

2015 SENATE APPROPRIATIONS

SB 2014

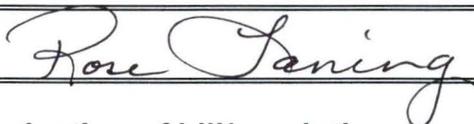
2015 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee
Harvest Room, State Capitol

SB 2014
1/8/2015
Job # 21767

- Subcommittee
 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:

Legislative Council - Sean Smith
OMB - Lori Laschkewitsch

Attachments #1-5

Chairman Holmberg called the committee to order on SB 2014. All committee members were present. The subcommittee on SB2014 will be **Senators Wanzek, Sorvaag and Heckaman**.

Teresa Larsen, Protection & Advocacy Executive Director: Speaking from the handout. (See attachment #1)

(11:15) **Senator Carlisle**: On the Desktop Support Services ITD budget, are they going to be funded? Each budget is going to have desktop services in their budgets?

Lori Laschkewitsch: Once it was requested, we included it in their budget. There was a study done that recommended 29 agencies secure the desktop services. Of that, 10 requested those services and we funded it in 10.

Teresa Larsen: (continuing from attachment 1) Explained the need for a paralegal and a Quality Assurance Advocate.

(18:20) **Senator Carlisle**: On page 5, you use the term "oil country". The governor put \$6.6M for "dual-diagnosis" beds. They will be getting 24 more beds, so if one of your clients ends up in jail, there will be a crisis bed. Will you be using that bed or service?

Teresa Larsen: I don't know the rules fixed for that but I believe you're right, it is for crisis intervention. It may be beds, it may be going into an individual's home and trying to deal with that situation without having to have them hospitalized. I think there may be a whole continuum of things if that will apply. My real concern with the providers, and especially with oil country, is that they're having a terrible time hiring staff at the wages they can offer.

The turnover is very high. You get someone new in and they're not trained. You have to start over or sometimes they end up putting someone out who's not very trained because they have no other staff.

Senator Carlisle: Your equity package addresses that?

Teresa Larson: Yes, I will address that with the equity package. We are requesting two new FTEs, but I want to remind you that we voluntarily turned back an FTE last session that was funded primarily under our Help America Vote Act. Instead of using an FTE to administer that we've been contracting with those services, some with the Association of Counties, some with media organizations. We find that we can do things more efficiently in other ways, we will certainly do that.

(Continuing with her testimony)

(23:37) **Kirsten Dvorak, Chair of Protection and Advocacy for Individuals with Mental Illness (PAIMI):** (See attachment #2)
Attachment #3 - Mental Health Advance Directives Form.
Attachment #4 - Guidance for Mental Health Advance Directives

(26:08) **Carlotta McCleary, Executive Director of the ND Federation of Families for Children's Mental Health (NDFFCMH):** (See attachment #5)

Senator Mathern asked about her role in appointing a board member or recommending a board member for P&A and was wondering if she did that or someone else.

Carlotta McCleary: Currently there is another individual that does that but can't remember the name.

Senator Mathern: Does the board consider legislation that is coming up this session and take positions on those bills?

Carlotta McCleary: On the P&A Board, I don't know if they have any specific recommendations on legislation. I'm just new and so I don't really know if they have done that or not. I can certainly check into it.

Senator Mathern said he's glad that P&A is involved in making sure that the rights of individuals who are getting care are being protected.

Chairman Holmberg asked if anyone else wished to testify. Being none he closed the hearing on SB 2014.

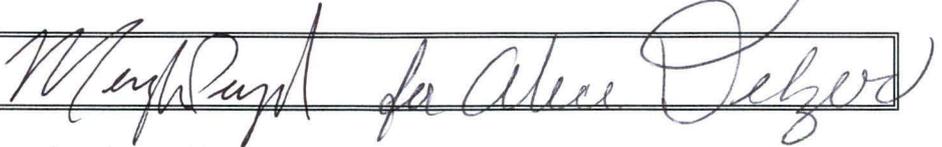
2015 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee
Harvest Room, State Capitol

SB 2014
2/4/2015
Job # 23192 (40:44)

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A Subcommittee hearing for Protection and Advocacy (P & A)

Minutes:

No Attachments

Chairman Wanzek called the subcommittee at 11:00 am in the Senate Conference Room. All subcommittee members were present: Senator Wanzek, Senator Sorvaag and Senator Heckaman. Sean Smith, Legislative Council and Becky Deichert, OMB, were also present.

Senator Wanzek: Let's start with Teresa Larsen. Please summarize the budget.

Teresa Larsen, Executive Director for the Protection and Advocacy Project

Larsen: Our budget is fairly straightforward in terms of changes that we are requesting from the current to the next biennium. The OARs that we requested were all included in the governor's recommended budget for Protection and Advocacy. We stand hopeful for the passage of the budget as recommended by the governor.

She refers to Attachment D in her testimony. This has our budget for the current biennium which is approximately \$5.7 million and an increase for the next biennium with the OARs that the governor included for \$5.988 million. The OARs are summarized at the bottom. There are four of them. Number one is for an FTE for a paralegal. We are required to provide services all the way from information and referral up to litigation as part of the mandate from the federal government. We have four attorneys on staff and one of them is here today. Her function is primarily to do some of our information technology as well as supervise our centralized intake staff and referral review. She doesn't function in terms of representing clients, so we have three attorneys who actually represent clients. One is located in our Fargo office and the other two are in Bismarck. They have been overwhelmed with work so rather than hiring an additional attorney, we are asking for a paralegal which would do a lot of research and provide assistance to those attorneys. It would be a more efficient way of trying to work with what we have and enhance our legal resources.

(4:25) **Senator Wanzek:** In a general sense, a booming economy increases your demands with more people and more cases?

Larsen: Yes it does. On page 2 of my testimony under services, it mentions the increase in the services that we have been providing. Two years ago information and referral services totaled less than 4,000 and in the last two years it was over 4,200. That was just our basic services. In education and training, we went from less than 3,500 up to over 5,000 in the last two years. Advocacy and Legal Services went from about 2,351 for the last two years. Our philosophy and mandate from our governing board is to provide services at the least intrusive level. We do everything we can to avoid litigation unless that is absolutely what we have open as an option in order to resolve a legal rights issue for our clients. Our services have increased and our staff is extremely busy. We have 10 offices around the state. Most of them have between 1 and 3 people except in Bismarck where we have 15 people, which includes our administrative staff. We shuffle cases which sometimes mean more travel for people, but some regions are busier than others so we have to move cases around in order to address the overworked staff.

(7:10) **Senator Wanzek:** How do cases come to you? Is it possible that situations are out there that no one knows about it?

Corinne Hofmann, Director of Policy & Operations, Intake Supervisor

Hofmann: In 2009 we went to a centralized intake process which means that all requests for service are funneled through four different people who serve as intake specialists. Those come from all over the state. We have an 800 number that people can call to request services. They can also call any one of our regional offices who will direct the callers to one of our intake staff. They can email us as well, so there are a number of different ways in which people can contact us for help. However those services are assessed according to federal eligibility criteria. We also set priorities every year because we cannot possibly serve everyone. We have case selection criteria that we follow. If the person fits those criteria then we can serve them and then send those out to the regional advocates for case services. We do a tremendous number of information and referrals. We never send anyone away without something. It may not be something that meets our case selection criteria, but there may be another advocacy or legal services group that can assist them. We try not to duplicate any services. If someone else is providing something then we would refer to them.

(10:40) **Senator Wanzek:** How does an individual know that they are not being treated right or that they are being denied a service that they are entitled to? How do they come to you?

Hofmann: We do a lot of outreach and that is why our education and training numbers have increased. We attend conferences, set up booths at various fairs and activities, have an informational website and are involved in public forums and town hall meetings.

Senator Sorvaag: I would like to talk about the two employees you need. One is a paralegal and the other is an assurance intake, but it has to be an attorney correct?

Larson: It would not an attorney but rather an individual classified as an advocate. That is the bulk of our employees within our agency with about 15-16 advocates. Those are not attorneys. They have their own classification within the personnel system.

Senator Sorvaag: There is quite a difference in salary. How do you rate them?

Hofmann: Our disability advocates is a classification within the state personnel system. They are required to have 3 to 4 years of professional experience working with people with

disabilities, a degree in social work, education, or special education. If they have a bachelor's degree in some other field, they certainly can still apply for our agency, but they have to have an additional year of actual work experience in the field. We have found in the last 3-4 years with the population growth that the process of selecting those disability advocates being much more competitive. We have more people applying from out of state and the bulk of our applicants have advanced degrees, so either a masters or beyond.

Larsen: For the paralegal, we put in a salary of \$48,000 a year plus benefits. For the intake advocate and quality assurance position, we put in a salary of \$53,556. We never had a paralegal on staff before. We are hoping to get someone with expertise at that salary.

(13:50) **Senator Sorvaag:** Half of your increase in operating expense is rent. Are you moving or relocating?

Larsen: We will not need to add office space for these two new employees. We have existing space that we can use and we have moved some staff around over the years. For example we used to have two people in Grand Forks. Now one is in Grand Forks and one has an office, at no cost to us, at the Life Skills and Transition Center in Grafton. The two new FTEs would not create additional cost for rent. However there are a couple of our offices that we are looking at relocating, Devils Lake and Minot, and rent increases are predominant everywhere.

Senator Wanzek: Do salaries and benefits add up to be that much more?

Larsen: I've looked at the salary for the biennium. It is \$96,000. Benefits for the biennium are about another \$38,000 and then operating for that position is about \$14,000. Even though you can hire positions at a decent salary, benefits such as health insurance are what they are regardless. We are able to look at half funding the paralegal position with federal funds. The second position would be half funded by Medicaid dollars through the Department of Human Services. We requested they put the money into their budget for us. They did and it was included in the governor's budget for the department. We only need the half match in state funds.

Senator Sorvaag: Are all of your other funds federal then?

Larsen: Where we have federal funds, they are either federal grants or a contract with the Department of Human Services. Then our state dollars this biennium are about \$2.5M.

(17:35) **Senator Wanzek:** Explain the special equity funding. That is another part of your optional adjustment request, the \$399,404. Aren't we already providing marketing equity adjustments in the general employee salary and benefit increases?

Larsen: I will defer that to OMB.

Becky Deichert, OMB

Deichert: That was a separate item the HMS did. It was based on an agency's comp ratios and theirs is .83 which is extremely low. We put together a package that targeted agencies with low compa-ratios or specific positions.

Senator Wanzek: Trying to bring more up to the market?

Deichert: Right.

Senator Heckaman: how is that .83 determined?

Deichert: I don't have the specifics on it, but they take into account years of service and base it on that.

Senator Wanzek: So Human resources identified certain agencies that they felt were falling behind and this is more or less a special appropriation for this particular agency.

Deichert: Correct. P & A did not ask for this in their budget. It was put in at the governor's request.

Larsen: We actually did request an OAR. The current compa-ratio for state employees in the state of North Dakota is .94 and P & A is at .83. Our average years of service for our staff is 16.5. North Dakota is 13, so we have employees who have been there a long time. Salaries for our classified staff are significantly lower in terms of compa-ratios for their positions.

Senator Wanzek: So far in the budgets I have been working on, that is the first time I have come upon that.

Larsen: Yes, so those are the first 3 OARs. The final one is for the Information Technology Department desktop support at a cost of \$132,838 in general funds.

Senator Wanzek: from what I understand, this is a payment that your agency makes to ITD to provide services of support for your computers.

Larsen: That is correct.

Senator Wanzek: How do they establish how they will bill you?

Hofmann: It varies based on the type of device that is needed. For example a laptop which needs to be replaced every 3 years has a higher cost than a standard desktop. A performance desktop is a little higher also. There are levels of cost based on the type of device. The cost of maintenance varies as well. That cost per month is to pay for the staffing, so you are paying for that staff time that would be required and also the ultimate replacement cost of that device. It is built into that monthly fee.

Senator Wanzek: I am sure it is providing long-term benefits and helps us become more efficient.

(23:35) **Senator Heckaman:** Did you have a budget before for IT services in the previous biennium?

Hofmann: Yes we did. I budget so much every month at an hourly rate for desk top support services. The cost of that varies and depends on who we can get to do that. If we use the Association of Counties group it's about \$130 an hour. When we needed someone who could do hands-on services for our office in Williston, we contracted with a teacher from the local high school for \$60 an hour. It is difficult to plan. It also doesn't account for the time I have to spend because I try to do as much as I can to assist staff over the phone. We try to be as efficient as possible. It is much cheaper for me to do it than to try to contract with someone.

Senator Heckaman: Will you have additional IT. Looking at the budget, and I see "data processing, communication" and so forth, are those over and above this other \$132?

Hofmann: Absolutely, this only covers the cost of computers and laptops and the ongoing desk top support for those items. It does not include printers, copiers, fax machines and other equipment we may purchase. It also doesn't cover the ongoing other costs such as the monthly technology fee or data processing.

Senator Sorvaag: On your software I presume there is some that needs to be upgraded. Is that included in what ITD does?

Hofmann: we don't really utilize anything aside from standard office software and the Windows operating systems on the computers. We access an online data base system that we contract for, but there is nothing resident on our computers other than just the standard software.

(26:55) **Senator Wanzek:** I think everyone is aware of our revenue situation. If we get to a point where we have to make some tough decisions, do you have a prioritization of these two FTEs or are they both needed?

Larsen: Yes, they are both absolutely needed which is why we tried to find other funds to help pay for part of them. We aren't asking for state funds for 100% of either position. Our staff is very much overworked. We are required to do investigations. In my testimony, I noted that a couple of years ago, about half of our cases were reports of abuse and neglect. We would respond by doing a primary or secondary investigation. The most recent fiscal year's reports of abuse and neglect were almost 2/3 of our case load, so it has increased significantly. Without more staff, we will continue to do abuse and neglect, our top priority, so we won't be able to focus a lot of attention on other rights issues. If we had to make a decision, we agreed that the paralegal would be our number one priority of the two. Although I may suggest that if you pass them both, they might pair one back in the House.

Senator Wanzek: I understand. I have a list of the agency vacant positions and I see Protection and Advocacy has zero, so everybody is working.

Larsen: I should mention that last session, we gave back an FTE. We were able to cut back and do contracting on some of our voting work, which is another grant. I believe we are very efficient with our budget. We are asking for these FTE's because we think they are needed. If we would move forward and find that we can do without one, we would offer it back. We don't come forward with these requests lightly.

(30:15) **Senator Heckaman:** I would like to ask OMB on the targeted equity, has there been any conversation on adjusting that if the oil prices continue as they are?

Deichert: with the governor?

Senator Heckaman: At \$399,000 is that a policy that will be followed through in the end or reconsidered considering the oil prices?

Deichert: I have not heard any discussion on changing the numbers.

Senator Wanzek: What percentile would that bring that up to? How much closer would they be to the average if they got the full \$399,000?

Deichert: I apologize; this isn't my budget so I do not know information off the top of my head. I know when HMRS was going through it, the intent was to get it up to at least 90 or .95. It looks like it would get it up to .98, but I would want to double check that figure.

Senator Wanzek: Please do that before we meet next.

Senator Heckaman: Doesn't that mean something different than the market equity?

Deichert: That was taken into account when they did this. They based it off of the market piece too.

Senator Heckaman: so the market piece needs to stay in place as well as the performance?

Deichert: Correct.

Larsen: Currently all of our classified staff, which is everyone except myself, is within the bottom half of the first two quartiles of their salary ranges. Even employees who have been there for over 30 years are in the 3rd quartile.

Senator Wanzek: Earlier you said you were .83 and state agency average was about .94. You said with both of the 129,534 in regular market equity adjustments and the 399 would bring you up to .98?

Larsen: I think Senator Heckaman was correct in pointing out that is not percent of market but rather a compa-ration, so when you consider the years of service of our employees, we should be higher than the state average. Our years of service is 16.5 while the state's average is 13. That is why our staff should be a little bit above the average.

(34:40) **Senator Sorvaag:** Over 65% of your services will be for abuse and neglect exploitation. Where do you see the growth? Give me a highlight of the main groups.

Larsen: We are getting more referrals starting from school age children all the way up to age 22 with students who may be in special education services. We are also receiving a lot more referrals concerning individuals where there are behavioral health issues and they aren't able to get the services that they need through providers. Because we have a need in our state, it has an impact on the cliental that we work with. There are also providers that don't have the staff they need. They have a lot more newly trained staff and so they aren't quite experienced yet in issues like abuse and neglect. That lends itself to some of the increase in reports of abuse and neglect. To no fault of their own, they need more staff and they don't have a big pool available. We try to work with them with training and that is what the second FTE is for. We work with the Department of Human Services and the Developmental Disabilities Division and do statewide training for these providers.

(37) **Senator Heckaman:** How many years have we looked at performance market and targeted equity?

Deichert: It is the first time we have looked at the targeted equity, but the market piece came from the Hay Study that the legislative assembly passed in 2011.

Senator Heckaman: When you look at the increase, a lot of it has to do with performance market and target equity which is where we need to be. We are not going to fill these positions forever if we keep our people at the bottom quartile at any kind of pay scale across the state. We aren't going to be able to continue the program if we don't have staff.

Senator Wanzek closed the subcommittee hearing on SB 2014.

2015 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee
Harvest Room, State Capitol

SB 2014
2/11/2015
Job # 23677

Subcommittee
 Conference Committee

Committee Clerk Signature

Katie Oliver for Rose Leming

Explanation or reason for introduction of bill/resolution:

This is a subcommittee hearing on the budget of the Protection and Advocacy committee.

Minutes:

Legislative Council - Sean Smith
OMB - Lori Laschkewitsch

Senator Wanzek called the sub-committee to order on SB 2014. Senator Sorvaag and Senator Heckaman were present.

Senator Wanzek informed the committee that the market equity will be taken out. The performance request will be reduced to 3-3 and FTEs have to be scrutinized. Which one of the two can you absolutely do without?

Teresa Larsen: The paralegal is the absolute priority and everything we requested is in the Executive Budget.

Senator Wanzek: Most of us feel that if the revenues on March 18th are improved we will be revisiting this budget again the second half.

Teresa Larsen: You have choices to make also and we will not make it personal - will move on.

Senator Wanzek: The health insurance will remain the same. Farmers' individual premiums have gone up \$500-700/month.

Senator Heckaman: I'd like us all to look at some triggers in March. Maybe some FTEs can go back in, but would like us to consider that.

Senator Wanzek: Maybe this being your first time, everyone one of the budget bills end up in conference committee.

Senator Heckaman: This budget specifically with the salaries they are receiving. I'd like to see their salaries increased.

Senator Wanzek: They are at a disadvantage with the market. If we have the funding, I'd like to see that.

Senator Heckaman: I will vote against the 3-3 amendment.

Senator Sorvaag: We're asking everyone to make sacrifices. No matter we want to pay people, but we're doing it all over. We all hope March 18 looks better.

Discussed the amendment and formalizing the decision.

Senator Sorvaag moved that the paralegal, 3-3 and market equities and health insurance stays with a second by Senator Wanzek.

**Vote - Senator Wanzek & Senator Sorvaag voted in favor.
Senator Heckaman voted against the amendment.**

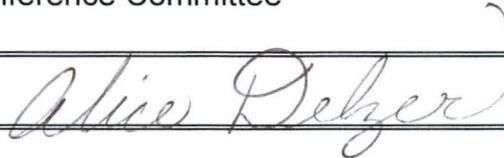
2015 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee
Harvest Room, State Capitol

SB 2014
2/13/2015
Job # 23821

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to defray the expenses of the commission for Protection and Advocacy (Do Pass as Amended)

Minutes:

Attachment # 1.

Chairman Holmberg called the committee to order on Friday, February 13, 2015 in regards to SB 2014. All committee members were present. Tammy Dolan, OMB, Chris Kadrmas, Legislative Council and Brady Larson, Legislative Council were also present.

Senator Wanzek moved the proposed amendment # 15.8147.01001, attachment # 1 and explained the amendment. They are on the lower end of the pay scale. They wanted 2 FTE and we gave them 1 FTE, a paralegal position. There is funding added for desktop services. The amendment was 2nd by Senator Sorvaag.

Chairman Holmberg: They made a good case on their equity issue.

Senator Heckaman: I would agree with that. They are at the bottom of the pay scale. When we get to March 18th, we need to look at that.

Senator Robinson stated he agreed.

Senator Sorvaag stated the subcommittee chose the one FTE that they prioritized.

Senator Mathern: Why don't we make an exception? Let's fund it.

Senator Carlisle: It's all off until March 18, if we do one, it's coming up in March.

Chairman Holmberg all in favor of amendment say aye. It carried.

Senator Wanzek moved Do Pass as Amended. 2nd by Senator Sorvaag.

A Roll Call vote was taken. Yea: 13; Nay: 0; Absent: 0. Senator Wanzek will carry the bill. The hearing was closed on SB 2014

2/13/15
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PROPOSED AMENDMENTS TO SENATE BILL NO. 2014

Page 1, replace lines 12 through 17 with:

"Protection and advocacy operations	\$5,671,584	\$916,501	\$6,588,085
Accrued leave payments	<u>93,590</u>	<u>(93,590)</u>	<u>0</u>
Total all funds	\$5,765,174	\$822,911	\$6,588,085
Less estimated income	<u>3,233,612</u>	<u>199,241</u>	<u>3,432,853</u>
Total general fund	\$2,531,562	\$623,670	\$3,155,232
Full-time equivalent positions	27.50	1.00	28.50"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2014 - Protection and Advocacy Project - Senate Action

	Base Budget	Senate Changes	Senate Version
Protection and advocacy operations	\$5,671,584	\$916,501	\$6,588,085
Accrued leave payments	<u>93,590</u>	<u>(93,590)</u>	
Total all funds	\$5,765,174	\$822,911	\$6,588,085
Less estimated income	<u>3,233,612</u>	<u>199,241</u>	<u>3,432,853</u>
General fund	\$2,531,562	\$623,670	\$3,155,232
FTE	27.50	1.00	28.50

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

	Adds Funding for Base Payroll Changes ¹	Adds Funding for Salary and Benefit Increases ²	Adds Funding for New Paralegal Position ³	Adds Funding for Desktop Support Services ⁴	Increases Operating Expenses ⁵	Total Senate Changes
Protection and advocacy operations	\$245,859	\$313,934	\$153,094	\$132,838	\$70,776	\$916,501
Accrued leave payments	<u>(93,590)</u>					<u>(93,590)</u>
Total all funds	\$152,269	\$313,934	\$153,094	\$132,838	\$70,776	\$822,911
Less estimated income	<u>133,117</u>	<u>3,522</u>	<u>62,602</u>	<u>0</u>	<u>0</u>	<u>199,241</u>
General fund	\$19,152	\$310,412	\$90,492	\$132,838	\$70,776	\$623,670
FTE	0.00	0.00	1.00	0.00	0.00	1.00

¹ Funding is added for cost-to-continue 2013-15 biennium salaries and benefit increases and for other base payroll changes.

² The following funding is added for 2015-17 biennium performance salary adjustments of 2 to 4 percent per year and increases in monthly health insurance premiums:

	General Fund	Other Funds	Total
Salary increase - Performance	\$186,556	\$2,162	\$188,718
Health insurance increase	123,856	1,360	125,216
Total	\$310,412	\$3,522	\$313,934

2/2

³ Funding is added from the general fund for 1 new FTE paralegal position (\$153,094) to assist legal staff with increased caseload.

⁴ Funding is added for desktop support services to be obtained from the Information Technology Department.

⁵ Funding is added for operating expenses, including an increase of \$37,833 for building rent expense.

Date: 2-13-15
Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1014

Senate Appropriations Committee

Subcommittee

Amendment LC# or Description: 15,8147,01001

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Wanzek Seconded By Sorvaag

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg			Senator Heckaman		
Senator Bowman			Senator Mathern		
Senator Krebsbach			Senator O'Connell		
Senator Carlisle			Senator Robinson		
Senator Sorvaag					
Senator G. Lee					
Senator Kilzer					
Senator Erbele					
Senator Wanzek					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

voice vote carried

Date: 2-13-15
 Roll Call Vote #: 2

**2015 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2014**

Senate Appropriations Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Wanzek Seconded By Sorvaag

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg	✓		Senator Heckaman	✓	
Senator Bowman	✓		Senator Mathern	✓	
Senator Krebsbach	✓		Senator O'Connell	✓	
Senator Carlisle	✓		Senator Robinson	✓	
Senator Sorvaag	✓				
Senator G. Lee	✓				
Senator Kilzer	✓				
Senator Erbele	✓				
Senator Wanzek	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Wanzek

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

REPORT OF STANDING COMMITTEE

SB 2014: 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). SB 2014 was placed on the Sixth order on the calendar.

Page 1, replace lines 12 through 17 with:

"Protection and advocacy operations	\$5,671,584	\$916,501	\$6,588,085
Accrued leave payments	<u>93,590</u>	<u>(93,590)</u>	<u>0</u>
Total all funds	\$5,765,174	\$822,911	\$6,588,085
Less estimated income	<u>3,233,612</u>	<u>199,241</u>	<u>3,432,853</u>
Total general fund	\$2,531,562	\$623,670	\$3,155,232
Full-time equivalent positions	27.50	1.00	28.50"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2014 - Protection and Advocacy Project - Senate Action

	Base Budget	Senate Changes	Senate Version
Protection and advocacy operations	\$5,671,584	\$916,501	\$6,588,085
Accrued leave payments	<u>93,590</u>	<u>(93,590)</u>	
Total all funds	\$5,765,174	\$822,911	\$6,588,085
Less estimated income	<u>3,233,612</u>	<u>199,241</u>	<u>3,432,853</u>
General fund	\$2,531,562	\$623,670	\$3,155,232
FTE	27.50	1.00	28.50

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

	Adds Funding for Base Payroll Changes ¹	Adds Funding for Salary and Benefit Increases ²	Adds Funding for New Paralegal Position ³	Adds Funding for Desktop Support Services ⁴	Increases Operating Expenses ⁵	Total Senate Changes
Protection and advocacy operations	\$245,859	\$313,934	\$153,094	\$132,838	\$70,776	\$916,501
Accrued leave payments	<u>(93,590)</u>					<u>(93,590)</u>
Total all funds	\$152,269	\$313,934	\$153,094	\$132,838	\$70,776	\$822,911
Less estimated income	<u>133,117</u>	<u>3,522</u>	<u>62,602</u>	<u>0</u>	<u>0</u>	<u>199,241</u>
General fund	\$19,152	\$310,412	\$90,492	\$132,838	\$70,776	\$623,670
FTE	0.00	0.00	1.00	0.00	0.00	1.00

¹ Funding is added for cost-to-continue 2013-15 biennium salaries and benefit increases and for other base payroll changes.

