

**2013 HOUSE APPROPRIATIONS**

**HB 1014**

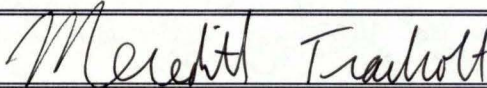
## 2013 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Human Resources Division  
Sakakawea Room, State Capitol

HB 1014  
1/17/2013  
JOB 17323

☐ Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the committee on protection and advocacy.

### Minutes:

You may make reference to "attached testimony."

**Chairman Pollert** called the committee to order and opened the hearing on HB 1014.

**Teresa Larsen, Executive Director, Protection and Advocacy Project (P&A):** Presented testimony, see Attachment 1, beginning minute 4:00.

13:10

**Representative Nelson:** The Head Injury Association is relatively new in ND. In cases (like Case A on page 4) where TBI is an issue, do you collaborate with them? What is the relationship you have with other existing departments in some of these specific areas?

**Larsen:** We do collaborate a lot with the Head Injury Association, as well as other service-providing agencies and private non-profits. Whenever we receive a referral we look at other services that might be available, because we do not duplicate services. Utilization of services is up to the client, as well; we give them information and encourage them to connect with other agencies that provide services or do advocacy. Sometimes we do a supervised referral, where we help them make the necessary connections. Resumed testimony on page 5, minute 16:05.

18:30

**Representative Holman:** Are you following the proposed legislation dealing with guardianship, as it appears it relates to the work you do?

**Larsen:** Yes, we've been following it through the interim and this session. One of the issues we have is with individuals who do not have a diagnosis of developmental disabilities, there is a real problem finding guardians if family members are not available. We are very supportive of the bills going forward. Resumed testimony on page 6, minute 19:30.

26:25

**Representative Bellew:** You said all projected unspent federal funds are to be carried forward. How does that work, aren't these grants specific about time?

**Larsen:** There is a specific amount of time that grants are authorized for, but every one of them also says you have 12 or 24 months beyond that to spend those monies, so we are allowed to carry those forward for a certain amount of time before we have to return unspent funds, which I don't believe we've ever done.

**Representative Nelson:** I understand P&A works on behalf of the client. In facilitated resolutions like Case C, is the ability of the other party, like the school district, to meet the needs considered in the process?

**Larsen:** In this case, the school district has some financial responsibilities regardless of the child's placement, so in this case we looked at his need to be with his family. This situation had balanced legal representation, and resources to address the needs of the child. We do try to be practical about these kinds of issues. Resumed testimony on page 7, minute 31:45. Concluded 33:45.

**Representative Nelson:** Do you have a Plan B if the federal funding isn't reauthorized?

**Larsen:** Plan B is to tighten our belts and do with the rest of the money we have to fund the existing FTEs. The Social Security grant you are referring to is \$100,000 a year, so it would be a total of \$200,000 less for the next biennium if we do not get it again. What we have been and will continue to do is leaving vacancies open for as long as we can before filling them, and tightening up on travel and operating.

**Representative Nelson:** The money you receive from federal grants is for operations and programs, not salaries?

**Larsen:** Some of that \$200,000 is used for salaries. We are already including the position most impacted by this loss in other federal grants, and leaving other vacancies open longer than we normally would.

**Representative Wieland:** In the title of the bill, you're called a committee. Are you in a position to receive donations like a 501(c)3? Do you have any reserves other than what you might not spend during the biennium?

**Larsen:** We are not a 501(c)3, we are an independent state agency with a committee which is a governing board. You are correct that we do not have any reserves.

**Chairman Pollert:** Who are the legislators on the advisory board?

**Larsen:** It is actually a governing board, who I work for. One position is vacant, and Representative Maragos is on the board.

**Representative Bellew:** I would like to know how the compensation packages are figured.

46:30

**Lori Laschkewitsch, OMB:** Our 1st quartile begins at 75% of the market, and the average of this agency over the 27 employees is 79% of market. The \$80,000 (Attachment 1, page 8) is needed just to bring the employees to the minimum. The market policy point is the market average for a particular position, formerly known as the midpoint. The P&A employees were actually below the range of their salaries - new hires at the minimum of the range would have been hired at a higher salary than many of this agency's employees, so they needed to catch up to the minimum.

**Larsen:** This summer I looked at where all of our employees were in terms of the quartiles. 4 people were in the 2<sup>nd</sup> quartile; all other staff were in the 1<sup>st</sup> quartile. We have people in the 1<sup>st</sup> quartile that have worked for us 9 years, 19 years, 26 years...very long term employees. It's a significant problem for our agency.

**Chairman Pollert:** What is your turnover?

**Laschkewitsch:** Current turnover is 24% for 2012. It was 11% in 2011. They've had a significant increase in their turnover.

**Representative Wieland:** Is the goal of the Governor to average 100%?

**Laschkewitsch:** That was the recommendation of the Hay study, that you bring your employees to market which is 100%. This package by no means does that.

**Chairman Pollert:** Were we trying to get it to 95% by this biennium, and to 97% by 2015?

**Laschkewitsch:** That is correct, state-wide average. For P&A, they are currently 79% (average). After the 2013 recommended increases, they would be 83%. At the end of the 13-15 biennium, they would be at 86%.

**Representative Wieland:** Are any of your employees affected by the \$500/month adjustment for the west?

**Larsen:** No.

1:03:10

**Representative Nelson:** If this is our new salary and wage guideline, can we expect this same incremental gain in the next biennium, with the goal of reaching 100%?

**Laschkewitsch:** That is correct. However, we have no control over what the market does, and that will continue to move, as well. We will have a narrower range to make up in that next biennium. Statewide, our goal is 95% on July 1, 2013; 97% on July 1, 2014; currently we are at 92%.

**Representative Wieland:** Is the goal to also close the gap in some of the agency disparity, with some at 107% of market and some at 79%?

**Laschkewitsch:** That is correct. The Hay group also emphasized pay on merit, above average work, not getting a raise just because you are here.

**Representative Nelson:** If there was a goal short of 100% of market, like 95% for example, would there be an impact to agencies in this biennium? It looks like that might have more of an impact next biennium.

**Laschkewitsch:** In the past we have only been able to set our midpoint, like at 95% of market. I need to double check that our market policy point is in fact 100% of market, and isn't already 95% of market.

**Chairman Pollert:** Thank you. Committee, we will be in recess.



## 2013 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Human Resources Division  
Sakakawea Room, State Capitol

HB 1014  
2/5/2013  
JOB 18261

☐ Conference Committee

Committee Clerk Signature

### Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the committee on protection and advocacy.

### Minutes:

1,2,3,4,5,6,

00:51

**Teresa Larsen, Executive Director, Protection and Advocacy Project (P&A)**, presented her detail of budget to the committee 2011-2013 biennium spending as of 12/31/2012. - Attachment # 1.

**Larsen** reported to the committee of the % of State dollars spent to date: 70% and the % of Federal dollars spent to date 64.5%. The program is 75% of the biennium.

04:05

**Larsen** presented to the committee spend down of the 2011-2013 biennium (through 12/12) Changes for the 2013-2015 biennium - Attachment # 2.

12:35

**Corinne Hoffman, Director of Policy & Operations for Protection and Advocacy Project**, explained to the committee the IT needs for the P & A. We follow the state formula of replacement of equipment. With the most offices the outreach are staff of one the need we are trying to get those office become more efficient.

17:48

**Larsen** continued her detail of Attachment #2. Larsen then highlighted her 10 office lease information for 2011-2013. Attachment # 3.

29:56

**Chairman Pollert** requested Larsen to provide a detail of professional fees. To include the current biennium to include federal and state funds.

**Representative Nelson** requested an IBARS.

38:58

**Larsen** handed out of an example that includes her employees that shows where the employees are in the market place. Attachment # 4.

**Larsen** handed out 2012-2014 Quartile Charts. Attachment # 5.

48:34

**Carlota McCleary, Executive Director for The Federation of Families for Children's Mental Health** as well as a parent a child who has used the service of P& A. Spoke in support of HB 1014.

54:35

**Barbara Murry, Executive Director of the North Dakota Association of Community Providers** provided written testimony in support of HB 1014. Attachment #6.

# 2013 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Human Resources Division  
Sakakawea Room, State Capitol

HB 1014  
2/19/2013  
JOB 19192

☐ Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A BILL for an Act providing an appropriation for defraying the expenses of the department of human services; to amend and reenact subsection 6 of section 50-24.7-01 of the North Dakota Century Code, relating to definitions for expanded service payments for elderly and disabled; to provide an exemption; and to provide a statement of legislative intent.

## Minutes:

1.

**Chairman Pollert** reconvenes the committee

1:14

**Chairman Pollert** called on Adam Mathiak, Legislative Council Intern, to inform the committee on proposed amendment to HB 1014, - Attachment #1.

06:58

**Representative Holman** explained why the amendment was presented to the committee.

**Representative Holman** made a motion to amend HB 1014 with .01004., second by Representative Nelson.

15:57

**Chairman Pollert** called on **Teresa Larsen**, Executive Director, Protection and Advocacy Project (P&A). To answer any question regarding this motion.

**Chairman Pollert** informed the committee that this is not a hearing, but rather he would like to ask questions regarding this matter.



19:38

**Chairman Pollert** called for a vote on the motion. Roll call vote is 1 yea, 5 nays, 0 absent. Motion failed.

23:10

Representative Bellew made a motion for a do pass on as HB 1014 as amended, second by Representative Wieland.

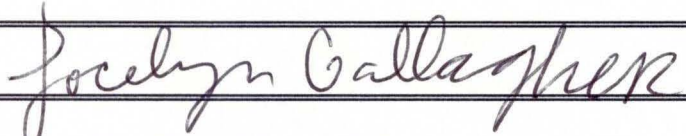
Roll call vote taken 6 yeas, 0 nays, 0 absent. HB 1014 is a Do Pass.

# 2013 HOUSE STANDING COMMITTEE MINUTES

## House Appropriations Committee Roughrider Room, State Capitol

HB 1014  
2/20/13  
Job 19275

☐ Conference Committee



### Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the committee on protection and advocacy.

### Minutes:

**Rep. Nelson:** Introduced the bill and amendment .01002, moved the amendment, seconded by Rep. Pollert.

**Chairman Delzer:** Where are they coming up with the estimated income?

**Rep. Nelson:** It comes from federal sources. They are funded with a number of federal grants.

**Chairman Delzer:** All those in favor of amending 1014 with 01002, signify with aye, opposed nay. **Voice vote carries**

**Joe Morrisette:** OMB: It's all federal

**Chairman Delzer:** Where do they expect the extra \$114,000, how is it triggered, because there is an enhancement of \$114,000 on it.

**Joe Morrisette:** I can't answer that, I don't know.

**Chairman Delzer:** Is this a case where they spend the federal money first or the state money first or how is that done, do you know?

