  
3/1/2023

Relating to the moratorium on basic care and nursing facility bed capacity.

1:12 PM **Madam Chair Lee** called the hearing to order. **Senators Lee, Cleary, K. Roers, Hogan, Clemens** were present. **Senators** Weston was absent.

## **Discussion Topics:**

- Moratorium
- Basic care
- In home services
- Community based services

1:13 PM **Shelly Peterson, President, North Dakota Long Term Care Association,** testified in favor. #21456, 21457

1:33 PM **Madam Chair Lee** closed the hearing and will reopen it on 3/7/2023.

*Patricia Lahr, Committee Clerk*

# 2023 SENATE STANDING COMMITTEE MINUTES

**Human Services Committee**  
Fort Lincoln Room, State Capitol

HB 1290  
3/7/2023

Relating to the moratorium on basic care and nursing facility bed capacity.
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2:29 PM **Vice-Chairman Cleary** called the meeting to order. **Senators Cleary, K. Roers, Hogan, Clemens, Weston** were present. **Senator Lee** was absent.

## Discussion Topics:

- Basic care beds

The Hearing held on March 1, 2023 was held open until March 7, 2023 to provide the opportunity for additional testimony. There was no additional testimony.

Senator Cleary closed the hearing.

Senator Cleary asks for discussion.

**Senator Hogan** moved **DO PASS**.

**Senator K. Roers** seconded the motion.

Roll call vote.

<b>Senators</b>	<b>Vote</b>
Senator Judy Lee	AB
Senator Sean Cleary	Y
Senator David A. Clemens	Y
Senator Kathy Hogan	Y
Senator Kristin Roers	Y
Senator Kent Weston	Y

The motion passed 5-0-1.

**Senator Hogan** will carry HB 1290.

2:34 PM **Vice-Chairman Cleary** closed the meeting.

*Patricia Lahr, Committee Clerk*



**REPORT OF STANDING COMMITTEE**

**HB 1290: Human Services Committee (Sen. Lee, Chairman)** recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1290 was placed on the Fourteenth order on the calendar. This bill does not affect workforce development.

**TESTIMONY**

**HB 1290**

**Testimony on HB 1290**  
**House Human Services Committee**  
**January 18, 2023**

Good morning, Chairman Weisz and members of the House Human Services Committee. My name is Shelly Peterson, President of the North Dakota Long Term Care Association. We represent 192 assisted living, basic care, and skilled nursing facilities in North Dakota. I am here to testify in support of HB 1290 and ask you for a Do Pass.

HB 1290 does one thing, it extends the moratorium on increasing the number of nursing homes or basic care facilities in North Dakota. Why would we want a law that prevents any expansion of nursing homes or basic care facilities in our state? Because we do not need any more facilities and we want to prevent any expansion of institutional capacity. Most North Dakotans want to stay at home as they age and need care, they hope to have their final days at home with their family.

North Dakota is very different from the rest of the country, well over 100 years ago we developed "homes for the aged". They were developed by churches and non-profit organizations. The model of care was to have a nursing home in every community to care for our beloved elders. Today over 90 percent of North Dakota nursing homes are non-profit, many are still affiliated with a church. North Dakota did such a good job in developing and building facilities that in the mid-90's we had one of the highest nursing facilities beds per 1000 elderly in the nation. More recently it was felt that North Dakota's development of in-home services was seriously lagging. In 2015 the Department of Justice began an

The other exception to adding basic care beds is a nursing facility can take some of their existing nursing facility beds and convert them to basic care. This generally has occurred in small rural nursing homes where they wanted to provide a lower level of care for those not needing 24 hour skilled nursing care, but 24 hour supervision, housing and services.

North Dakota has had a moratorium on nursing facility beds since 1996. It was adopted way back then because our institutional capacity was high. The highest nursing facility bed count was 7,124. Today we have 5,226 nursing facility beds, 1,898 less beds.

In summary, I ask you to support the bill before you. It has helped to transform the continuum of care, serving those who need 24 hour skilled nursing care and freeing up funding to provide services at home. Today the Medicaid budget supports 55% of all individuals living in a nursing home. I would be happy to answer any question you have.

Shelly Peterson, President  
North Dakota Long Term Care Association  
1900 North 11<sup>th</sup> Street  
Bismarck, ND 58501  
(701) 222-0660