² The following funding is added for 2015-17 biennium performance salary adjustments of 2 to 4 percent per year and increases in monthly health insurance premiums:

	General Fund	Other Funds	Total
Salary increase - Performance	\$186,556	\$2,162	\$188,718
Health insurance increase	123,856	1,360	125,216
Total	\$310,412	\$3,522	\$313,934

³ Funding is added from the general fund for 1 new FTE paralegal position (\$153,094) to assist legal staff with increased caseload.

⁴ Funding is added for desktop support services to be obtained from the Information Technology Department.

⁵ Funding is added for operating expenses, including an increase of \$37,833 for building rent expense.

2015 HOUSE APPROPRIATIONS

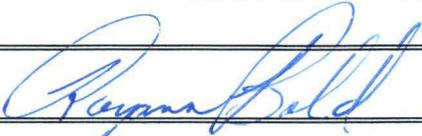
SB 2014

2015 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee - Human Resources Division Sakakawea Room, State Capitol

SB 2014
3/9/2015
24460

- Subcommittee
 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:

Attachments 1-3

Chairman Pollert called the committee to order.

Chairman Pollert: Can you go over the changes the Senate made?

Sean Smith, Legislative Council: If you look at the last sheet, on the green sheet, the only changes were for the payroll, performance market and target equity and the positions they added, they provided a paralegal; they did not provide one position they asked for, it was a quality assurance intake position.

Theresa Larsen, Executive Director, Protection and Advocacy Project: Read written testimony (attachment 1).

Chairman Pollert: What are the grants used for, like TBI?

Larsen: Our grants are to provide advocacy and protective services for people with disabilities.

Chairman Pollert: Is it to provide services; when they need help; it's not to provide a TBI client with help with life skills, is it?

Larsen: That's correct. We provide advocacy to help them attain needed services or protective services.

Rep. Kreidt: I know the Help America Vote Act (HAVA) grant is for voting. What do you do with the \$70,000? Do you help people to vote?

Larsen: We don't actually help people to vote. We do a lot of training with individuals with disabilities on voter id. It's very specific to rights and process.
Continued to read written testimony.

Rep. Nelson: What is required now? Is there some training that is applicable? In your advocacy role, you brought the players in. What was the result?

Larsen: It's a matter of doing training with school personnel. It was a matter of making the schools understand that the law allows this; it's not required that a nurse come in to do that in an emergency situation.

Rep. Nelson: I would guess that one of the other aspects of this is that they would have to identify children with diabetes and share that information. Did all schools participate in this?

Larsen: We didn't train all of the schools, but we worked with DPI. They put out a policy and they find nurses or parents that are willing to be trained.
Continued to read written testimony.

Rep. Nelson: What kind of training does an advocate need? Are there any educational requirements?

Larsen: There are. Usually it's someone with a four-year degree. The training we provide is pretty intense. It depends on the background of each person.
Continued to read written testimony.

Vice Chairman Bellew: Do you have the authority to carry federal funds over but not state funds?

Larsen: That's correct. With the federal grants you usually have 2 years to spend those and then you have an extra 12 months to spend those down.

Vice Chairman Bellew: How will we know in this budget what are the carryover and which are the new funds?

Larsen: I have that information and will get it for you.
Continued to read written testimony.

Rep. Nelson: (28:00) The Quality Assurance/Intake person is half in the DHS and the Medicaid portion of that; would be subject to a match, would it not?

Larsen: It's already a 50% match because it's 50% federal and 50% general funds

Rep. Nelson: But the DHS part of it would be part state, part federal funds or is it all federal?

Larsen: Correct. It's all federal, the part that comes from DHS.

Rep. Nelson: And that wasn't funded by the Senate?

Larsen: That's correct. But they really wanted to. I don't know if they were funding any agencies requests for FTEs.

Rep. Silbernagel: How much turnover is there in your department?

Larsen: I can get the exact numbers. It's been fairly good. We have a lot of long-term employees.

Rep. Silbernagel: You mentioned turnover. Do you have any job openings now?

Larsen: We are currently fully staffed.

Rep. Silbernagel: The abuse, neglect and exploitation; is that the sex trafficking?

Larsen: We've had a few things that could border on that, but for the most part, we work with abused adult resources, if those things come our way.
Continued to read written testimony (0:32:01).

Rep. Nelson: We heard in the first half on a number of these desktop issues. It seemed that if the agency had a number of offices outside the Bismarck area, they were the agencies that weren't asking for desktop services through ITD because of the distance; you are asking for them to do that; are you comfortable with arrangement?

Larsen: We have 9 offices outside of Bismarck. Some of those offices are in the same building as other state agencies. We had some conversations with ITD on this because we were skeptical. But after those meetings we felt very comfortable with ITD providing this service for us.
Continued to read written testimony.

Representative Holman: DHS is not part of ITD so if you are on site, that's different, but you would still end up paying DHS the \$130 a month. There's a discrepancy there, because DHS has its own system; some detail on that would be nice.

Larsen: I can have someone speak about that who can explain it better than me.
Continued testimony

Rep. Silbernagel: The quality assurance piece, what are some of the metrics you are trying to track in the quality assurance piece?

Larsen: The staff person; work closely and they do monitoring of DD providers. They look at the processes for those. They do staff training.

Rep. Silbernagel: So it's the providers that they're working on the quality piece.

Larsen: That's correct.

Rep. Nelson: What is the most common way that your clients become aware of the P&A services of the state?

Larsen: I often think we don't do enough to get the word out in terms of our agency and the services it provides. A lot of it is word-of-mouth. Providers and schools are very well aware of our services and they make referrals.

Rep. Nelson: Things have to be getting to a pretty dysfunctional situation by the time you are brought in. Much of the success of your work is better if you were engaged earlier in the process.

Larsen: That's a good point. People don't usually come to see us because things are going well; they are usually approaching a crisis or nearing there. If we could do more education and training maybe not so many individuals would get into that situation.

Barbara Murry, Executive Director of the ND Association of Community Providers: Read written testimony in support of the bill (attachment 2).

Chairman Pollert: What do you mean by when they suspect abuse outside of the provider system?

Murry: That is usually a family caretaker; but not always.

Chairman Pollert: If you have an Individualized Supported Living Arrangement (ISLA)?

Murry: We do still have a few family based ISLAs; maybe less than 10 in the state.

Chairman Pollert: I was using that as an example.

Murry: That used to be a much more common arrangement than it is now. That would be the kind of situation that is a financial exploitation issue.

Carlotta McCleary, Executive Director of the ND Federation of Families for Children's Mental Health and Executive Director for Mental Health America of ND: Read written testimony in support of the bill (attachment 3).

Chairman Pollert: Can you give me an incident with mental health that would work with Protection and Advocacy (P&A)?

McCleary: Most of my experience has been in the children's area; and a lot of the situations, is where it surpasses our help; if there is a situation where it looks like they may need some legal advice. We also have contacted them for technical assistance.

Chairman Pollert dismissed the committee.

2015 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee - Human Resources Division
Sakakawea Room, State Capitol

SB 2014
3/19/2015
25149

- Subcommittee
 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:

Attachments 1-7

Chairman Pollert: Called the committee.

Teresa Larsen, Executive Director, Protection & Advocacy Project: We have several pieces of information. We have a spend out sheet, information in information technology, case load data and staff turnover.

Chairman Pollert: Why don't we do all the miscellaneous ones first and then we will go to spend out.

Corinne Hoffman, Director of Policy and Operations at Protection & Advocacy Project: Handed out written testimony (attachment 1). The first piece of information is out optional adjustment request narrative which explains our rational for pursuing the desk top support services from ITD and gives a summary of the costs.

Chairman Pollert: What does the desktop support service do for you?

Corinne Hoffman: I have another handout that provides detail on what exactly we will be getting for that dollar amount (attachment 2).

Chairman Pollert: What is meant by there being no in-house redundancy available?

Corinne Hoffman: I am the only one in our agency that has a level of knowledge and skill that can do many of the tasks required or IT coordination.

Chairman Pollert: Can you go through the desktop support handout?

Corinne Hoffman: Listed on this spreadsheet are 32 devices. We looked at our current inventory and our replacement schedule. This list is what will be replaced this biennium and next biennium. We follow the four year three year replacement cycle.

Chairman Pollert: So even with this installation you are following the four year and three year system?

Corinne Hoffman: Yes, that was the recommendation of ITD and I believe that is the state standard. Continued to explain written testimony (attachment 2). What is on here is the type of computer whether ITD will be charging us for full installation or partial installation fee. That depends on the age of the device at the start of this next biennium. There is the one time in stall fee and the monthly fee and that varies depending again on the type of device.

Rep. Silbernagel: Is the install fee a license?

Corinne Hoffman: What we're paying for is the actual hardware purchase. The install fee covers the replacement cost of the device as well as the operating system, the installation and setup of that device. They basically are taking over possession and ownership of our PCs and laptops.

Rep. Silbernagel: So a lot of the software packages that we have license you have to get one for each seat at the table so to speak and are they taking that and rebilling that back to us?

Corinne Hoffman: That installation fee includes the operating system license and Microsoft Office Suite license. We have some other types of software that we use; we will have to purchase those separately.

Vice Chairman Bellew: Some of your computers are to be replaced in this biennium but yet this is for next biennium budget, how do you figure that?

Corinne Hoffman: This is a snapshot of all of our computers and laptops. We will be charged for all of those. This is to demonstrate the amount we'll be charged. Those that we replace this biennium will be charged 25 percent for a desk top, 33 percent for a laptop this next biennium. If it's something that's almost four years old and it's something they replace right away this next biennium, we will have to pay 100 percent of the install fee which for a standard PC is 1,955 dollars. If it is a high end PC 2,355 dollars so there is some advantage to having those newer computers in the mix.

Vice Chairman Bellew: Explain the monthly fee.

Corinne Hoffman: The monthly fee covers the actual desktop support service. The way ITD has broken that down is part of that money goes to infrastructure, part goes to support staff, part of it goes to actual hardware and software makes up part of that, both the maintenance and replacement.

Vice Chairman Bellew: What are you doing now? Do you buy your own new computers?

Corinne Hoffman: Yes, I do that. I shop for a good price, we follow procedures. There are state contracts for PCs and laptops. I purchase those, set them up, buy the software for them and then place them.

Chairman Pollert: Is this part of HB 1053?

Lori Laschkewitsch, OMB: Yes it is. They are one of the 10 agencies included in the executive recommendation.

Chairman Pollert: Will this system save the state money in the future? Or will it always stay the same?

Lori Laschkewitsch, OMB: There will not be an install fee it will just be this monthly fee from here on in. However, you're probably not going to see a lot of savings in this. This is making sure that everything is on a standard platform. That the security is secured across all of the state entities as oppose to depending upon on where someone has time to add it. It's just making it a more stable, consistent system statewide.

Chairman Pollert: If you took off the 48,000 dollars would that remaining about of the 80,000 dollars, is that about what the budget is allocated for now if you have been on the four and three replacement plan?

Corinne Hoffman: No. What's not included is my time and my salary that's devoted to that or the contracting that I have to do in addition to that to get help to regional offices.

Chairman Pollert: Will that show when we get the spend-down report?

Corinne Hoffman: That will be part of our discussion.

Rep. Nelson: Is it cost effective for you to be doing the tasks that you are doing then. Is there a loss of efficiency?

Corinne Hoffman: I probably spend 15-18 percent of my time on IT issues and tasks. Would I use that time for other things? Absolutely, sometimes the quality of service I can provide to our staff is not what they could get from a seasoned professional. In addition to that, I can't always do it in a timely way, because I have to prioritize other things. To contract one of the contractors we've used they charge 130 dollars an hour which is way more than what it costs the agency for me to do something.

Rep. Nelson: The one thing that we learned is that those agencies housed in Bismarck made a better case for ITD to do the desktop support. Do you feel comfortable with the desktop support that would be provided to Dickinson and Williston and some of the other places where you have offices?

Corinne Hoffman: That is one of the motivators for doing this. Those are the offices most difficult to serve. I have much easier time taking care of the staff here in Bismarck than

trying to do something long distance. I don't have the means, the technology, the ability to do what ITD can do to try to serve somebody who is in Grand Forks.

Chairman Pollert: On HB 1053 has all of them IT projects budget wise been put into any agency that it is required of?

Lori Laschkewitsch, OMB: No, they have not appropriated any of the money to the other 19 agencies. The only agencies that have the money in them are the 10 original.

Chairman Pollert: Of the other 9, is it in their budgets?

Lori Laschkewitsch, OMB: Yes it is.

Corinne Hoffman: I have a handout on staff turnover (attachment 3).

Chairman Pollert: In the over view PNA currently has four attorneys, are you one of the four?

Corinne Hoffman: Yes.

Chairman Pollert: Then on the next page it says an expertise and assistive technology issues, are you one of those?

Corinne Hoffman: It is another individual who is our expert on assistive technology. It can include information technology but there are other things that would be outside that purview of being strictly IT.

Chairman Pollert: There is a difference between assistive technology issues and IT issues.

Corinne Hoffman: There is overlap but generally yes.

Chairman Pollert: Can you tell me the difference?

Corinne Hoffman: Assistive technology is anything that helps mitigate the effects of a disability.

Chairman Pollert: Totally opposite from IT?

Corinne Hoffman: It can also be a computer that does screen aging.

Chairman Pollert: I meant opposite from desktop support.

Corinne Hoffman: Yes. Read written testimony (attachment 3 and 4).

Rep. Nelson: Why is Burleigh County using so much more of your services than even Cass?

Corinne Hoffman: We do have a lot of providers in the Burleigh Morton County area. We're much more visible here. I think that helps drive those numbers.

Rep. Nelson: What is the staff like in Bismarck and Cass County?

Corinne Hoffman: In Bismarck we have 15 staff members and in Fargo we have 3.

Rep. Silbernagel: Is it possible that there are other providers doing that work?

Corinne Hoffman: You will note that there has been some change in our caseloads across time and it is because we have been working pretty hard to try to do more collaboration. We do referrals to other advocacy organizations. We try not to duplicate what else is out there for people.

Rep. Silbernagel: The numbers we're looking at show a trend that is going down in caseload but in reality the need could be going up?

Corinne Hoffman: The number of our referrals for requests for services is going up. It has been very difficult for us to meet the demand so we have looked for ways to try and be more focused in what we do. We are trying to establish collaborative relationships that can take on some of that work. We're looking for ways to be more efficient. Our cases have become more complex as time has gone on. IT seems that the kind of casework that we are doing is becoming more complex and difficult.

Teresa Larsen, Executive Director, Protection & Advocacy Project: Handed out budget summary (attachment 5). The first handout gives you a bird's eye view of our budget for the current biennium, total budgeted for salaries operating by federal and how much we spent by federal, state and total dollars. This is through January of this year. About 80 percent through the biennium we have spent 78 percent of our salaries in benefits budgeted and a little over 50 percent of our operating for a total of 72.5 percent of our budget.

Vice Chairman Bellew: Do you have the budget that the Senate gave you?

Teresa Larsen: I didn't break that out on here but the Senate included everything except one of the two FTEs we were requesting. They also took out money for salaries.

Chairman Pollert: Is that on the green sheet worksheet? The worksheet shows that the paralegal was approved by the Senate but they did not fund the FTE for quality insurance intake positions correct?

Teresa Larsen: Correct.

Chairman Pollert: The salary that shows that there as well, correct?

Sean Smith, Fiscal Analyst, Legislative Council: Yes.

Chairman Pollert: Is that attachment E?

Teresa Larsen: Yes, on my overview. I am not sure how the IBARS report would differ from what I have given you in terms of this sheet, but we have updated this through the end of January so it includes any bills that we may have paid.

Chairman Pollert: On that sheet, it looks like you took off one less FTE from the Senate and you took off the equities on those numbers?

Teresa Larsen: Yes. It's one less FTE and then the associated operating expenses with that.

Chairman Pollert: If you look at the worksheet on the green sheet if you don't have a question on the base salary changes we're down to operating expense adjustments.

Vice Chairman Bellew: Off of our green sheet, it has health insurance package of 128,000 dollars and the Senate only funded 123,000 dollars. Could you explain that? Is it because you removed the one FTE, but for that reason it doesn't seem like it is enough.

Teresa Larsen: I believe that would be the reason; that those are the costs associated with that FTE.

Sean Smith: It's only for 1,000 dollars, because of the increase for that position.

Vice Chairman Bellew: Explain that.

Sean: The health portion, that's only the increase.

Vice Chairman Bellew: Where was that?

Sean Smith: That would be in the quality insurance and intake position, in the actual position on the green sheet. If you look at the worksheet it is the 170,000 it is included in there.

Lori Laschkewitsch, OMB: All of the positions that get added are removed that amount of money includes the benefits as well as the salary. When you're seeing the difference in the health increase that is the extra 179 dollars a month for 24 months that is why it is only 4,000 dollars different. It didn't get taken out because it just wasn't funded.

Vice Chairman Bellew: According to what P&A gave us, attachment D, the total was 183,000 dollars and the green sheet has 170,000 dollars. What am I missing? For the paralegal positions you they have 165,175 dollars and you have 153,094 dollars.

Sean Smith: I'm not sure of the reason between the differences. On IBARS the number in the green sheet is the number that we use.

Teresa Larsen: I made a note on the bottom that the dollar amount given to P&A by O&B for hold even budget which includes cost to continue but then I also added the governor's amounts for the OAR's vary somewhat from what we calculated. We do our best to

calculate benefits and then put it into IBARS and then into the system. When I prepared this and submitted it, it was before we had the exact dollar amount.

Chairman Pollert: Travel. If I take your spend down report and I take your 96,513 and figure that is through January and work it out are you looking at additional travel?

Teresa Larsen: There is an annual conference every June that our national association puts on and we only send one or two staff to that. Over the last number of years we have had board members and advisory council members attend that conference.

Chairman Pollert: Professional materials. It's an increase of 7,900 but it sure looks like you aren't going through that kind of an amount. Can you go through that?

Teresa Larsen: That includes a number of different things. One is our web-based data system, that is put together of our national association so we subscribe to that and include money in our budget that. It allows our staff to go out and input their notes and date from any place.

Chairman Pollert: Are you increasing or updating anything?

Teresa Larsen: Right now that subscription is 5,000 dollars a year, but we are projecting that will go up as much as 1,000 dollars a year. The West Law is another subscription service that we have been going to our national association to purchase and that is for our attorneys. LRP provides legal information in a user-friendly form. Our advocates and attorneys use that. Resource materials are a variety of things. We just ordered a number of things on autism recently and they go into our library. Our library is also connected to the state library and anyone can check out those materials. That is a unique resource for people across the state. We will mail it out if they live outside of Bismarck. We have older materials in our library and are hoping to freshen that a little bit. Increased costs and some new resources is what we're looking at.

Rep. Silbernagel: On the desktop support number of 132,000 dollars, are there some offsets in the budget that would reflect that?

Corinne Hoffman: Those won't be realized in this biennium. What I tried to do is that I've delayed purchasing PCs and laptops because the later we do that the less install fee we would have to pay. There will be some benefit from delaying but we still need to replace what we have budgeted for in this biennium.

Rep. Silbernagel: In the budget for the 15-17 bienniums where do those offsets show up?

Corinne Hoffman: Yes. We budgeted to follow that four year, three year replacement cycle.

Rep. Silbernagel: Where does that 132 dollars show up in your requested budget or is that not in here?

Corinne Hoffman: That's an optional budget request.

Chairman Pollert: Wouldn't that be in the 149,740 dollars?

Rep. Silbernagel: Yes.

Chairman Pollert: As you put in the IT desktop support, your data processing and your contract services won't change until you completely get flipped over but there should be some savings in that. It does look like there could be some overlap there.

Rep. Silbernagel: There are a number of IT line items and I see some negative numbers off to the right I'm guessing. That is what some of that is.

Teresa Larsen: That's correct. If you look at IT contract services we are going from 11,000 dollars to 6,600 dollars. Our IT Communications was decreased by 6,400 dollars our IT equipment was decrease by a little over 10,000 dollars and other equipment under 5,000 dollars which also decreased by almost 12,000 dollars. That has been used in the past to buy copy machines for our regional offices. Now we are buying what is called multi-function machines so those go into IT equipment costs verses the line item they have been. We do have maintenance or service agreements for those types of machines and those fall under repairs so that's why you see an increase there.

Vice Chairman Bellew: Explain rent.

Teresa Larsen: We prepared a handout for the rental information (attachment 7). For our rental line item for the next biennium we have looked at an increase of about 46,000 dollars and this is for 10 offices spread out across the state. The Grafton office is office is free of charge. We are looking at two potential moves the next biennium, we have not secured space yet but we are looking at different spaces for Minot and Devil Lake. We are not sure if we are able to find anything accessible which is a requirement for our offices and secondly whether or not it would be affordable.

Rep. Kreidt: On the spend-down, it's showing 279,000 dollars and you're projecting 271,000 dollars. Is it going to be the 279,000 dollars or is that just the recommendation?

Teresa Larsen: What's on the spend-down sheet also includes equipment rental and rental for meeting rooms.

Rep. Kreidt: So the 279,000 dollars is the figure we should be using?

Teresa Larsen: That would be correct. This is office space only.

Chairman Pollert: Are the Williston offices under contract for a few years?

Teresa Larsen: We are in the same building as the human service center up in Williston.

Chairman Pollert: On the third floor they do crisis bed or something is where the rentals really going sky high.

Teresa Larsen: We put a five year lease in place and we are in the second year of that lease.

Chairman Pollert: Why is Belcourt so high? Was that a new contract?

Teresa Larsen: That is a building that someone put up for professional office space. There are a number of offices in there. Office space is very hard to come by in Belcourt so we had very little option unless we wanted to move off the reservation.

Rep. Nelson: Rolla is six miles away and I believe there is some office space available there. Is that a consideration?

Teresa Larsen: We did look there and it wasn't available at that time for what we could afford. It is the only office that we have on one of the reservations. I think we felt pretty strongly that we want to actually be on the reservation. We really wanted to be a part of that community. But at the time we didn't find space available in Rolla.

Chairman Pollert: Would you go through the paralegal position?

Teresa Larsen: This FTE is to provide support to the attorneys themselves but will also do assistance for the advocates. Our attorney in the Fargo office is half time for the client assistance program. That leaves us with 2.5 FTEs. Our attorneys are feeling pretty overwhelmed while the caseloads have been pretty consistent but the cases are getting more difficult. Right now, our administrative assistant helps them but that takes up a lot of her time as well. Our director of legal services is also a special attorney general; he provides advice and works with our governing board as well as our mental health advisory council.

Chairman Pollert: You talked about your caseload, in a nut shell if I were to ask you how many total cases and I know the complexity or more what would it go from to go from?

Teresa Larsen: In my overview on page 2 under services I provided you with a summary of what we have done in terms of advocacy and legal representation. Right above that I talk about our service requests for the current biennium and how that is increasing. A lot of those are dealt with through information referral services. We also refer clients out when we can I believe those have increased by 250 or more from the last biennium.

Chairman Pollert: What does the quality assurance intake person do?

Teresa Larsen: We have one person doing that job now. Part of his time is spent doing in-take in terms of receiving calls that come into our office. Another portion of his job is to work with DHS and they go out to the providers and they do monitoring, training of all the staff, how to report it and we also review serious incidents as part of his job.

Chairman Pollert: Does your staff go to every DD provider in the state and does training?

Teresa Larsen: Yes they do.

Chairman Pollert: Do you have a priority on which one you wanted? Did the Senate ask you?

Teresa Larsen: They did ask and I said the paralegal would be our first priority.

Hearing Closed.

2015 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee - Human Resources Division
Sakakawea Room, State Capitol

SB 2014
4/1/2015
Job 25676

- Subcommittee
 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 Pollert called the committee to order.

Vice Chairman Bellew: I have a couple to bring forth. The Senate left in a new employee, the paralegal. I would like an amendment to remove that. Also I'd like an amendment to remove \$40,000 out of their operating line item.

Chairman Pollert: The only amendments then are the removal of the one FTE and then \$40,000 in operating expense.

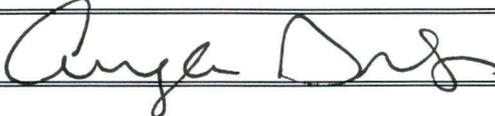
Chairman Pollert closed the hearing.

2015 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee - Human Resources Division Sakakawea Room, State Capitol

SB 2014
4/2/2015
Job 25730

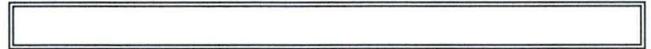
- Subcommittee
 Conference Committee



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 Pollert called the committee to order.

Vice Chairman Bellew: When they brought forth their budget from the Governor's proposal, they wanted 2 new FTEs; the Senate removed 1. I asked for the amendment to remove the paralegal position. Also their operating expenses, a \$40,000 reduction. I think it's overstated by that much because if you take away the operating expenses for the 2 new FTEs they wanted that amounts to roughly \$30,000.

Chairman Pollert: It would be my intention to vote the bill out today.

Vice Chairman Bellew: I'll move 02001.

Rep. Nelson: Could we vote on them separately?

Chairman Pollert: Yes. I didn't take a second. We have to vote on the health insurance premium increases too.

A Roll Call Vote was taken. Yes: 6, No: 0, Absent: 0. Passed.

Chairman Pollert: Next, removes the paralegal position for \$95,724 of general funds. The total amount is \$153,094 and the related salary increases funding \$5,232.

Rep. Nelson: The \$158,326 does include the operating so if that is removed, the operating is in that.

Vice Chairman Bellew: The paper I received says the operating for that position is \$13,982 and the salary is \$165,175.

Chairman Pollert: The green sheet says adds funding for one FTE paralegal position for \$139,112 and related operating expenses of \$13,982.

Vice Chairman Bellew: I'm going off of an attachment that was handed out to us. I don't know what the right figures are.

Rep. Nelson: I would like to know before we vote.

Allen Knudson, Legislative Budget Analyst and Auditor, Legislative Council: Yes, the position does include that \$13,982 of operating expenses in the amount that's being removed in this item. The operating expenses down below, there was a total increase in operating of \$70,776 and this removes \$40,000 of that. The operating for this position is included in the amount shown for the position.

Rep. Nelson: There is a discrepancy with the salary. I don't know if there is some operating in this. I have two different numbers. Is the salary line for the paralegal position overstated?

Allen Knudson: The \$153,094 that we reference for the salary includes \$139,112 for the salary amount and \$13,982 of operating expenses. In addition there is salary increase funding of an additional \$5,000, that's also taken out.

Rep. Nelson: So the \$13,000 for operating is in here?

Allen Knudson: Yes. Because this is a one-line item budget, we don't break out salaries and operating separately.

Vice Chairman Bellew: What about benefits? Isn't that part of the salary package?

Allen Knudson: The benefits would be included in that.

Vice Chairman Bellew: The paper I have says the salary and benefits is \$151,193.

Allen Knudson: That might include the salary increase package plus the health insurance increase. We have the health insurance increase shown separately.