**Rep. Nelson:** The question was asked last session and the answer to that is yes, but it didn't come up this session.

**Chairman Delzer:** Motion for a do pass as amended by Rep. Nelson, second by Rep. Pollert.

**Chairman Delzer:** Motion carries 21-1-0. Rep. Nelson will carry.

2/21/13  
JMK  
80

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1014

Page 1, replace lines 12 through 15 with:

"Protection and advocacy operations	\$5,104,253	\$468,935	\$5,573,188
Accrued leave payments	<u>0</u>	<u>93,590</u>	<u>93,590</u>
Total all funds	\$5,104,253	\$562,525	\$5,666,778
Less estimated income	<u>3,118,888</u>	<u>114,724</u>	<u>3,233,612</u>
Total general fund	\$1,985,365	\$447,801	\$2,433,166
Full-time equivalent positions	28.50	(1.00)	27.50"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1014 - Protection and Advocacy Project - House Action

	Executive Budget	House Changes	House Version
Protection and Advocacy Project	\$5,886,347	(\$5,886,347)	
Accrued leave payments		93,590	93,590
Protection and advocacy operations		5,573,188	5,573,188
Total all funds	\$5,886,347	(\$219,569)	\$5,666,778
Less estimated income	<u>3,233,612</u>	<u>0</u>	<u>3,233,612</u>
General fund	\$2,652,735	(\$219,569)	\$2,433,166
FTE	27.50	0.00	27.50


Department No. 360 - Protection and Advocacy Project - Detail of House Changes

	Corrects Executive Compensation Package <sup>1</sup>	Adjusts State Employee Compensation and Benefits Package <sup>2</sup>	Provides Separate Line Item for Accrued Leave Payments <sup>3</sup>	Total House Changes
Protection and Advocacy Project			(\$5,886,347)	(\$5,886,347)
Accrued leave payments			93,590	93,590
Protection and advocacy operations	5,232	(224,801)	5,792,757	5,573,188
Total all funds	\$5,232	(\$224,801)	\$0	(\$219,569)
Less estimated income	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
General fund	\$5,232	(\$224,801)	\$0	(\$219,569)
FTE	0.00	0.00	0.00	0.00

<sup>1</sup>Funding is added due to a calculation error in the executive compensation package.

<sup>2</sup>This amendment adjusts the state employee compensation and benefits package as follows:

- Reduces the performance component from 3 to 5 percent per year to 2 to 4 percent per year.

- 
- Reduces the market component from 2 to 4 percent per year for employees below the midpoint of their salary range to up to 2 percent for employees in the first quartile of their salary range for the first year of the biennium only.
  - Removes funding for additional retirement contribution increases.

<sup>3</sup>A portion of salaries and wages funding from the general fund (\$45,519) and from other funds (\$48,071) for permanent employees compensation and benefits is reallocated to an accrued leave payments line item for paying annual leave and sick leave for eligible employees.

Date: 2/19/2013  
Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE**  
**ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 1014**

House House Appropriations - Human Resources Division Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By \_\_\_\_\_ Seconded By \_\_\_\_\_

Representatives	Yes	No	Representatives	Yes	No
Chairman Pollert		✓	Representative Holman	✓	
Representative Bellew		✓			
Representative Kreidt		✓			
Representative Nelson		✓			
Representative Wieland		✓			

Total (Yes) 1 No 5

Absent 0

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

To Amend .01004 ~

Date: 19 Feb 2013  
Roll Call Vote #: 2

**2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1014**

House House Appropriations - Human Resources Division Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By \_\_\_\_\_ Seconded By \_\_\_\_\_

Representatives	Yes	No	Representatives	Yes	No
Chairman Pollert	✓		Representative Holman	✓	
Representative Bellew	✓				
Representative Kreidt	✓				
Representative Nelson	✓				
Representative Wieland	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:



Date: 2/20/13  
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1014

House Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 0/002

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Nelson Seconded By Rep. Pollert

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer			Rep. Streyle		
Vice Chairman Kempenich			Rep. Thoreson		
Rep. Bellew			Rep. Wieland		
Rep. Brandenburg					
Rep. Dosch					
Rep. Grande			Rep. Boe		
Rep. Hawken			Rep. Glassheim		
Rep. Kreidt			Rep. Guggisberg		
Rep. Martinson			Rep. Holman		
Rep. Monson			Rep. Williams		
Rep. Nelson					
Rep. Pollert					
Rep. Sanford					
Rep. Skarphol					

Total Yes \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

*voice vote carries*

Date: 2/20/13  
Roll Call Vote #: 2

2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1014

House Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Nelson Seconded By Rep. Pollert

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer		X	Rep. Streyle	X	
Vice Chairman Kempenich	X		Rep. Thoreson	X	
Rep. Bellew	X		Rep. Wieland	X	
Rep. Brandenburg	X				
Rep. Dosch	X				
Rep. Grande	X		Rep. Boe	X	
Rep. Hawken	X		Rep. Glassheim	X	
Rep. Kreidt	X		Rep. Guggisberg	X	
Rep. Martinson	X		Rep. Holman	X	
Rep. Monson	X		Rep. Williams	X	
Rep. Nelson	X				
Rep. Pollert	X				
Rep. Sanford	X				
Rep. Skarphol	X				

Total Yes 21 No 1

Absent 0

Floor Assignment Rep. Nelson

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1014: Appropriations Committee (Rep. Delzer, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (21 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). HB 1014 was placed on the Sixth order on the calendar.

Page 1, replace lines 12 through 15 with:

"Protection and advocacy operations	\$5,104,253	\$468,935	\$5,573,188
Accrued leave payments	<u>0</u>	<u>93,590</u>	<u>93,590</u>
Total all funds	\$5,104,253	\$562,525	\$5,666,778
Less estimated income	<u>3,118,888</u>	<u>114,724</u>	<u>3,233,612</u>
Total general fund	\$1,985,365	\$447,801	\$2,433,166
Full-time equivalent positions	28.50	(1.00)	27.50"

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1014 - Protection and Advocacy Project - House Action**

	Executive Budget	House Changes	House Version
Protection and Advocacy Project	\$5,886,347	(\$5,886,347)	
Accrued leave payments		93,590	93,590
Protection and advocacy operations		5,573,188	5,573,188
Total all funds	\$5,886,347	(\$219,569)	\$5,666,778
Less estimated income	3,233,612	0	3,233,612
General fund	\$2,652,735	(\$219,569)	\$2,433,166
FTE	27.50	0.00	27.50

**Department No. 360 - Protection and Advocacy Project - Detail of House Changes**

	Corrects Executive Compensation Package <sup>1</sup>	Adjusts State Employee Compensation and Benefits Package <sup>2</sup>	Provides Separate Line Item for Accrued Leave Payments <sup>3</sup>	Total House Changes
Protection and Advocacy Project			(\$5,886,347)	(\$5,886,347)
Accrued leave payments			93,590	93,590
Protection and advocacy operations	5,232	(224,801)	5,792,757	5,573,188
Total all funds	\$5,232	(\$224,801)	\$0	(\$219,569)
Less estimated income	0	0	0	0
General fund	\$5,232	(\$224,801)	\$0	(\$219,569)
FTE	0.00	0.00	0.00	0.00

<sup>1</sup>Funding is added due to a calculation error in the executive compensation package.

<sup>2</sup>This amendment adjusts the state employee compensation and benefits package as follows:

- Reduces the performance component from 3 to 5 percent per year to 2 to 4 percent per year.

- Reduces the market component from 2 to 4 percent per year for employees below the midpoint of their salary range to up to 2 percent for employees in the first quartile of their salary range for the first year of the biennium only.
- Removes funding for additional retirement contribution increases.

<sup>3</sup>A portion of salaries and wages funding from the general fund (\$45,519) and from other funds (\$48,071) for permanent employees compensation and benefits is reallocated to an accrued leave payments line item for paying annual leave and sick leave for eligible employees.

**2013 SENATE APPROPRIATIONS**

**HB 1014**

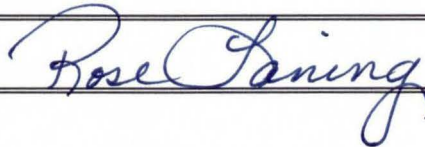
# 2013 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

HB 1014  
March 7, 2013  
Job # 19576

☐ Conference Committee

Committee Clerk Signature



**A BILL for an Act to provide an appropriation for defraying the expenses of the committee on protection and advocacy.**

**Senator Holmberg- Chairman**

### Minutes:

Testimony attached # 1-2

Chairman Holmberg opened the hearing on HB 1014. All committee members were present.

Legislative Council - Brady Larson

OMB - Becky Deichert

### **Teresa Larsen - Protection & Advocacy Project (P&A)**

Testimony attached # 1

**Chairman Holmberg** asks if it is their recommendation to this committee to restore their budget to the executive level and pass it to which Ms. Larsen responds that it is. Senator Carlisle asks if they work thru the Secretary of State. Ms. Larsen says they work very closely with the Secretary of State and explains some of the collaborative projects they have done for people with disabilities. She said more of them are voting by mail because parking is sometimes a problem for them. Senator Mathern asks Ms. Larsen how they assess for the potential of federal funds. Ms. Larsen explains how they have to guess at what federal funds may be but she builds her budget from a maintenance level from year to year. Senator Mathern asks if they have an advocate in the federal government that helps them access for their budget. Ms. Larsen replies that they work with the National Disability Rights Network. Ms. Larsen continues with her written testimony. She explains the changes that the House made on the bill.

**Vice-Chairman Bowman** asks for more testimony, hearing none he closed the hearing on HB 1014.

Additional testimony submitted:

**Barbara Murry - Executive Director, North Dakota Association of Community Providers**

Testimony attached # 2



# 2013 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

HB 1014  
03-18-2013  
Job # 20089

☐ Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

A BILL for an appropriation for the Committee on Protection and Advocacy (Do Pass as Amended )

### Minutes:

You may make reference to "attached testimony."

**Chairman Holmberg** called the committee to order on Monday, March 18, 2013 in regards to HB 1014. Sheila M. Sandness from Legislative Council and Joe Morrisette from OMB were present

**Chairman Holmberg:** stated there is an amendment # 13.8143.02001. attachment #1. All the amendment does is restore the funding provided in the Governor's recommended budget.

**Senator Mathern moved the amendment. 2<sup>nd</sup> by Senator Warner.** A voice vote was held. It carried.

**Senator Robinson Moved Do Pass as Amended. 2<sup>nd</sup> by Senator Warner.**

**A Roll Call vote was taken. Yea: 13; Nay: 0; Absent: 0. Senator Warner will carry the bill on the floor.**

The hearing was closed on HB 1014.

*JB*  
*3/18/13*

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1014

Page 1, replace lines 12 through 16 with:

"Protection and advocacy operations	<u>\$5,104,253</u>	<u>\$787,326</u>	<u>\$5,891,579</u>
Total all funds	\$5,104,253	\$787,326	\$5,891,579
Less estimated income	<u>3,118,888</u>	<u>114,724</u>	<u>3,233,612</u>
Total general fund	\$1,985,365	\$672,602	\$2,657,967"

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1014 - Protection and Advocacy Project - Senate Action**

	Executive Budget	House Version	Senate Changes	Senate Version
Protection and Advocacy Project	\$5,886,347			
Accrued leave payments		93,590	(93,590)	
Protection and advocacy operations		5,573,188	318,391	5,891,579
Total all funds	\$5,886,347	\$5,666,778	\$224,801	\$5,891,579
Less estimated income	<u>3,233,612</u>	<u>3,233,612</u>	0	<u>3,233,612</u>
General fund	\$2,652,735	\$2,433,166	\$224,801	\$2,657,967
FTE	27.50	27.50	0.00	27.50

**Department No. 360 - Protection and Advocacy Project - Detail of Senate Changes**

	Restores Executive Compensation Package <sup>1</sup>	Removes Separate Line Item for Accrued Leave Payments <sup>2</sup>	Total Senate Changes
Protection and Advocacy Project			
Accrued leave payments		(93,590)	(93,590)
Protection and advocacy operations	224,801	93,590	318,391
Total all funds	\$224,801	\$0	\$224,801
Less estimated income	<u>0</u>	<u>0</u>	<u>0</u>
General fund	\$224,801	\$0	\$224,801
FTE	0.00	0.00	0.00

<sup>1</sup>Funding reductions made by the House to the state employee compensation and benefits package are restored to the Governor's recommended level.