# Nursing Facilities

Number of Facilities



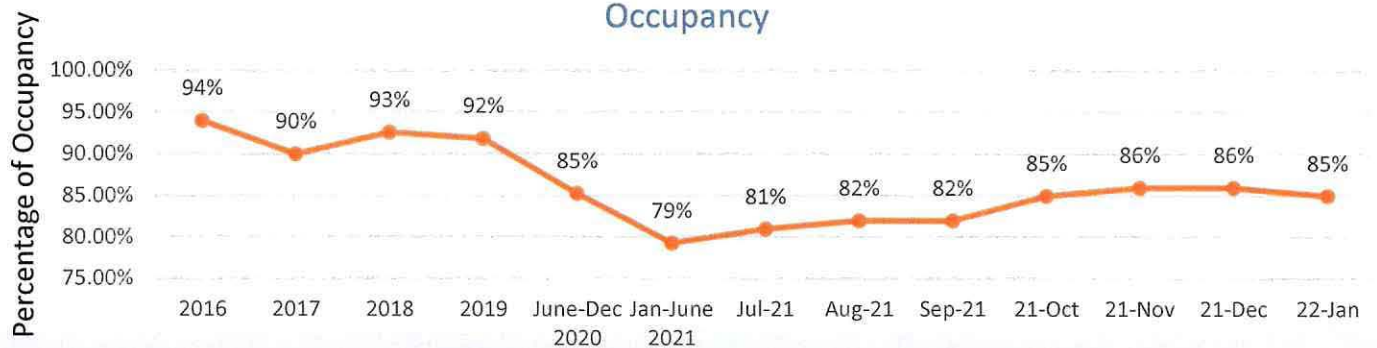
# Nursing Facilities

Licensed Beds



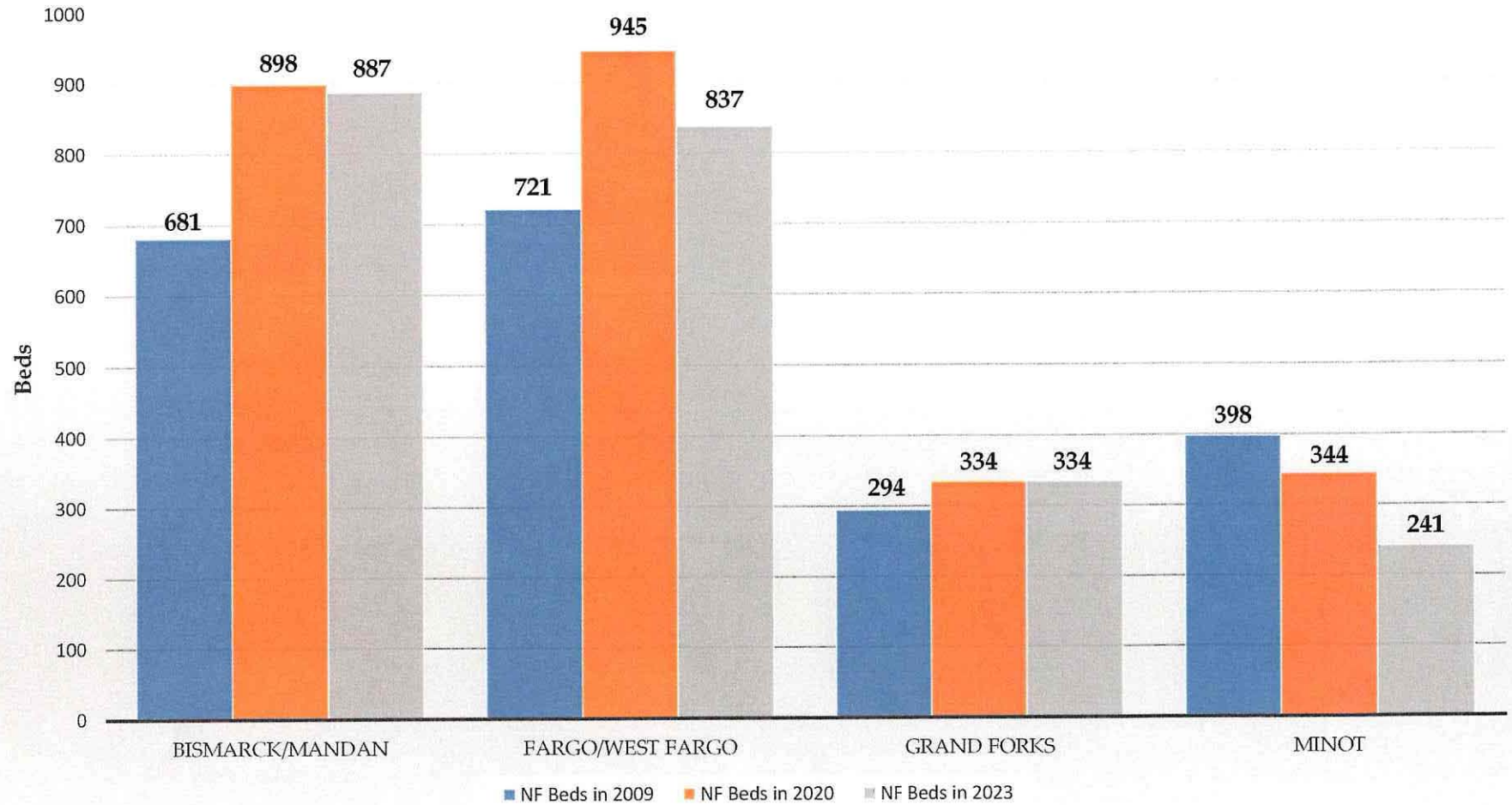
# Nursing Facilities

Occupancy

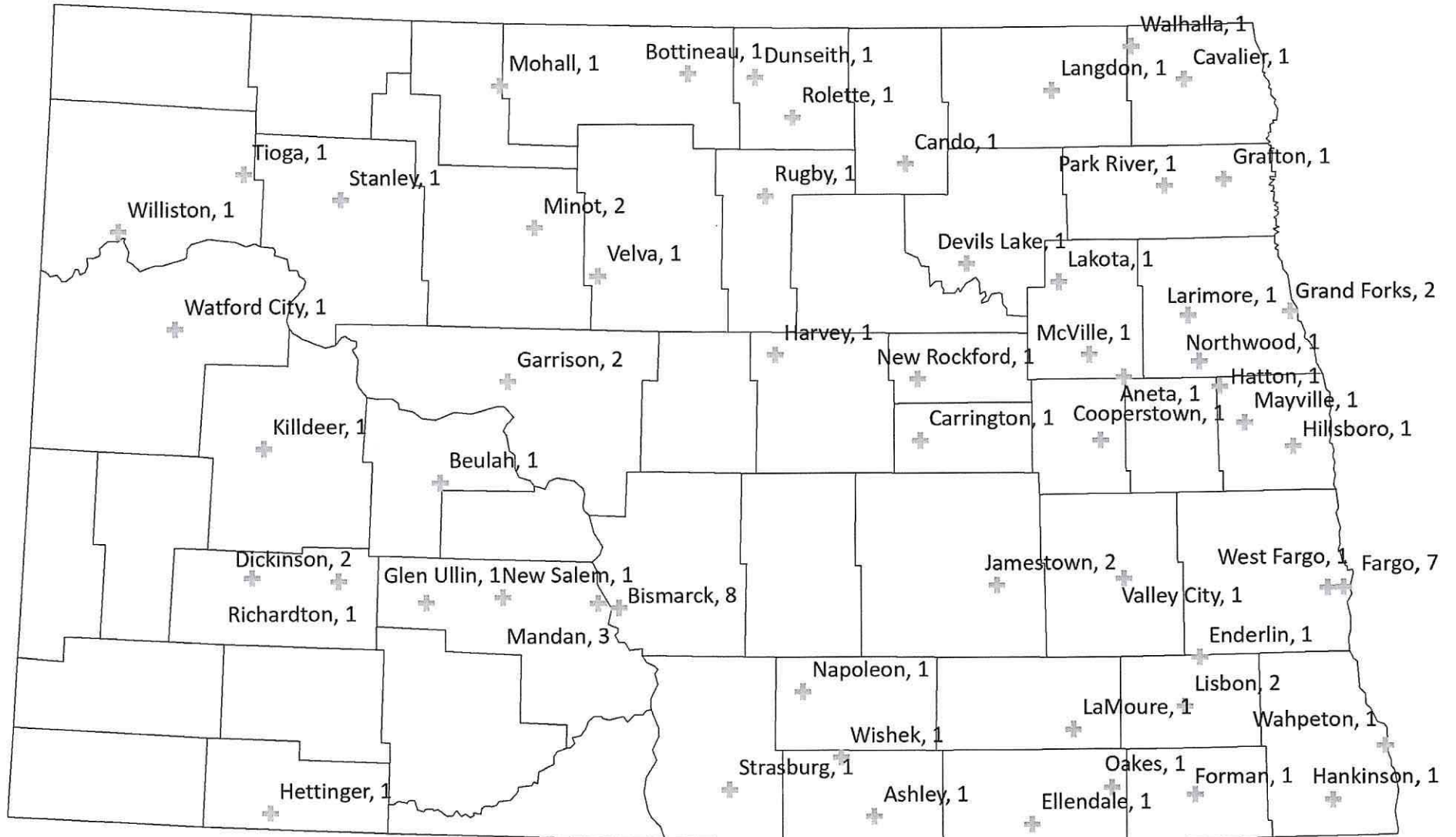


The occupancy for 2020 and 2021 is based upon HC Standard/COVID Reporting.  