A Roll Call Vote was taken. Yes: 4, No: 2, Absent: 0. Passed.

Chairman Pollert: The next item reduces operating expense \$40,000.

Vice Chairman Bellew: Based on their spending levels in the first half of the biennium and what they're requesting, I think their operating expenses are overstated.

A Roll Call Vote was taken. Yes: 5, No: 1, Absent: 0. Passed.

Chairman Pollert: Can we use 02001?

Allen Knudson: Yes, because you approved them all.

Rep. Holman: I'll move the amendment.

Rep. Silbernagel: Second.

A Roll Call Vote was taken. Yes: 6, No: 0, Absent: 0. Passed.

Vice Chairman Bellew: I'll move 2014 as amended.

Rep. Kreidt: Second.

A Roll Call Vote was taken. Yes: 6, No: 0, Absent: 0. Passed.

Chairman Pollert: Rep. Silbernagel will carry the bill.

Chairman Pollert closed the hearing.

2015 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee
Roughrider Room, State Capitol

SB 2014
4/6/2015
Job #25846

- Subcommittee
 Conference Committee

Committee Clerk Signature *Kenneth M. Torkelson*

Explanation or reason for introduction of bill/resolution:

Provide an appropriation for defraying the expenses of the committee on protection and advocacy.

Minutes:

Chairman Jeff Delzer: Called the meeting to order.

Representative Silbernagel spoke on the bill: SB 2014 is the protection and advocacy budget. We started with a base budget of \$5,765,000. The appropriation request is \$6,364,000. There are no changes in FTEs at 27.5. The Senate came at us with an appropriation request of \$6,588,000. With our amendments, we would reduce that by \$233,000. There are three amendments on this bill. The first one is funding for employee health insurance, as you've heard before. The second: funding is removed for a paralegal position: \$153,000 and related salary increase. The third amendment: funding is reduced by \$40,000 for operating expenses. We just felt those dollars were a little bit high. Back to the second amendment: we removed a paralegal position, just feeling that it might be a little excessive. They do show a little bit of an increase in caseload, but we felt that with their current staff, hopefully they would be able to handle it. A few miscellaneous items: total grant dollars revenue was about \$3.2-million. General fund revenue was \$2.5-million. They're governed by a 7-member board, and they currently have four attorneys. The Senate did remove one FTE for quality assurance and intake, to help with the legal staff. Our group recommends a Do Pass by a 6-0 margin.

Chairman Jeff Delzer: Would you care to move the amendment?

Rep. Silbernagel: I ask the movement of .02001.

Rep. Pollert: I second.

Chairman Jeff Delzer: We have a motion and a second to amend SB 2014 with .02001. Where do they get the grant money from, Rep. Silbernagel?

Rep. Silbernagel: Most of that, I believe, is Federal dollars. Primarily, they work with seven Federal grants that come through the U.S. Department of Health and Human Services, Department of Education, and Social Security Administration.

Chairman Jeff Delzer: I see that actually helped a little bit again. Is it based on their caseload, or what is it based on?

Rep. Silbernagel: I am not sure we covered that. I think it's just an increase in funding in general. But I'm not sure we asked that question.

Chairman Jeff Delzer: Any further discussion on the motion to amend?

VOICE VOTE TAKEN: MOTION CARRIES.

Rep. Silbernagel: I recommend a Do Pass on SB 2014. I move a Do Pass As Amended.

Rep. Bellew: I second.

Chairman Jeff Delzer: Any discussion by the committee?

ROLL CALL VOTE TAKEN: YES: 22 NO: 1 ABSENT: 0

MOTION CARRIES 22-1.

Rep. Silbernagel will carry.

Chairman Jeff Delzer closed the hearing on SB 2014.

SLC
4/7/15

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2014

Page 1, replace line 12 with:

"Protection and advocacy operations \$5,671,584 \$692,778 \$6,364,362"

Page 1, replace lines 14 through 17 with:

"Total all funds	\$5,765,174	\$599,188	\$6,364,362
Less estimated income	<u>3,233,612</u>	<u>136,639</u>	<u>3,370,251</u>
Total general fund	\$2,531,562	\$462,549	\$2,994,111
Full-time equivalent positions	27.50	0.00	27.50"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2014 - Protection and Advocacy Project - House Action

	Base Budget	Senate Version	House Changes	House Version
Protection and advocacy operations	\$5,671,584	\$6,588,085	(\$223,723)	\$6,364,362
Accrued leave payments	<u>93,590</u>			
Total all funds	\$5,765,174	\$6,588,085	(\$223,723)	\$6,364,362
Less estimated income	<u>3,233,612</u>	<u>3,432,853</u>	<u>(62,602)</u>	<u>3,370,251</u>
General fund	\$2,531,562	\$3,155,232	(\$161,121)	\$2,994,111
FTE	27.50	28.50	(1.00)	27.50

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

	Adjusts Funding for Health Insurance Premium Increases ¹	Removes Paralegal Position ²	Reduces Operating Expenses ³	Total House Changes
Protection and advocacy operations	(\$25,397)	(\$158,326)	(\$40,000)	(\$223,723)
Accrued leave payments				
Total all funds	(\$25,397)	(\$158,326)	(\$40,000)	(\$223,723)
Less estimated income	<u>0</u>	<u>(62,602)</u>	<u>0</u>	<u>(62,602)</u>
General fund	(\$25,397)	(\$95,724)	(\$40,000)	(\$161,121)
FTE	0.00	(1.00)	0.00	(1.00)

¹ Funding for employee health insurance premiums is adjusted to reflect the revised premium estimate of \$1,130.22 per month.

² Funding is removed for a paralegal position (\$153,094) and related salary increase funding (\$5,232).

³ Funding is reduced for operating expenses to provide a base level increase of \$30,776.

REPORT OF STANDING COMMITTEE

SB 2014, as engrossed: Appropriations Committee (Rep. Delzer, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (22 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2014 was placed on the Sixth order on the calendar.

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2015 CONFERENCE COMMITTEE

SB 2014

2015 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee
Harvest Room, State Capitol

SB 2014
4/14/2015
Job # 26107

- Subcommittee
 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:

Attachment 1

Legislative Council - Sean Smith
OMB - Lori Laschkewitsch

Conferees are:
Senators Wanzek, Sorvaag and Heckaman
Representatives Silbernagel, Bellew and Holman

Senator Wanzek called the committee to order on SB 2014 and asked the House to explain changes.

Rep. Silbernagel: provided background on the package and walked committee thru the amendments. The first amendment: funding the employee health insurance premiums, adjusted to reflect the revised premium estimate, \$1130/month. The 2nd amendment - removed funding for para-legal position. \$153,094 and related salary increase of about \$5, 232, that is a \$158K reduction. The reason was they were hearing about referrals and service requests. In 2011-12, there were 3,990; in 2012-12 there were 4,227, a 5% increase in requests. We felt maybe the need wasn't there. The 3rd amendment was related to the operating expenses funding reduction of about \$40K. Even with this reduction there was a 12.2 % increase over the base budget. There was an 18.3% increase in the general fund spending relating to the budget. At that time revenue forecast was higher, population forecasts were increasing and case load forecasts were increasing, today the overall long term is down significantly, population in some areas is decreasing. That was the main reason for that. We felt that the case loads may be flat and even decreasing. Additionally, we increased funding for iPAT, a different bill for equipment for which funding had been decreased. We increased funding for two recreation centers in Fargo and Grand Forks. Collectively, it made sense. Lastly, from human services side there is an increase for the developmentally disabled, Human Services scheduled 8-9 meetings to understand gap and services. Those were the reasons that we moved those amendments

Senator Heckaman: Paralegal is one position we want to have, it keeps protection and advocacy from having to hire another attorney ; which would take a lot more funding for that position. They came for para-legal instead of an attorney. I'm supportive of adding that position back in.

Senator Wanzek: in the first round, we had January revisions. That's why we didn't include some of the line items that were in the executive budget. We were telling them we had to wait until the March forecast. The general fund dollars were up a bit. What I'm hearing from them is targeted equity to try to bring the level of their employees to mid-range. (Handed out Compensation Package - Attachment 1)

Rep. Bellew: we understood on House Side to remove all equities and all budgets until the revenue forecast improved then we would consider those.

Senator Wanzek: three were some budgets that we put targeted equity back in.

Senator Heckaman: targeted equity would go back into several budgets - those prepared by OMB. Protection and advocacy was the lowest. Considering the important work they do we would've added it back.

Rep. Silbernagel: I can only echo what Rep. Bellew said we've not seen nor heard that.

Senator Wanzek: DOCR targeted the parole officers. We had 71 out of 178 turnovers in the last nine months. These were agencies singled out and had hard time competing with private industry.

Lori Laschkewitsch, OMB: that is correct hard time competing with other sectors - occupational increases.

Senator Wanzek: have Teresa come.

Rep. Bellew: I object to that. This is conference committee, not a public hearing. If we add targeted equity it would add another \$400K to this budget, this gives a 34% increase in this budget. Then you would have a cost to continue into next biennium and if the forecasts are off just a wee bit next biennium we are in trouble.

Rep. Silbernagel: When we were looking at this and other budgets it was doing what we felt was sustainable and we felt were sustainable, things continued to head south.

Senator Wanzek: trying to determine in my mind. We try to prioritize some things and there may be more need in the budget. Some budgets we go over and above ... Not ready to settle on anything. I know equity is important to P & A; I am not sure how we will get there.

Senator Sorvaag: there are three different sets of numbers on the testimony. The statistics, you cherry picked one and say other grew 40%. There are others, there are some that are only 5%.

Rep. Silbernagel: Trying to give the package total number so we understood the volume.

Senator Heckaman: I don't think we understand how low some of these employees are being paid compared to other state employees. This one has always fallen off the edge of the cliff. Want to certainly look at the targeted equity a big increase because they have not had the same increases as the other agencies.

Senator Wanzek: we'll adjourn. We just haven't had enough time to familiarize ourselves with this.

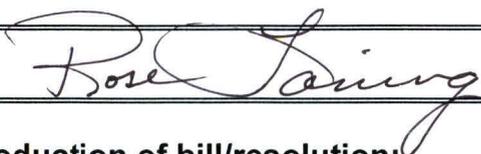
2015 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee
Harvest Room, State Capitol

SB 2014
4/15/2015
Job # 26148

Subcommittee
 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:

Attachment 1

Legislative Council - Sean Smith
OMB - Lori Laschkewitsch

Conferees are:

Senators Wanzek, Sorvaag and Heckaman
Representatives Silbernagel, Bellew and Holman

Senator Wanzek called the conference committee to order on SB 2014. Roll call was taken. He said they're discussing some of the the differences between the House and the Senate.

The House removed a para-legal FTE that we had added. Last time, there was some discussion about how this agency had been identified in the executive budget as one of the targeted equity agencies that face difficulty in recruiting and retaining select occupations which is over and above market equity that was typically in most every other budget which is \$399,000. I'm sensing that the House is staying pretty firm on their number. I did a little math and know that the House's difference is \$600,548 from the base budget, but of that \$600,000, I figured the \$152,269 which is a base payroll change is the cost to continue. This is required to keep us at the level we're at. I subtract that off and you get \$448,000 divided by the base is 3.8% increase per year. Then when I look at the increase, when you subtract off all the line items that go to increased salaries, you get to \$163.000 which is basically the ITD and small amount of operating increase. As far as operating goes, it really leaves no money for any increases in operating expenses beyond salaries. I know the other senators, along with myself, are still looking at the targeted equity and I'm not sure where we go because you've made it pretty clear to me that you're holding pretty hard and fast.

Rep. Bellew: If that's the major sticking point, I do believe the targeted equity, if it is granted on both sides, would probably go into the OMB budget instead of each individual budget. Just bringing it out for discussion.....

Senator Wanzek: I know there have been some comments that there was a little mix-up in communication, that there is thought that we were going to put targeted equity in a pool? I haven't really heard that before. That's not what we have heard in the Senate, unless I'm mistaken. We were more or less told that we could look at the target equity. I think it's the market equity that seems to be off limits because of the revenue cast. We're to look at the different agencies and try to prioritize what their needs are. Senator Heckaman has some information she'd like to share as far as where this agency is, and as far as the quartile in the compa-ratio - how they compare to the average of state employees.

Senator Heckaman handed out Protection and Advocacy Project OAR #3 - Salary Equity - Attachment 1.

This is a document that Ms. Larsen sent out to all of us to indicate and show us the number of years of experience of her staff, and also to indicate, if you look at State of ND, none of her employees are in the top half of the salary range. She has eight employees who have worked for over 25 years for the state; four of them between 20-25 years and as of August 2014, three fourths of her employees are in the bottom one fourth of the pay range in the state, even though they worked here over 25 years. I think that's something that we as a legislature need to address right now. We need to show those employees that we value them. The sentence right under there says, "Upon request, Human Resources provided information that an additional \$554,000 would be needed to bring those employees to the same compa-ratio level as other state employees." They're not even asking for that, they're even asking for \$399,000. I think it's our job to pay our state employees at a comparable rate as other state employees. That's why I'm really standing firm on this \$399,000. I think it's important for the work that they do and the years they've put in, that's its our job to bring this agency up to the level or at least to get them to the midpoint. It won't get them to the top one-fourth, but it will get some of them closer to the mid-level. Three-fourths of their employees are in the bottom fourth of the state wage earners in ND. I'm not very proud of that and its our time to address the need. It's OMBs indication too, that they believe this agency is due for some targeted equity.

Rep. Bellew: Just a comment - It still costs the state taxpayers money to do this. Our ultimate responsibility is not to state agencies, but to the state taxpayers, the people that elect us. We have to take care of them. State agencies and their employees are important, but in order to do this, we have to take money from somebody else to give it to somebody. I'm not prepared to do that at this time.

Senator Heckaman: Our chairman here and I were in another conference committee and we are still looking at the fact that there is a bill in the House for corporate income tax relief and there is quite a bit of money laying on the table there that is needed this session to do some of the work that we really need to do for the employees in the state of ND. It's all taxpayer money. No matter what we do, it's the people's money in the State of ND but I'm not very proud of the fact that we're not paying these workers for the work that they do. I think when we have the amount of money going back to income tax and corporate tax relief and we're not taking care of these people, I think it doesn't look very good for us as a legislature.

Rep. Silbernagel: I think we're, probably for today, at a bit of an impasse - because of the targeted equity conversation that's being held across several fronts. For today, **I'd like to make a motion that the Senate accede to the House amendments.**

Rep. Bellew seconded the motion.

Discussion: None.

A Roll Call vote was taken. Yea: 4 Nay: 2 Absent: 0
Motion fails.

Rep. Bellew: With that, Senator, I don't think we have anything else to discuss today. We should just set another meeting or figure out what we're going to do.

Senator Wanzek: That would be fine by me. I just wanted to add that I can appreciate the concern for the taxpayer. I share that concern as well, but even in my own businesses, I want to make sure that I'm paying my employees a competitive wage. This agency has been identified as one that is somewhat behind, so I'm struggling with that. I like to think, whether it's my business, or whether I, as a taxpayer

Rep. Bellew: Well, I can make another motion, Mr. Chairman, that we dissolve the committee and have it reappointed. We're not going to come to agreement on this.

Senator Heckaman: I would not approve of that because I don't think there's been any compromise by the House or by us on anything yet. We haven't gotten to that point yet. I think we can compromise on this.

Senator Wanzek: I believe that it's your privilege or right that if you want to dissolve yours. I don't know that we necessarily have to go along with this, at least at this point yet. We're adjourned.

2015 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee
Harvest Room, State Capitol

SB 2014
4/22/2015
Job # 26358

- Subcommittee
 Conference Committee

Committee Clerk Signature

Kate O'Neil for Alice Belzer

Explanation or reason for introduction of bill/resolution:

A Conference Committee Hearing for Protection and Advocacy

Minutes:

No testimony submitted

Legislative Council - Sean Smith
OMB - Lori Laschkewitsch

Conferees are:

Senators: Wanzek, Chair, Sorvaag and Heckaman
Representatives: Silbernagel, Bellew and Holman

Senator Wanzek called the Conference committee to order on Wednesday, April 22, 2015 at 2:30 pm in the Harvest Room, roll was taken and all conferees were present. Sean Smith, Legislative Council and Lori Laschkewitsch, OMB was also present. We are not too far apart on funding but it seems a long ways away for the solution. I visited with some of the House members, we discussed some options and in visiting with the P and A the paralegal is the most important issue to them for the legal load and for representing the P & A clients. I am going to throw I suggested we would add the paralegal FTE and \$35,000 of the \$95,000 general fund appropriation and the rest of appropriation and they would have to find it in their budget to cover additional costs but we would allow the paralegal FTE. It would result in an increase in special funds the \$95,000 and the \$35,000 would be general fund.

Senator Heckaman: If we only fund the \$35,000 can they still reach that full federal.

Senator Wanzek: That would leave the \$40,000 operating funds where the House had left them and that would be the only change we are asking for.

Representative Silbernagel: The targeted equity was one of our major concerns. Tell us what you know.

Senator Wanzek: What I know when it came to targeted equity within all the budgets, there was only 1 agency that they were going to allow targeted dollars to go to and that was the

department of corrections, which we finalized today. Originally the governor had identified roughly \$12,700,000 of targeted equity for those agencies that they identified in need of to raise the pay to be on board, so if you take the corrections off of that you are looking at roughly \$10,000,000 plus and I heard there is going to be a \$5,000,000 pool.

Senator Sorvaag: Yes, \$5,000,000 pool but we don't know which agencies are going to get it.

Representative Silbernagel: That is our understanding as well. And P & A could apply for that, at some future point in time.

Senator Wanzek: They can apply for it I do not know if they will get it or if it is a fraction of it or whatever.

Representative Silbernagle: There hasn't been any willingness to look at the FTE position or the operational side. I would look forward for something we could take back and look at it.

Senator Wanzek: It looks like we will have another meeting. I will probably be replaced by Senator Erbele. He feels very strongly about P & A and has sat on their board so he has a familiarity with it. I am almost certain that I don't think that we would go anything below what is out there right now.

Senator Heckaman: Certainly not, when I look at what this agency has done. They willingly gave up an FTE last session and I think that it is a salary that we can certainly consider in adding back in. We need to look at our job and looking at it seriously to add another FTE back in. I don't think this is out of line to ask for that. Certainly the amount, asking them to find the money for this, I have a little angst about that but if we are going to be able to get the FTE I would support the proposal put out there by Senator Wanzek.

Senator Wanzek: I would also add that when I look where we are at with the House version we are at about a \$600,548 increase and there is \$152,269 for the cost to continue. Essentially we need the \$152,269 just to maintain the level where we are at right now. Then if you look at the \$132,838 that is the IT desktop services, it's for their technology not for increased salaries and operations. When you add those two figures together and subtract it from the \$600,548 it is a little less than a 5% increase. I guess, there isn't much an increase in operations. They wanted to have an attorney than the paralegal but they would settle for a paralegal that would take some of the pressure off of the attorney that they do have. If the House doesn't have anything to add, and you'll be dealing with Senator Erbele tomorrow. We are adjourned.

2015 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee
Harvest Room, State Capitol

SB 2014
4/23/2015
Job # 26394

- Subcommittee
 Conference Committee

Committee Clerk Signature

Kate Oliver for Rose Lening

Explanation or reason for introduction of bill/resolution:

A conference committee hearing on the budget of the Protection and Advocacy budget.

Minutes:

Legislative Council - Sean Smith
OMB - Lori Laschkewitsch

Conferees are:

Senators: Wanzek, Chair, Sorvaag and Heckaman

Representatives: Silbernagel, Nelson (substituting for Bellew) and Holman.

Senator Wanzek called the committee to order on SB 2014. I apologize for the way it has gone here but it has been an interesting evening with the discussion in the Senate. I apologize if someone didn't get you the message. We will ask the clerk to take the roll, all conferees were present.

Senator Wanzek: For our newcomer, do you need to be updated or do you pretty much know what the situation is?

Senator Sorvaag: In order to move the discussion along, I think that we all know where we are at; we have talked multiple times about an FTE and reducing expenses. To get some ben in the discussion I move that the House recede from their amendments and we further amend to do the health insurance premium increase adjustment and reducing the operating expenses. Obviously that would leave the paralegal in that the Senate had.

Senator Wanzek: Does everyone understand?

Senator Heckaman: I would second that.

Representative Nelson: What is the cost of paralegal position I do not have that in front of me.

Senator Wanzek: That would be \$158,326 total of which \$64,602 would be special funds and \$95,724 would be general funds. That includes \$13,982 for operating expenses. Does every one understand the motion? Is there any discussion on that motion? If not we will ask the clerk to take the roll.

Roll was taken, the motion failed on a 4-2-0 count.

Senator Wanzek: That motion failed. I know that we have discussed something less than that is there any consideration?

Representative Silbernagel: This bill has tentacles attached to it that are beyond our control until such time that some of that has cleared up and that we cease to come together until that time.

Senator Wanzek: Would the House consider something a bit short of that. We had discussed giving them the FTE but we fund a portion of the general fund, we have done that in some other budgets. Give that some thought, I would appreciate it.

Representative Silbernagel: Another idea or thought would be are there opportunities to consider contract services in lieu of fulltime positions or such?

Senator Wanzek: Well we hadn't really tried a motion so we thought that this might help us at least get some movement or spur some thoughts. With that, I appreciate the House coming at least we had some action for only 5 minutes. We will adjourn and be on the schedule early tomorrow morning.

2015 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee
Harvest Room, State Capitol

SB 2014
4/27/2015
Job # 26425

Subcommittee
 Conference Committee

Committee Clerk Signature

Eva Liebelt for Alvie DeJew

Explanation or reason for introduction of bill/resolution:

A Conference Committee Hearing for Protection and Advocacy

Minutes:

No Testimony submitted

Legislative Council - Sean Smith
OMB - Sheila Peterson

Conferees are:

Senators: Wanzek, Chair, Sorvaag and Heckaman
Representatives: Silbernagel, Bellew and Holman

Senator Wanzek: Called the Conference committee to order on Monday, April 27, 2015 at 9:00 am in the Harvest Room. Roll was taken and all conferees were present. We've met 5 times and cancelled four. The difference is the paralegal position and there is a difference on the operating expenses. I know it is still a desire of the Senate to fund the paralegal.

Representative Silbernagel: The P & A will be able to get into the targeted equity fund and hopefully they will be successful in doing that. **I make a motion to restore \$40,000 in operating expenses. 2nd by Representative Holman.**

Senator Heckaman: Asked if that was the only concession the House was willing to make. I feel the \$95,000 that would provide the one time funding for the paralegal is really important to the agency.

Representative Silbernagel: Yes.

Senator Wanzek: Take the roll.

A Roll Call vote was taken. Yea: 5 Nay: 1 Absent: 0. (Vote # 1) Motion carried.

Senator Wanzek: I would share Senator Heckaman sentiments. I wish we could have given them a paralegal. \$40,000 should help them and it's on the operating line and it can

be use in that direction. We hope and expect that they get some of the targeted equity in OMB budget. It should be 50% at least.

Senator Heckaman: The funding that they had from fed funds, are those lost or can they be rolled into another account to be used?

Sheila Peterson, OMB: They wouldn't lose the federal funds they will be able to use it elsewhere in their budget if the authority stays in there.

Senator Heckaman: Is there anything we need to do to keep that authority in there?

Sheila Peterson: It looks to me like both the general funds and other funds for that position were taken out. Yes, you would need to make a further amendment to save that federal authorization.

Senator Heckaman: We need to look at that right now before we adjourn. I don't know how we can deny them the federal funds.

Sheila Peterson: The federal funds for the paralegal position are \$62,602.

Senator Wanzek: We will ask Theresa Larson to come forward. What I would like to know is are these funds dependent on the position being hired or they funds you were going to use for that purpose and could still access?

Theresa Larson, Director of Protection & Advocacy: They are funds we could still access and use for other purposes.

Senator Wanzek: If we give you the \$40,000 and you need to find some money elsewhere to help you temporary position do you feel comfortable that you could access those funds?

Theresa Larson: We would need spending authority for those funds.

Representative Silbernagel: For the benefit of trying to put this to rest and what we have agreed to and what our motion included this is expanding the budget regardless of where the funds come from. We passed it with the understanding that those funds could be available in the existing budget.

Senator Wanzek: You could probably still access the funds but they would stay in one of your grant lines or accounts? You're not going to lose the funds but if you were to use them for the purpose that I said.

Theresa Larson: We need spending authority for any federal grants we received and want to expend. If we are not given authority, those funds probably will carry over and remain unspent.

Senator Heckaman: I would move to give them spending authority for the federal funds, \$62,602. That's my motion. 2nd Senator Sorvaag

Senator Heckaman: Is there any other federal funds that they need authority for? The answer was no.

Representative Bellew: I would like to have language in there that they can't use it for an employee, even temporary.

Senator Wanzek: Is that an amendment to the motion? We'll take a vote on the motion as it is and if you want to add that as an additional amendment we will take it from there.

Representative Silbernagel: What will we be voting on?

Senator Wanzek: On spending authority of \$62,602 from federal funds. Whatever need or purpose.

Senator Heckaman: If we don't provide that authority this money is just going to sit there.

Representative Holman: I would like to know the history of previous biennium's on federal funds.

Theresa Larson: I am not sure I understand your question, are you asking about the amount.

Representative Holman: You've had federal funds previously and used them in the program. This \$62,602 is that similar to what you've worked with in the past?

Theresa Larson: Yes, for this FTE we were going to use some funds from a variety of different federal grants to fund the paralegal.

Representative Silbernagel: There is extra dollars available that we need spending authority on now?

Theresa Larson: There aren't extra funds available.

Representative Silbernagel: You have access to additional dollars that you need authority on. So the \$40,000 that we just voted on, there could be additional dollars?

Theresa Larson: There is a difference in terms of the funding sources for these things. The general funds are used to help with shortages with our other federal grants. The funds that we are talking about here, if the \$40,000 in general funds are not made available then we have to try to find other federal grants but they all have to be used for a specific purpose. We budgeted this for that FTE and so it is part of what is already available but it was specifically budgeted as an OAR for a FTE.

Senator Heckaman: I would withdraw my amendment and make a different amendment.

Senator Wanzek: Agreed to withdraw the amendment and 2nd agreed.

Senator Heckaman: I would like to rephrase my motion that we give spending authority to Protection and Advocacy for the \$62,602 worth of federal funds they can access but they cannot use it for a FTE or temporary. 2nd by Senator Sorvaag

Senator Wanzek: You're giving them authority to spend those dollars but can't be used for FTE's or Temporary. Call the roll on that amendment.

A Roll Call vote was taken. Yea: 6 Nay: 0 Absent: 0. (Vote #2) Motion carried.

Senator Wanzek: The House would recede and further amend.