<sup>2</sup>The accrued leave payments line item added by the House is removed and the associated funding returned to line items with salaries and wages funding.

Date: 3-18-13Roll Call Vote # 1**2013 SENATE STANDING COMMITTEE  
ROLL CALL VOTES**BILL/RESOLUTION NO. 1014Senate Appropriations Committee☐ Check here for Conference CommitteeLegislative Council Amendment Number 13.8143.02001Action Taken ☒ Adopt Amendment ☐ Do Pass  
☐ Do Pass as Amended ☐ Do Not PassMotion Made By Mathern Seconded By Warner

Senators	Yes	No	Senator	Yes	No
Chairman Ray Holmberg			Senator Tim Mathern		
Co-Vice Chairman Bill Bowman			Senator David O'Connell		
Co-Vice Chair Tony Grindberg			Senator Larry Robinson		
Senator Ralph Kilzer			Senator John Warner		
Senator Karen Krebsbach					
Senator Robert Erbele					
Senator Terry Wanzek					
Senator Ron Carlisle					
Senator Gary Lee					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

*Voice Vote  
passed*

Date: 3-18-13Roll Call Vote # 2

# **2013 SENATE STANDING COMMITTEE ROLL CALL VOTES**

BILL/RESOLUTION NO. 1014Senate Appropriations Committee☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken ☐ Adopt Amendment ☐ Do Pass  
☒ Do Pass as Amended ☐ Do Not Pass

Motion Made By Robinson Seconded By Warner

Senators	Yes	No	Senator	Yes	No
Chairman Ray Holmberg	✓		Senator Tim Mathern	✓	
Co-Vice Chairman Bill Bowman	✓		Senator David O'Connell	✓	
Co-Vice Chair Tony Grindberg	✓		Senator Larry Robinson	✓	
Senator Ralph Kilzer	✓		Senator John Warner	✓	
Senator Karen Krebsbach	✓				
Senator Robert Erbele	✓				
Senator Terry Wanzek	✓				
Senator Ron Carlisle	✓				
Senator Gary Lee	✓				

Total (Yes) 13 No 0Absent 0Floor Assignment Warner

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1014, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1014 was placed on the Sixth order on the calendar.

Page 1, replace lines 12 through 16 with:

"Protection and advocacy operations	<u>\$5,104,253</u>	<u>\$787,326</u>	<u>\$5,891,579</u>
Total all funds	\$5,104,253	\$787,326	\$5,891,579
Less estimated income	<u>3,118,888</u>	<u>114,724</u>	<u>3,233,612</u>
Total general fund	\$1,985,365	\$672,602	\$2,657,967"

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1014 - Protection and Advocacy Project - Senate Action**

	Executive Budget	House Version	Senate Changes	Senate Version
Protection and Advocacy Project	\$5,886,347			
Accrued leave payments		93,590	(93,590)	
Protection and advocacy operations		5,573,188	318,391	5,891,579
Total all funds	\$5,886,347	\$5,666,778	\$224,801	\$5,891,579
Less estimated income	<u>3,233,612</u>	<u>3,233,612</u>	<u>0</u>	<u>3,233,612</u>
General fund	\$2,652,735	\$2,433,166	\$224,801	\$2,657,967
FTE	27.50	27.50	0.00	27.50

**Department No. 360 - Protection and Advocacy Project - Detail of Senate Changes**

	Restores Executive Compensation Package <sup>1</sup>	Removes Separate Line Item for Accrued Leave Payments <sup>2</sup>	Total Senate Changes
Protection and Advocacy Project			
Accrued leave payments		(93,590)	(93,590)
Protection and advocacy operations	224,801	93,590	318,391
Total all funds	\$224,801	\$0	\$224,801
Less estimated income	<u>0</u>	<u>0</u>	<u>0</u>
General fund	\$224,801	\$0	\$224,801
FTE	0.00	0.00	0.00

<sup>1</sup>Funding reductions made by the House to the state employee compensation and benefits package are restored to the Governor's recommended level.

<sup>2</sup>The accrued leave payments line item added by the House is removed and the associated funding returned to line items with salaries and wages funding.

**2013 CONFERENCE COMMITTEE**

**HB 1014**

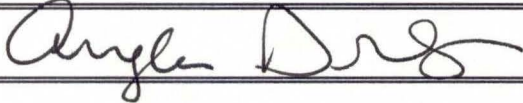


# 2013 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Human Resources Division  
Sakakawea Room, State Capitol

HB 1014  
April 18, 2013  
Job 21228

☒ Conference Committee



## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the committee on protection and advocacy.

## Minutes:

**Chairman Nelson** called the meeting to order. Reviewed the changes made to the bill regarding the pay package and accrued leave.

**Sen. Holmberg:** Would you accede to the Senate amendments and pass the bill?

**Chairman Nelson:** No, I don't think we can do that today.

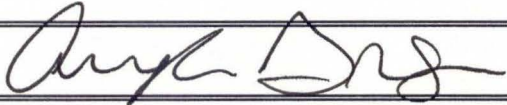
**Chairman Nelson** recessed the committee.

# 2013 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Human Resources Division  
Sakakawea Room, State Capitol

HB 1014  
April 23, 2013  
Job 21435

☒ Conference Committee



## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the committee on protection and advocacy.

## Minutes:

**Chairman Nelson** called the meeting to order.

**Sen. Holmberg:** I move that the Senate recede from its amendments as printed and the bill be amended as follows.

**Sen. Wanzek:** Second.

Roll call vote: Yes: 6, No: 0, Absent: 0. Motion carried.

**Chairman Nelson** adjourned the committee.

VR  
4/23/13  
1082

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1014

That the Senate recede from its amendments as printed on page 1041 of the House Journal and pages 784 and 785 of the Senate Journal and that House Bill No. 1014 be amended as follows:

Page 1, replace lines 12 through 16 with:

"Protection and advocacy operations	\$5,104,253	\$567,331	\$5,671,584
Accrued leave payments	<u>0</u>	<u>93,590</u>	<u>93,590</u>
Total all funds	\$5,104,253	\$660,921	\$5,765,174
Less estimated income	<u>3,118,888</u>	<u>114,724</u>	<u>3,233,612</u>
Total general fund	\$1,985,365	\$546,197	\$2,531,562"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1014 - Protection and Advocacy Project - Conference Committee Action

	Executive Budget	House Version	Conference Committee Changes	Conference Committee Version	Senate Version	Comparison to Senate
Protection and Advocacy Project	\$5,886,347					
Accrued leave payments		93,590		93,590		93,590
Protection and advocacy operations		5,573,188	98,396	5,671,584	5,891,579	(219,995)
Total all funds	\$5,886,347	\$5,666,778	\$98,396	\$5,765,174	\$5,891,579	(\$126,405)
Less estimated income	<u>3,233,612</u>	<u>3,233,612</u>	<u>0</u>	<u>3,233,612</u>	<u>3,233,612</u>	<u>0</u>
General fund	\$2,652,735	\$2,433,166	\$98,396	\$2,531,562	\$2,657,967	(\$126,405)
FTE	27.50	27.50	0.00	27.50	27.50	0.00

Department No. 360 - Protection and Advocacy Project - Detail of Conference Committee Changes

	Removes House Changes to Executive Compensation Package <sup>1</sup>	Adjusts State Employee Compensation and Benefits Package <sup>2</sup>	Total Conference Committee Changes
Protection and Advocacy Project			
Accrued leave payments			
Protection and advocacy operations	224,801	(126,405)	98,396
Total all funds	\$224,801	(\$126,405)	\$98,396
Less estimated income	<u>0</u>	<u>0</u>	<u>0</u>
General fund	\$224,801	(\$126,405)	\$98,396
FTE	0.00	0.00	0.00

<sup>1</sup> Changes made by the House to the executive compensation package are removed.

<sup>2</sup> This amendment adjusts the state employee compensation and benefits package as follows:

- Reduces the performance component from 3 to 5 percent per year to 3 to 5 percent for the first year of the biennium and 2 to 4 percent for the second year of the biennium.
- Reduces the market component from 2 to 4 percent per year to 1 to 2 percent per year for employees below the midpoint of their salary range.
- Reduces funding for retirement contribution increases to provide for a 1 percent state and 1 percent employee increase beginning in January 2014 and no increase in January 2015.

# 2013 HOUSE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: House Appropriations, Human Resources

Bill/Resolution No. HB 1014 as (re) engrossed

Date: 04.18.13, 04.23.13

Roll Call Vote #: 1

## Action Taken

- ☐ HOUSE accede to Senate amendments  
☐ HOUSE accede to Senate amendments and further amend  
☐ SENATE recede from Senate amendments  
☒ SENATE recede from Senate amendments and amend as follows

House Senate Amendments on HJ/SJ page(s) 1041 --

- ☐ Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed) HB 1014 was placed on the Seventh order of business on the calendar

Motion Made by: Sen. Holmberg Seconded by: Sen. Wanzek

Representatives	4/18	4/23	Yes	No		Senators	4/18	4/23	Yes	No
Chairman Nelson	X	X	X			Sen. Wanzek	X	X	X	
Rep. Kreidt	X	X	X			Sen. Holmberg	X	X	X	
Rep. Holman	X	X	X			Sen. Robinson	X	X	X	

Vote Count Yes: 6 No: 0 Absent: 0

House Carrier Rep. Nelson Senate Carrier Sen. Wanzek

LC Number \_\_\_\_\_ of amendment

LC Number \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

02002

# REPORT OF CONFERENCE COMMITTEE

**HB 1014, as engrossed:** Your conference committee (Sens. Wanzek, Holmberg, Robinson and Reps. J. Nelson, Kreidt, Holman) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ page 1041, adopt amendments as follows, and place HB 1014 on the Seventh order:

That the Senate recede from its amendments as printed on page 1041 of the House Journal and pages 784 and 785 of the Senate Journal and that House Bill No. 1014 be amended as follows:

Page 1, replace lines 12 through 16 with:

"Protection and advocacy operations	\$5,104,253	\$567,331	\$5,671,584
Accrued leave payments	0	93,590	93,590
Total all funds	\$5,104,253	\$660,921	\$5,765,174
Less estimated income	3,118,888	114,724	3,233,612
Total general fund	\$1,985,365	\$546,197	\$2,531,562"

Renumber accordingly

## STATEMENT OF PURPOSE OF AMENDMENT:

### House Bill No. 1014 - Protection and Advocacy Project - Conference Committee Action

	Executive Budget	House Version	Conference Committee Changes	Conference Committee Version	Senate Version	Comparison to Senate
Protection and Advocacy Project	\$5,886,347					
Accrued leave payments		93,590		93,590		93,590
Protection and advocacy operations		5,573,188	98,396	5,671,584	5,891,579	(219,995)
Total all funds	\$5,886,347	\$5,666,778	\$98,396	\$5,765,174	\$5,891,579	(\$126,405)
Less estimated income	3,233,612	3,233,612	0	3,233,612	3,233,612	0
General fund	\$2,652,735	\$2,433,166	\$98,396	\$2,531,562	\$2,657,967	(\$126,405)
FTE	27.50	27.50	0.00	27.50	27.50	0.00

### Department No. 360 - Protection and Advocacy Project - Detail of Conference Committee Changes

	Removes House Changes to Executive Compensation Package <sup>1</sup>	Adjusts State Employee Compensation and Benefits Package <sup>2</sup>	Total Conference Committee Changes
Protection and Advocacy Project			
Accrued leave payments			
Protection and advocacy operations	224,801	(126,405)	98,396
Total all funds	\$224,801	(\$126,405)	\$98,396
Less estimated income	0	0	0
General fund	\$224,801	(\$126,405)	\$98,396
FTE	0.00	0.00	0.00

<sup>1</sup> Changes made by the House to the executive compensation package are removed.