The Occupancy for 2016-2019 is from NDLTCA Survey.

## Licensed Nursing Facility Beds for the 4 Major Cities 2009, 2020 & 2023 Comparative



# North Dakota Nursing Facilities, 2022



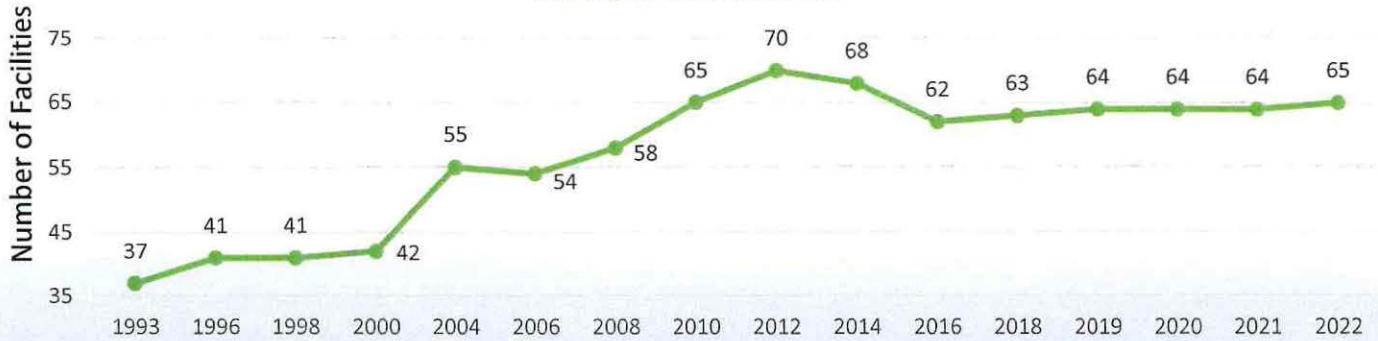
✦ City (Number of Nursing Facilities)