Senator Heckaman: Moved the House recede from House amendments and amend. 2nd by Representative Holman

A Roll Call vote was taken. Yea: 5; Nay: 1 Absent: 0. (Vote #3) Motion Carried.
The hearing was closed on SB 2014.

*ldg
 4/27/15
 jme*

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2014

That the House recede from its amendments as printed on pages 1216 and 1217 of the Senate Journal and page 1428 of the House Journal and that Engrossed Senate Bill No. 2014 be amended as follows:

Page 1, replace line 12 with:

"Protection and advocacy operations \$5,671,584 \$795,380 \$6,466,964"

Page 1, replace lines 14 through 17 with:

"Total all funds \$5,765,174 \$701,790 \$6,466,964
 Less estimated income 3,233,612 199,241 3,432,853
 Total general fund \$2,531,562 \$502,549 \$3,034,111
 Full-time equivalent positions 27.50 0.00 27.50"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2014 - Protection and Advocacy Project - Conference Committee Action

	Base Budget	Senate Version	Conference Committee Changes	Conference Committee Version	House Version	Comparison to House
Protection and advocacy operations	\$5,671,584	\$6,588,085	(\$121,121)	\$6,466,964	\$6,364,362	\$102,602
Accrued leave payments	93,590					
Total all funds	\$5,765,174	\$6,588,085	(\$121,121)	\$6,466,964	\$6,364,362	\$102,602
Less estimated income	<u>3,233,612</u>	<u>3,432,853</u>	0	<u>3,432,853</u>	<u>3,370,251</u>	<u>62,602</u>
General fund	\$2,531,562	\$3,155,232	(\$121,121)	\$3,034,111	\$2,994,111	\$40,000
FTE	27.50	28.50	(1.00)	27.50	27.50	0.00

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

	Adjusts Funding for Health Insurance Premium Increases ¹	Removes Paralegal Position ²	Increases Federal Funding ³	Total Conference Committee Changes
Protection and advocacy operations	(\$25,397)	(\$158,326)	\$62,602	(\$121,121)
Accrued leave payments				
Total all funds	(\$25,397)	(\$158,326)	\$62,602	(\$121,121)
Less estimated income	<u>0</u>	<u>(62,602)</u>	<u>62,602</u>	<u>0</u>
General fund	(\$25,397)	(\$95,724)	\$0	(\$121,121)
FTE	0.00	(1.00)	0.00	(1.00)

2017

¹ Funding for employee health insurance premiums is adjusted to reflect the revised premium estimate of \$1,130.22 per month.

² Funding is removed for a paralegal position (\$153,094) and related salary increase (\$5,232), the same as the House version.

³ Federal fund spending authority is increased by \$62,602. The funding may not be used to defray the expenses of either a temporary position or a full-time equivalent position. The House did not provide the federal funding spending authority.

The amendment also provides \$40,000 from the general fund for operating expenses removed by the House.

Date: 4-23-15
 Roll Call Vote #: 1

**2015 SENATE CONFERENCE COMMITTEE
 ROLL CALL VOTES**

BILL/RESOLUTION NO. 2014 as (re) engrossed

Senate Appropriations Committee

- Action Taken
- SENATE accede to House Amendments
 - SENATE accede to House Amendments and further amend
 - HOUSE recede from House amendments
 - HOUSE recede from House amendments and amend as follows
- Unable to agree, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Senator Sorvaag Seconded by: Senator Heckaman

Senators			Yes	No		Representatives		Yes	No	
	4/22	4/23				4/22	4/23			
Wanzek	X	X	X			Silbernagel	X	X		X
Sorvaag	X	X	X			Bellew	X	A		
Heckaman	X	X	X			Holman	X	X		X
						J. Nelson		X		X
Total Senate Vote			3			Total Rep. Vote				1 2

Vote Count Yes: 4 No: 2 Absent: _____

Senate Carrier _____ House Carrier _____

LC Number _____ of amendment

LC Number _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

Failed

Date: 4-27-15
 Roll Call Vote #: 1

**2015 SENATE CONFERENCE COMMITTEE
 ROLL CALL VOTES**

BILL/RESOLUTION NO. _____ 2014 _____ as (re) engrossed

Senate Appropriations Committee

- Action Taken
- SENATE accede to House Amendments
 - SENATE accede to House Amendments and further amend
 - HOUSE recede from House amendments
 - HOUSE recede from House amendments and amend as follows

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

Motion Made by: Silbernagel Seconded by: Holman

Senators		<u>4/27</u>		Yes	No	Representatives		<u>4/27</u>		Yes	No
Wanzek		✓		✓		Silbernagel		✓		✓	
Sorvaag		✓		✓		Bellew		✓		✓	✓
Holman		✓		✓		Holman		✓		✓	
Total Senate Vote						Total Rep. Vote					

Vote Count Yes: 5 No: 1 Absent: 0 *all carried*

Senate Carrier Wanzek House Carrier Silbernagel

LC Number _____ of amendment

LC Number _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

add \$40,000 back in operating expense

Date: 4/27/15
 Roll Call Vote #: 2

**2015 SENATE CONFERENCE COMMITTEE
 ROLL CALL VOTES**

BILL/RESOLUTION NO. _____ 2014 _____ as (re) engrossed

Senate Appropriations Committee

- Action Taken
- SENATE accede to House Amendments
 - SENATE accede to House Amendments and further amend
 - HOUSE recede from House amendments
 - HOUSE recede from House amendments and amend as follows

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

Motion Made by: Heckaman Seconded by: Sowaag

Senators				Yes	No	Representatives				Yes	No
Wanzek				✓		Silbernagel				✓	
Servaag				✓		Bellew				✓	
Heckaman				✓		Holman				✓	
Total Senate Vote						Total Rep. Vote					

Vote Count Yes: 6 No: 0 Absent: 0

Senate Carrier Wanzek House Carrier Silbernagel

LC Number _____ of amendment

LC Number _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

fed funds not for FTE or temp.

all carried

Date: 4/27-15
 Roll Call Vote #: 3

**2015 SENATE CONFERENCE COMMITTEE
 ROLL CALL VOTES**

BILL/RESOLUTION NO. 2014 as (re) engrossed

Senate Appropriations Committee

- Action Taken
- SENATE accede to House Amendments
 - SENATE accede to House Amendments and further amend
 - HOUSE recede from House amendments
 - HOUSE recede from House amendments and amend as follows
 - Unable to agree, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Heikaman Seconded by: Holman

Senators				Yes	No	Representatives				Yes	No
Wanzek				✓		Silbernagel				✓	
Sorvaag				✓		Bellew				✓	✓
Holman				✓		Holman				✓	
Total Senate Vote						Total Rep. Vote					

Vote Count Yes: 5 No: 1 Absent: 0 *all carried*

Senate Carrier Wanzek House Carrier Silbernagel

LC Number _____ of amendment

LC Number _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

*House recede from House Amendments +
 amend*

REPORT OF CONFERENCE COMMITTEE

SB 2014, as engrossed: Your conference committee (Sens. Wanzek, Sorvaag, Heckaman and Reps. Silbernagel, Bellew, Holman) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ pages 1216-1217, adopt amendments as follows, and place SB 2014 on the Seventh order:

That the House recede from its amendments as printed on pages 1216 and 1217 of the Senate Journal and page 1428 of the House Journal and that Engrossed Senate Bill No. 2014 be amended as follows:

Page 1, replace line 12 with:

"Protection and advocacy operations \$5,671,584 \$795,380 \$6,466,964"

Page 1, replace lines 14 through 17 with:

"Total all funds	\$5,765,174	\$701,790	\$6,466,964
Less estimated income	<u>3,233,612</u>	<u>199,241</u>	<u>3,432,853</u>
Total general fund	\$2,531,562	\$502,549	\$3,034,111
Full-time equivalent positions	27.50	0.00	27.50"

Re-number accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2014 - Protection and Advocacy Project - Conference Committee Action

	Base Budget	Senate Version	Conference Committee Changes	Conference Committee Version	House Version	Comparison to House
Protection and advocacy operations	\$5,671,584	\$6,588,085	(\$121,121)	\$6,466,964	\$6,364,362	\$102,602
Accrued leave payments	<u>93,590</u>					
Total all funds	\$5,765,174	\$6,588,085	(\$121,121)	\$6,466,964	\$6,364,362	\$102,602
Less estimated income	<u>3,233,612</u>	<u>3,432,853</u>	0	<u>3,432,853</u>	<u>3,370,251</u>	<u>62,602</u>
General fund	\$2,531,562	\$3,155,232	(\$121,121)	\$3,034,111	\$2,994,111	\$40,000
FTE	27.50	28.50	(1.00)	27.50	27.50	0.00

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

	Adjusts Funding for Health Insurance Premium Increases ¹	Removes Paralegal Position ²	Increases Federal Funding ³	Total Conference Committee Changes
Protection and advocacy operations	(\$25,397)	(\$158,326)	\$62,602	(\$121,121)
Accrued leave payments				
Total all funds	(\$25,397)	(\$158,326)	\$62,602	(\$121,121)
Less estimated income	<u>0</u>	<u>(62,602)</u>	<u>62,602</u>	<u>0</u>
General fund	(\$25,397)	(\$95,724)	\$0	(\$121,121)
FTE	0.00	(1.00)	0.00	(1.00)

¹ Funding for employee health insurance premiums is adjusted to reflect the revised

premium estimate of \$1,130.22 per month.

² Funding is removed for a paralegal position (\$153,094) and related salary increase (\$5,232), the same as the House version.

³ Federal fund spending authority is increased by \$62,602. The funding may not be used to defray the expenses of either a temporary position or a full-time equivalent position. The House did not provide the federal funding spending authority.

The amendment also provides \$40,000 from the general fund for operating expenses removed by the House.

Engrossed SB 2014 was placed on the Seventh order of business on the calendar.

2015 TESTIMONY

SB 2014

Department 360 - Protection and Advocacy
 Senate Bill No. 2014

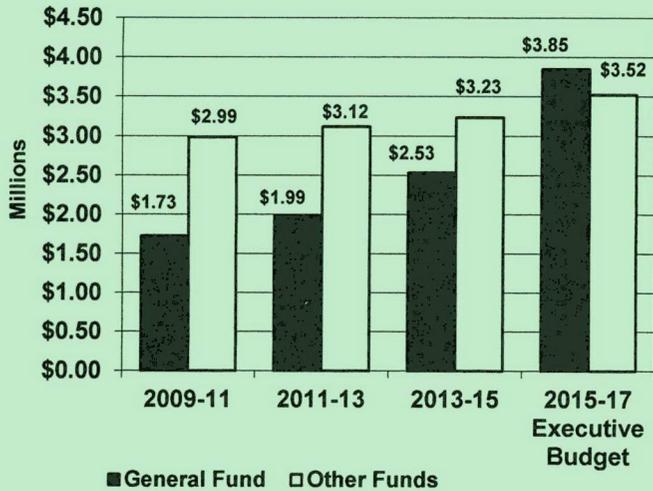
Executive Budget Comparison to Prior Biennium Appropriations

	FTE Positions	General Fund	Other Funds	Total
2015-17 Executive Budget	29.50	\$3,848,976	\$3,520,034	\$7,369,010
2013-15 Legislative Appropriations	27.50	2,531,562	3,233,612	5,765,174
Increase (Decrease)	2.00	\$1,317,414	\$286,422	\$1,603,836

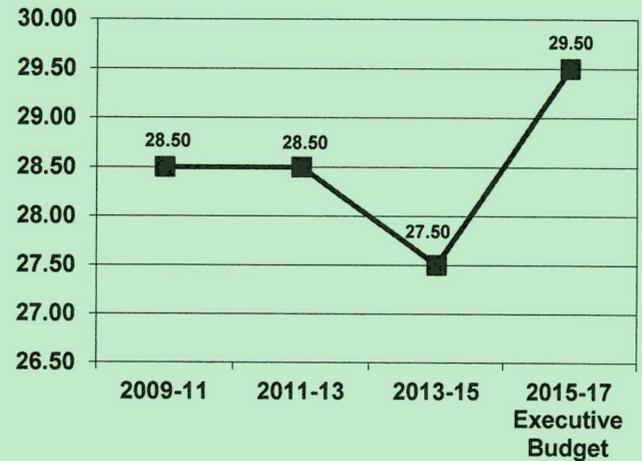
Ongoing and One-Time General Fund Appropriations

	Ongoing General Fund Appropriation	One-Time General Fund Appropriation	Total General Fund Appropriation
2015-17 Executive Budget	\$3,848,976	\$0	\$3,848,976
2013-15 Legislative Appropriations	2,531,562	0	2,531,562
Increase (Decrease)	\$1,317,414	\$0	\$1,317,414

Agency Funding



FTE Positions



Executive Budget Comparison to Base Level

	General Fund	Other Funds	Total
2015-17 Executive Budget	\$3,848,976	\$3,520,034	\$7,369,010
2015-17 Base Level	2,531,562	3,233,612	5,765,174
Increase (Decrease)	\$1,317,414	\$286,422	\$1,603,836

Attached as an appendix is a detailed comparison of the executive budget to the agency's base level appropriations.

Executive Budget Highlights

	General Fund	Other Funds	Total
1. Provides funding for state employee salary and benefit increases of which \$260,267 relates to performance increases, \$108,463 is for market equity adjustments, \$129,534 is for health insurance increases, and \$26,772 is for retirement contribution increases	\$519,543	\$5,493	\$525,036
2. Provides special equity salary funding	\$399,404	\$0	\$399,404
3. Adds funding for 1 FTE paralegal position (\$139,112) and related operating expenses (\$13,982) to assist legal staff with increased caseload	\$90,492	\$62,602	\$153,094
4. Adds funding for 1 FTE position (\$152,437) and related operating expenses (\$17,982) for quality assurance/intake to assist legal staff with increased reports of suspected abuse, neglect, and exploitation of individuals with developmental disabilities	\$85,209	\$85,210	\$170,419

5. Adds funding for desktop support services	\$132,838	\$0	\$132,838
6. Adjusts base funding for operating expenses, including an increase of \$37,833 for building rent expense	\$70,776	\$0	\$70,776

Continuing Appropriations

There are no continuing appropriations for this agency.

Significant Audit Findings

There are no significant audit findings for this agency.

Major Related Legislation

House Bill No. 1053 - Centralized Desktop Support Services - Requires certain agencies to obtain centralized desktop support services from the Information Technology Department.

Protection and Advocacy Project - Budget No. 360
Senate Bill No. 2014
Base Level Funding Changes

	Executive Budget Recommendation			Total
	FTE Positions	General Fund	Other Funds	
2015-17 Biennium Base Level	27.50	\$2,531,562	\$3,233,612	\$5,765,174
2015-17 Ongoing Funding Changes				
Base payroll changes		\$19,152	\$133,117	\$152,269
Employee compensation package				0
Salary increase - Performance		256,415	3,852	260,267
Salary increase - Market		108,463		108,463
Salary increase - Targeted equity		399,404		399,404
Retirement package		26,491	281	26,772
Health insurance package		128,174	1,360	129,534
FTE paralegal	1.00	90,492	62,602	153,094
FTE for quality assurance/intake position	1.00	85,209	85,210	170,419
Information technology desktop support services		132,838		132,838
Operating expense adjustments		70,776		70,776
Total ongoing funding changes	2.00	\$1,317,414	\$286,422	\$1,603,836
One-time funding items				
Total one-time funding changes	0.00	\$0	\$0	\$0
Total Changes to Base Level Funding	2.00	\$1,317,414	\$286,422	\$1,603,836
2015-17 Total Funding	29.50	\$3,848,976	\$3,520,034	\$7,369,010

Department 360 - Protection and Advocacy
 Senate Bill No. 2014

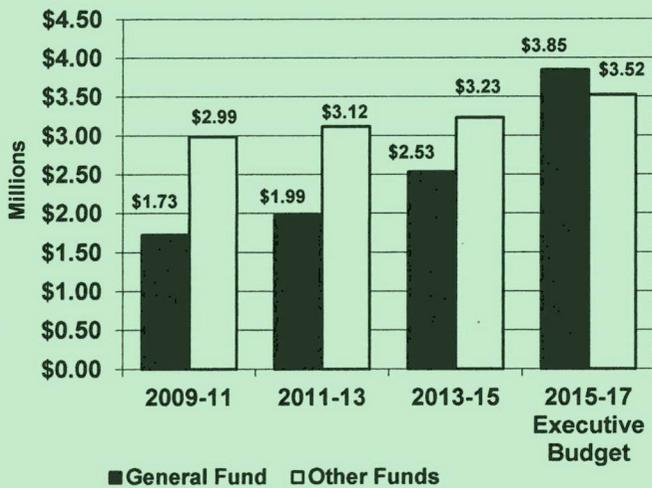
Executive Budget Comparison to Prior Biennium Appropriations

	FTE Positions	General Fund	Other Funds	Total
2015-17 Executive Budget	29.50	\$3,848,976	\$3,520,034	\$7,369,010
2013-15 Legislative Appropriations	27.50	2,531,562	3,233,612	5,765,174
Increase (Decrease)	2.00	\$1,317,414	\$286,422	\$1,603,836

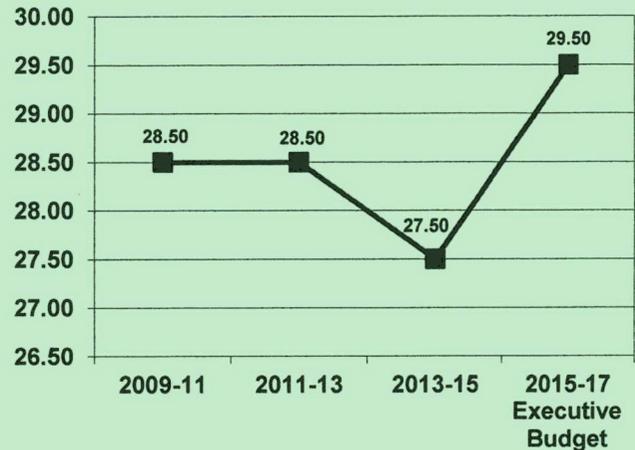
Ongoing and One-Time General Fund Appropriations

	Ongoing General Fund Appropriation	One-Time General Fund Appropriation	Total General Fund Appropriation
2015-17 Executive Budget	\$3,848,976	\$0	\$3,848,976
2013-15 Legislative Appropriations	2,531,562	0	2,531,562
Increase (Decrease)	\$1,317,414	\$0	\$1,317,414

Agency Funding



FTE Positions



Executive Budget Comparison to Base Level

	General Fund	Other Funds	Total
2015-17 Executive Budget	\$3,848,976	\$3,520,034	\$7,369,010
2015-17 Base Level	2,531,562	3,233,612	5,765,174
Increase (Decrease)	\$1,317,414	\$286,422	\$1,603,836

First House Action

Attached is a comparison worksheet detailing first house changes to base level funding and the executive budget.

Executive Budget Highlights
 (With First House Changes in Bold)

	General Fund	Other Funds	Total
1. Provides funding for state employee salary and benefit increases of which \$260,267 relates to performance increases, \$108,463 is for market equity adjustments, \$129,534 is for health insurance increases, and \$26,772 is for retirement contribution increases. The Senate provided funding for performance salary increases of 2 to 4 percent per year and funding for health insurance increases, but did not include funding for market equity increases or funding for retirement contribution increases.	\$519,543	\$5,493	\$525,036
2. Provides special equity salary funding. The Senate did not include this funding.	\$399,404	\$0	\$399,404

3. Adds funding for 1 FTE paralegal position (\$139,112) and related operating expenses (\$13,982) to assist legal staff with increased caseload	\$90,492	\$62,602	\$153,094
4. Adds funding for 1 FTE position (\$152,437) and related operating expenses (\$17,982) for quality assurance/intake to assist legal staff with increased reports of suspected abuse, neglect, and exploitation of individuals with developmental disabilities. The Senate did not add the new FTE position and related funding.	\$85,209	\$85,210	\$170,419
5. Adds funding for desktop support services	\$132,838	\$0	\$132,838
6. Adjusts base funding for operating expenses, including an increase of \$37,833 for building rent expense	\$70,776	\$0	\$70,776

Continuing Appropriations

There are no continuing appropriations for this agency.

Significant Audit Findings

There are no significant audit findings for this agency.

Major Related Legislation

House Bill No. 1053 - Centralized Desktop Support Services - Requires certain agencies to obtain centralized desktop support services from the Information Technology Department.

Protection and Advocacy Project - Budget No. 360
Senate Bill No. 2014
Base Level Funding Changes

	Executive Budget Recommendation				Senate Version			
	FTE Positions	General Fund	Other Funds	Total	FTE Positions	General Fund	Other Funds	Total
2015-17 Biennium Base Level	27.50	\$2,531,562	\$3,233,612	\$5,765,174	27.50	\$2,531,562	\$3,233,612	\$5,765,174
2015-17 Ongoing Funding Changes								
Base payroll changes		\$19,152	\$133,117	\$152,269		\$19,152	\$133,117	\$152,269
Salary increase - Performance		256,415	3,852	260,267		186,556	2,162	188,718
Salary increase - Market		108,463		108,463				0
Salary increase - Targeted equity		399,404		399,404				0
Retirement package		26,491	281	26,772				0
Health insurance package		128,174	1,360	129,534		123,856	1,360	125,216
FTE paralegal	1.00	90,492	62,602	153,094	1.00	90,492	62,602	153,094
FTE for quality assurance/intake position	1.00	85,209	85,210	170,419				0
Information technology desktop support services		132,838		132,838		132,838		132,838
Operating expense adjustments		70,776		70,776		70,776		70,776
Total ongoing funding changes	2.00	\$1,317,414	\$286,422	\$1,603,836	1.00	\$623,670	\$199,241	\$822,911
One-time funding items								
Total one-time funding changes	0.00	\$0	\$0	\$0	0.00	\$0	\$0	\$0
Total Changes to Base Level Funding	2.00	\$1,317,414	\$286,422	\$1,603,836	1.00	\$623,670	\$199,241	\$822,911
2015-17 Total Funding	29.50	\$3,848,976	\$3,520,034	\$7,369,010	28.50	\$3,155,232	\$3,432,853	\$6,588,085

Other Sections in Senate Bill No. 2014

	Executive Budget Recommendation				Senate Version			
	None				None			

1-8-15
#1
SB 2014

SB 2014
Budget for the Protection & Advocacy Project
Senate Appropriations
January 8, 2015
Testimony of Teresa Larsen
P&A Executive Director

There is a protection & advocacy agency in every state & U.S. territory. The vast majority of these are private, non-profit entities. In ND the Protection & Advocacy Project (P&A) is an independent State agency with a seven-member governing board. 2 of the individuals are appointed by the Governor, 2 by Legislative Management (one Senator & one Representative), & 1 each by The Arc of ND, Mental Health America of ND, & Family Voices of ND.

I. PROGRAMS

P&A continues to receive 7 federal grants. They 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).

Funding in these grants has not increased significantly in many years. For some programs, the dollars have remained stagnant or decreased.

8 YEAR FEDERAL GRANT HISTORY								
	2007	2008	2009	2010	2011	2012	2013	2014
DD	365,940	365,940	375,316	384,693	384,693	384,693	362,881	362,881
MH	402,700	413,000	424,900	430,800	429,900	429,100	406,700	428,000
PAIR	160,311	157,505	166,262	175,984	175,632	175,632	166,132	171,598
AT	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000
PABSS	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000
TBI	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000
HAVA	70,000	70,000	70,000	70,000	70,000	70,000	70,000	70,000
TOTAL GRANTS	1,198,951	1,206,445	1,236,478	1,261,477	1,260,225	1,259,425	1,205,713	1,232,479

NOTE: Generally, the federal grants are based on the fiscal year running from October - September.

3.14

Since July 2011, P&A has been the recipient of a contract from the ND Department of Human Services (DHS) 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 (the State Vocational Rehabilitation Program, Centers for Independent Living (CIL's), and Tribal Vocational Rehabilitation Programs).

II. SERVICES

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

Because they cannot meet the demand for services with the resources provided by federal grants, P&A's are tasked with developing annual priorities. Individuals with disabilities, families, and others are invited to provide input. Over the last two federal fiscal years, P&A provided advocacy and legal representation addressing 2,351 service requests (1,199 in fiscal year 2013 and 1,152 in 2014) that fell within its priorities. Information & referral services totaled 4,227 for fiscal years 2013 and 2014 (as compared to 3,990 for the previous two years). 5,145 individuals participated in education and training activities in these two years (as compared to 3,481 the previous two years).

For federal fiscal years 2013 & 2014, service requests were specific to the following priorities:

	<u>FY 2013</u>	<u>FY 2014</u>
• Abuse, neglect, exploitation:	57.5%	65.5%
• Education:	15%	15%
• Employment:	13.5%	6.5%
• Community inclusion:	5.5%	6%
• Healthcare:	3%	2%
• Criminal justice:	4%	3.5%
• Other, including accessibility:	1.5%	1.5%

In the previous two federal fiscal years, abuse, neglect, & exploitation accounted for 53% of the service requests. It now accounts for two-thirds of P&A's casework.

While there really is no typical case, I have provided a few examples in **Attachment A**. Also included is an example of P&A's systemic work.

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 at the Life Skills & Transition 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 administrative assistants.

III. 2013-2015 BIENNIUM FUNDING

For the current biennium, P&A has spent approximately 64.1% of its budget of \$5,765,174 as of December 1, 2014. As summarized in **Attachment B**, this includes 69.9% of the \$4,561,633 budgeted for salaries and benefits and 42.1% of the \$1,203,541 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 2013-2015 biennium are budgeted for the 2015-2017 biennium.

IV. 2015-2017 BIENNIUM BUDGET

The proposed budget was built with the expectation of P&A's seven federal grants being level funded, as well as the continuation of the CAP contract. The Governor's recommended budget includes funding for the following OAR's as delineated in **Attachment D**:

A. Paralegal – additional FTE

P&A provides services that cover a broad range of disability-related topics and areas. The legal expertise needed is specialized and

extensive. P&A currently has four attorneys that provide services in a variety of ways to staff, clients, and the disability community.

The Director of Legal Services serves as a Special Assistant Attorney General and advises P&A's Governing Board and PAIMI Advisory Council. He provides legal advice to the Executive Director and other agency staff on client cases and policy issues and oversees the administrative aspects of P&A's legal operations. He is involved in research, systemic, regulatory, and policy activities in addition to representing individual clients. He supervises two Staff Attorneys and the Program Coordinator for our P&A Social Security program, which focuses on employment issues.

One of P&A's staff attorneys devotes ½ of his time to the CAP program and also has expertise on Assistive Technology issues. A third staff attorney devotes her time to the remaining P&A federal programs and has particular expertise in legal process and procedure and Education law. Both attorneys provide legal support to non-attorney advocates and assist by doing legal research, consulting, and advising on strategies that promote resolution in the least adversarial and costly manner. When necessary, P&A staff attorneys provide legal representation to individuals with disabilities. They also participate in research, systemic, regulatory, and policy activities.