<sup>2</sup> This amendment adjusts the state employee compensation and benefits package as follows:



- Reduces the performance component from 3 to 5 percent per year to 3 to 5 percent for the first year of the biennium and 2 to 4 percent for the second year of the biennium.
- Reduces the market component from 2 to 4 percent per year to 1 to 2 percent per year for employees below the midpoint of their salary range.
- Reduces funding for retirement contribution increases to provide for a 1 percent state and 1 percent employee increase beginning in January 2014 and no increase in January 2015.

Engrossed HB 1014 was placed on the Seventh order of business on the calendar.

**2013 TESTIMONY**

**HB 1014**

**HB 1014**  
**Appropriations for the Protection & Advocacy Project**  
**House Appropriations/Human Resources Division**  
**January 17, 2013**

**Testimony of Teresa Larsen**  
**P&A Executive Director**

The Protection & Advocacy Project (P&A) is one of fifty-seven protection and advocacy systems which operate in each state and territory. In North Dakota, the P&A is an independent State agency that operates under the governance of the Committee on Protection & Advocacy. This is a seven-member board with appointments being made by Legislative Management, the Governor, and three North Dakota entities – The Arc of ND, Family Voices of ND, and Mental Health America of ND.

P&A agencies have the authority to provide legal representation and other advocacy services, under federal and state laws, to people with all types of disabilities (based on a system of priorities for services). P&A's devote considerable resources to ensuring full access to inclusive educational programs, financial entitlements, healthcare, productive employment opportunities, and quality services free of abuse and neglect.

**I. PROGRAMS**

For many years, ND P&A has been the recipient of seven federal grants. These grants come through the U.S. Department of Health & Human Services (Developmental Disabilities, Mental Health, Help America Vote Act, Traumatic Brain Injury), the U.S. Department of Education (Individual Rights, Assistive Technology), and the Social Security Administration (Beneficiaries of Social Security). There have been two developments during the current biennium that have resulted in changes to P&A's programs.

Late in federal fiscal year 2012, there were concerns raised about the future of the 'Beneficiaries of Social Security' grant. This grant has been

awarded to P&A's to help individuals with disabilities, who are already eligible for social security benefits, overcome barriers so they may access, maintain, or regain employment.

The Social Security Administration maintained that, because the program had not been re-authorized by Congress, it did not have the authority to continue the program even though it had the funds to do so. The U.S. Government Accountability Office (GAO) issued an opinion saying the Social Security Administration did have the authority and the funds. The Social Security Administration responded that it did not answer to the GAO and is waiting on a legal opinion from the Department of Justice.

ND P&A asked for a six-month extension (through March 2013) to spend down its remaining FY 2012 grant funds and to finish work with existing clients. This was approved. The future of the program is precarious.

The second development is that, as of July 2011, P&A has been the recipient of a contract from the ND Department of Human Services to implement the Client Assistance Program (CAP). This is a federally funded grant designed to assist individuals with disabilities in resolving challenges they may experience with federally funded rehabilitation programs. In North Dakota, these include the State Vocational Rehabilitation (VR) Program, Centers for Independent Living (CIL's), and Tribal Vocational Rehabilitation Programs.

## **II. SERVICES**

P&A services include information & referral, education & training, advocacy assistance & representation, protective services, legal representation, and systems advocacy.

Over the last two federal fiscal years, P&A provided advocacy and legal representation to a total of 1,924 clients (939 individuals in fiscal year 2011 and 985 clients in 2012). This is an increase of 181 cases from the two

previous years. Information & referral was provided to 3,990 individuals and 3,481 participated in education & training activities.

P&A continues to use a centralized intake system which was established in 2009. Two Advocates, with help from a third, are responsible for receiving referrals and reports statewide. These Advocates screen calls, provide information and referral, determine eligibility for P&A services, and transfer casework to regional staff. This process allows regional Advocates more time to focus on existing cases and investigations. It provides for a more consistent and timely response to callers. It helps P&A to provide better quality services, including assisting callers with managing any immediate and long term risks when reporting suspected abuse, neglect, or exploitation.

P&A provides its services through ten offices across the State. There is an office in each of the eight 'major cities' as well as Belcourt (on the Turtle Mountain reservation) and the Developmental Center in Grafton. We are in a situation of needing to find alternative office space in Williston which may be a challenge.

We are currently staffed at 27.5 FTE's. These positions are: sixteen advocates, a program coordinator, two program directors, four attorneys, a fiscal manager, an executive director, two full-time and one half-time half administrative assistants. The remaining FTE has been left vacant since the program coordinator left P&A. The primary duties were implementation of the Help American Vote Act (HAVA) grant. We have an employee working minimal time under this grant and the rest of the activities, primarily voter training for people with disabilities, were contracted out to the ND Association of Counties. This worked extremely well and the plan is to continue with this type of arrangement for HAVA work. As such, the number of FTE's in P&A's budget to the Governor was reduced from 28.5 to 27.5.

While there really is no typical case, I will give you a few examples of our work with individual clients.

CASE A: The client is a 54 year old male with a PhD. in Psychology. Years ago, while engaging in laboratory research, he sustained a bite from a lab rat, had a severe allergic reaction and went into anaphylactic shock. By the time he was found, revived, and treated, a significant brain injury had occurred. The client has significant memory and organizational issues, as well as co-occurring depression and anxiety from the loss of his profession and other effects of the brain injury.

He was referred to P&A from his treating physician due to concerns over self-neglect. Because of balance issues from the TBI, he is at risk of frequent falls. His hands were reported to be in very bad condition for a combination of reasons, including falls on the ice (the referral occurred during late winter) and an inability to remember to apply hand creams/salves. The client was also keeping his home at 35-40 degrees, believing the hypothermic conditions helped keep his mind off of his depression and anxiety.

He received long-distance support from his parents in the form of reminders to take his medications, turn up the heat, apply lotion, etc., but had little local support. P&A assisted the client to access additional supports in the community to address his needs.

Subsequently, the client's parents died within two weeks of each other and the client experienced significant turmoil due to problems with a sibling who exploited him financially during the settlement of the parents' estate. It became evident the client needed protection from undue influence or duress by his sibling on matters relating to their father's estate, their parents' revocable living trust, and other financial matters. P&A explored options with the client and the client tried appointing an attorney-in-fact to handle these matters, but the client's sibling convinced him to revoke the power of attorney documents. The client then realized he needed a limited guardianship to assist him. P&A pursued this on behalf of the client and it has been resolved in his favor.



CASE B: The client is a 22-year old male with a diagnosis of Autism and Intellectual Disabilities (Mental Retardation). He had been maintained by his father and step-mother, co-guardians of the client, in a basement apartment in the family home using highly aversive behavioral techniques. They relied heavily on physical restraint and seclusion. Aversive techniques employed included physical force, cold showers, tying him to a chair, and denying him the use of blankets or clothing. The co-guardians rigidly restricted his diet for reasons that are not medically documented. Nearly all foods were pureed or blended. The co-guardians threatened that they would withhold food, and did so, in response to the client's behaviors.

He was committed to a community hospital psychiatric ward and then transferred to the State Hospital due to an increase in aggressive behavior. He was very malnourished and, at 5' 4", weighed only 75 pounds. P&A substantiated a pattern of abuse and neglect that had occurred in the family home over a period of 10 years. P&A petitioned for a change of guardianship. This resulted in the client's legal decision-maker being changed from his parents to a corporate guardian.

Substantial progress was made with client's behavior and his physical health. After transition to a normal diet, he weighed 117 pounds after nine months. He eventually no longer required inpatient psychiatric care however an appropriate community placement was turning out to be elusive. P&A initiated advocacy services to assist in finding a placement and support services. In the meantime, the client was transferred from the State Hospital to the Developmental Center. A commitment was made by the client's team that this placement would be temporary until a community provider and appropriate supports could be arranged. P&A, the guardian, and a community provider were eventually able to work with the rest of the client's team to develop a plan for a community-based placement. In July 2012, the client moved to an apartment where he receives 24-hours supports. He is doing extremely well and engages in daily activities in the community.

CASE C: The client was 7 years old when he presented for services with P&A. He is an American Indian and is an enrolled member of a ND tribe. He has multiple diagnoses of ADHD, deafness, hard of hearing, visual impairment, anxiety, separation anxiety disorder, and potential fetal alcohol effect/fetal alcohol syndrome.

He lives with his adoptive parents who also have significant health issues. His mother has heart problems and severe arthritis. His father is afflicted with mental and physical impairments, most notably a severe seizure disorder, related to his military service during the Vietnam War.

His parents did not agree with the school district and the child's special education team decision to place their son at the School for the Deaf. They struggled to comply with the placement while trying to maintain some semblance of family life by renting an apartment there and traveling back and forth with no financial support despite their repeated requests. P&A provided legal representation and got the district to pay the parents' out-of-pocket expenses in connection with the School for the Deaf placement.

The strain on the family from the long distance placement was difficult and the child's separation anxiety disorder made this arrangement impossible. The client began staying home much of the time. The School for the Deaf filed charges of educational neglect against the parents even though the routine was so significantly disruptive to family life and it exhausted the child.

The client had a cochlear implant and was scheduled to receive a second one. After researching the subject and consulting with national experts, P&A learned that placement at the School for the Deaf was harmful to the client's educational needs; he should have been learning to speak, not learning sign language.

A P&A attorney participated in the client's special education team meetings. The school district refused to consider allowing the client to enroll in his home school, citing lack of a Deaf Education teacher and inability to

recruit one. The district disingenuously argued the School for the Deaf was the least restrictive setting.

After several facilitated IEP meetings failed to settle the impasse, P&A assisted the client and his parents in filing a due process claim. The case went to a facilitated resolution session, where the parties reached a settlement favorable to the client, including placement in his home school district, with appropriate services and supports, as well as related services such as therapies (occupational, physical, speech, and auditory). The team implemented the changes required by the resolution agreement.