Source: ESRI, North Dakota Long Term Care Association  
 Created by the North Dakota Healthcare Workforce Group  
 on 12/1/2022

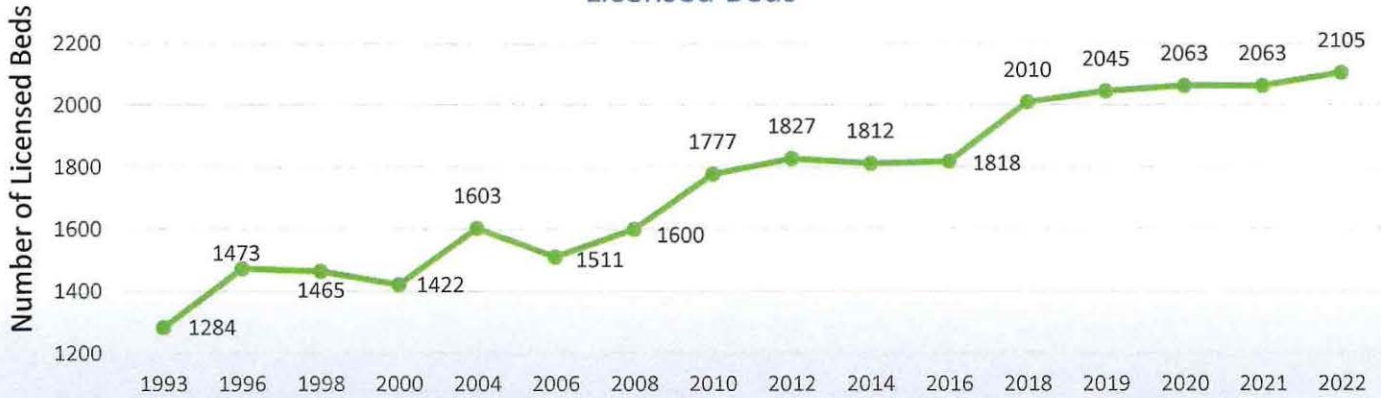
# Basic Care

Number of Facilities



# Basic Care

Licensed Beds



# Basic Care

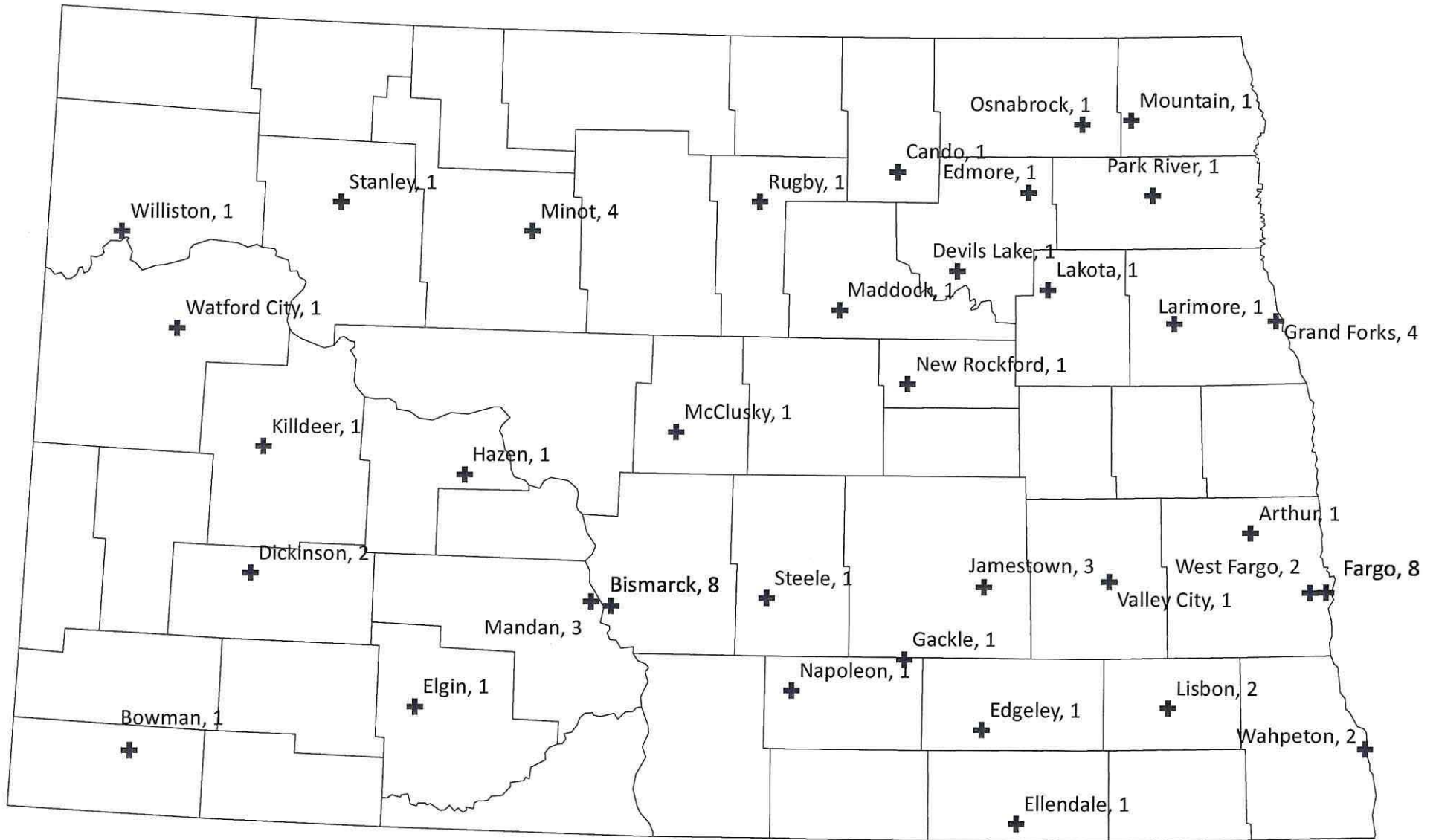
Occupancy



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The Occupancy for 2010-2019 is from NDLTCA Survey.



# North Dakota Basic Care Facilities, 2022



+ City (Number of Basic Care Facilities)