Our Director of Policy and Operations is an attorney. She does not provide legal representation to clients, but provides legal support to Centralized Intake staff in responding to reports and referrals. She also provides management and direction in the area of personnel, procurement processes, risk management, client data management, policy development, and IT coordination.

Given the complex nature of the disability legal landscape and the multiple roles and tasks that P&A's attorney fill, it has become increasingly difficult to meet the internal and external demands for legal time with existing resources. A paralegal can address gaps and assist

with necessary tasks without extensive additional cost. He or she will be able to take on many tasks and allow P&A attorneys to be more effective and productive.

This is funded in the Governor's budget at a cost of \$165,175. Of this amount, \$68,037 is federal monies and \$97,138 is State general funds.

B. DD Quality Assurance/Intake – additional FTE

P&A has one FTE which is funded for this purpose at 50% Medicaid (through DHS) and 50% State funds (required match). This was initiated because CMS informed DHS that there had to be third-party screenings of serious incidents involving DD waived services. P&A agreed to fill this role but needed additional resources to do so. This position works in tandem with DHS/DDD on DD service provider monitoring, provider staff training, and DHS/DDD policy development. He also dedicates some time to P&A's centralized intake; takes the lead role in assessing death reports; reviews all Title XIX reports from Health Facilities; and coordinates with institutional child protective services. His time is spread thin and more resources have been going towards monitoring and training, particularly with the "oil country" DD service providers, who are experiencing high staff turnover and more reports of alleged abuse or neglect are being generated as a result. For the DD program alone, reports specific to abuse/neglect, serious events, and medication errors totaled 4,119 for federal fiscal years 2013 and 2014. For the two years previous, this total was 3,540. It's become increasingly difficult for P&A's intake staff to receive and process reports in a timely way. Adding another FTE would allow P&A to catch up and maintain quality services. This is funded in the Governor's budget at a cost of \$183,398. Half of this is funded with Medicaid dollars (which are included in the DHS budget) and half with State funds.

While P&A is requesting 2 new FTE's, the agency voluntarily "gave back" an FTE last Session. We had 28.5 FTE's and requested allocations

and authorization for only 27.5. Instead of using a staff person to implement projects and training associated with the HAVA grant, P&A contracted out the majority of this work. While some agency resources are still required for HAVA, including developing and monitoring contracts, P&A's resources are more effectively used by out-sourcing this type of work.

C. Salary Equity

Overall, P&A's compa-ratio is .83. P&A requested this OAR to improve pay to its employees, especially for those with impressive work performance and longevity with the agency. While the average "years of service" is 16.6, all of P&A's employees are below the midpoint of their respective pay ranges (with approximately 75% being in the first quartile). There is serious compression between experienced and newly hired Advocates. There has also been some turn-over in the last few years where employees have left to earn higher salaries in the private sector or with other State agencies. Recently, P&A offered a job to an applicant. The individual accepted but later recanted after her current employer offered her a raise to stay. P&A had to continue its search. As with most entities that serve individual clients, turn-over is a huge disruption to services.

The Governor's budget provides base salary increases that will bring P&A staff to a compa-ratio of .88. With the addition this OAR in the Governor's budget, P&A's compa-ratio would be .98. According to OMB, this is the average State compa-ratio. The cost is \$399,404 in State funds, as there are not sufficient federal dollars available.

D. ITD Desktop Support

P&A requested this OAR, which is included in the Governor's recommended budget, to implement desktop support services from ITD. Currently, P&A meets its desktop support needs by using a combination of in-house expertise (through a staff person who is multi-skilled) and non-ITD contract support. The cost includes one-time installation fees of

\$48,358 and \$84,480 to cover ongoing monthly service fees for the biennium. The total cost is \$132,838 in State funds, as there are not sufficient federal dollars available.

In summary, P&A is happy with the budget recommended by the Governor.

Teresa Larsen
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328-2950

Attachment A

P&A Case Examples

CASE A: The client is a 17 year-old male with diagnoses of moderate intellectual disability, Fetal Alcohol Syndrome; ADHD, combined; oppositional defiant disorder; congenital heart condition; pacemaker; and prior surgeries. He lives in a group home and attends high school in an urban community. He is adopted. He was referred to P&A based on report of potential neglect. The report identified that his service provider and the DD system placed him in a juvenile detention center because there were no open beds available in the psychiatric unit at the local hospital. P&A conducted an investigation and concluded that the provider failed to ensure that appropriate supports were in place to address the client's behavior. In addition, the DD system utilized a detention center placement in place of therapeutic behavioral supports. P&A worked with the provider to ensure that this type of situation would not occur again, along with seeing that all staff working within the group home was provided with training on therapeutic intervention and positive behavior supports. P&A also provided resource information for the team to review. P&A recommended that the client's team convene to address the client's behavior in a positive manner including removal of the use of a basket hold technique (which in the client's plan was allowed for up to 60 minutes). The recommendations were implemented.

CASE B: The client is a 34 year old married female with children. She has a history of mental illness, including repeated hospitalizations. She has been diagnosed with bipolar disorder, mania; chronic mental illness, and an anxiety disorder (by history). She reported that during a recent hospitalization in the psychiatric ward of a local hospital, she was inappropriately and repeatedly put in seclusion. P&A investigated three specific episodes of seclusion that were implemented during the client's hospitalization. In one instance the seclusion lasted for a period of over 12 hours which is in violation of the hospital's policy. In each of the situations investigated, there were preponderances of evidence to substantiate abuse. The documentation the hospital provided did not indicate less restrictive actions were utilized or attempted; indicate the client's behaviors were creating a safety concern; or, indicate the client's behaviors were violent or self-destructive. Several recommendations were generated for the hospital's consideration relating to proper implementation of its policies on seclusion and patient-related documentation.

CASE C: The client is a 27 year old Native American female who has an Intellectual Disability, Obsessive Compulsive Disorder, Oppositional Defiant Disorder and Post Traumatic Stress Disorder. The client's mother has had

significant difficulties with drug and alcohol use, which often led to a lack of appropriate supervision or support within her family setting. The client's maternal grandmother has been quite involved in her life; however, her grandmother's health makes caregiving for others difficult. At the time of referral, the client was living in Life Skills & Transition Center. The client was admitted after living unsuccessfully with her family and in subsequent community-based placements. Upon admission to the institution, the client immediately began talking with her team about not wanting to live there; however, behaviorally the client exhibited challenges that resulted in community-based providers feeling they could not support her behavioral needs and successfully serve her. The client's grandmother, who was named in tribal court as her successor guardian after her mother was incarcerated, sought P&A services to assist with placement planning for the client. The client's grandmother also requested assistance with putting a different guardian in place due to her failing health and inability to assist the client with decision making. P&A provided assistance in working with the client's team and a corporate guardianship was established to support the client and her grandmother in moving forward with a community-based placement to include enhanced program coordination, behavioral supports, and vocational supports. As a result of these efforts, the client is now living in the community, employed doing paid work, and is also very socially engaged. The client sings at local nursing homes, retirement homes and also in her church. She is very active socially with Special Olympics doing sports and cheerleading.

CASE D: The client is a 12 year old 7th grader. He lives at home with his parents and his little brother. The client's current diagnoses are: depression, anxiety, panic attacks, and a learning disability. The client takes an anti-depressant for his mood disorders. Anesthesia used in a recent dental procedure interacted with the anti-depressant and caused memory loss. The client began having difficulty remembering friends, events, and how to navigate the school. The client's academics are historically above average. The client's mother contacted P&A due to concerns about the client's performance in school. The client has been on an IEP since the 2nd grade for his learning disability in the area of math. School personnel were having difficulty agreeing to accommodate the student's recent memory losses. This led to increased anxiety from the client as well as panic attacks. The client's attendance suffered and he was failing three classes. P&A worked with the school to revise and expand supports for the client in his IEP and address the full scope of his needs. As a result of these changes, the student's performance improved, his absences were reduced, and his mother reported that he was doing very well in school.

EXAMPLE OF SYSTEMIC WORK: A new law (chapter 154 of the 2013 session laws) was supposed to allow school personnel to administer medications to students in primary and secondary schools. But the law was widely misinterpreted as prohibiting school personnel from administering an emergency medication to a student if the emergency medication had to be injected (or administered other than by providing the student with the medication to swallow). This immediately created a dilemma for some students with disabilities and most notably for students with diabetes. A student with diabetes might have an incident of severe hypoglycemia (dangerously low blood glucose). Before the new law, school personnel could take immediate action under the State's Good Samaritan laws. This was no longer considered an option in some schools. Delayed treatment of severe hypoglycemia would increase the risk of neurological injury or death. P&A worked with several entities including the Board of Nursing, the Department of Health, the Attorney General's office, an informal group of parents, the American Diabetes Association, and the Department of Public Instruction to resolve this dilemma. Students with diabetes who have severe hypoglycemia now can rely upon school personnel to provide immediate emergency treatment.

**PROTECTION & ADVOCACY PROJECT
SB 2014
2013 – 2015 BIENNIUM SPENDING through 11/30/14
(70.83% of the biennium)**

1.8.15

	TOTAL BUDGETED	SPENT				BALANCE	
		FEDERAL	STATE	TOTAL	%	TOTAL	%
Salaries & benefits	4,561,633	1,650,251	1,537,421	3,187,672	69.9	1,373,961	30.1
Operating	1,203,541	303,227	203,944	507,171	42.1	696,370	57.9
TOTAL	5,765,174	1,953,478	1,741,365	3,694,843	64.1	2,070,331	35.9

All projected unspent federal funds from the 2013-2015 biennium are budgeted into the 2015-2017 biennium.

% of State dollars spent to date: 68.8% (\$1,741,365/2,531,562)

% of Federal dollars spent to date: 60.4% (\$1,953,478/3,233,612)

111

**PROTECTION & ADVOCACY PROJECT
SPEND DOWN OF THE 2013-2015 BIENNIUM (through 11/14)
CHANGES FOR THE 2015-2017 BIENNIUM**

1.8.15

	13-15 BIENNIUM				BALANCE
	BUDGETED	SPENT			
		Federal	State	Total	
SALARIES & BENEFITS	4,561,633	1,650,251	1,537,421	3,187,672	1,373,961
Travel	154,600	49,583	33,893	83,476	71,124
Supplies - IT	7,595	1,629	1,639	3,268	4,327
Prof. materials	40,250	7,542	9,042	16,584	23,666
Misc. supplies	7,634	5,188	134	5,322	2,312
Office supplies	17,900	11,377	8,299	19,676	-1,776
Postage	11,500	3,445	4,719	8,164	3,386
Printing	36,050	18,753	2,600	21,353	14,697
IT equip < \$5K	49,125	11,100	5,760	16,860	32,265
Other equip < \$5K	11,824	0	0	0	11,824
Office equip/furn	21,408	2,674	677	3,351	18,057
Insurance	5,900	2,198	2,147	4,345	1,555
Utilities	1,182	219	618	837	345
Rent	235,000	99,677	64,381	164,058	70,942
Repairs	14,277	2,722	4,800	7,522	6,755
IT/data process	86,276	29,086	20,969	50,055	36,221
IT/communication	44,495	12,991	12,865	25,856	18,639
IT/cont. serv's	10,950	1,575	102	1,677	9,273
Prof development	53,550	17,628	9,091	26,719	26,831
Oper. fees/serv's	34,625	11,522	19,305	30,827	3,798
Fees/prof serv's*	359,350	14,318	2,903	17,221	342,129
IT/Equip > \$5K	0	0	0	0	0
OPERATING	1,203,541	303,227	203,944	507,171	696,370
TOTAL BUDGET	5,765,174	1,953,478	1,741,365	3,694,843	2,070,331
FTE's	27.5				

* A significant amount of this total is for the HAVA Program

1/12

ATTACHMENT D

**Protection & Advocacy Project
Governor's Recommended Budget for 2015 – 2017 Biennium**

1.8.15

	2013 – 2015 Budget	2015 – 2017 Base Budget Request to the Gov. w/o OAR's		
Federal Funds	3,233,612	3,366,728		
State General Funds	2,531,562	^2,621,491		
TOTAL	5,765,174	5,988,219		
Salaries/Benefits	4,561,633	4,713,902		
Operating	1,203,541	1,274,317		
TOTAL	5,765,174	5,988,219		
+2015-2017 Optional Adjustment Requests included in the Governor's Recommended Budget	#1: Paralegal	#2: DD Qual. Assurance/Intake Advocate	#3: Salary Equity	#4: ITD Desktop Support
Federal Funds	68,037	*91,699	0	0
State General Funds	97,138	91,699	399,404	132,838
TOTAL	165,175	183,398	399,404	132,838
Salaries/Benefits	151,193	165,416	399,404	0
Operating	13,982	17,982	0	132,838
TOTAL	165,175	183,398	399,404	132,838
	1 FTE	1 FTE		

^This is the dollar amount given to us by OMB for a hold even budget (State dollars only) which includes 'costs to continue'.

+Governor's amounts for OAR's vary somewhat (more accurate calculations for benefits, etc.) from what P&A requested

*Medicaid dollars through DHS

7/13

HB 2014 1-8-15
#2

My Name Kirsten Dvorak and I am the Chair of Protection and Advocacy for Individuals with Mental Illness (PAIMI) advisory council. The PAIMI Council advises Protection and Advocacy (P&A) on policies and priorities to be carried out in protection and advocating the rights of individuals with mental illness. The council is made up of parents, attorneys, professionals and consumers of mental health.

The P&A advocates and attorneys provided representation for 171 individuals with mental illness in federal fiscal 2014. An additional three hundred and forty five (345) individuals were provided information or referrals to other state organizations, if they did not fall within the priorities of P&A.

THE PAIMI Council , with the help of P&A staff, published a form and guidance booklet for Mental Health Advance Directives. (See attachment) This is available to anyone with in the state. Just as a medical directive and individual can inform and collaborate with the treatment process, so can an individual with a mental health illness have a say in their mental health needs. PAIMI members, along with P&A staff, trained individuals who would be helping in filling out the Mental Health Advance Directives.

PAIMI members and P&A staff also attend trainings throughout the year, so that we are current on rights and how to effectively advocate for individuals with mental health needs. Council members also help P&A establish priorities, goals, and objectives.

PAIMI supports P&A with the goals and objectives to help individuals with mental health disabilities that may not be able to, or have the means to advocate for themselves.

SB 2014
1-8-15
#3

GUIDANCE FOR MENTAL HEALTH ADVANCE DIRECTIVES

North Dakota



Published by the
Protection & Advocacy Project
and its
**Advisory Council for the
Protection & Advocacy of
Individuals with Mental Illness
(PAIMI)**

May 2014

According to the National Institute of Mental Health, an estimated 26.2 percent of Americans ages 18 and older — about one in four adults — are affected by a diagnosable mental disorder in a given year. In North Dakota, this means about 137,274 adults (U.S. Census Bureau; 2010 population estimate of 523,948 – 18 years and older).

Mental illness is common – the milder conditions are very common. Professionals have made considerable progress in their understanding of mental illness and in their ability to offer effective treatments. The vast majority of affected individuals continue to function in their daily lives. For some individuals, it is a constant struggle.

The Protection & Advocacy Project (P&A) and its Advisory Council for the Protection & Advocacy of Individuals with Mental Illness (PAIMI) have researched ways to more actively involve individuals with mental illness in their treatment planning. Mental Health Advance Directives (also known as Psychiatric Advance Directives) have been one of the more promising innovations in recent years to give individuals with a severe mental illness a greater voice in their treatment. Mental Health Advance Directives are now widely recognized across the country.

A Mental Health Advance Directive is a legal and medical document. Individuals are encouraged to use this tool as a way to inform and collaborate with their treatment providers. The goal is for the individual to receive the treatment most conducive to his or her mental health needs.

Your comments and suggestions are welcomed. Please tell us about your experience(s) in using the Mental Health Advance Directive guidance manual and form. Your feedback will be used to improve the materials in the future.

PAIMI Advisory Council

Carlotta McCleary, Bismarck

Kirsten Dvorak, Bismarck

Zlatko Geib, Bismarck

Marcia Hettich, Elgin

Jada Malme, Wahpeton

Colleen Daley, Beulah

Bruce Murry, Bismarck

Barry Schneider, Bismarck

Glenda Snyder, Lincoln

Tammy Tescher, Beulah

Protection & Advocacy Project

Teresa Larsen, Executive Director

Denise Harvey, Director of Program Services

Introduction

Many decisions may need to be made for you if you have a mental health crisis or are involuntarily committed¹ and lose capacity to make treatment decisions. For example, the choice of hospital, types of treatment, and who should be notified are decisions that could be made for you. Unfortunately, at the time of crisis, you may not be able to make your wishes known and therefore you may end up with others making decisions that you would not make.

If you have a concern that you may be subject to involuntary psychiatric commitment or treatment at some time in the future, you can prepare a legal document in advance to express your choices about mental health treatment. This type of document is commonly referred to as a *mental health advance directive* or *psychiatric advance directive*. Through a mental health advance directive, you may also appoint an alternate decision-maker, or agent, to make treatment decisions for you if you become unable to express choices on your own behalf.²

Mental health advance directives differ from general health care advance directives. Health care directives can cover all health care decisions or can be limited. General health care directives usually dictate decisions only about extraordinary health care measures and end-of-life treatments that the patient has generally not actually experienced. Individuals with mental illness are generally dealing with chronic illnesses and have experience with the treatments. A purpose of a general health care directive may be to help life end in comfort. The goal of a mental health advance directive is to maximize the chances of recovery while minimizing unwanted interventions.

There are many benefits to writing a mental health advance directive. It allows you to make decisions about treatment before the time that you will actually need it. It allows you to make informed decisions when your mental health is at its best and to make your wishes clearly known. It is possible this document could shorten your hospital stay or even prevent the need for a guardian. It will improve communication between you and your doctor. It may prevent forced treatment.

This booklet provides you with information to help you develop a mental health advance directive. You will also find a list of resources if you have questions or want to learn more about mental health advance directives. You may choose to use the form included with this booklet, though it is not required. If you need another copy, you may call P&A at 328-2950/1-800-472-2670 or go to the website for the Protection & Advocacy Project at <http://www.ndpanda.org>.

Frequently Asked Questions

A. What is a mental health advance directive?

A mental health advance directive is a document that includes one or more health care instructions³ for:

- 1) an agent, who is a person you have chosen to make mental health care decisions for you;
- 2) mental health treatment and care;
- 3) a decision-maker authorized under law to make health care decisions for you if you have not legally chosen a decision-maker;

If you appoint an agent, you can choose **WHO** will make health care decisions⁴ concerning your mental health treatment in case you become unable to do so. The statement regarding mental health treatment and care describes **WHAT** you want, or don't want, to happen to you; your desires, instructions, special provisions, and limitations you want followed should you become unable to make these decisions.

B. Why should I have a mental health advance directive?

At a time of crisis, you may not be able to make your wishes known. Others may make decisions that you would not make concerning your well-being. If you have a mental health advance directive in place, your wishes will be clearer to others. If you appoint an agent, you will identify the person who you want to make decisions on your behalf if you cannot do so. Research has shown that use of a mental health advance directive can reduce the length of hospitalization.

C. Who can write a mental health advance directive?

Executing a mental health advance directive is voluntary. In order to write a mental health advance directive, you must have the capacity⁵ to do so. You need to have the ability to understand the decisions you are making, the potential consequences of each decision, and alternative choices. You must be at least eighteen (18) years of age for the document to be legally binding.

If you already have a guardian who has authority to make medical decisions for you, you cannot create a legally binding advance directive. If you have a legally binding advance directive but a court later appoints a guardian for you, the advance directive is legally binding unless a court with appropriate authority decides otherwise.

A "principal" is an adult who has prepared a mental health advance directive. You would be the principal in your own mental health advance directive.

D. If I decide to appoint an agent, who should it be?

An "agent" is an adult to whom you give the authority to make mental health treatment decisions if you become unable to do so. If you decide to appoint an agent, it is very important that you choose someone you trust to make serious decisions. It should be someone to whom you explain your feelings and beliefs about treatment choices. The person you appoint as your agent should clearly understand your wishes and be willing to follow them when making mental health decisions for you. To be effective, the agent must accept the appointment in writing.

A person may NOT act as your agent if the person is:

- your health care provider⁶; OR
- someone who is not your relative, but who is an employee of one of your health care providers; OR
- your long-term care services provider⁷; OR
- someone who is not your relative, but who is an employee of your long term care services provider.

E. When does a mental health advance directive take effect?

A mental health advance directive, including the agent's authority (if one is appointed), takes effect only if and when you lack capacity to make decisions⁸. You "lack capacity" when your attending physician decides you lack capacity⁹ and puts the conclusion in your medical records. It stops being in effect when your physician decides that you have recovered the capacity to make decisions.

After consulting with your attending physician, and other providers, the agent makes decisions¹⁰ concerning your mental health treatment:

- according to the agent's knowledge of your wishes and religious or moral beliefs as stated orally or as written in your mental health advance directive; OR
- if your wishes are unknown, your agent must figure out what you would have done, based upon your personal values. If the agent cannot determine what you would have done, the agent must do whatever the agent believes is in your best interest.

If you want to, you may authorize, through a mental health advance directive, that the agent make decisions for you even though you retain the capacity to make decisions. You may revoke your authorization in the same manner as described in the next question and answer.

If the physician cannot locate your agent, someone else may be able to make your health care decisions. This could be a person appointed by the court, a relative, or friend, according to the preferences set out by the Legislature.¹¹

F. What if I change my mind and want to revoke my existing mental health advance directive?

You can revoke the mental health advance directive by:

- telling your agent or a health care provider or long-term care services provider.¹² This can be done orally, in writing (which is recommended), or by any other method that communicates your specific intent to revoke the directive;
- OR putting in place a new version of your mental health advance directive.¹³ The most recently executed advance directive is the one that applies.

G. What if the agent I appoint decides later that he or she doesn't want to do this?

If you (the principal) are not incapacitated, the agent may withdraw by simply letting you know of their decision. If you are incapacitated, the agent may withdraw by giving notice to the principal's attending physician. The physician is to document this in your medical record. If you have chosen an alternate agent, the alternate agent should be contacted.

H. Can my agent have me committed?

If your mental health advance directive says your agent cannot, your agent cannot have you committed. If your mental health advance directive gives this authority to your agent, your agent will have limited authority to commit you without a court order. An agent cannot consent to admission to a mental health facility or state institution for a period of more than forty-five (45) days without a mental health proceeding or other court order.¹⁴

I. Will my agent have access to my medical information?

Unless you put limitations in your advance directive, an agent whose authority is in effect may, for the purpose of making health care decisions:

- request, review, and receive any information (oral or written) regarding your physical and mental health, including medical and hospital records;
- execute any releases or other documents which may be required in order to obtain your medical information; and
- consent to the disclosure of your medical information.

J. What makes a mental health advance directive “legal”?

Your mental health advance directive must:

- a. be in writing;
- b. be dated;
- c. state your name;
- d. be signed when you have the capacity to do so by you or another person you have authorized to sign on your behalf;
- e. contain verification of your signature (or the signature of the person you authorize to sign on your behalf) either by a notary public or by witnesses.¹⁵
- f. include a health care instruction or designation of an agent, or both.

A copy of an advance directive is presumed to be a true and accurate copy of the executed original, unless there is clear and convincing evidence to the contrary, and must be given the same effect as an original.

K. Who is the “attending physician¹⁶”?

The “attending physician” is the doctor who has primary responsibility for the care and treatment of your mental health condition.

L. Do providers have to follow the decisions of my agent and my advance directives for mental health care?

If your health care and/or long-term care service provider knows that you have appointed an agent, they are to follow the health care decisions made by your agent. The same applies for your written instructions for mental health care. If they refuse to comply, they are to take all reasonable steps to transfer care to another provider who is willing to honor the decisions.¹⁷ You cannot require a health care provider to take any action contrary to reasonable medical standards. The health care provider is required by law to follow through on mental health advance directives through the use of available treatment options.

M. Who should have copies of my mental health advance directive?

Your treating professionals need copies of your advance directive. Your agent and any alternate agent need a copy. You should consider giving copies to family members, friends, the hospitals or programs where you might be taken in an emergency, and other service providers. Keep a list of who has copies.

N. Discharge Planning

Discharge planning is an important issue relating to success after discharge from a hospitalization. Information concerning your wishes regarding discharge planning may be included in the Mental Health Advance Directive.

I've Written my Mental Health Advance Directive So Now What?

- Go back and check it over. Look for any errors. If you need to make changes, write your initials by the changes to indicate your consent. If there are any blanks where you do NOT agree with the statement and therefore did NOT put your initials, write in "NO".
- If you added extra pages because you didn't have enough room on the form, be sure to write on the form itself that there are additional pages.
- If you appointed an agent, you are encouraged to review the document with them and discuss any areas of particular concern.
- Make and distribute copies. Keep a list of who you have given copies to – see *Record of Advance Directive*.
- If you make changes, you should give updated copies to everyone who received an original and ask to get the prior copy back or ask that it be clearly marked "void." Keep the original document in a safe and easily accessible place.
- A provider who does not have an updated copy might follow the old advance care directive. If you travel, take a copy with you. Keep the original document in a safe and easily accessible place.

Resources on Mental Health Advance Directives

American Psychiatric Foundation

<http://ps.psychiatryonline.org/article.aspx?articleid=98421>

Bazelon Center for Mental Health Law

<https://www.bazelon.org/Where-We-Stand/Self-Determination/Advance-Directives.aspx>

Duke University Program on Psychiatric Advance Directives

<http://pad.duhs.duke.edu/index.html>

Journal of the American Academy of Psychiatry and the Law Online

<http://www.jaapl.org/cgi/content/abstract/34/1/43>

Mental Health America

<http://www.mentalhealthamerica.net/psychiatric-advance-directives-taking-charge-your-care>

National Alliance on Mental Illness

http://www.nami.org/Content/ContentGroups/Policy/Issues_Spotlights/Psychiatric_Advance_Directives_An_Overview.htm

National Disability Rights Network

<http://www.ndrn.org/en/issues/mental-health/advance-directives.html>

National Resource Center on Psychiatric Advance Directives

<http://www.nrc-pad.org>

North Dakota Century Code Chapter 23-06.5

<http://www.legis.nd.gov/cencode/t23c06-5.pdf?20131210132812>

End Notes

The end notes are references to laws passed by the North Dakota Legislature and in effect as of the date on this document. The Legislature can change these laws or pass new laws. Be sure you use the laws that are current at the time you sign any document.

¹ N.D.C.C. § 25-03.1-33 (1) "No determination that a person requires treatment, no court order authorizing hospitalization or alternative treatment, nor any form of admission to a hospital gives rise to a presumption of, constitutes a finding of, or operates as an adjudication of legal incompetence, or of the inability to give or withhold consent."

