

2019 SENATE APPROPRIATIONS

SB 2014

2019 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Harvest Room, State Capitol

SB 2014
1/14/2019
JOB 30707

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk: Alice Delzer

Explanation or reason for introduction of bill/resolution:

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

1. Testimony of Teresa Larson for Protection & Advocacy
2. Testimony of Bruce Murry, NDACP
3. Testimony of Carlotta McCleary, MDFFCMH, MHAND, MHAN, P & A Mental Illness Council, (PAIMI)

Chairman Holmberg: called the Committee to order on SB 2014. Roll call was taken. All committee members were present. Levi Kinnischtzke, Legislative Council, Danielle Foster, Legislative Council and Larry Martin, OMB were also present.

Teresa Larson, Director of Protection and Advocacy Agency: testified in favor of SB 2014 and provided Attachment # 1, which states the purpose of the agency and a Program Overview, Services of the agency, Biennium Funding, 2019-21 Biennium, and Attachment # A. which highlights case examples: A- Education; B- Community Integration; C- Protective Services; D- Protective Services. **(9.24)** on page 3 of testimony is a list of service requests/reports per FY 2017 and FY 2018. I will leave the Attachment A for your purview. if people would have questions about the types of cases we do, please feel free to ask. She continued with her testimony on page 3. **(11.54)** As a reminder, in 2013 P & A voluntarily turned back one position having had 28.5 FTE's at that point. The work provided by that position was primarily for the Help America Vote Act and we continue to use a part-time temporary employee, and that works really well for that typical type of work. **(12.24)**

Chairman Holmberg: That was the year we had all kinds of money. No offense.

Ms. Larson: (12.59) she continued with 2017-2019 Biennium Funding on page 4 of testimony. on page page 5 – 2019-2021 Biennium. As proposed for the next biennium over and above the base budget P & A is requesting one additional FTE for the Olmstead Commission and related work and funds for projected retirement payouts and some additional funds for operating. The Governor's Olmstead Commission consists of Leslie Oliver, from the Governor's office, Pam Sagnet from Dept. of Human Services, Senator Judy Lee and myself. The commission is no longer with the Department of Human Services and

that is at their request. They did not have any funding to support that position and they asked that it be taken out of the department. It will be chaired by a representative from the governor's office and a member of the public chosen by the governor. There are no funds for this commission so it is requested that it be staffed by employees of P & A. They would also have proactive roles with information and training. P & S has a centralized intake line and would receive and respond to calls as well as provide training state wide to help entities to be in compliance. And that would be with the addition of the FTE. **(16.42)** On page 6 is a chart showing the comparison for the base level budget and the Governor's recommended budget. P & A is requesting money for a Polycom system. Both the retirement and Polycom system are one-time funding items. P & A is respectfully requesting the Senate appropriations to approve the budget as recommended by the Governor with the exception of changes made for all State agencies for salaries and benefits.

Senator Grabinger: (19.37) We have money that was put into the budget in the last biennium into the Supreme Court for the guardianship services. Now the payee services in the new grant that you're getting it sounds like that kind of aligns with the same objective in that money in the Supreme Court. Is that correct? Is there any discussion with you guys handling that from now on rather than through the Supreme Court?

Ms. Larson: We have not talked to them about that. There will be overlap because some guardians are also representative payees for their wards. It's an interesting grant because generally, Social Security Administration (SSA) tumbles through its computer and says, here's one for ND and so they are kind of random in terms of assignment to us. If we are made aware of concerns regarding a representative payee and how they are fulfilling their obligations and we can ask the SSA if we may do a review with that payee. They have to approve it ahead of time. We certainly will talk with them to make sure that we are able to work together on these things if at all possible. the SSA is pretty tight-lipped about everything. We all had to go through double secret investigations to make sure we're cleared to be able to receive this information that includes a lot of personally identifiable information.

Senator Oehlke: (21.21) The Polycom system, that's so you can sit around the table and everybody can talk at the same time type of deal, I noticed is the \$8000 is that because you are having one in every location around the state?

Ms. Larson: We already have something in place. I am going to let Korinne Hofmann from our office address the \$8000.00 if that's ok.

Senator Oehlke: It is not a huge issue but I know if you go online right now you can find those Polycoms for like \$200.00 to \$400.00 so use your best judgment and spend the state dollars wisely. If you don't use the whole \$8000.00 I suspect it gets turned back or used in a better fashion.