# Nursing Facilities

Number of Facilities



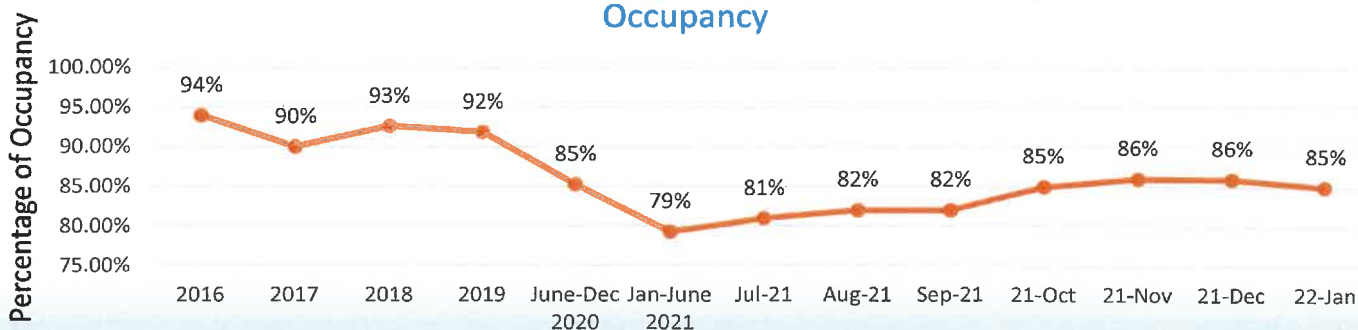
# Nursing Facilities

Licensed Beds



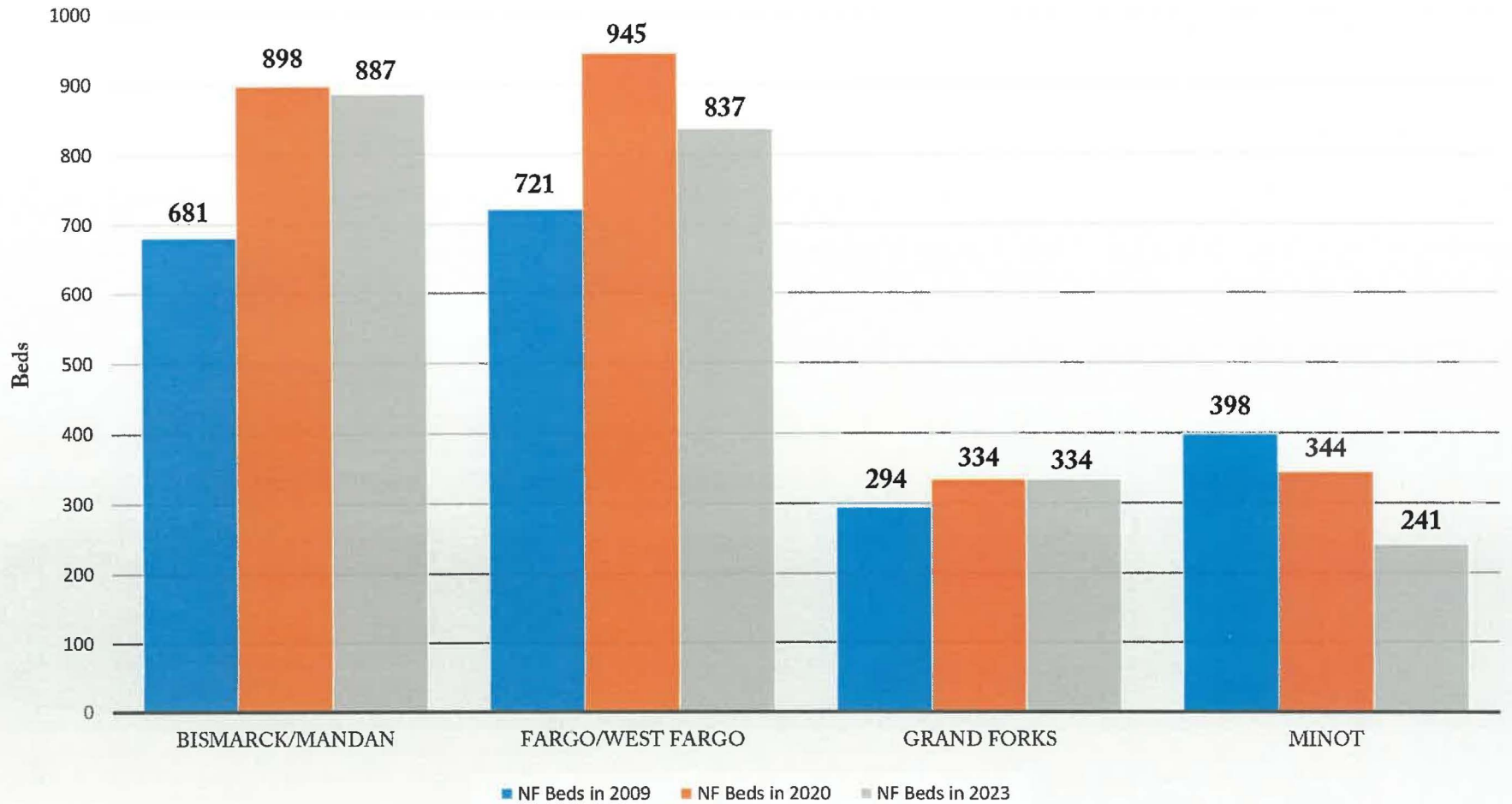
# Nursing Facilities

Occupancy

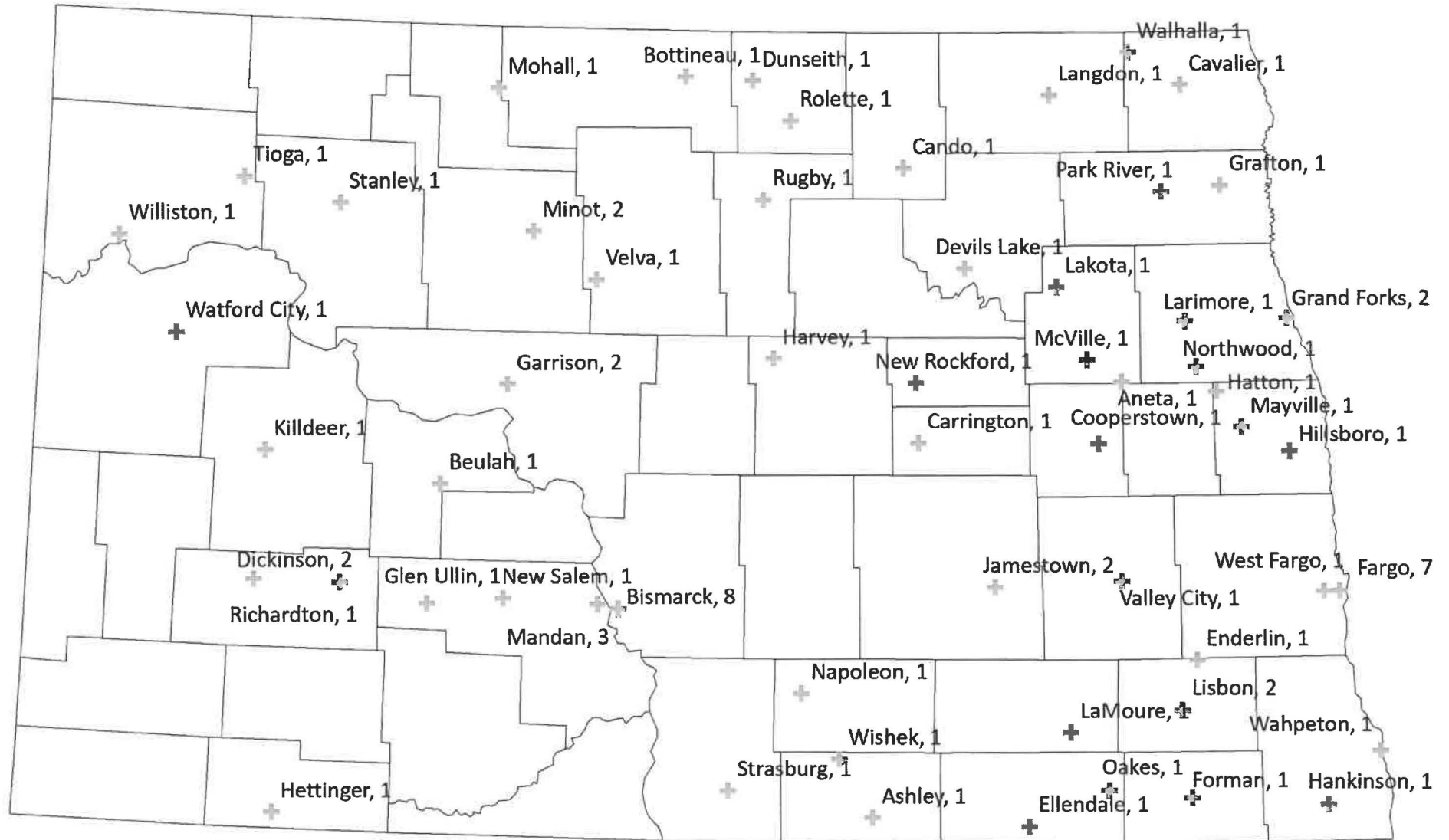


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## Licensed Nursing