² NDCC § 23-06.5-01 "Every competent adult has the right and responsibility to make the decisions relating to the adult's own health care, including the decision to have health care provided, withheld, or withdrawn. The purpose of this chapter is to enable adults to retain control over their own health care during periods of incapacity through health directives and the designation of an individual to make health care decisions on their behalf. This chapter does not condone, authorize, or approve mercy killing, or permit an affirmative or deliberate act or omission to end life, other than to allow the natural process of dying."

³ NDCC § 23-06.5-02 (6) "'Health care instruction' means an individual's direction concerning a health care decision for the individual, including a written statement of the individual's values, preferences, guidelines, or directions regarding health care directed to health care providers, others assisting with health care, family members, an agent, or others."

⁴ NDCC 23-06.5-02 (4) "'Health care decision' means consent to, refusal to consent to, withdrawal of consent to, or request for any care, treatment, service or procedure to maintain, diagnose, or treat an individual's physical or mental condition, including: (a) Selection and discharge of health care providers and institutions; (b) Approval or disapproval of diagnostic tests, surgical procedures, programs of medication, and orders not to resuscitate; (c) Directions to provide, withhold, or withdraw artificial nutrition and hydration and all other forms of health care; and (d) Establishment of an individual's abode within or without the state and personal security safeguards for an individual, to the extent decisions on these matters relate to the health care needs of the individual."

⁵ NDCC § 23-06.5-02 (3) "'Capacity to make health care decisions' means the ability to understand and appreciate the nature and consequences of a health care decision, including the significant benefits and harms of and reasonable alternatives to any proposed health care, and the ability to communicate a health care decision."

⁶ NDCC § 23-06.5-02 (7) "'Health care provider' means an individual or facility licensed, certified, or otherwise authorized or permitted by law to administer health care, for profit or otherwise, in the ordinary course of business or professional practice."

⁷ NDCC § 23-06.5-02 (8) "'Long-term care facility' or 'long-term care services provider' means a long-term care facility as defined in NDCC § 50.10.1-01."

⁸ "Capacity to make health care decisions" has a legal definition, provided in endnote 5, above. Many people use several terms interchangeably to identify the lack of capacity, e.g., "incapacitated," "incompetent," and "of unsound mind." Their meanings overlap.

"Incapacitated person" is defined for guardianship proceedings. N.D.C.C. § 30.1-26-01 (2) "'Incapacitated person' means any adult person who is impaired by reason of mental illness, mental deficiency, physical illness or disability, or chemical dependency to the extent that the person lacks capacity to make or communicate responsible decisions concerning that person's matters of residence, education, medical treatment, legal affairs, vocation, finance, or other matters, or which incapacity endangers the person's health or safety."

⁹ If you disagree with your physician's decision that you lack capacity, you can challenge the decision in court. The court presumes that you have capacity. This presumption stands unless there is clear and convincing evidence of incapacity. See N.D.C.C. §§ 23-12-13 (5) and 30.1-28-04 (2) (c). Once you have challenged the physician's decision, you should be able to make medical decisions unless a court decides otherwise.

NDCC § 25-03.1-33 (1) "No determination that a person requires treatment, no court order authorizing hospitalization or alternative treatment, nor any form of admission to a hospital gives rise to a presumption of, constitutes a finding of, or operates as an adjudication of legal incompetence, or of the inability to give or withhold consent."

¹⁰ NDCC § 23-06.5-13 (1) "Unless a court of competent jurisdiction determines otherwise, the appointment of an agent in a health care directive executed pursuant to this chapter takes precedence over any authority to make medical decisions granted to a guardian pursuant to NDCC § 30.1-28."

¹¹ NDCC § 23-12-13 (1) State law lists classes of persons, in priority order, that may provide informed consent to health care on behalf of the patient. First priority is given to an agent, followed by a guardian, specific relatives,

and friends. If an agent has been appointed but cannot be located, the physician will proceed to someone in the next class of the priority list.

¹² NDCC § 23-06.5-07 (2) "A principal's health care or long-term care services provider who is informed of or provided with a revocation of a health care directive shall immediately record the revocation in the principal's medical record and notify the agent, if any, the attending physician, and staff responsible for the principal's care of the revocation."

¹³ NDCC § 23-06.5-07 (3) "Unless otherwise provided in the health care directive, if the spouse is the principal's agent, the divorce of the principal and spouse revokes the appointment of the divorced spouse as the principal's agent."

¹⁴ NDCC § 23-06.5-03 (6) "Nothing in this chapter permits an agent to consent to admission to a mental health facility or state institution for a period of more than forty-five days without a mental health proceeding or other court order, or to psychosurgery, abortion, or sterilization, unless the procedure is first approved by court order."

¹⁵ NDCC § 23-06.5-05 (2) "A health care directive must be signed by the principal and that signature must be verified by a notary public or at least two or more subscribing witnesses who are at least eighteen years of age. A person notarizing the document may be an employee of a health care or long-term care provider providing direct care to the principal. At least one witness to the execution of the document must not be a health care or long-term care provider providing direct care to the principal or an employee of a health care or long-term care provider providing direct care to the principal on the date of execution. The notary public or any witness may not be, at the time of execution, the agent, the principal's spouse or heir, a person related to the principal by blood, marriage, or adoption, a person entitled to any part of the estate of the principal upon the death of the principal under a will or deed in existence or by operation of law, any other person who has, at the time of execution, any claims against the estate of the principal, a person directly financially responsible for the principal's medical care, or the attending physician of the principal. If the principal is physically unable to sign, the directive may be signed by the principal's name being written by some other person in the principal's presence and at the principal's express direction."

¹⁶ NDCC § 23-06.5-02 (2) "'Attending physician' means the physician, selected by or assigned to a patient, who has primary responsibility for the treatment and care of the patient."

¹⁷ NDCC § 23-06.5-09 (1) "A principal's health care or long-term care services provider, and employees thereof, having knowledge of the

principal's health care directive, are bound to follow the health care decisions of the principal's designated agent or a health care instruction to the extent they are consistent with this chapter and the health care directive."

NDCC § 23-06.5-09 (2) "A principal's health care or long-term care services provider may decline to comply with a health care decision of a principal's designated agent or a health care instruction for reasons of conscience or other conflict. A provider that declines to comply with a health care decision or instruction shall take all reasonable steps to transfer care of the principal to another health care provider who is willing to honor the agent's health care decision, or instruction or directive, and shall provide continuing care to the principal until a transfer can be effected."

NDCC § 23-06.5-09 (3) "This chapter does not require any physician or other health care provider to take any action contrary to reasonable medical standards."

NDCC § 23-06.5-09 (4) "This chapter does not affect the responsibility of the attending physician or other health care provider to provide treatment for a patient's comfort, care, or alleviation of pain."



Administrative Office:

Protection & Advocacy Project
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Bismarck, ND 58501

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Toll free: 1-800-472-2670
TDD relay: 711
Fax: (701) 328-3934
E-mail: panda@nd.org

www.ndpanda.org

The Protection & Advocacy Project (P&A) is an independent State agency that protects and advocates for the rights of people with disabilities within established priorities.

P&A serves eligible individuals, of all ages with all types of disabilities, at no cost. P&A also advocates for individuals to receive disability-related assistive technology devices and services.

P&A works exclusively for the person with a disability. P&A's efforts focus on the expressed wishes of the client, within his or her legal rights.

P&A believes that people with disabilities should be empowered to advocate on their own behalf to the extent possible. And individual should have the greatest opportunity to shape his or her personal destiny.

Services provided by P&A shall promote client control in decision-making. P&A focuses on the empowerment of people with disabilities in order to foster independence, productivity, and integration into the community.

P&A does not discriminate in admission or access to, or employment in, its programs and activities. If accommodations are needed as a result of a disability or if you need this material in an alternative format, please contact the P&A administrative office.

This project was made possible through funding from the Center for Mental Health Services (CMHS), SAMHSA, U.S. Dept. of Health and Human Services.

SB 2014

1-8-15

4

MENTAL HEALTH ADVANCE DIRECTIVES FORM

5.14

A Mental Health Advance Directive is a legal and medical document. Individuals are encouraged to use this tool as a way to inform and collaborate with their treatment providers. The goal is for the individual to receive the treatment most conducive to his or her mental health needs. Mental Health Advance Directives have been one of the more promising innovations in recent years to give individuals with a mental illness a greater voice in their treatment. Mental Health Advance Directives are now widely recognized across the country.

If an individual has concerns about being subject to involuntary psychiatric commitment or treatment at some time in the future, the individual can prepare a legal document in advance to express his or her choices about mental health treatment. This type of document is commonly referred to as a *mental health advance directive* or *psychiatric advance directive*. Through a mental health advance directive, an individual may also appoint an alternate decision-maker or agent, to make treatment decisions for the individual if the individual becomes unable to express choices.

There are many benefits to writing a mental health advance directive. It allows an individual to make decisions about treatment before the time it is actually needed. It allows the individual to make informed decisions when the individual's mental health is at its best and to make wishes clearly known. It is possible this document can shorten a hospital stay or even prevent the need for a guardian. It will improve communication between the individual and his/her doctor. It may prevent forced treatment.

Options for Completion

There are two parts to this form. Part I is for the appointment of an Agent (decision-maker). Part II is for the documentation of one's preferences and other provisions. Part I **or** Part II **or** both parts may be completed.

For each part chosen, there are selected items that must be completed. Others are optional and are marked accordingly.

4.1

**Part I. MENTAL HEALTH ADVANCE DIRECTIVE:
Appointment of an Agent for Mental Health Care**

(legal name)

(alternative name(s) used, if any)

A. Statement of Intent to Appoint an Agent

I, _____, being of sound mind, authorize an agent to make certain decisions on my behalf regarding my mental health treatment if I am not competent to do so. I intend that those decisions should be made in accordance with my expressed wishes as written in this document. If I have not expressed a choice in the document, I authorize my agent to make the decisions that he or she believes are the decisions I would make if I were competent to do so.

I hereby designate and appoint the following person as my agent to make mental health care decisions for me as authorized in this document. This person is to be notified immediately of my admission to a psychiatric facility.

Legal name: _____

Alternative name used, if any: _____

Address: _____

Phone: Home _____ Cell _____ Other _____

I accept the designation as agent for _____

Agent's signature: _____ **Date:** _____

(OPTIONAL)

If the person above is unavailable or unable to serve as my agent, I hereby appoint and desire immediate notification of my alternate agent as follows:

Name: _____

Address: _____

Phone: Home _____ Cell _____ Other _____

I accept the designation as alternate agent for _____

Alternate agent's signature: _____ **Date:** _____

B. My Preference as to a Court-Appointed Guardian (OPTIONAL)

In the event a court decides to appoint a guardian for me, I desire this person to be appointed:

Name: _____ Relationship: _____

Address: _____

Phone: Home _____ Cell _____ Other _____

C. Advance Directive for Healthcare

I have a separate advance directive for general healthcare. If you checked the box to indicate 'yes', check one of the two boxes below:

The agent is the same as the agent I have appointed for mental health treatment.

The agent is not the same person. Following is the contact information for my general healthcare agent:

Name: _____ Phone: _____

NOTE: The appointment of an agent for mental health treatment is in addition to the appointment of an agent for general healthcare. This appointment does not repeal the appointment of an agent for general healthcare.

*** **OR** ***

I do not have a separate agent through an advance directive for general healthcare. If I later sign a general healthcare advance directive appointing an agent, that agent is in addition to the agent appointed through this document unless I specifically terminate this appointment.

D. Notary Public or Statement of Witnesses

This document **must be notarized OR it must be witnessed** by two qualified adult witnesses. If *notarized*, the person notarizing this document may be an employee of a health care or long-term care provider giving you care. If *witnesses* are used, at least one of the two witnesses to the execution of the document must not be a health care or long term care provider giving you direct care. None of the following may be used as a notary or witness: 1) a person you designate as your agent or alternate agent; 2) your spouse; 3) a person related to you by blood, marriage, or adoption; 4) a person entitled to inherit any part of your estate upon your death; or 5) a person who has, at the time of executing this document, any claim against your estate.

E. Date and Signature of Principal (person appointing the agent)

I, _____ (your signature), sign this document, naming an agent for my mental health advance directive, on _____ (date) at _____ (city), _____ (state).

Option 1 – Notary Public

STATE OF NORTH DAKOTA

COUNTY OF _____

In my presence on _____ (date), _____ (principal) acknowledged his/her signature on this document or acknowledged that he/she directed the person signing this document to sign on the principal's behalf.

(Notary Seal)

Signature of Notary Public

Notary Public, _____ County
State of North Dakota

My commission expires on _____, 20____.

Option 2 – Two Witnesses

Witness #1:

In my presence on _____ (date), _____ (principal) acknowledged his/her signature on this document or acknowledged that he/she directed the person signing this document to sign on the principal's behalf. I acknowledge that I am at least eighteen years of age. *If* I am a health care provider or an employee of a health care provider giving direct care to the principal, I must initial here: _____ I certify the above to be true and correct.

Signature of witness #1 address

Witness #2:

In my presence on _____ (date), _____ (principal) acknowledged his/her signature on this document or acknowledged that he/she directed the person signing this document to sign on the principal's behalf. I acknowledge that I am at least eighteen years of age. *If* I am a health care provider or an employee of a health care provider giving direct care to the principal, I must initial here: _____ I certify the above to be true and correct.

Signature of witness #2 address

PART II. MENTAL HEALTH ADVANCE DIRECTIVE:

Statement of My Desires, Instructions, Special Provisions, and Limitations Regarding My Mental Health Treatment and Care

(legal name)

(alternative name(s) used, if any)

A. Agent's Access to Healthcare Records

- If I have an agent, I authorize my agent to have access to:
 - all healthcare information, including drug and alcohol (addiction) records, needed to make healthcare decisions; **OR**
 - my healthcare records with the following limitations: _____

*** **OR** ***

- I do not have an agent, or do not authorize my agent, to have access to my healthcare records.

B. Authority for Commitment

Your agent will have limited authority to commit you without a court order. An agent cannot consent to admission to a mental health facility or state institution for a period of more than forty-five (45) days without a mental health proceeding or other court order. Please check the following if this could apply to you.

- If necessary, I authorize my agent to commit me to a mental health facility or state institution.

*** **OR** ***

- I DO NOT authorize my agent to commit me to a mental health facility or state institution.

NOTE: NDCC § 23-06.5-03 (6) "Nothing in this chapter permits an agent to consent to admission to a mental health facility or state institution for a period of more than forty-five days without a mental health proceeding or other court order, or to psychosurgery, abortion, or sterilization, unless the procedure is first approved by court order."

4.5

C. Treatment Facility and Alternatives

If I do not require admission to a facility, the following options may be considered for me as an alternative:

Family member's home (list name): _____

Location: _____ Phone: _____

Friend's home (list name): _____

Location: _____ Phone: _____

In the event my mental health condition is serious enough to require 24-hour care and I have no physical conditions that require immediate access to emergency medical care, I would prefer to receive this care in programs/facilities designated as alternatives to psychiatric hospitalizations. I would prefer to receive any necessary 24-hour care at the following programs/facilities:

Program/Facility: _____ Location: _____

Program/Facility: _____ Location: _____

Program/Facility: _____ Location: _____

In the event I am to be admitted to a hospital for 24-hour care, I would prefer to receive care at the following hospitals:

Hospital: _____ Location: _____

Hospital: _____ Location: _____

Hospital: _____ Location: _____

I do NOT wish to be admitted or committed to the following hospitals, programs, or facilities for psychiatric care, if an alternative is available, for the reasons I have listed:

Hospital/Program/Facility: _____

Reason: _____

Hospital/Program/Facility: _____

Reason: _____

Example: "irreconcilable differences with staff when I was there previously"

4.6

**D. Emergency Interventions
(OPTIONAL)**

If, during an admission or commitment to a mental health treatment facility, it is determined that, despite substantial attempts using verbal de-escalation or other less intrusive techniques, I am engaging in behavior that requires an emergency intervention (such as seclusion and/or physical restraint and/or medication), my wishes regarding which form of emergency intervention should be used, in order of preference, are as follows (#1 is my first choice, and so on):

MY PREFERENCES AND REASONS

- ___ seclusion _____
- ___ physical restraint _____
- ___ seclusion & physical restraint _____
- ___ medication by injection _____
- ___ medication in pill form _____
- ___ liquid medication _____
- ___ other _____

In the event that my attending physician decides to use medication for rapid tranquilization in response to an emergency situation after due consideration of my preferences for emergency treatments stated above, I require the choice of medication to reflect any preferences I have expressed in this document. The preferences I express regarding medication in emergency situations does not constitute consent to the use of the medication for non-emergency treatment.

**E. Professional/Provider Preferences if I am Hospitalized
(OPTIONAL)**

Please consult with these physicians, professionals, and/or providers:

Name: _____ Phone: _____

Address: _____

Name: _____ Phone: _____

Address: _____

Name: _____ Phone: _____

Address: _____

4.7

F. Preferences for Medications for Psychiatric Treatment

If it is determined that I lack the capacity to consent, or if I refuse medications relating to my mental health treatment, my wishes are as follows (**initial only those that you agree to; write "NO" by those you do not agree to**):

a. ___ I consent to the medications agreed to by my agent, after consultation with my treating physician and any other individuals my agent may think appropriate, with limitations, if any, described in (d) below.

b. ___ I consent to & authorize my agent to consent to administration of:

Medication Name	Not to exceed the following dosage:	OR In such dosages as determined by:
_____	_____	Dr. _____

___ (*initial if you agree*) If these medications prove ineffective, I authorize my agent to approve or disapprove medications, with the limitations in (d) below, after consultation with my treating physician and any other individuals my agent may think appropriate.

c. ___ I consent to the medications deemed appropriate by:

Dr. _____ Phone: _____

Address: _____

d. ___ I have had problems and/or risks associated with the following medications (or categories of medications) in the past and you may **NOT** treat me with them, their respective brand-name, trade-name or generic equivalents:

Medication Name	Associated problems/risks/allergies/intolerances
_____	_____
_____	_____
_____	_____
_____	_____

e. ___ I am willing to take the medications excluded in (d) above if my only reason for excluding them is their side effects and the dosage can be adjusted to eliminate or drastically reduce the likelihood of those side effects.

f. ___ I am concerned about the side effects of medications and do NOT consent or authorize my agent to consent to any medication that has (check one of the following) ___ a high likelihood of **OR** ___ any chance of the side effects I have checked below (initial all that apply).

___ Tardive Dyskinesia ___ Neuroleptic Malignant Syndrome
___ Other: _____
___ Other: _____

g. ___ I have the following other preferences regarding medications:

**G. Preferences Regarding Electroconvulsive Therapy (ECT)
(OPTIONAL)**

If it is determined that I am not legally capable of consenting to or refusing ECT (shock treatment), my wishes regarding ECT are as follows:
(Initial 1 OR 2; if you initial 2, you must also initial 2a, 2b, or 2c)

1. ___ I DO NOT consent to administration of ECT.
2. ___ I consent, and authorize my agent to consent, to the administration of ECT, but only (initial 2a or 2b or 2c):

2a. ___ with the number of treatments that the attending psychiatrist deems appropriate;

OR

2b. ___ with the number of treatments that Dr. _____ deems appropriate. Phone number and address of doctor: _____

OR

2c. ___ for no more than the following number of treatments: _____

4.9

3. My other instructions and wishes regarding the administration of ECT:

**H. Consent for Experimental Studies or Drug Trials
(OPTIONAL)**

By my initials I agree to **ONE** of the following:

1. ___ I do **NOT** wish to participate in experimental drug studies or drug trials.
2. ___ I hereby consent to my participation in experimental drug studies or drug trials.
3. ___ I authorize my agent to consent to my participation in experimental drug studies if my agent, after consultation with my treating physician and any other individuals my agent may think appropriate, determines that the potential benefits to me outweigh the possible risks of my participation and that other non-experimental interventions are not likely to provide effective treatment.

**I. Notification of Others
(OPTIONAL)**

If I am not competent, I desire staff to notify the following individuals immediately that I have been admitted to a facility, saying only that I have been admitted and where, but not providing further details. These may include my current physician, psychiatrist, psychologist, and other health care providers only if included in this list.

Name: _____ Relationship: _____

Address: _____

Phone / Home: _____ Cell: _____ Alternate #: _____

It is my desire that this person be permitted to visit me: Yes ___ No ___

4. 10

Name: _____ Relationship: _____

Address: _____

Phone / Home: _____ Cell: _____ Alternate #: _____

It is my desire that this person be permitted to visit me: Yes ___ No ___

Name: _____ Relationship: _____

Address: _____

Phone / Home: _____ Cell: _____ Alternate #: _____

It is my desire that this person be permitted to visit me: Yes ___ No ___

Name: _____ Relationship: _____

Address: _____

Phone / Home: _____ Cell: _____ Alternate #: _____

It is my desire that this person be permitted to visit me: Yes ___ No ___

Name: _____ Relationship: _____

Address: _____

Phone / Home: _____ Cell: _____ Alternate #: _____

It is my desire that this person be permitted to visit me: Yes ___ No ___

**J. People Prohibited from Visiting Me
(OPTIONAL)**

I do NOT wish the following people to visit me while I am receiving care in a hospital or other facility:

Name	Relationship
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

4.11

**K. People I would like to Visit Me
(OPTIONAL)**

I would like the following people to visit me while I am receiving care in a hospital or other facility:

Name	Relationship
_____	_____
_____	_____
_____	_____

**L. Preferences for Care & Temporary Custody of My Children
(OPTIONAL)**

In the event that I am unable to care for my child(ren), the following person is my first choice to care for and have temporary custody of my child(ren):

Name: _____ Relationship: _____
Address: _____
Phone: Home _____ Cell _____ Other _____

If the person named above is unable or unwilling to care for and have temporary custody of my child(ren), I desire the following to serve in that capacity:

My second choice:

Name: _____ Relationship: _____
Address: _____
Phone: Home _____ Cell _____ Other _____

**M. Preferences for Care of my Animals
(OPTIONAL)**

_____ has agreed to see that my pet(s), service animal, or therapeutic animal is properly cared for in case of an emergency. Please contact this person at _____ (phone #). An alternate contact person is: _____ at _____ (phone #). The veterinarian is _____.

4.12

P. Notary Public or Statement of Witnesses

This document must be notarized OR must be witnessed by two qualified adult witnesses. The person notarizing this document may be an employee of a health care or long-term care provider giving you care. If witnesses are used, at least one of the two witnesses to the execution of the document must not be a health care or long term care provider giving you direct care. None of the following may be used as a notary or witness: 1) a person you designate as your agent or alternate agent; 2) your spouse; 3) a person related to you by blood, marriage, or adoption; 4) a person entitled to inherit any part of your estate upon your death; or 5) a person who has, at the time of executing this document, any claim against your estate.

Q. Date and Signature of Principal (person completing form)

By signing here, I indicate that I understand the purpose and effect of this document. I, _____ (your signature), sign this mental health advance directive on _____ (date) at _____ (city), _____ (state).

(REQUIRED – OPTION 1 OR OPTION 2)

Option 1 – Notary Public

STATE OF NORTH DAKOTA

COUNTY OF _____

In my presence on _____ (date), _____ (principal) acknowledged his/her signature on this document or acknowledged that he/she directed the person signing this document to sign on the principal's behalf.

(Notary Seal)

Signature of Notary Public

Notary Public, _____ County
State of North Dakota

My commission expires on _____, 20____.

4.14

Option 2 – Two Witnesses

Witness #1:

In my presence on _____ (date), _____
(principal) acknowledged his/her signature on this document or acknowledged that he/she directed the person signing this document to sign on the principal's behalf. I acknowledge that I am at least eighteen years of age. *If* I am a health care provider or an employee of a health care provider giving direct care to the principal, I must initial here: _____ I certify the above to be true and correct.

Signature of witness #1

address

Witness #2:

In my presence on _____ (date), _____
(principal) acknowledged his/her signature on this document or acknowledged that he/she directed the person signing this document to sign on the principal's behalf. I acknowledge that I am at least eighteen years of age. *If* I am a health care provider or an employee of a health care provider giving direct care to the principal, I must initial here: _____ I certify the above to be true and correct.

Signature of witness #2

address



This form for Mental Health Advance Directives was published by the Protection & Advocacy Project and its Advisory Council for the Protection & Advocacy of Individuals with Mental Illness (PAIMI). Additional copies of this form, and the accompanying booklet, may be printed from P&A's website at www.ndpanda.org. If you need assistance or have questions, please feel free to contact P&A at 1-800-472-2670 (toll free) or (701) 328-3950 (Bismarck area). Use 711 for TDD relay. You can also e-mail panda@nd.gov.

4.15

RECORD OF ADVANCE DIRECTIVE - CONFIDENTIAL
***Complete & keep this page along with a copy of your
mental health advance directive.***
Give a copy to your agent if you have appointed one.

My name: _____

My address: _____

My date of birth: _____

My agent's name: _____

My agent's address: _____

My agent's phone number: _____

My mental health advance directive is dated _____.

I have given copies to:

Name: _____ Phone: _____

Insurance information:

My social security number can be obtained by contacting:

Name: _____ Phone: _____

Name: _____ Phone: _____

JB 2014
1-8-15

#5

Testimony
Senate Appropriations Committee
Senator Holmberg, Chairman
January 8, 2015

Chairman Holmberg, members of the Senate Appropriations Committee, I am Carlotta McCleary, Executive Director of the ND Federation of Families for Children's Mental Health (NDFFCMH), which is a parent run organization that focuses on the needs of children and youth with emotional, behavioral, or mental health needs and their families. As the result of an affiliation agreement between NDFFCMH and Mental Health America of North Dakota (MHAND), I am also the Executive Director for MHAND, whose mission is to promote mental health through education, advocacy, understanding, and access to quality care for all individuals.

Today we are here to speak in support of Protection and Advocacy (P&A) and their budget that is before you. P&A provides needed services for individuals with disabilities. They advocate on behalf of individuals with disabilities whose rights have been violated or who are being unlawfully denied access to services. P&A protects individuals with disabilities from abuse and neglect by receiving reports of alleged abuse, neglect, and exploitation. When there is probable cause they investigate the allegation. If it is needed they access protective services. Legal representation is also provided to individuals with disabilities. In addition they also provide individuals or groups assistance with self-advocacy, education and training, systems advocacy, and legislative advocacy.

We fully support the addition of the 2 FTE's as they are desperately needed to assist P&A with the work load. P&A has a history of being budget conscience and have even turned back FTE's when possible.

Many of the children, youth and adults that our agencies work with have needed to access the services that P&A provides. As a parent of a young man with a disability, I cannot tell you how important the role of P&A is.