### **III. 2011-2013 BIENNIUM FUNDING**

For the current biennium, P&A has spent approximately 67% of its budget of \$5,104,253 as of December 31, 2012. This includes 72% of the \$3,999,829 budgeted for salaries and benefits and 46% of the \$1,104,424 budgeted for operating. All projected unspent federal funds from the 2011-2013 biennium are budgeted for the 2013-2015 biennium.

### **IV. 2013-2015 BIENNIUM BUDGET**

The proposed budget was built with the expectation of P&A's seven federal grants being level funded. As previously stated, the 'Beneficiaries of Social Security' grant may be off the table. And, as you know, the federal government has been operating under a Continuing Resolution since the current federal funding year began October 1, 2012.

Following is a summary of federal and general fund changes to P&A's budget as recommended by the Governor:

<b>Biennium</b>	<b>Federal Funds</b>	<b>General Funds</b>	<b>TOTAL</b>
2011 - 2013	3,118,888	1,985,365	5,104,253
2013 - 2015	3,233,612	2,652,735	5,886,347
Change	114,724	667,370	782,094

The increase in General Funds is for salaries and benefits.  
Continuation costs from the current biennium are: FY 2013 salary increase

(\$50,916), Pay below minimum salary increase (\$80,716), and retirement increase (\$27,060). This totals \$158,692. New increases are for health insurance (\$63,887), retirement (\$31,185), and the Executive Compensation Package Adjustment (\$413,606).

Since North Dakota is a minimum allotment state, P&A's federal grant dollars are generally flat. In fact, for the last couple of years, they have decreased slightly:

Federal Fiscal Year 2010:	\$1,261,477
2011	\$1,260,225
2012	\$1,259,093

For this reason, a significant portion of the salary increases have been funded in the Executive Budget with General Fund dollars.

This concludes my formal testimony. I will be happy to answer any questions you might have for me.

Teresa Larsen  
[tlarsen@nd.gov](mailto:tlarsen@nd.gov)  
328-2950

HB 1014  
2/5/2013

Attachment #1

**PROTECTION & ADVOCACY PROJECT**  
**HB 1014**  
**2011 – 2013 BIENNIUM SPENDING as of 12/31/12**  
(75% of the biennium)

2.5.13

	TOTAL BUDGETED	SPENT				BALANCE	
		FEDERAL	STATE	TOTAL	%	TOTAL	%
Salaries & benefits	3,999,829	1,699,894	1,189,979	2,889,873	72.25	1,109,956	27.75
Operating	1,104,424	305,758	200,659	506,417	46	598,007	54
<b>TOTAL</b>	<b>5,104,253</b>	<b>2,005,652</b>	<b>1,390,638</b>	<b>3,396,290</b>	<b>67</b>	<b>1,707,963</b>	<b>33</b>

All projected unspent federal funds from the 2011-2013 biennium are budgeted into the 2013-2015 biennium.

% of State dollars spent to date: 70% (\$1,390,638/\$1,985,365)

% of Federal dollars spent to date: 64.5% (\$2,005,652/\$3,118,888)



HB 104  
2/5/2013  
Attachment #2

**PROTECTION & ADVOCACY PROJECT**  
**SPEND DOWN OF THE 2011-2013 BIENNIUM (through 12/12)**  
**CHANGES FOR THE 2013-2015 BIENNIUM**

2.5.13

	11-13 BIENNIUM				13-15 BIENNIUM		
	BUDGETED	SPENT			BUDGETED	CHANGE	NOTES
SALARIES & BENEFITS	3,999,829	Federal 1,699,894	State 1,189,979	Total 2,889,873	4,682,817	682,988	
Travel	160,044	47,472	24,735	72,207	154,587	(5,457)	Board, staff, advisory council
Supplies - IT	4,461	896	1,222	2,118	7,595	3,134	Desktop video conferencing +3,060
Prof. materials	31,500	11,793	13,074	24,867	40,250	8,750	Database, PDR's, Westlaw
Misc. supplies	6,250	0	0	0	7,500	1,250	
Office supplies	19,389	5,015	6,819	11,834	17,900	(1,489)	
Postage	20,000	3,358	3,965	7,323	11,550	(8,450)	Mailing services, PO boxes, stamps
Printing	25,037	3,232	2,117	5,349	36,050	11,013	Brochures, posters for fed. prog's
IT equip < \$5K	36,392	3,148	14,337	17,485	49,125	12,733	Scanners, computers, printers
Other equip < \$5K	10,950	0	0	0	10,950	0	Regional office copy machines
Office equip/furn	6,200	2,067	3,718	5,785	10,458	4,258	Chair & furniture replacement
Insurance	6,080	1,023	4,521	5,544	5,900	(180)	
Rent	201,435	84,906	56,989	141,895	235,000	33,565	Office rent increases
Repairs	9,575	3,582	3,018	6,600	14,277	4,702	Copiers service contracts
IT/data process	77,200	30,171	24,343	54,514	86,276	9,076	Video conferencing; networking
IT/communication	42,300	16,713	14,248	30,961	44,495	2,195	Polycom fee
IT/cont. serv's	3,375	358	417	775	10,950	7,575	Polycom service, desktop support
Prof development	48,600	24,250	5,048	29,298	53,550	4,950	NDRN dues, attny lic's, conf's
Oper. fees/serv's	61,560	1,210	13,658	14,868	34,625	(26,935)	Advertising, answ serv, serv awards
Fees/prof serv's*	334,076	66,564	8,430	74,994	360,668	26,592	HAVA, systems issue facilitation
IT/Equip > \$5K	0	0	0	0	11,824	11,824	Video conferencing kit
<b>OPERATING</b>	<b>1,104,424</b>	<b>305,758</b>	<b>200,659</b>	<b>506,417</b>	<b>1,203,530</b>	<b>99,106</b>	
<b>TOTAL BUDGET</b>	<b>5,104,253</b>	<b>2,005,652</b>	<b>1,390,638</b>	<b>3,396,290</b>	<b>5,886,347</b>	<b>782,094</b>	
<b>FTE's</b>	<b>28.5</b>				<b>27.5</b>	<b>(1.00)</b>	

\* A significant amount of this total (>48%) is for the HAVA Program

HOUSE BILL 1014  
PROTECTION AND ADVOCACY

OFFICE LEASE INFORMATION FOR 2011-2013

			MONTHLY	RENT FOR
LOCATION	# SQ FT	PRICE /SQ.FT	RENT	BIENNIUM
WILLISTON	1206	\$9.70	\$975.00	\$23,400.00
MINOT	223	\$10.76	\$200.00	\$4,800.00
D LAKE	270	\$8.00	\$180.00	\$4,320.00
BELCOURT	256	\$25.78	\$550.00	\$13,200.00
GR FORKS	540	\$11.11	\$500.00	\$12,000.00
FARGO	866	\$12.00	\$866.00	\$20,784.00
JAMESTOWN	571.25	\$5.987	\$285.00	\$6,840.00
DICKINSON	350	\$11.83	\$345.00	\$8,280.00
BISMARCK	4661	\$11.25	\$4,369.69	\$104,872.56
TOTAL:			\$8,270.69	\$198,496.56

THE P&A OFFICE IN GRAFTON IS AT THE DEVELOPMENTAL CENTER.  
P&A IS NOT CHARGED FOR RENT.

OFFICE RENT BUDGETED FOR 2013-2015 = \$234,000

THE LARGEST INCREASE IS BUDGETED FOR WILLISTON'S RENT TO  
EQUAL \$48,000 FOR THE BIENNIUM



HB 1014  
2/5/2013  
Attachment #4

	Relativity to Market Policy Position *		+ Meet Standards	+ Exceed Standards
MPP + 2nd Qtl 1st Qtl	0% 1 - 2.0% 2 - 4.0%	+	3.0%	5.0%
* ALL increases contingent upon Performance Meeting Standards				

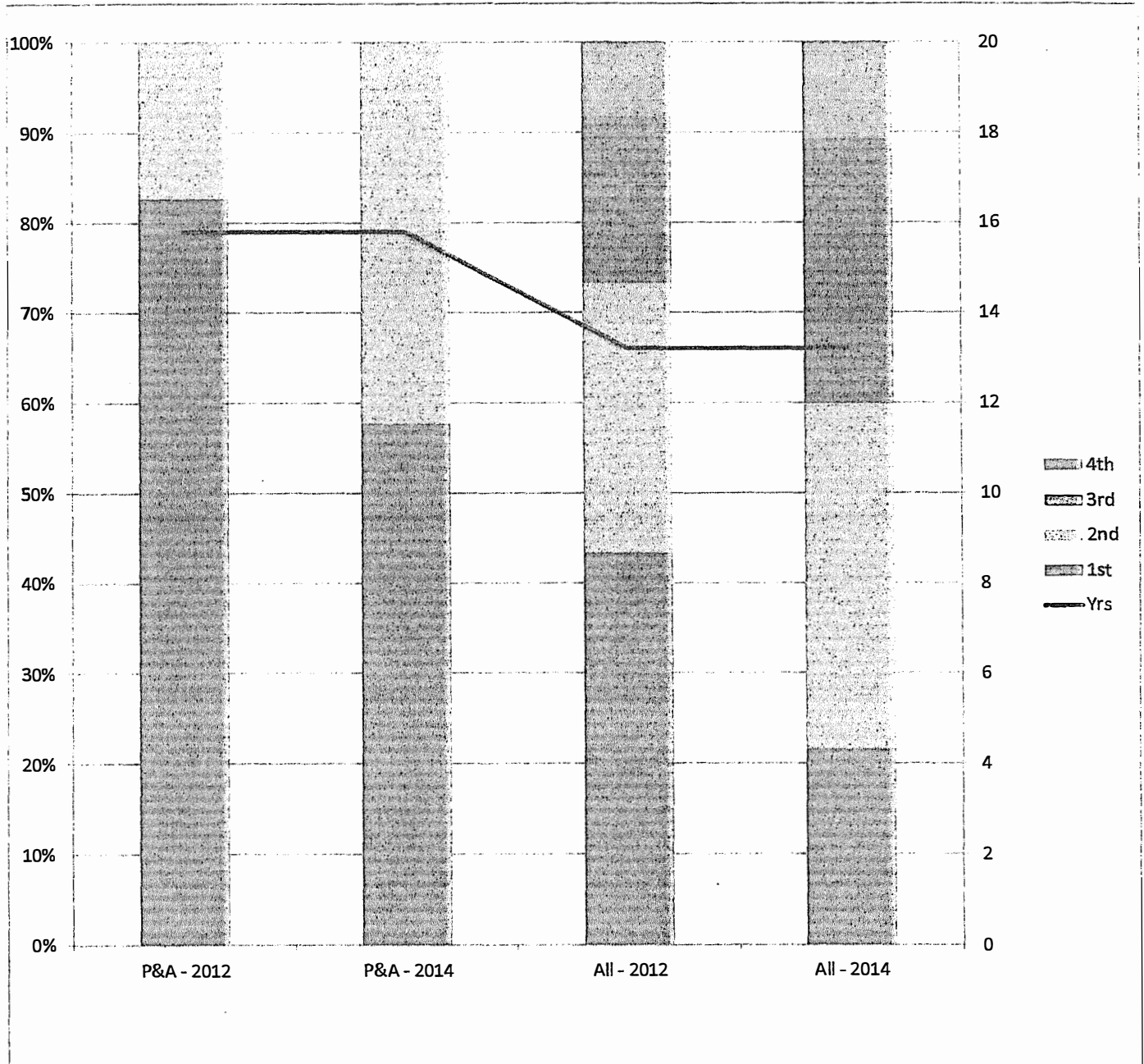
Current C/R	Projected 2013 C/R	Projected 2014 C/R
0.79	0.83	0.86