Facility Beds for the 4 Major Cities 2009, 2020 & 2023 Comparative



# North Dakota Nursing Facilities, 2022



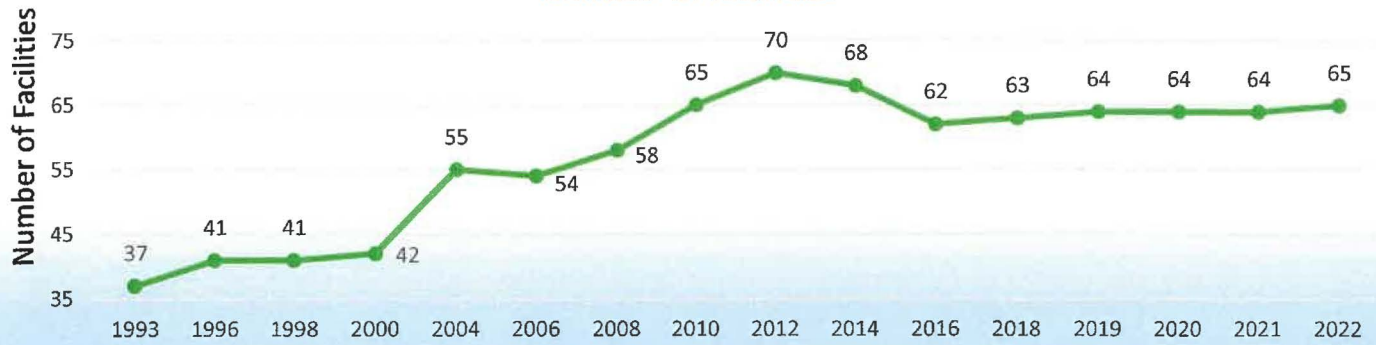
+ City (Number of Nursing Facilities)



Source: ESRI, North Dakota Long Term Care Association  
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# Basic Care