Thank you for time. I would be happy to answer any questions that you may have

5.1

Carlotta McCleary, Executive Director
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cmccleary@ndffcmh.com

Carlotta McCleary, Executive Director
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5.2

1
 2014
 2-13-15

PROPOSED AMENDMENTS TO SENATE BILL NO. 2014

Page 1, replace lines 12 through 17 with:

"Protection and advocacy operations	\$5,671,584	\$916,501	\$6,588,085
Accrued leave payments	93,590	(93,590)	0
Total all funds	\$5,765,174	\$822,911	\$6,588,085
Less estimated income	3,233,612	199,241	3,432,853
Total general fund	\$2,531,562	\$623,670	\$3,155,232
Full-time equivalent positions	27.50	1.00	28.50"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2014 - Protection and Advocacy Project - Senate Action

	Base Budget	Senate Changes	Senate Version
Protection and advocacy operations	\$5,671,584	\$916,501	\$6,588,085
Accrued leave payments	93,590	(93,590)	
Total all funds	\$5,765,174	\$822,911	\$6,588,085
Less estimated income	3,233,612	199,241	3,432,853
General fund	\$2,531,562	\$623,670	\$3,155,232
FTE	27.50	1.00	28.50

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

	Adds Funding for Base Payroll Changes ¹	Adds Funding for Salary and Benefit Increases ²	Adds Funding for New Paralegal Position ³	Adds Funding for Desktop Support Services ⁴	Increases Operating Expenses ⁵	Total Senate Changes
Protection and advocacy operations	\$245,859	\$313,934	\$153,094	\$132,838	\$70,776	\$916,501
Accrued leave payments	(93,590)					(93,590)
Total all funds	\$152,269	\$313,934	\$153,094	\$132,838	\$70,776	\$822,911
Less estimated income	133,117	3,522	62,602	0	0	199,241
General fund	\$19,152	\$310,412	\$90,492	\$132,838	\$70,776	\$623,670
FTE	0.00	0.00	1.00	0.00	0.00	1.00

¹ Funding is added for cost-to-continue 2013-15 biennium salaries and benefit increases and for other base payroll changes.

² The following funding is added for 2015-17 biennium performance salary adjustments of 2 to 4 percent per year and increases in monthly health insurance premiums:

	General Fund	Other Funds	Total
Salary increase - Performance	\$186,556	\$2,162	\$188,718
Health insurance increase	123,856	1,360	125,216
Total	\$310,412	\$3,522	\$313,934

1.1

³ Funding is added from the general fund for 1 new FTE paralegal position (\$153,094) to assist legal staff with increased caseload.

⁴ Funding is added for desktop support services to be obtained from the Information Technology Department.

⁵ Funding is added for operating expenses, including an increase of \$37,833 for building rent expense.

1.2

SB 2014
03-09-15
#1

SB 2014
Budget for the Protection & Advocacy Project
House Appropriations/HRD
March 9, 2015
Testimony of Teresa Larsen
P&A Executive Director

There is a protection & advocacy agency in every state & U.S. territory. The vast majority of these are private, non-profit entities. In North Dakota the Protection & Advocacy Project (P&A) is an independent State agency with a seven-member governing board. Two of the individuals are appointed by the Governor, two by Legislative Management (one Senator & one Representative), & one each by The Arc of ND, Mental Health America of ND, & Family Voices.

I. PROGRAMS

P&A continues to receive 7 federal grants. They 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).

Funding in these grants has not increased significantly in many years. For some programs, the dollars have remained stagnant or decreased.

8 YEAR FEDERAL GRANT HISTORY								
	2007	2008	2009	2010	2011	2012	2013	2014
DD	365,940	365,940	375,316	384,693	384,693	384,693	362,881	362,881
MH	402,700	413,000	424,900	430,800	429,900	429,100	406,700	428,000
PAIR	160,311	157,505	166,262	175,984	175,632	175,632	166,132	171,598
AT	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000
PABSS	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000
TBI	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000
HAVA	70,000	70,000	70,000	70,000	70,000	70,000	70,000	70,000
TOTAL GRANTS	1,198,951	1,206,445	1,236,478	1,261,477	1,260,225	1,259,425	1,205,713	1,232,479

NOTE: Generally, the federal grants are based on the fiscal year running from October - September.

Since 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 (the State Vocational Rehabilitation Program, Centers for Independent Living, and Tribal Vocational Rehabilitation Programs).

II. SERVICES

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

Because they cannot meet the demand for services with the resources provided by federal grants, P&A's are tasked with developing annual priorities. Individuals with disabilities, families, and others are invited to provide input. Over the last two federal fiscal years, P&A provided advocacy and legal representation addressing 2,351 service requests (1,199 in fiscal year 2013 and 1,152 in 2014) that fell within its priorities. Information & referral services totaled 4,227 for fiscal years 2013 and 2014 (as compared to 3,990 for the previous two years). 5,145 individuals participated in education and training activities in these two years (as compared to 3,481 the previous two years).

For federal fiscal years 2013 & 2014, service requests were specific to the following priorities:

	<u>FY 2013</u>	<u>FY 2014</u>
• Abuse, neglect, exploitation:	57.5%	65.5%
• Education:	15%	15%
• Employment:	13.5%	6.5%
• Community inclusion:	5.5%	6%
• Healthcare:	3%	2%
• Criminal justice:	4%	3.5%
• Other, including accessibility:	1.5%	1.5%

In the previous two federal fiscal years, abuse, neglect, & exploitation accounted for 53% of the service requests. It now accounts for two-thirds of P&A's casework.

While there really is no typical case, I have provided a few examples in **Attachment A**. Also included is an example of P&A's systemic work.

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 at the Life Skills & Transition 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 administrative assistants.

III. 2013-2015 BIENNIUM FUNDING

For the current biennium, P&A has spent approximately 72.7% of its budget of \$5,765,174 as of January 31, 2015. As summarized in **Attachment B**, this includes 78.4% of the \$4,561,633 budgeted for salaries and benefits and 51.1% of the \$1,203,541 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 2013-2015 biennium are budgeted for the 2015-2017 biennium.

IV. 2015-2017 BIENNIUM BUDGET: GOVERNOR'S RECOMMENDATION

The proposed budget was built with the expectation of P&A's seven federal grants being level funded, as well as the continuation of the CAP contract. The Governor's recommended budget includes funding for the following OAR's as delineated in **Attachment D**:

A. Paralegal – additional FTE

P&A provides services that cover a broad range of disability-related topics and areas. The legal expertise needed is specialized and extensive. P&A currently has four attorneys that provide services in a variety of ways to staff, clients, and the disability community.

The Director of Legal Services serves as a Special Assistant Attorney General and advises P&A's Governing Board and PAIMI Advisory

Council. He provides legal advice to the Executive Director and other agency staff on client cases and policy issues and oversees the administrative aspects of P&A's legal operations. He is involved in research, systemic, regulatory, and policy activities in addition to representing individual clients. He supervises two Staff Attorneys and the Program Coordinator for our P&A Social Security program, which focuses on employment issues.

One of P&A's staff attorneys devotes ½ of his time to the CAP program and also has expertise on Assistive Technology issues. A third staff attorney devotes her time to the remaining P&A federal programs and has particular expertise in legal process and procedure and education law. Both attorneys provide legal support to non-attorney advocates and assist by doing legal research, consulting, and advising on strategies that promote resolution in the least adversarial and costly manner. When necessary, P&A staff attorneys provide legal representation to individuals with disabilities. They also participate in research, systemic, regulatory, and policy activities.

Our Director of Policy and Operations is an attorney. She does not provide legal representation to clients, but provides legal support to Centralized Intake staff in responding to reports and referrals. She also provides management and direction in the area of personnel, procurement processes, risk management, client data management, policy development, and IT coordination.

Given the complex nature of the disability legal landscape and the multiple roles and tasks that P&A's attorney are expected to fill, it has become increasingly difficult to meet the internal and external demands for legal time with existing resources. A paralegal can address gaps and assist with necessary tasks without extensive additional cost. He or she will be able to take on many tasks and allow P&A attorneys to be more effective and productive.

This is funded in the Governor's budget at a cost of \$165,175. Of this amount, \$68,037 is federal monies and \$97,138 is State general funds.

B. DD Quality Assurance/Intake – additional FTE

P&A has one FTE which is funded for this purpose at 50% Medicaid (through DHS) and 50% State funds (required match). This was initiated because the Center for Medicare & Medicaid Services (CMS) informed DHS that there had to be third-party screenings of serious incidents involving DD waived services. P&A agreed to fill this role but needed additional resources to do so. This position works in tandem with DHS/DDD on DD service provider monitoring, provider staff training, and DHS/DDD policy development. He also dedicates some time to P&A's centralized intake; takes the lead role in assessing death reports; reviews all Title XIX reports from Health Facilities; and coordinates with institutional child protective services. His time is spread thin and more resources have been going towards monitoring and training, particularly with the "oil country" DD service providers, who are experiencing high staff turnover; more reports of alleged abuse or neglect are being generated as a result. For the DD program alone, reports specific to abuse/neglect, serious events, and medication errors totaled 4,119 for federal fiscal years 2013 and 2014. For the two years previous, this total was 3,540. It's become increasingly difficult for P&A's intake staff to receive and process reports in a timely way. Adding another FTE would allow P&A to catch up and maintain quality services. This is funded in the Governor's budget at a cost of \$183,398. Half of this is funded with Medicaid dollars (which are included in the DHS budget) and half with State funds.

While P&A is requesting 2 new FTE's, the agency voluntarily "gave back" an FTE last Session. We had 28.5 FTE's and requested allocations and authorization for only 27.5. Instead of using a staff person to implement projects and training associated with the HAVA grant, P&A

has contracted out the majority of this work. While some agency resources are still required for HAVA, including developing and monitoring contracts, P&A's resources are more effectively used by outsourcing this type of work.

C. Salary Equity

Overall, P&A's compa-ratio is .83. P&A requested this OAR to improve pay to its employees, especially for those with impressive work performance and longevity with the agency. While the average "years of service" is 16.6, all of P&A's employees are below the midpoint of their respective pay ranges (with approximately 75% being in the first quartile). There is serious compression between experienced and newly hired Advocates. There has also been some turn-over in the last few years where employees have left to earn higher salaries in the private sector or with other State agencies. Recently, P&A offered a job to an applicant. The individual accepted but later recanted after her current employer offered her a raise to stay. P&A had to continue its search. As with most entities that serve individual clients, turn-over is a huge disruption to services.

The Governor's budget provides base salary increases that will bring P&A staff to a compa-ratio of .88. With the addition this OAR in the Governor's budget, P&A's compa-ratio would be .98. According to OMB, this is the average State compa-ratio. The cost is \$399,404 in State funds, as there are not sufficient federal dollars available.

D. ITD Desktop Support

P&A requested this OAR, which is included in the Governor's recommended budget, to implement desktop support services from ITD. Currently, P&A meets its desktop support needs by using a combination of in-house expertise (through a staff person who is multi-skilled) and non-ITD contract support. The cost includes one-time installation fees of \$48,358 and \$84,480 to cover ongoing monthly service fees for the

biennium. The total cost is \$132,838 in State funds, as there are not sufficient federal dollars available.

V. 2015-2017 BIENNIUM BUDGET AS PASSED BY THE SENATE

Attachment E delineates the changes made to SB 2014 as passed by the Senate. Funding for two of the four OAR's were removed; the FTE and funding for the Quality Assurance/Intake position and the \$399,404 for salary equity. The remaining changes are the same as those made for other State agencies specific to the salary package and retirement.

P&A supports the Governor's recommended budget for SB 2014. I'm glad to answer questions or provide additional information. Thank you for your consideration.

Teresa Larsen
tlarsen@nd.gov
328-2950

Attachment A

P&A Case Examples

CASE A: The client is a 17 year-old male with diagnoses of moderate intellectual disability, Fetal Alcohol Syndrome; ADHD, combined; oppositional defiant disorder; congenital heart condition; pacemaker; and prior surgeries. He lives in a group home and attends high school in an urban community. He is adopted. He was referred to P&A based on report of potential neglect. The report identified that his service provider and the DD system placed him in a juvenile detention center because there were no open beds available in the psychiatric unit at the local hospital. P&A conducted an investigation and concluded that the provider failed to ensure that appropriate supports were in place to address the client's behavior. In addition, the DD system utilized a detention center placement in place of therapeutic behavioral supports. P&A worked with the provider to ensure that this type of situation would not occur again, along with seeing that all staff working within the group home was provided with training on therapeutic intervention and positive behavior supports. P&A also provided resource information for the team to review. P&A recommended that the client's team convene to address the client's behavior in a positive manner including removal of the use of a basket hold technique (which in the client's plan was allowed for up to 60 minutes). The recommendations were implemented.

CASE B: The client is a 34 year old married female with children. She has a history of mental illness, including repeated hospitalizations. She has been diagnosed with bipolar disorder, mania; chronic mental illness, and an anxiety disorder (by history). She reported that during a recent hospitalization in the psychiatric ward of a local hospital, she was inappropriately and repeatedly put in seclusion. P&A investigated three specific episodes of seclusion that were implemented during the client's hospitalization. In one instance the seclusion lasted for a period of over 12 hours which is in violation of the hospital's policy. In each of the situations investigated, there were preponderances of evidence to substantiate abuse. The documentation the hospital provided did not indicate less restrictive actions were utilized or attempted; indicate the client's behaviors were creating a safety concern; or, indicate the client's behaviors were violent or self-destructive. Several recommendations were generated for the hospital's consideration relating to proper implementation of its policies on seclusion and patient-related documentation.

CASE C: The client is a 27 year old Native American female who has an Intellectual Disability, Obsessive Compulsive Disorder, Oppositional Defiant Disorder and Post Traumatic Stress Disorder. The client's mother has had

significant difficulties with drug and alcohol use, which often led to a lack of appropriate supervision or support within her family setting. The client's maternal grandmother has been quite involved in her life; however, her grandmother's health makes caregiving for others difficult. At the time of referral, the client was living in Life Skills & Transition Center. The client was admitted after living unsuccessfully with her family and in subsequent community-based placements. Upon admission to the institution, the client immediately began talking with her team about not wanting to live there; however, behaviorally the client exhibited challenges that resulted in community-based providers feeling they could not support her behavioral needs and successfully serve her. The client's grandmother, who was named in tribal court as her successor guardian after her mother was incarcerated, sought P&A services to assist with placement planning for the client. The client's grandmother also requested assistance with putting a different guardian in place due to her failing health and inability to assist the client with decision making. P&A provided assistance in working with the client's team and a corporate guardianship was established to support the client and her grandmother in moving forward with a community-based placement to include enhanced program coordination, behavioral supports, and vocational supports. As a result of these efforts, the client is now living in the community, employed doing paid work, and is also very socially engaged. The client sings at local nursing homes, retirement homes and also in her church. She is very active socially with Special Olympics doing sports and cheerleading.

CASE D: The client is a 12 year old 7th grader. He lives at home with his parents and his little brother. The client's current diagnoses are: depression, anxiety, panic attacks, and a learning disability. The client takes an anti-depressant for his mood disorders. Anesthesia used in a recent dental procedure interacted with the anti-depressant and caused memory loss. The client began having difficulty remembering friends, events, and how to navigate the school. The client's academics are historically above average. The client's mother contacted P&A due to concerns about the client's performance in school. The client has been on an IEP since the 2nd grade for his learning disability in the area of math. School personnel were having difficulty agreeing to accommodate the student's recent memory losses. This led to increased anxiety from the client as well as panic attacks. The client's attendance suffered and he was failing three classes. P&A worked with the school to revise and expand supports for the client in his IEP and address the full scope of his needs. As a result of these changes, the student's performance improved, his absences were reduced, and his mother reported that he was doing very well in school.

EXAMPLE OF SYSTEMIC WORK: A new law (chapter 154 of the 2013 session laws) was supposed to allow school personnel to administer medications to students in primary and secondary schools. But the law was widely misinterpreted as prohibiting school personnel from administering an emergency medication to a student if the emergency medication had to be injected (or administered other than by providing the student with the medication to swallow). This immediately created a dilemma for some students with disabilities and most notably for students with diabetes. A student with diabetes might have an incident of severe hypoglycemia (dangerously low blood glucose). Before the new law, school personnel could take immediate action under the State's Good Samaritan laws. This was no longer considered an option in some schools. Delayed treatment of severe hypoglycemia would increase the risk of neurological injury or death. P&A worked with several entities including the Board of Nursing, the Department of Health, the Attorney General's office, an informal group of parents, the American Diabetes Association, and the Department of Public Instruction to resolve this dilemma. Students with diabetes who have severe hypoglycemia now can rely upon school personnel to provide immediate emergency treatment.

**PROTECTION & ADVOCACY PROJECT
SB 2014
2013 – 2015 BIENNIUM SPENDING through 1/31/15
(79.92% of the biennium)**

3.9.15

	TOTAL BUDGETED	SPENT				BALANCE	
		FEDERAL	STATE	TOTAL	%	TOTAL	%
Salaries & benefits	4,561,633	1,812,773	1,762,797	3,575,570	78.4	986,063	21.6
Operating	1,203,541	378,313	237,182	615,495	51.1	588,046	48.9
TOTAL	5,765,174	2,191,086	1,999,979	4,191,065	72.7	1,574,109	27.3

All projected unspent federal funds from the 2013-2015 biennium are budgeted into the 2015-2017 biennium.

% of State dollars spent to date: 79.0% (\$1,999,979/2,531,562)

% of Federal dollars spent to date: 67.8% (\$2,191,086/3,233,612)

**PROTECTION & ADVOCACY PROJECT
SPEND DOWN OF THE 2013-2015 BIENNIUM (through 1/15)
CHANGES FOR THE 2015-2017 BIENNIUM**

3.9.15

	13-15 BIENNIUM				BALANCE
	BUDGETED	SPENT			
		Federal	State	Total	
SALARIES & BENEFITS	4,561,633	1,812,773	1,762,797	3,575,570	986,063
Travel	154,600	56,891	39,622	96,513	58,087
Supplies - IT	7,595	1,629	2,239	3,868	3,727
Prof. materials	40,250	10,350	11,034	21,384	18,866
Misc. supplies	7,634	5,188	278	5,466	2,168
Office supplies	17,900	12,117	9,156	21,273	-3,373
Postage	11,500	3,772	5,500	9,272	2,278
Printing	36,050	18,753	2,644	21,397	14,653
IT equip < \$5K	49,125	10,676	5,760	16,436	32,689
Other equip < \$5K	11,824	0	0	0	11,824
Office equip/furn	21,408	2,674	677	3,351	18,057
Insurance	5,900	2,640	2,640	5,505	395
Utilities	1,182	219	684	903	279
Rent	235,000	105,842	68,604	174,446	60,554
Repairs	14,277	2,722	5,323	8,045	6,232
IT/data process	86,276	34,344	24,681	59,025	27,251
IT/communication	44,495	15,420	14,864	30,284	14,211
IT/cont. serv's	10,950	1,575	102	1,677	9,273
Prof development	53,550	18,682	9,556	28,238	25,312
Oper. fees/serv's	34,625	11,707	25,917	37,624	-2,999
Fees/prof serv's	359,350	62,887	7,901	70,788	288,562
IT/Equip > \$5K	0	0	0	0	0
OPERATING	1,203,541	378,313	237,182	615,495	588,046
TOTAL BUDGET	5,765,174	2,191,086	1,999,979	4,191,065	1,574,109
FTE's	27.5				

ATTACHMENT D

**SB 2014: Protection & Advocacy Project
Governor's Recommended Budget for 2015 – 2017 Biennium**

3.9.15

	2013 – 2015 Budget	2015 – 2017 Base Budget Request to the Gov. w/o OAR's	2015 – 2017 Governor's Recommended Budget	
Federal Funds	3,233,612	3,366,728	3,520,034	
State General Funds	2,531,562	^2,621,491	3,848,976	
TOTAL	5,765,174	5,988,219	7,369,010	
Salaries/Benefits	4,561,633	4,713,902	5,929,891	
Operating	1,203,541	1,274,317	1,439,119	
TOTAL	5,765,174	5,988,219	7,369,010	
+2015-2017 Optional Adjustment Requests included in the Governor's Recommended Budget	#1: Paralegal	#2: DD Qual. Assurance/Intake Advocate	#3: Salary Equity	#4: ITD Desktop Support
Federal Funds	68,037	*91,699	0	0
State General Funds	97,138	91,699	399,404	132,838
TOTAL	165,175	183,398	399,404	132,838
Salaries/Benefits	151,193	165,416	399,404	0
Operating	13,982	17,982	0	132,838
TOTAL	165,175	183,398	399,404	132,838
	1 FTE	1 FTE		

^This is the dollar amount given to P&A by OMB for a hold even budget (State dollars only) which includes 'costs to continue'.

+Governor's amounts for OAR's vary somewhat (more accurate calculations for benefits, etc.) from what P&A requested

*Medicaid dollars through DHS

**360 Protection and Advocacy
SB 2014**

ATTACHMENT E

	Executive Recommendation	Senate Changes	Senate Version
Protection and Advocacy	7,369,010	(780,925)	6,588,085
Accrued Leave Payments	-	-	-
Total	7,369,010	(780,925)	6,588,085
Less special funds	3,520,034	(87,181)	3,432,853
Total general fund	3,848,976	(693,744)	3,155,232
Full-time equivalent positions	29.50	(1.00)	28.50

	Executive Recommendation			
	FTE	General Fund	Other Funds	Total Funds
Ongoing				
Quality Assurance Intake Position	1.00	85,209	85,210	170,419
Performance Increase		256,415	3,852	260,267
Market Increase		108,463		108,463
Targeted Market Increase		399,404		399,404
Retirement Increase		26,491	281	26,772
Health Increase		128,174	1,360	129,534
Total Ongoing	1.00	1,004,156	90,703	1,094,859
Total Budget Changes	1.00	1,004,156	90,703	1,094,859

	Senate Version			
	FTE	General Fund	Other Funds	Total Funds
		186,556	2,162	188,718
		-	-	-
		-	-	-
		-	-	-
		123,856	1,360	125,216
		310,412	3,522	313,934
		310,412	3,522	313,934

	Change			
	FTE	General Fund	Other Funds	Total Funds
	(1.00)	(85,209)	(85,210)	(170,419)
	-	(69,859)	(1,690)	(71,549)
	-	(108,463)	-	(108,463)
	-	(399,404)	-	(399,404)
	-	(26,491)	(281)	(26,772)
	-	(4,318)	-	(4,318)
	(1.00)	(693,744)	(87,181)	(780,925)
	(1.00)	(693,744)	(87,181)	(780,925)

SB 2014
03.09.15
#2

TESTIMONY
Senate Bill 2014 – PROTECTION AND ADVOCACY PROJECT
House Human Resources Section - Appropriations
Representative Chet Pollert, Chairman
March 9, 2015

Chairman Pollert, members of the House 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.

SB 2014
03.09.15
#3

Testimony
House Appropriations Committee-Human Resources Division
Representative Pollert, Chairman
March 9, 201

Chairman Pollert, members of the House Appropriations Committee-Human Resources Division, I am Carlotta McCleary, Executive Director of the ND Federation of Families for Children's Mental Health (NDFFCMH), which is a parent run organization that focuses on the needs of children and youth with emotional, behavioral, or mental health needs and their families. As the result of an affiliation agreement between NDFFCMH and Mental Health America of North Dakota (MHAND), I am also the Executive Director for MHAND, whose mission is to promote mental health through education, advocacy, understanding, and access to quality care for all individuals.

Today we are here to speak in support of Protection and Advocacy (P&A) and their budget that is before you. P&A provides needed services for individuals with disabilities. They advocate on behalf of individuals with disabilities whose rights have been violated or who are being unlawfully denied access to services. P&A protects individuals with disabilities from abuse and neglect by receiving reports of alleged abuse, neglect, and exploitation. When there is probable cause they investigate the allegation. If it is needed they access protective services. Legal representation is also provided to individuals with disabilities. In addition they also provide individuals or groups assistance with self-advocacy, education and training, systems advocacy, and legislative advocacy.

We fully support the addition of the 2 FTE's as they are desperately needed to assist P&A with the work load. P&A has a history of being budget conscience and have even turned back FTE's when possible.

Many of the children, youth and adults that our agencies work with have needed to access the services that P&A provides. As a parent of a young man with a disability, I cannot tell you how important the role of P&A is.

Thank you for time. I would be happy to answer any questions that you may have

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1
SB 2014
3-19-15

PROTECTION & ADVOCACY PROJECT
OAR #4 – Desktop Support

P&A requests money to implement desktop support services from the Information Technology Department. Currently, P&A meets its desktop support needs by using a combination of in-house expertise and non-ITD contract support.

The need for desktop support is unpredictable and not easily integrated with other responsibilities and priorities of in-house staff. There is no in-house redundancy currently available at P&A and desktop support needs are not easily met in the absence of the in-house staff providing this support. When the current in-house resource retires or leaves P&A, no in-house support would be available.

Non-ITD contract support is used when necessary; however, it can be challenging to find in some of the regions. A timely response is not always received from contract support, resolution on occasion has been inadequate, and more oversight is required due to a lack of familiarity with P&A's needs and systems.

P&A does not have the funds to adopt the ITD-proposed desktop support solution without additional funds and is asking for \$48,358 to cover the one time installation fees and \$84,480 to cover the ongoing monthly service fees. P&A is requesting 100% general funds to cover the cost.