EXAMPLE

* ALL increases contingent upon Performance Meeting Standards								2013												2014											
		CURRENT						Market Policy Position Increase		Performance Increase		Total Increase		After July 1, 2013				Market Policy Position Increase		Performance Increase		Total Increase		After July 1, 2014							
Yrs Svc	Job Title	FTE Ann Sal	Grade	Market Policy Point	FTE	C/R (Current)	2012 Qtr	%%	\$\$	%%	\$\$	%%	\$\$	2013 New Salary	New MPP (3% range increment)	2013 New C/R	2013 Qtr	%%	\$\$	%%	\$\$	%%	\$\$	2014 New Salary	New MPP (3% range increment)	2014 New C/R	2014 Qtr				
9.5	OFFICE ASSISTANT II	23,088	D	29,046	0.50	0.79	1	4.0%	924	3.0%	693	7.0%	1,617	24,705	29,917	0.83	1	4.0%	988	5.0%	1,235	9.0%	2,223	26,928	30,815	0.87	1				
23.4	ADMIN ASSISTANT III	39,516	I	45,938	1.00	0.86	1	4.0%	1,581	5.0%	1,976	9.0%	3,557	43,073	47,316	0.91	2	2.0%	861	3.0%	1,292	5.0%	2,153	45,226	48,735	0.93	2				
2.5	ATTORNEY II	66,468	O	80,855	1.00	0.82	1	4.0%	2,659	3.0%	1,994	7.0%	4,653	71,121	83,281	0.85	1	4.0%	2,845	5.0%	3,556	9.0%	6,401	77,522	85,779	0.90	2				
2.1	ATTORNEY I	70,392	O	80,855	1.00	0.87	1	4.0%	2,816	5.0%	3,520	9.0%	6,336	76,728	83,281	0.92	2	2.0%	1,535	5.0%	3,836	7.0%	5,371	82,099	85,779	0.96	2				
22.4	ATTORNEY II	61,548	O	80,855	1.00	0.76	1	4.0%	2,462	3.0%	1,846	7.0%	4,308	65,856	83,281	0.79	1	4.0%	2,634	3.0%	1,976	7.0%	4,610	70,466	85,779	0.82	1				
16.7	ATTORNEY III	78,120	Q	91,567	1.00	0.85	1	4.0%	3,125	5.0%	3,906	9.0%	7,031	85,151	94,314	0.90	2	2.0%	1,703	3.0%	2,555	5.0%	4,258	89,409	97,143	0.92	2				
27.0	ADMIN OFR II	49,080	K	55,414	1.00	0.89	2	2.0%	982	3.0%	1,472	5.0%	2,454	51,534	57,076	0.90	2	2.0%	1,031	5.0%	2,577	7.0%	3,608	55,142	58,788	0.94	2				
24.2	HEALTH/HUMAN SVC PRGM ADMIN IV	59,316	N	73,130	1.00	0.81	1	4.0%	2,373	5.0%	2,966	9.0%	5,339	64,655	75,324	0.86	1	4.0%	2,586	5.0%	3,233	9.0%	5,819	70,474	77,584	0.91	2				
12.3	HEALTH/HUMAN SVC PRGM ADMIN V	64,896	O	80,855	1.00	0.80	1	4.0%	2,596	3.0%	1,947	7.0%	4,543	69,439	83,281	0.83	1	4.0%	2,778	3.0%	2,083	7.0%	4,861	74,300	85,779	0.87	1				
22.8	DISABILITY ADVOCATE	49,752	M	66,332	1.00	0.75	1	4.0%	1,990	5.0%	2,488	9.0%	4,478	54,230	68,322	0.79	1	4.0%	2,169	3.0%	1,627	7.0%	3,796	58,026	70,372	0.82	1				
26.3	DISABILITY ADVOCATE	54,180	M	66,332	1.00	0.82	1	4.0%	2,167	3.0%	1,625	7.0%	3,792	57,972	68,322	0.85	1	4.0%	2,319	5.0%	2,899	9.0%	5,218	63,190	70,372	0.90	2				
6.1	DISABILITY ADVOCATE	49,752	M	66,332	1.00	0.75	1	4.0%	1,990	5.0%	2,488	9.0%	4,478	54,230	68,322	0.79	1	4.0%	2,169	5.0%	2,712	9.0%	4,881	59,111	70,372	0.84	1				
0.4	DISABILITY ADVOCATE	49,752	M	66,332	1.00	0.75	1	4.0%	1,990	3.0%	1,493	7.0%	3,483	53,235	68,322	0.78	1	4.0%	2,129	3.0%	1,597	7.0%	3,726	56,961	70,372	0.81	1				
6.9	DISABILITY ADVOCATE	49,752	M	66,332	1.00	0.75	1	4.0%	1,990	5.0%	2,488	9.0%	4,478	54,230	68,322	0.79	1	4.0%	2,169	3.0%	1,627	7.0%	3,796	58,026	70,372	0.82	1				
29.4	DISABILITY ADVOCATE	49,752	M	66,332	1.00	0.75	1	4.0%	1,990	3.0%	1,493	7.0%	3,483	53,235	68,322	0.78	1	4.0%	2,129	5.0%	2,662	9.0%	4,791	58,026	70,372	0.82	1				
19.8	DISABILITY ADVOCATE	52,932	M	66,332	1.00	0.80	1	4.0%	2,117	5.0%	2,647	9.0%	4,764	57,696	68,322	0.84	1	4.0%	2,308	5.0%	2,885	9.0%	5,193	62,889	70,372	0.89	2				
5.4	DISABILITY ADVOCATE	49,752	M	66,332	1.00	0.75	1	4.0%	1,990	3.0%	1,493	7.0%	3,483	53,235	68,322	0.78	1	4.0%	2,129	3.0%	1,597	7.0%	3,726	56,961	70,372	0.81	1				
28.1	DISABILITY ADVOCATE	59,520	M	66,332	1.00	0.90	2	2.0%	1,190	5.0%	2,976	7.0%	4,166	63,686	68,322	0.93	2	2.0%	1,274	3.0%	1,911	5.0%	3,185	66,871	70,372	0.95	2				
0.3	DISABILITY ADVOCATE	49,752	M	66,332	1.00	0.75	1	4.0%	1,990	3.0%	1,493	7.0%	3,483	53,235	68,322	0.78	1	4.0%	2,129	5.0%	2,662	9.0%	4,791	58,026	70,372	0.82	1				
0.2	DISABILITY ADVOCATE	49,752	M	66,332	1.00	0.75	1	4.0%	1,990	5.0%	2,488	9.0%	4,478	54,230	68,322	0.79	1	4.0%	2,169	5.0%	2,712	9.0%	4,881	59,111	70,372	0.84	1				
8.2	DISABILITY ADVOCATE	49,752	M	66,332	1.00	0.75	1	4.0%	1,990	3.0%	1,493	7.0%	3,483	53,235	68,322	0.78	1	4.0%	2,129	3.0%	1,597	7.0%	3,726	56,961	70,372	0.81	1				
27.0	DISABILITY ADVOCATE	47,604	M	66,332	1.00	0.72	1	4.0%	1,904	5.0%	2,380	9.0%	4,284	51,888	68,322	0.76	1	4.0%	2,076	3.0%	1,557	7.0%	3,633	55,521	70,372	0.79	1				
28.6	DISABILITY ADVOCATE	59,520	M	66,332	1.00	0.90	2	2.0%	1,190	3.0%	1,786	5.0%	2,976	62,496	68,322	0.91	2	2.0%	1,250	5.0%	3,125	7.0%	4,375	66,871	70,372	0.95	2				
13.0	DISABILITY ADVOCATE	50,244	M	66,332	1.00	0.76	1	4.0%	2,010	5.0%	2,512	9.0%	4,522	54,766	68,322	0.80	1	4.0%	2,191	5.0%	2,738	9.0%	4,929	59,695	70,372	0.85	1				
6.8	DISABILITY ADVOCATE	49,752	M	66,332	1.00	0.75	1	4.0%	1,990	3.0%	1,493	7.0%	3,483	53,235	68,322	0.78	1	4.0%	2,129	3.0%	1,597	7.0%	3,726	56,961	70,372	0.81	1				
0.1	DISABILITY ADVOCATE	49,752	M	66,332	1.00	0.75	1	4.0%	1,990	5.0%	2,488	9.0%	4,478	54,230	68,322	0.79	1	4.0%	2,169	3.0%	1,627	7.0%	3,796	58,026	70,372	0.82	1				
14.9		1,383,696				0.79		3.8%	51,986	4.0%	55,644	7.8%	107,630			0.83		3.5%	51,998	4.0%	59,475	7.5%	111,473			0.86					

# 360 - P&A - 2012-14 Quartile Charts

HB 1014  
2/5/2013  
Attachment #5



HB 1014  
2/5/2013  
Attachment #6

**TESTIMONY**  
**House Bill 1014 – P & A**  
**House Appropriations – Human Resources Division - LTC Continuum**  
**Representative Pollert, Chairman**  
**February 5, 2013**

Chairman Pollert, members of the House Appropriations Committee – Human Resources Division, I am Barbara Murry, Executive Director of the North Dakota Association of Community Providers. I am here today to testify in support of the appropriations bill for the Protection and Advocacy Project.

Protection and Advocacy is an integral part of the delivery system of services to people with disabilities in North Dakota. P & A provides training to DD Provider staff on a regular basis on the specifics of abuse, neglect, and exploitation reporting as required by law. Providers frequently refer individuals to P & A when they suspect abuse, neglect, and exploitation by caretakers outside of the Provider system. Advocates are frequently invited to team meetings to assure consumers understand difficult decisions related to their rights and are called upon to informally review incidents of concern that are identified by providers. Providers and P & A work closely to ensure people with disabilities understand their rights and are protected. NDACP supports the continued funding for the Protection and Advocacy Project.

13.8143.01001  
Title.  
Fiscal No. 1

Prepared by the Legislative Council staff for  
Representative Holman  
February 18, 2013

HR 1014  
2/19/2013  
Attachment #1

## PROPOSED AMENDMENTS TO HOUSE BILL NO. 1014

Page 1, replace lines 12 through 15 with:

"Protection and advocacy operations	\$5,104,253	\$568,935	\$5,673,188
Accrued leave payments	0	93,590	93,590
Total all funds	\$5,104,253	\$662,525	\$5,766,778
Less estimated income	3,118,888	114,724	3,233,612
Total general fund	\$1,985,365	\$547,801	\$2,533,166
Full-time equivalent positions	28.50	(1.00)	27.50

**SECTION 2. TRAINING FOR PERSONS WITH DISABILITIES.** The protection and advocacy operations line item in section 1 of this Act includes the sum of \$100,000 from the general fund for the committee on protection and advocacy to contract with an organization operated by persons with disabilities to provide statewide training to persons with disabilities and to those who interact with persons with disabilities, for the biennium beginning July 1, 2013, and ending June 30, 2015."