## Number of Facilities



# Basic Care

## Licensed Beds



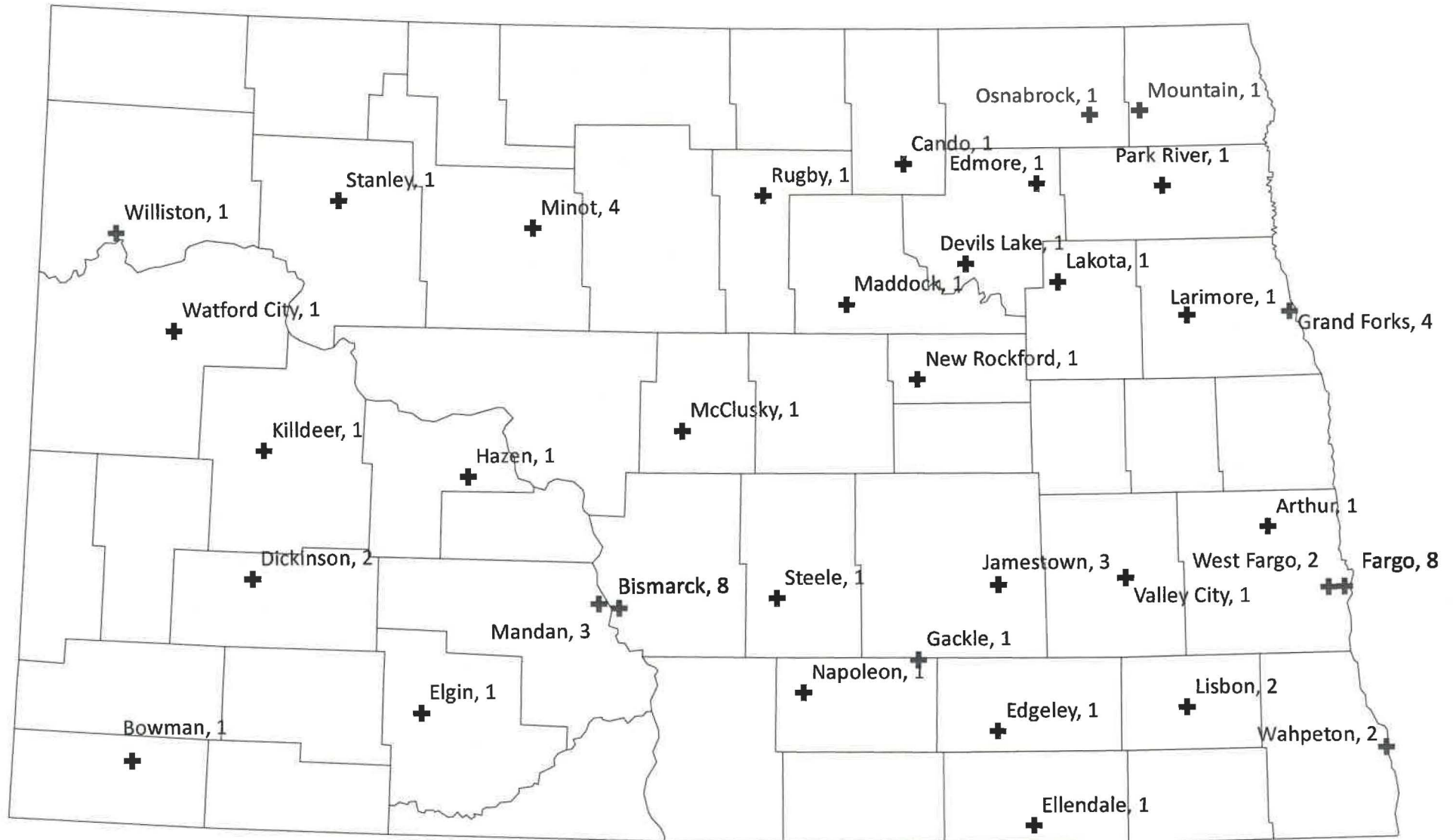
# Basic Care

## Occupancy



The occupancy for 2020 and 2021 is based upon HC Standard/COVID Reporting.  
The Occupancy for 2010-2019 is from NDLTCA Survey.

# North Dakota Basic Care Facilities, 2022



+ City (Number of Basic Care Facilities)

**Testimony on HB 1290**  
**Senate Human Services Committee**  
**March 1, 2023**

Good morning, Chairman Lee and members of the Senate Human Services Committee. My name is Shelly Peterson, President of the North Dakota Long Term Care Association. We represent 192 assisted living, basic care, and skilled nursing facilities in North Dakota. I am here to testify in support of HB 1290 and ask you for a Do Pass.

HB 1290 does one thing, it extends the moratorium on increasing the number of nursing homes or basic care facilities in North Dakota. Why would we want a law that prevents any expansion of nursing homes or basic care facilities in our state? Because we do not need any more facilities and we want to prevent any expansion of institutional capacity. Most North Dakotans want to stay at home as they age and need care, they hope to have their final days at home with their family.

North Dakota is very different from the rest of the country, well over 100 years ago we developed “homes for the aged”. They were developed by churches and non-profit organizations. The model of care was to have a nursing home in every community to care for our beloved elders. Today over 90 percent of North Dakota nursing homes are non-profit, many are still affiliated with a church. North Dakota did such a good job in developing and building facilities that in the mid-90’s we had one of the highest nursing facilities beds per 1000 elderly in the nation. More recently it was felt that North Dakota’s development of in-home services was seriously lagging. In 2015 the Department of Justice began an

