

69th Legislative Assembly
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S.B. 2222

OPPOSITION

Senate Agriculture & Veterans Affairs Committee

Sen. Larry Luick, Chairman
Sen. Janne Myrdal, Vice Chairman

Testimony of Zachary Greenberg

Interim Commissioner of Labor
N.D. Department of Labor and Human Rights

February 13, 2025

Chairman Luick, Vice-Chair Myrdal, and Members of the Committee,

Thank you for the opportunity to testify in opposition of SB 2222. My name is Zachary Greenberg, and I serve as the interim Commissioner of the North Dakota Department of Labor and Human Rights. My concerns with this bill center primarily on its risk of putting North Dakota in non-compliance with federal law by affecting the state's substantial equivalency status with the U.S. Department of Housing and Urban Development (HUD). This non-compliance would have significant consequences, including the loss of funding and an increased administrative burden on all parties involved in housing discrimination claims.

HUD Cooperative Agreement & Substantial Equivalency

The Department is responsible for receiving and investigating complaints of housing discrimination under N.D.C.C. ch. 14-02.5, the Housing Discrimination Act. HUD has deemed North Dakota's Housing Discrimination Act substantially equivalent to the federal Fair Housing Act, meaning that our state law provides at least the same substantive rights, procedures, remedies, and judicial review provisions to residents as federal law.

Maintaining this substantial equivalency status is essential because it allows the Department to enter into a Cooperative Agreement with HUD, which provides funding for complaint processing, administrative costs, and training, and allows the Department to investigate both state and federal housing complaints in tandem, reducing the burden and resolution time for complainants and respondents. In recent years, this funding has amounted to approximately \$125,000 annually.

Impact of SB 2222

SB 2222 creates new provisions regarding documentation requirements for emotional support animals (ESAs) in housing. Specifically, the bill requires that documentation verifying the need for an ESA must:

- Originate from a medical professional
- Be from a provider licensed or certified in North Dakota

These requirements are more restrictive than federal law, which allows documentation from a variety of sources—not just medical professionals—so long as the provider is “in a position to know about the individual's disability.” Federal law does not impose a geographic restriction on where the provider must be licensed.

Because SB 2222 imposes stricter standards than federal law, it has the potential to eliminate North Dakota's substantial equivalency status upon implementation.

Consequences of Losing Substantial Equivalency

If North Dakota loses its substantial equivalency status, the Department would no longer be able to enter into a Cooperative Agreement with HUD and would no longer receive HUD funding. However, our responsibility to investigate housing discrimination claims under N.D.C.C. ch. 14-02.5 would remain. This means:

- The Department would lose critical financial resources, requiring a request for increased state funding to offset the loss.
- Complainants and respondents would be subject to two separate investigations—one by HUD and one by the Department—with no coordination between the agencies. This would increase administrative burdens for all parties.

Conclusion

For these reasons, I respectfully oppose SB 2222 in its current form and urge a modification to preserve North Dakota's substantial equivalency status under federal fair housing laws.

Thank you for your time, and I am happy to answer any questions.