Renumber accordingly

### STATEMENT OF PURPOSE OF AMENDMENT:

#### House Bill No. 1014 - Protection and Advocacy Project - House Action

	Executive Budget	House Changes	House Version
Protection and Advocacy Project	\$5,886,347	(\$5,886,347)	
Accrued leave payments		93,590	93,590
Protection and advocacy operations		5,673,188	5,673,188
Total all funds	\$5,886,347	(\$119,569)	\$5,766,778
Less estimated income	3,233,612	0	3,233,612
General fund	\$2,652,735	(\$119,569)	\$2,533,166
FTE	27.50	0.00	27.50

#### Department No. 360 - Protection and Advocacy Project - Detail of House Changes

	Corrects Executive Compensation Package <sup>1</sup>	Adjusts State Employee Compensation and Benefits Package <sup>2</sup>	Provides Separate Line Item for Accrued Leave Payments <sup>3</sup>	Adds Funding for Training of Persons with Disabilities <sup>4</sup>	Total House Changes
Protection and Advocacy Project			(\$5,886,347)		(\$5,886,347)
Accrued leave payments			93,590		93,590
Protection and advocacy operations	5,232	(224,801)	5,792,757	100,000	5,673,188
Total all funds	\$5,232	(\$224,801)	\$0	\$100,000	(\$119,569)
Less estimated income	0	0	0	0	0
General fund	\$5,232	(\$224,801)	\$0	\$100,000	(\$119,569)
FTE	0.00	0.00	0.00	0.00	0.00

---

<sup>1</sup>Funding is added due to a calculation error in the executive compensation package.

<sup>2</sup>This amendment adjusts the state employee compensation and benefits package as follows:

- Reduces the performance component from 3 to 5 percent per year to 2 to 4 percent per year.
- Reduces the market component from 2 to 4 percent per year for employees below the midpoint of their salary range to up to 2 percent for employees in the first quartile of their salary range for the first year of the biennium only.
- Removes funding for additional retirement contribution increases.

<sup>3</sup>A portion of salaries and wages funding from the general fund (\$45,519) and from other funds (\$48,071) for permanent employees' compensation and benefits is reallocated to an accrued leave payments line item for paying annual leave and sick leave for eligible employees.

<sup>4</sup>This amendment provides funding to the Protection and Advocacy Project to contract with an organization to provide training to persons with disabilities and to those who interact with persons with disabilities. A section is added providing direction on the use of the funding.

**HB 1014****Appropriations for the Protection & Advocacy Project  
Senate Appropriations****March 7, 2013****Testimony of Teresa Larsen  
P&A Executive Director**

The Protection & Advocacy Project (P&A) is one of fifty-seven protection and advocacy systems which operate in each state and territory. In North Dakota, the P&A is an independent State agency that operates under the governance of the Committee on Protection & Advocacy. This is a seven-member board with appointments being made by Legislative Management, the Governor, and three North Dakota entities – The Arc of ND, Family Voices of ND, and Mental Health America of ND.

P&A agencies have the authority to provide legal representation and other advocacy services, under federal and state laws, to people with all types of disabilities. Because P&A's don't have the resources to serve everyone, individual states and territories develop annual priorities based on public input. P&A's devote considerable resources to ensuring full access to inclusive educational programs, healthcare, productive employment opportunities, and quality services free of abuse and neglect.

**I. PROGRAMS**

For many years, ND P&A has been the recipient of seven federal grants. These grants come through the:

- U.S. Department of Health & Human Services (Developmental Disabilities, Mental Health, Help America Vote Act, Traumatic Brain Injury);
- U.S. Department of Education (Individual Rights, Assistive Technology);
- Social Security Administration (Beneficiaries of Social Security).

There have been two developments during the current biennium that have resulted in changes to P&A's programs. First, late in federal fiscal year



2012, there were concerns raised about the future of the 'Beneficiaries of Social Security' grant. This grant has been awarded to P&A's to help individuals with disabilities, who are already eligible for social security benefits, overcome barriers so they may access, maintain, or regain employment. The Social Security Administration maintained that, because the program had not been re-authorized by Congress, it did not have the authority to continue the program even though it had the funds to do so. The U.S. Government Accountability Office (GAO) issued an opinion saying the Social Security Administration did have the authority and the funds. The Social Security Administration responded that it did not answer to the GAO and is waiting on a legal opinion from the Department of Justice. ND P&A asked for a six-month extension (through March 2013) to spend down its remaining FY 2012 grant funds and to finish work with existing clients. This was approved. The future of the program is precarious.

The second development is that, as of July 2011, P&A has been the recipient of a contract from the ND Department of Human Services to implement the Client Assistance Program (CAP). This is a federally funded grant designed to assist individuals with disabilities in resolving challenges they may experience with federally funded rehabilitation programs. In North Dakota, these include the State Vocational Rehabilitation (VR) Program, Centers for Independent Living (CIL's), and Tribal Vocational Rehabilitation Programs. P&A has been told to expect that the contract for this program will be renewed. Funding is included in the budget.

## **II. SERVICES**

P&A services include information & referral, education & training, advocacy, protective services, legal representation, and systems advocacy.

Over the last two federal fiscal years, P&A provided advocacy and legal representation to a total of 1,924 clients (939 individuals in fiscal year 2011 and 985 clients in 2012). This is an increase of 181 cases from the two



previous years. Information & referral was provided to 3,990 individuals and 3,481 participated in education & training activities.

Over these two federal fiscal years, client priority areas included:

- Abuse, neglect, exploitation: 53%
- Education: 17%
- Employment: 13%
- Community integration: 6.5%
- Healthcare: 5%
- Criminal justice: 5%
- Other, including accessibility: .5%

While there really is no typical case, I have provided a few examples in **Attachment A**.

P&A provides its services through ten offices across the State. There is an office in each of the eight 'major cities' as well as Belcourt (on the Turtle Mountain reservation) and the Developmental Center in Grafton.

We are currently staffed at 27.5 FTE's. These positions are: sixteen advocates, a program coordinator, two program directors, four attorneys, a fiscal manager, an executive director, two full-time and one half-time half administrative assistants. The remaining FTE has been left vacant since the program coordinator left P&A. The primary duties were implementation of the Help American Vote Act (HAVA) grant. We have an employee working minimal time under this grant and the rest of the activities, primarily voter training for people with disabilities, were contracted out to the ND Association of Counties. This worked extremely well and the plan is to continue with this type of arrangement for HAVA work. As such, the number of FTE's in P&A's budget to the Governor was reduced from 28.5 to 27.5.

### **III. 2011-2013 BIENNIUM FUNDING**

For the current biennium, P&A has spent approximately 67% of its budget of \$5,104,253 as of December 31, 2012. As summarized in **Attachment B**, this includes 72% of the \$3,999,829 budgeted for salaries

and benefits and 46% of the \$1,104,424 budgeted for operating.

**Attachment C** includes the specific breakdown of expenditures by federal and state funds for each operating line-item. All projected unspent federal funds from the 2011-2013 biennium are budgeted for the 2013-2015 biennium.

#### **IV. 2013-2015 BIENNIUM BUDGET**

The proposed budget was built with the expectation of P&A's seven federal grants being level funded. The federal government has been operating under a Continuing Resolution since the current federal funding year began October 1, 2012. With sequestration upon us, I have calculated that, based on a guesstimated 5% cut to our federal grants beginning in October 1, 2012, P&A will have approximately \$159,500 less in federal carry-over and grant income for 2013-2015 than what is in the budget before you. This is in addition to the probable loss of \$200,000 for the 'Beneficiaries of Social Security' grant.

Following is a summary of federal and general fund changes to P&A's budget as recommended by the Governor. This does not include the possible loss of \$359,500 in federal funds as noted above.

<b>Biennium</b>	<b>Federal Funds</b>	<b>General Funds</b>	<b>TOTAL</b>
2011 – 2013	3,118,888	1,985,365	5,104,253
2013 – 2015	3,233,612	2,652,735	5,886,347
Change	114,724	667,370	782,094

The increase in General Funds is for salaries and benefits. Continuation costs from the current biennium are: FY 2013 salary increase (\$50,916), Hay below minimum salary increase (\$80,716), and retirement increase (\$27,060). This totals \$158,692. New increases are for health insurance (\$63,887), retirement (\$31,185), and the Executive Compensation Package Adjustment (\$413,606).

Since North Dakota is a minimum allotment state, P&A's federal grant dollars are generally flat. In fact, for the last couple of years, they have decreased slightly:

Federal Fiscal Year 2010:	\$1,261,477
2011	\$1,260,225
2012	\$1,259,093 (prior to sequestration)

For this reason, a significant portion of the salary increases have been funded in the Executive Budget with General Fund dollars.

The only amendment from the House is a decrease to the salaries and benefits package as recommended by the Governor. The Hay Study showed P&A employees to be, on average, at 79% compa-ratio. This is one of the lowest, if not the bottom, in State government. P&A's 28 staff has, on average, put in fifteen years of service. Regardless, all but a few employees are in the first quartile of their pay grades even though ten of them have worked between twenty and thirty years for the State of ND.

Historically turn-over has been relatively low. In 2011 it was 11%, however, in 2012 it was 24%, largely due to moves to higher paying private sector jobs. As with most entities that serve individual clients, turn-over is a huge disruption to services.

Implementation of the pay plan, as recommended by the Governor, will bring P&A staff to an average 83% compa-ratio in 2013 and 86% in 2014. While still lower than we'd like considering years of service, this would be a nice incentive for employees to stay with the agency and achieve high performance.

P&A would appreciate your support of the Governor's recommended budget. I will be happy to answer any questions. Thank you.

Teresa Larsen  
[tlarsen@nd.gov](mailto:tlarsen@nd.gov)  
328-2950

**Attachment A**  
**P&A Case Examples**

**CASE A:** The client is a 54 year old male with a PhD. in Psychology. Years ago, while engaging in laboratory research, he sustained a bite from a lab rat, had a severe allergic reaction and went into anaphylactic shock. By the time he was found, revived, and treated, a significant brain injury had occurred. The client has significant memory and organizational issues, as well as co-occurring depression and anxiety from the loss of his profession and other effects of the brain injury.

He was referred to P&A from his treating physician due to concerns over self-neglect. Because of balance issues from the TBI, he is at risk of frequent falls. His hands were reported to be in very bad condition for a combination of reasons, including falls on the ice (the referral occurred during late winter) and an inability to remember to apply hand creams/salves. The client was also keeping his home at 35-40 degrees, believing the hypothermic conditions helped keep his mind off of his depression and anxiety.

He received long-distance support from his parents in the form of reminders to take his medications, turn up the heat, apply lotion, etc., but had little local support. P&A assisted the client to access additional supports in the community to address his needs.