investigation in North Dakota under Title II of the Americans with Disabilities Act. Title II requires public entities to administer services, programs and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities. Complainants alleged being forced to enter nursing homes because services in the community were not available.

Five years later on 12-14-20 the US government and the State of North Dakota entered into a settlement agreement. In the agreement, North Dakota agrees to provide timely community based services and support to give every person the option to be in the most integrated setting appropriate.

That agreement doesn't mean we can't have nursing facilities and basic care facilities, we will always need that level of care, it is still an option. We believe we need to be prudent and guard against any expansion of institutional capacity. The bill before you does just that it limits the expansion of nursing homes and basic care.

In 2009 we desperately needed more nursing facility beds in the Bismarck and Fargo communities. That occurred as re-distribution of beds occurred between entities who wished to sell their beds and others who needed the increased capacity.

There is an exception for basic care beds. On lines 12-15 it states; "(If) an entity demonstrates to the department that basic care services are not readily available within a designated area of the state or that existing basic care beds within a fifty-mile radius have been occupied at ninety percent or more for the previous twelve months." Additional basic care beds could be approved, but an unmet need must be demonstrated.



The other exception to adding basic care beds is a nursing facility can take some of their existing nursing facility beds and convert them to basic care. This generally has occurred in small rural nursing homes where they wanted to provide a lower level of care for those not needing 24 hour skilled nursing care, but 24 hour supervision, housing and services.

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