	Annual	Biennium	Federal	State
IT - Data Processing				
Desktop Support Installation Fee (1X fee)		48,358		48,358
Desktop Support Service	42,240	84,480		84,480
TOTAL		132,838		132,838

PROTECTION AND ADVOCACY - DESKTOP SUPPORT

No.	Date Acquired	Computer Type	Full/Partial Install	Install Fee	Monthly Fee	Biennium Total	Location	4/3 yr Replace. Cycle	Operating System	Custodian	Office Ver.	
1	3/24/2014	Standard PC	50%	977.50	100.00	2,400.00	WILLISON	17-19	WIN 7	Office Assistant	2013	
2	3/24/2014	High-End PC	50%	1,177.50	110.00	2,640.00	WILLISON	17-19	WIN 7	Disability Advocate	2013	JAWS
3	10/2/2012	High-End PC	75%	1,766.25	110.00	2,640.00	MINOT	15-17	WIN 7	Disability Advocate	2010	DNS
4	9/18/2013	Standard PC	50%	977.50	100.00	2,400.00	BELCOURT	17-19	WIN 7	Disability Advocate	2013	
5	10/2/2012	Standard PC	75%	1,466.25	100.00	2,400.00	DEVILS LAKE	15-17	WIN 7	Disability Advocate	2010	
6	9/15/2010	Standard PC	25%	488.75	100.00	2,400.00	GRAND FORK	13-15	WIN 7	Disability Advocate	2010	
7	5/30/2013	Standard PC	75%	1,466.25	100.00	2,400.00	GRAFTON	17-19	WIN 7	Disability Advocate	2013	
8	6/1/2011	High-End PC	100%	2,355.00	110.00	2,640.00	FARGO	15-17	WIN 7	Attorney	2010	DNS
9	5/30/2013	Standard PC	75%	1,466.25	100.00	2,400.00	FARGO	15-17	WIN 7	Disability Advocate	2010	
10	5/30/2013	Standard PC	75%	1,466.25	100.00	2,400.00	FARGO	15-17	WIN 7	Disability Advocate	2010	
11	9/15/2010	Standard PC	25%	488.75	100.00	2,400.00	JAMESTOWN	13-15	WIN 7	Disability Advocate	2010	
12	9/11/2014	Standard PC	25%	488.75	100.00	2,400.00	JAMESTOWN	17-19	WIN 7	Disability Advocate	2013	
13	3/28/2014	Standard PC	50%	977.50	100.00	2,400.00	BISMARCK	17-19	WIN 7	Disability Advocate	2013	
14	11/17/2011	Laptop	100%	2,725.00	130.00	3,120.00	BISMARCK	15-17	WIN 7	Dir. Program Services	2010	
15	12/16/2011	Laptop	100%	2,725.00	130.00	3,120.00	BISMARCK	15-17	WIN 7	Dir. Legal Services	2010	DNS
16	5/16/2014	Laptop	66%	1,798.50	130.00	3,120.00	BISMARCK	17-19	WIN 7	POOL	2010	
17	6/17/2011	Laptop	100%	2,725.00	130.00	3,120.00	BISMARCK	13-15	WIN 7	Executive Director	2010	
18	9/11/2014	Laptop	33%	899.25	130.00	3,120.00	BISMARCK	17-19	WIN 7	POOL	2013	
19	11/17/2011	Laptop	100%	2,725.00	130.00	3,120.00	BISMARCK	15-17	WIN 7	Dir. Program Services	2013	
20	9/15/2010	Laptop	33%	899.25	130.00	3,120.00	BISMARCK	13-15	WIN 7	HAVA/ Intake Advocate	2010	
21	9/15/2010	Laptop	33%	899.25	130.00	3,120.00	BISMARCK	13-15	WIN 7	QA/Intake Advocate	2010	
22	9/15/2010	Standard PC	100%	1,955.00	100.00	2,400.00	BISMARCK	13-15	WIN 7	Admin. Assist.	2010	
23	11/17/2011	Standard PC	100%	1,955.00	100.00	2,400.00	BISMARCK	15-17	WIN 7	Admin. Assist.	2010	
24	9/11/2014	High-End PC	25%	588.75	110.00	2,640.00	BISMARCK	17-19	WIN 7	Attorney	2010	DNS
25	9/11/2014	Standard PC	25%	488.75	100.00	2,400.00	BISMARCK	17-19	WIN 7	Disability Advocate	2013	
26	11/17/2011	Laptop	100%	2,725.00	130.00	3,120.00	BISMARCK	13-15	WIN 7	Dir. Policy & Op	2010	PRO
27	10/2/2012	Standard PC	75%	1,466.25	100.00	2,400.00	BISMARCK	15-17	WIN 7	Fiscal Manager	2010	
28	6/3/2013	Standard PC	75%	1,466.25	100.00	2,400.00	BISMARCK	15-17	WIN 7	Program Coord.	2013	
29	11/17/2011	Standard PC	100%	1,955.00	100.00	2,400.00	BISMARCK	15-17	WIN 7	Disability Advocate	2010	
30	9/15/2010	Standard PC	25%	488.75	100.00	2,400.00	DICKINSON	13-15	WIN 7	Disability Advocate	2010	
31	New FTE	Standard PC	100%	1,955.00	100.00	2,400.00	?	17-19	WIN 7	QA/Intake Advocate		
32	New FTE	High-End PC	100%	2,355.00	110.00	2,640.00	BISMARCK	17-19	WIN 7	Paralegal		
				\$ 48,357.50	\$ 3,520.00	\$ 84,480.00						

9 Laptops - 5 Performance Desktops - 18 Standard Desktops

SB 2014
3-19-15
#2

#3
SB 2014
3-19-15

PROTECTION AND ADVOCACY STAFF TURNOVER

13-15 Biennium	10.9%	[2 Disability Advocate positions, 1 Administrative Assistant]
11-13 Biennium	28%	[1 Program Director, 3 Disability Advocate positions (1 position turned over 3 times), 1 Administrative Assistant (turned over twice)]
09-11 Biennium	10.5%	[2 Disability Advocate positions (one was a retirement), 1 Attorney]

#4
SB2014
3-19-15

PROTECTION AND ADVOCACY
Individual Casework - Caseloads

COUNTY	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Adams	2	1	4	0	2
Barnes	8	9	14	12	13
Benson	6	2	3	3	6
Billings	0	0	0	0	0
Bottineau	4	3	5	4	4
Bowman	0	1	2	1	1
Burke	4	0	3	1	2
Burleigh	295	267	297	302	243
Cass	173	201	204	158	149
Cavalier	1	3	3	1	0
Dickey	3	1	0	0	2
Divide	2	0	1	4	4
Dunn	3	4	1	0	1
Eddy	5	2	3	4	5
Emmons	1	3	6	6	4
Foster	3	4	4	6	3
Golden Valley	0	0	0	0	0
Grand Forks	174	168	160	146	178
Grant	3	1	2	1	0
Griggs	3	1	0	2	2
Hettinger	2	4	3	3	2
Kidder	3	2	2	2	1
LaMoure	1	1	0	0	1
Logan	0	0	1	2	1
McHenry	4	2	4	2	1
McIntosh	1	3	2	1	2
McKenzie	7	14	4	5	6
McLean	7	14	10	12	8
Mercer	11	8	10	6	3
Morton	123	126	102	89	69
Mountrail	19	23	16	13	16
Nelson	0	0	1	1	0
Oliver	2	2	3	1	0
Pembina	5	10	8	4	1
Pierce	3	5	5	6	4
Ramsey	23	27	29	24	23
Ransom	6	6	4	0	5
Renville	1	0	0	3	2
Richland	18	12	12	10	8
Rolette	18	19	27	30	32
Sargent	3	3	2	3	1
Sheridan	1	3	3	3	2

Sioux	5	9	11	10	8
Slope	0	0	0	0	1
Stark	35	19	35	20	19
Steele	2	2	0	0	0
Stutsman	111	108	94	90	102
Towner	2	2	0	2	2
Traill	2	5	8	7	3
Walsh	65	58	89	70	67
Ward	92	76	69	85	86
Wells	19	12	11	14	23
Williams	49	42	25	30	34
TOTAL	1330	1275	1302	1199	1152
Average Caseload per Advocate [^]	98.5	94.4	96.4	88.8	85.3
# of Legal Cases*	26	29	33	29	29
Legal Cases as a % of Total Cases	2	2.3	2.5	2.4	2.5

[^]Geographic regions/boundaries for each office location are reviewed and periodically changed to address caseload issues. In addition, caseload balancing occurs on an ongoing basis as cases are transferred from the Centralized Intake staff to regional advocates. This is monitored closely by the Directors of Program Services and adjustments in assignments are made as needed. 13.5 advocates are involved in individual case work. These advocates also engage in education and training activities, outreach, and systemic & collaborative projects.

*P&A attorneys become involved in cases when the client has a legal rights violation that is beyond the knowledge and skill of a non-attorney advocate to resolve. These cases are screened for acceptance by a team comprised of attorneys and management level staff. A case may be approved for a range of interventions, including consultation, mediation, pursuit of administrative remedies, negotiation, or litigation. The least intrusive/extensive intervention is given preference.

PROTECTION & ADVOCACY PROJECT
SB 2014
2013 – 2015 BIENNIUM SPENDING through 1/31/15
(79.16% of the biennium)

3.19.15

	TOTAL BUDGETED	SPENT				BALANCE	
		FEDERAL	STATE	TOTAL	%	TOTAL	%
Salaries & benefits	4,561,633	1,812,773	1,762,797	3,575,570	78.4	986,063	21.6
Operating	1,203,541	367,010	237,067	604,077	50.2	599,464	49.8
TOTAL	5,765,174	2,179,783	1,999,864	4,179,647	72.5	1,585,527	27.5

All projected unspent federal funds from the 2013-2015 biennium are budgeted into the 2015-2017 biennium.

% of State dollars spent to date: 79.0% (\$1,999,864/2,531,562)

% of Federal dollars spent to date: 67.4% (\$2,179,783/3,233,612)

#5-
SB 2014
3-19-15

PROTECTION & ADVOCACY PROJECT
SPEND DOWN OF THE 2013-2015 BIENNIUM (through January 2015)

3.19.15

	13-15 BIENNIUM				BALANCE	NOTES	15-17 BIEN BUDGET	
	BUDGETED	SPENT					Request	Difference
		Federal	State	Total				
SALARIES & BENEFITS	4,561,633	1,812,773	1,762,797	3,575,570	986,063		5,929,891	1,368,258
Travel	154,600	56,891	39,622	96,513	58,087	Staff, board, MH advisory council	158,300	3,700
Supplies - IT	7,595	1,629	2,239	3,868	3,727	IT equip < 750; software licenses; data processing supplies	6,832	(763)
Prof. materials	40,250	10,350	11,034	21,384	18,866	LRP; Westlaw; web-based data system; resource materials	48,150	7,900
Misc. supplies	7,634	5,188	278	5,466	2,168	Equipment < 750; outreach materials	11,700	4,066
Office supplies	17,900	3,314	9,041	12,355	5,545	Central supply; misc. office supplies	20,325	2,425
Postage	11,500	3,772	5,500	9,272	2,278	Stamps; mailing services; PO Box rental	15,000	3,500
Printing	36,050	18,753	2,644	21,397	14,653	Brochures; MH Advanced Directives; bus. cards; stationary	47,950	11,900
IT equip < \$5K	49,125	10,676	5,760	16,436	32,689	Computers; printers; multi-function copiers	38,705	(10,420)
Other equip < \$5K	11,824	0	0	0	11,824	Copy machines	0	(11,824)
Office equip/furniture	21,408	2,674	677	3,351	18,057	Desk chairs; file cabinets	25,200	3,792
Insurance	5,900	2,640	2,640	5,505	395	Risk management premiums	5,000	(900)
Utilities	1,232	219	684	903	329	Williston office electricity	1,500	268
Rentals/leases	235,000	105,842	68,604	174,446	60,554	Office leases; booth & room rental; equipment rental	281,033	46,033
Repairs	14,277	2,722	5,323	8,045	6,232	Service contracts for copiers/printers	16,474	2,197
IT/data process	86,276	34,344	24,681	59,025	27,251	Data processing service and network line charges	236,016	149,740
IT/communication	44,495	15,420	14,864	30,284	14,211	Telephone - ITD and AT&T (toll free line); Polycom	38,009	(6,486)
IT/cont. serv's	10,950	1,575	102	1,677	9,273	Service agreement for Polycom; non-ITD support	6,600	(4,350)
Prof development	53,550	18,682	9,556	28,238	25,312	Conf. reg.'s; national association dues; attorney licenses	71,289	17,739
Oper. fees/serv's	34,625	11,707	25,917	37,624	-2,999	Advertising; service awards; Presort; answering serv.	41,186	6,561
Fees/prof serv's	359,350	60,387	7,901	68,288	291,062	HAVA contracts; consultants; legal contracts	359,350	0
IT/Equip > \$5K	0	0	0	0	0		10,500	10,500
OPERATING	1,203,541	367,010	237,067	604,077	599,514		1,439,119	235,578
TOTAL	5,765,174	2,179,783	1,999,864	4,179,647	1,585,577		7,369,010	1,603,836
FTE's	27.5						29.5	2

Agency Protection and Advocacy
 Program 360 Protection and Advocacy - X
 Reporting Level 00-360-000-00-00-00-00000000

1 Object/Revenue		2 2011-13 Biennium Expenditures	3 2013-15 Biennium Appropriation	4 2013-15 First Year Expenditures	5 2015-17 Base Budget Changes	6 Compensation	7 2015-17 Recommendation
Decription	Code						
12 Accrued Leave Payments							
Salaries - Permanent	511000	0	93,590	0	0	0	0
TOTAL		0	93,590	0	0	0	0
MEANS OF FUNDING							
MI Program	H101	0	47,011	0	0	0	0
Federal Funds TOTAL		0	47,011	0	0	0	0
State General Fund	001	0	46,579	0	0	0	0
General Fund TOTAL		0	46,579	0	0	0	0
TOTAL		0	93,590	0	0	0	0
70 Protection and Advocacy Services							
Salaries - Permanent	511000	2,837,644	3,165,544	1,576,292	203,112	0	3,569,760
Health Increase	511012	0	0	0	0	129,534	129,534
Retirement Increase	511013	0	0	0	0	26,772	26,772
Salary Budget Adjustment	511900	0	0	0	108,463	0	108,463
Salaries - Other	512000	0	0	0	399,404	0	399,404
Temporary Salaries	513000	9,251	4,600	2,304	0	0	5,000
Overtime	514000	335	0	0	0	0	0
Fringe Benefits	516000	1,078,225	1,297,899	635,837	88,437	0	1,430,691
Travel	521000	96,244	154,600	63,811	3,700	0	158,300
Supplies - IT Software	531000	2,246	7,595	1,712	(763)	0	6,832
Supply/Material-Professional	532000	24,051	40,250	15,601	7,900	0	48,150
Food and Clothing	533000	83	134	134	(134)	0	0
Miscellaneous Supplies	535000	0	7,500	5,188	4,200	0	11,700
Office Supplies	536000	16,203	17,900	8,235	2,425	0	20,325
Postage	541000	9,177	11,550	4,745	3,450	0	15,000
Printing	542000	11,627	36,050	4,035	11,900	0	47,950
IT Equip Under \$5,000	551000	26,334	49,125	6,082	(10,420)	0	38,705
Other Equip Under \$5,000	552000	4,202	11,824	0	(11,824)	0	0
Office Equip & Furn Supplies	553000	7,063	21,408	2,106	3,792	0	25,200
Utilities	561000	0	1,182	591	318	0	1,500
Insurance	571000	5,544	5,900	4,346	(900)	0	5,000
Rentals/Leases-Equip & Other	581000	68	1,000	0	1,000	0	2,000
Rentals/Leases - Bldg/Land	582000	199,475	234,000	115,460	45,033	0	279,033
Repairs	591000	8,601	14,277	4,440	2,197	0	16,474
Salary Increase	599110	0	0	0	0	217,042	217,042
Benefit Increase	599160	0	0	0	0	43,225	43,225
IT - Data Processing	601000	71,741	86,276	37,622	149,740	0	236,016
IT - Communications	602000	39,568	44,495	19,632	(6,486)	0	38,009
IT Contractual Srvcs and Rprs	603000	775	10,950	227	(4,350)	0	6,600
Professional Development	611000	38,680	53,550	22,061	17,739	0	71,289
Operating Fees and Services	621000	21,017	34,625	19,144	6,561	0	41,186

SB 2014 3-19-15 #6

Agency Protection and Advocacy
 Program 360 Protection and Advocacy - X
 Reporting Level 00-360-000-00-00-00-00000000

1 Object/Revenue		2 2011-13 Biennium Expenditures	3 2013-15 Biennium Appropriation	4 2013-15 First Year Expenditures	5 2015-17 Base Budget Changes	6 Compensation	7 2015-17 Recommendation
Decription	Code						
Fees - Professional Services	623000	87,014	359,350	15,701	0	0	359,350
Medical, Dental and Optical	625000	610	0	0	0	0	0
IT Equip/Software Over \$5000	693000	0	0	0	10,500	0	10,500
TOTAL		4,595,778	5,671,584	2,565,306	1,034,994	416,573	7,369,010
MEANS OF FUNDING							
Federal Fund Budget	002	0	0	0	8,991	0	8,991
MI Program	H101	829,971	1,000,000	503,200	13,912	0	1,002,573
PAIR Program	H112	328,606	415,000	209,295	9,738	0	463,451
DD Program	H113	661,892	834,872	419,608	13,911	0	954,402
Assistive Technology	H115	88,656	95,000	44,240	9,737	1	108,686
PABSS Program	H117	169,237	175,000	52,158	9,738	0	200,742
TBI Program	H119	130,035	110,000	50,450	5,566	0	132,552
HAVA Program	H120	108,013	227,989	53,839	0	0	228,140
Client Assistance	H125	201,181	243,740	122,565	0	0	250,519
Medicaid Title 19	H127	68,922	85,000	41,107	76,219	0	164,486
PABSS - Rep Payee	H129	19,344	0	0	0	0	0
NDRN	H131	4,565	0	0	0	0	0
Federal Funds TOTAL		2,610,422	3,186,601	1,496,462	147,812	1	3,514,542
State General Fund	001	1,985,356	2,484,983	1,068,844	887,182	411,080	3,848,976
General Fund TOTAL		1,985,356	2,484,983	1,068,844	887,182	411,080	3,848,976
Special Fund Budget	003	0	0	0	0	5,492	5,492
Special Funds TOTAL		0	0	0	0	5,492	5,492
TOTAL		4,595,778	5,671,584	2,565,306	1,034,994	416,573	7,369,010
Agency TOTALS							
TOTAL EXPENDITURES		4,595,778	5,765,174	2,565,306	1,034,994	416,573	7,369,010
Federal Funds							
Federal Fund Budget	002	0	0	0	8,991	0	8,991
MI Program	H101	829,971	1,047,011	503,200	13,912	0	1,002,573
PAIR Program	H112	328,606	415,000	209,295	9,738	0	463,451
DD Program	H113	661,892	834,872	419,608	13,911	0	954,402
Assistive Technology	H115	88,656	95,000	44,240	9,737	1	108,686
PABSS Program	H117	169,237	175,000	52,158	9,738	0	200,742
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Medicaid Title 19	H127	68,922	85,000	41,107	76,219	0	164,486
PABSS - Rep Payee	H129	19,344	0	0	0	0	0
NDRN	H131	4,565	0	0	0	0	0

Agency Protection and Advocacy
 Program 360 Protection and Advocacy - X
 Reporting Level 00-360-000-00-00-00-00000000

1 Object/Revenue		2 2011-13 Biennium Expenditures	3 2013-15 Biennium Appropriation	4 2013-15 First Year Expenditures	5 2015-17 Base Budget Changes	6 Compensation	7 2015-17 Recommendation
Description	Code						
TOTAL		2,610,422	3,233,612	1,496,462	147,812	1	3,514,542
General Fund							
State General Fund	001	1,985,356	2,531,562	1,068,844	887,182	411,080	3,848,976
TOTAL		1,985,356	2,531,562	1,068,844	887,182	411,080	3,848,976
Special Funds							
Special Fund Budget	003	0	0	0	0	5,492	5,492
TOTAL		0	0	0	0	5,492	5,492
TOTAL FUNDING		4,595,778	5,765,174	2,565,306	1,034,994	416,573	7,369,010
AUTHORIZED EMPLOYEES							
FTE		28.50	27.50	27.50	0.00	0.00	27.50
Vacant		0.00	0.00	0.00	2.00	0.00	2.00
TOTAL AUTHORIZED EMPLOYEES		28.50	27.50	27.50	2.00	0.00	29.50

OFFICE LEASE INFORMATION FOR 2013-2015 WITH PROPOSED AMOUNTS FOR 2015-2017

			CURRENT		2015-2017	PROPOSED	PROPOSED
			MONTHLY	RENT FOR	PROPOSED	MONTHLY	RENT FOR
LOCATION	# SQ FT	PRICE /SQ.FT	RENT	BIENNIUM	PRICE/SQ FT	RENT	15-17 BIENNIUM
WILLISTON (YR 1)	900	\$19.50	\$1,462.50	\$17,550.00	\$20.29	\$1,521.75	\$18,261.00
WILLISTON (YR 2)	900	\$19.89	\$1,491.75	\$17,901.00	\$20.70	\$1,552.50	\$18,630.00
MINOT *	223	\$11.30	\$210.00	\$5,040.00	?	\$600.00	\$14,400.00
D LAKE *	270	\$9.00	\$202.50	\$4,860.00	?	\$500.00	\$12,000.00
BELCOURT	256	\$25.78	\$550.00	\$13,200.00	\$28.13	\$600.00	\$14,400.00
GR FORKS	540	\$11.50	\$517.50	\$12,420.00	\$12.50	\$562.50	\$13,500.00
FARGO	866	\$12.00	\$866.00	\$20,784.00	\$12.00	\$866.00	\$20,784.00
JAMESTOWN	571.25	\$0.50	\$285.00	\$6,840.00	\$0.60	\$342.75	\$8,226.00
DICKINSON	350	\$14.57	\$425.00	\$10,200.00	\$18.85	\$550.00	\$13,200.00
BISMARCK	4661	\$12.75	\$4,952.31	\$118,855.44	\$14.85	\$5,768.00	\$138,432.00
GRAFTON		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

TOTAL:

\$11,341.75

\$271,833.00

*Budgeted for office moves

5-19-15
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Compensation Package

The recommended compensation package provides funds for employee salary increases following the direction in the compensation philosophy statement from NDCC 54-44.3-01.2 enacted in 2011.

In accordance with the compensation philosophy, the appropriation recommendations are "...not provided as a statewide percentage increase..." but are rather "...based on dollar amounts determined necessary to provide competitive compensation..." The appropriation allocations are based on agency employees' relative position to the Market Policy Point of their salary range and performance. Also, in accord with the compensation philosophy, OMB gathered updated market data to ensure relevant and current market comparisons.

To address salaries of classified employees below the Market Policy Point, dollars recommended in the budget were based on a range of 1.0 to 2.0 percent increase per year for employees in the lowest quartile of the pay range and up to 1.0 percent per year for employees in the second lowest quartile of the pay range. For employees in the third and fourth quartiles, which are above the Market Policy Point, no market policy increase has been funded.

In addition to the dollars recommended in the budget to address market policy, the executive budget recommendation includes 3.0 to 5.0 percent for each year of the biennium for all employees, classified and unclassified, to be distributed based on the level of performance. Performance-based increases are recommended in a range for employees meeting to exceeding performance standards. Employees whose overall documented performance levels do not meet standards are not eligible for any salary increase.

The following chart reflects the implementation of the compensation philosophy statement in NDCC 54-44.3-01.2 as funded in the 2015-17 executive budget recommendation:

2015 & 2016	Relativity to Market Policy Position *		+ Meets Standards	+ Exceed Standards
MPP +	0%	+	3.00%	5.00%
2 nd Qtl	0-1.0%			
1 st Qtl	1-2.0%			
*All Increases Contingent upon Performance Meeting Standards				

State agencies continue to face difficulties in recruiting and retaining select occupations. A special analysis of vacancies, turnover rates, variance from market policy point, and up-to-date market information for these select occupations and small agencies was conducted. Select occupations identified in the analysis were law enforcement, education program professionals, environmental specialties,

direct care staff, medical specialties, communication specialists and correctional officers.

SB 2014 #1
4-14-15

In order to be more competitive in these hard to fill professions, a dollar amount which would allow these agencies to pay, on average, 98 percent of market, has been added to budgets as follows:

	General	Other	Total
125 AG		\$322,814	\$322,814
201 DPI	\$332,932		332,932
250 St Lib	181,121		181,121
252 Sch Deaf	285,458		285,458
253 Vis Svcs	215,939		215,939
270 CTE	209,202		209,202
301 Health	1,559,659		1,559,659
313 Vets Home	0	429,624	429,624
321 Vets Affairs	55,100		55,100
325 DHS	5,959,527	248,314	6,207,841
360 P&A	399,404		399,404
406 Labor	139,744		139,744
540 Adj Gen (Comm)	153,528		153,528
530 DOCR	2,126,442		2,126,442
701 Hist Soc	620,486		620,486
Total	\$12,238,542	\$1,000,752	\$13,239,294

Agencies will be provided with models and tools for planning distribution of salary increases but will also have appropriate flexibility to address their specific needs within the intent of the compensation philosophy. Salary increases are not to be given across the board.

The compensation package continues full health insurance for state employees and their families. The total cost for health insurance is \$1,161.59 per month per employee. This is a \$179.91 or an 18.3 percent increase over last biennium.

The Patient Protection and Affordable Care Act (PPACA) requires employers to provide health insurance to temporary employees meeting certain criteria in the number of hours worked. A \$10,000,000 pool has been included in the budget of the Office of Management and Budget to be distributed to agencies and institutions as they provide health insurance to eligible temporary employees. Of this amount, \$5,000,000 is from the general fund and \$5,000,000 is other fund authority.

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**PROTECTION & ADVOCACY PROJECT
OAR #3 – SALARY EQUITY**

This OAR is for the purpose of development and implementation of a compensation policy that would pay employees based on their years of valuable work experience in combination with valued work performance. Of P&A's 27 classified employees, 8 have worked over 25 years for the State of ND. Another 4 have between 20 and 25 years work experience with the State of ND. However, as of August 2014, P&A staff salaries compare as follows with the overall wages for employees of the State of ND:

Quartile	% of Employees	
	State of ND	P&A
4	10%	0%
3	23%	0%
2	31%	22%
1	36%	78%
Compa-Ratio	.94	.83
Years of Service	13.0	16.5

Upon request, HRMS provided information showing that an additional **\$554,000** for the 2015-2017 biennium would be needed to bring P&A employees to the same compa-ratio level as other State employees (.94). This dollar amount includes the applicable increases to benefits. P&A is requesting this amount of State dollars for funding the equity increases.

Because P&A's federal grants have not seen increases in many years, funding compensation equity would be difficult, if not impossible, without State funds. For this reason, P&A is requesting the OAR be funded with State dollars.

A plan and implementation model would be developed in collaboration with HRMS, and approved by the Committee on P&A (the agency's governing board), to ensure objectivity and equity in distribution of any funds made available for this intended purpose.

(.)

PROTECTION & ADVOCACY

YEAR	2011-2012	2013-2014	% change
Service Requests Cases+	2,577	2,351	-8.7%
Service Requests Non-Case *	3,990	4,227	+6%
Education & Training^	3,481	5,145	+47.8%

+ Cases - includes extensive self-advocacy assistance; non-legal representation, mediation, and negotiation; legal representation for mediation, administrative remedies, and litigation; and abuse, neglect, & exploitation investigations and protective services. Case numbers have been reduced by increased efforts in the provision of non-case services, referrals, and education and training. However cases processed by advocates and attorneys have become increasingly complex and challenging and often take more extensive time and resources than in the past.

* Information & Referral - includes technical assistance to providers regarding abuse & neglect and rights issues, self-advocacy assistance and legal rights information to people with disabilities and families, DD serious events screenings, DD medication error screenings, review of DD providers' agency action and corrective actions in response to incidents, referral to other sources of information and assistance.

^Education and Training - includes training to providers and staff regarding identification of abuse, neglect, and exploitation a/n/e, reporting, investigations, and prevention of incidents; training to people with disabilities and families on disability-related legal rights and self-advocacy; and outreach, particularly to rural areas and under-served populations.