Subsequently, the client's parents died within two weeks of each other and the client experienced significant turmoil due to problems with a sibling who exploited him financially during the settlement of the parents' estate. It became evident the client needed protection from undue influence or duress by his sibling on matters relating to their father's estate, their parents' revocable living trust, and other financial matters. P&A explored options with the client and the client tried appointing an attorney-in-fact to handle these

matters, but the client's sibling convinced him to revoke the power of attorney documents. The client then realized he needed a limited guardianship to assist him. P&A pursued this on behalf of the client and it has been resolved in his favor. His guardian is supportive and helpful.

**CASE B:** The client is a 22-year old male with a diagnosis of Autism and Intellectual Disabilities (Mental Retardation). He had been maintained by his father and step-mother, co-guardians of the client, in a basement apartment in the family home using highly aversive behavioral techniques. They relied heavily on physical restraint and seclusion. Aversive techniques employed included physical force, cold showers, tying him to a chair, and denying him the use of blankets or clothing. The co-guardians rigidly restricted his diet for reasons that are not medically documented. Nearly all foods were pureed or blended. The co-guardians threatened that they would withhold food, and did so, in response to the client's behaviors.

He was committed to a community hospital psychiatric ward and then transferred to the State Hospital due to an increase in aggressive behavior. He was very malnourished and, at 5' 4", weighed only 75 pounds. P&A substantiated a pattern of abuse and neglect that had occurred in the family home over a period of 10 years. P&A petitioned for a change of guardianship. This resulted in the client's legal decision-maker being changed from his parents to a corporate guardian.

Substantial progress was made with client's behavior and his physical health. After transition to a normal diet, he weighed 117 pounds after nine months. He eventually no longer required inpatient psychiatric care however an appropriate community placement was turning out to be elusive. P&A initiated advocacy services to assist in finding a placement and support services. In the meantime, the client was transferred from the State Hospital to the Developmental Center. A commitment was made by the client's team that this placement would be temporary until a community



provider and appropriate supports could be arranged. P&A, the guardian, and a community provider were eventually able to work with the rest of the client's team to develop a plan for a community-based placement. In July 2012, the client moved to an apartment where he receives supports 24 hours/day. He is doing extremely well and engages in daily activities in the community.

**CASE C:** The client was 7 years old when he was initially referred to P&A for services. He is an American Indian and is an enrolled member of a ND tribe. He has multiple diagnoses of ADHD, deafness, hard of hearing, visual impairment, anxiety, separation anxiety disorder, and potential fetal alcohol effect/fetal alcohol syndrome.

He lives with his adoptive parents who also have significant health issues. His mother has heart problems and severe arthritis. His father is afflicted with mental and physical impairments, most notably a severe seizure disorder, related to his military service during the Vietnam War.

His parents did not agree with the school district and the child's special education team decision to place their son at the School for the Deaf. They struggled to comply with the placement while trying to maintain some semblance of family life by renting an apartment there and traveling back and forth with no financial support despite their repeated requests. P&A provided legal representation which resulted in the district paying the parents' out-of-pocket expenses in connection with the School for the Deaf placement.

The strain on the family from the long distance placement was difficult and the child's separation anxiety disorder made this arrangement impossible. The client began staying home much of the time. The School for the Deaf filed charges of educational neglect against the parents even though the routine was so significantly disruptive to family life and it exhausted the child.

The client had a cochlear implant and was scheduled to receive a second one. A cochlear implant is a small, complex electronic device that can help to provide a sense of sound to a person who is profoundly deaf or severely hard-of-hearing. After researching the subject and consulting with national experts, P&A learned that placement at the School for the Deaf was harmful to the client's educational needs; he should have been learning to speak, not learning sign language.

A P&A attorney participated in the client's special education team meetings. The school district refused to consider allowing the client to enroll in his home school, citing lack of a Deaf Education teacher and inability to recruit one. The district disingenuously argued the School for the Deaf was the least restrictive setting.

After several facilitated IEP meetings failed to settle the impasse, P&A assisted the client and his parents in filing a due process claim. The case went to a facilitated resolution session, where the parties reached a settlement favorable to the client, including placement in his home school district, with appropriate services and supports, as well as related services such as therapies (occupational, physical, speech, and auditory). The team implemented the changes required by the resolution agreement.



**Attachment B**

**PROTECTION & ADVOCACY PROJECT  
HB 1014  
2011 – 2013 BIENNIUM SPENDING as of 12/31/12  
(75% of the biennium)**

3.7.13

	TOTAL BUDGETED	SPENT				BALANCE	
		FEDERAL	STATE	TOTAL	%	TOTAL	%
Salaries & benefits	3,999,829	1,699,894	1,189,979	2,889,873	72.25	1,109,956	27.75
Operating	1,104,424	305,758	200,659	506,417	46	598,007	54
<b>TOTAL</b>	5,104,253	2,005,652	1,390,638	3,396,290	67	1,707,963	33

All projected unspent federal funds from the 2011-2013 biennium are budgeted into the 2013-2015 biennium.

% of State dollars spent to date: 70% (\$1,390,638/\$1,985,365)

% of Federal dollars spent to date: 64.5% (\$2,005,652/\$3,118,888)

## Attachment C

### PROTECTION & ADVOCACY PROJECT SPEND DOWN OF THE 2011-2013 BIENNIUM (through 12/12) CHANGES FOR THE 2013-2015 BIENNIUM

3.7.13

	11-13 BIENNIUM				13-15 BIENNIUM		
	BUDGETED	SPENT			BUDGETED	CHANGE	NOTES
		Federal	State	Total			
<b>SALARIES &amp; BENEFITS</b>	<b>3,999,829</b>	<b>1,699,894</b>	<b>1,189,979</b>	<b>2,889,873</b>	<b>4,682,817</b>	<b>682,988</b>	
Travel	160,044	47,472	24,735	72,207	154,587	(5,457)	Board, staff, advisory council
Supplies - IT	4,461	896	1,222	2,118	7,595	3,134	Desktop video conferencing +3,060
Prof. materials	31,500	11,793	13,074	24,867	40,250	8,750	Database, PDR's, Westlaw
Misc. supplies	6,250	0	0	0	7,500	1,250	
Office supplies	19,389	5,015	6,819	11,834	17,900	(1,489)	
Postage	20,000	3,358	3,965	7,323	11,550	(8,450)	Mailing services, PO boxes, stamps
Printing	25,037	3,232	2,117	5,349	36,050	11,013	Brochures, posters for fed. prog's
IT equip < \$5K	36,392	3,148	14,337	17,485	49,125	12,733	Scanners, computers, printers
Other equip < \$5K	10,950	0	0	0	10,950	0	Regional office copy machines
Office equip/furn	6,200	2,067	3,718	5,785	10,458	4,258	Chair & furniture replacement
Insurance	6,080	1,023	4,521	5,544	5,900	(180)	
Rent	201,435	84,906	56,989	141,895	235,000	33,565	Office rent increases
Repairs	9,575	3,582	3,018	6,600	14,277	4,702	Copiers service contracts
IT/data process	77,200	30,171	24,343	54,514	86,276	9,076	Video conferencing; networking
IT/communication	42,300	16,713	14,248	30,961	44,495	2,195	Polycom fee
IT/cont. serv's	3,375	358	417	775	10,950	7,575	Polycom service, desktop support
Prof development	48,600	24,250	5,048	29,298	53,550	4,950	NDRN dues, attny lic's, conf's
Oper. fees/serv's	61,560	1,210	13,658	14,868	34,625	(26,935)	Advertising, answ serv, serv awards
Fees/prof serv's*	334,076	66,564	8,430	74,994	360,668	26,592	HAVA, systems issue facilitation
IT/Equip > \$5K	0	0	0	0	11,824	11,824	Video conferencing kit
<b>OPERATING</b>	<b>1,104,424</b>	<b>305,758</b>	<b>200,659</b>	<b>506,417</b>	<b>1,203,530</b>	<b>99,106</b>	
<b>TOTAL BUDGET</b>	<b>5,104,253</b>	<b>2,005,652</b>	<b>1,390,638</b>	<b>3,396,290</b>	<b>5,886,347</b>	<b>782,094</b>	
<b>FTE's</b>	<b>28.5</b>				<b>27.5</b>	<b>(1.00)</b>	

\* A significant amount of this total (>48%) is for the HAVA Program

Barbara Murry #2  
HB 1014  
3-7-13

**TESTIMONY**  
**House Bill 1014 – P & A**  
**Senate Appropriations**  
**Senator Ray Holmberg, Chairman**  
**March 7, 2013**

Chairman Holmberg, members of the Senate Appropriations Committee,  
I am Barbara Murry, Executive Director of the North Dakota Association of  
Community Providers. I am here today to provide testimony in support of  
the appropriations bill for the Protection and Advocacy Project.

Protection and Advocacy is an integral part of the delivery system of  
services to people with disabilities in North Dakota. P & A provides training  
to DD Provider staff on a regular basis on the specifics of abuse, neglect,  
and exploitation reporting as required by law. Providers frequently refer  
individuals to P & A when they suspect abuse, neglect, and exploitation by  
caretakers outside of the Provider system. Advocates are frequently  
invited to team meetings to assure consumers understand difficult  
decisions related to their rights and are called upon to informally review  
incidents of concern that are identified by providers. Providers and P & A  
work closely to ensure people with disabilities understand their rights and  
are protected. NDACP supports the continued funding for the Protection  
and Advocacy Project.



PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1014

Page 1, replace lines 12 through 16 with:

"Protection and advocacy operations	<u>\$5,104,253</u>	<u>\$787,326</u>	<u>\$5,891,579</u>
Total all funds	<u>\$5,104,253</u>	<u>\$787,326</u>	<u>\$5,891,579</u>
Less estimated income	<u>3,118,888</u>	<u>114,724</u>	<u>3,233,612</u>
Total general fund	<u>\$1,985,365</u>	<u>\$672,602</u>	<u>\$2,657,967"</u>

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1014 - Protection and Advocacy Project - Senate Action**

	Executive Budget	House Version	Senate Changes	Senate Version
Protection and Advocacy Project	\$5,886,347			
Accrued leave payments		93,590	(93,590)	
Protection and advocacy operations		5,573,188	318,391	5,891,579
Total all funds	\$5,886,347	\$5,666,778	\$224,801	\$5,891,579
Less estimated income	3,233,612	3,233,612	0	3,233,612
General fund	\$2,652,735	\$2,433,166	\$224,801	\$2,657,967
FTE	27.50	27.50	0.00	27.50

**Department No. 360 - Protection and Advocacy Project - Detail of Senate Changes**

	Restores Executive Compensation Package <sup>1</sup>	Removes Separate Line Item for Accrued Leave Payments <sup>2</sup>	Total Senate Changes
Protection and Advocacy Project			
Accrued leave payments		(93,590)	(93,590)
Protection and advocacy operations	224,801	93,590	318,391
Total all funds	\$224,801	\$0	\$224,801
Less estimated income	0	0	0
General fund	\$224,801	\$0	\$224,801
FTE	0.00	0.00	0.00

<sup>1</sup>Funding reductions made by the House to the state employee compensation and benefits package are restored to the Governor's recommended level.

<sup>2</sup>The accrued leave payments line item added by the House is removed and the associated funding returned to line items with salaries and wages funding.