Ms. Larson: (22.22) We have a system now, so we have 10 offices and individuals out in the regional offices have one on their computer. So when we have a state-wide meeting we have a Polycom system in Bismarck where there is 15 of us that sit around the table, and then we have the Brady Bunch screen so all the outreach offices have individuals connected as well. We do statewide meetings in trainings, at least once a month and we also use it for

other purposes as well, and then connect with the Higher Ed Integrated Voice Network (IVN) system to do meetings with people with disabilities and families and other advocates around the state. The current system in our Bismarck office is quite old, 10 years old. I think by IT standards that's pretty old and so it is in need of replacement. If we don't need that much money, we won't spend that much money.

Chairman Holmberg: Because it is one-time funding and Larry Martin, OMB is absolutely correct, if you only spend \$3,000.00 then the rest would come back to the state. It would not be used for anything else. That was confirmed.

Senator Gary Lee: (23.53) The additional FTE for the Olmstead Commission, is that a new position? Or is there other people who work on the Commission have salary dollars within the P & A budget as well?

Ms. Larson: This is a new FTE. As we've added grants over the years, the scope of service that they have to address has become bigger and bigger and bigger. So we do not have staff resources to be able to staff the Olmstead Commission and be the contact for that without additional staff. This is a recommendation from the governor's office, Senator Judy Lee, Pam Sagness and myself, I think that's one of the reasons that the Department of Human services said they didn't want it anymore because they had no appropriation, no money and no staff for this work.

Senator Gary Lee: Is this the first time the Olmstead Commission's had a paid FTE working on its behalf?

Ms. Larson: (25.09) That would be correct. When the Olmstead Commission started up many years ago there were grants funds available mostly from federal that flowed through the Olmstead Commission and most of those were just given out in grants to providers, long-term care, etc. and so there has never really been any appropriations specifically for the Olmstead Commission.

Senator Sorvaag: That FTE, is that a full time job?

Ms. Larson: Yes that would be their scope of work. it would also be to staff the Commission because there is no staff for the Commission but also P & A would be the point of contact so if people had questions or concerns or wanted information or training on Olmstead decision, and really the American Disabilities Act, that would be their assignment statewide to go out and do, not just reactive work and put on their desk but proactive work. There was a decision a couple of years ago in South Dakota the Department of Justice was in there and looked at issues concerning long-term care. They had been in ND investigating this is one of the things that the Commission would address and be sure the state of ND is in good standing in regards to compliance.

(27.40) Bruce Murry, Executive Director of the ND Association of Community Providers (NDACP) testified in favor of SB 2014 and provided Attachment # 2 which states that P & A is an important oversight organization to the developmental disability (DD) System.

(30.01)Carlotta McCleary, Executive Director of the ND Federation of Families for Children's Mental Health (NDFFCMH), Executive Director of Mental Health America of ND (MHAD); Spokesperson for Mental Health Advocacy Network, (MHAN) and Chair of P & A Mental Illness Council (PAIMI Council) testified in favor of SB 2014 and provided Attachment # 3 which states that these organizations listed in her testimony supports P & A and their budget.

Chairman Holmberg: (33.40) For the new committee members, of course, before the whole issue of Olmstead was within the Department of Human services, which there are many things in that budget that kind of get lost so at least we get a little of education today as far as this change is concerned. We do have a subcommittee: Senator Sorvaag, Chair; Senator Krebsbach and Senator Grabinger. the hearing was closed on SB 2014.

2019 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Harvest Room, State Capitol

SB 2014
1/22/2019
Job # 31232

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk: Rose Laning / Marne Johnson
--

Explanation or reason for introduction of bill/resolution:

A bill to provide an appropriation for defraying the expenses of the committee on protection and advocacy; and to provide a report to the legislative assembly.

Minutes:

No Attachments

Legislative Council: Alex Cronquist
OMB: Larry Martin

The Senate Appropriations Committee met to discuss the agency bills and others that have been presented thus far and wanted to get input from the whole committee on what should be the focus of each sub-committee.

Chairman Holmberg said that we're not going thru salaries at this time.

SB 2001 – Governor (sub-committee: Hogue, Lee, Mathern)

- The 10% movement of moving money between line items. Have a standard response for them.
- Discuss the governor's salary - this reduces salary just short of \$200,000 & what happens to the rest of it. They took their 5% cut. (Language needs to be revisited)
- Council said by putting it in a line item, then it couldn't get spent in other areas.
- Transfer language - limited it to 10% before going to emergency commission

SB 2002 – Secretary of State (sub-committee: Hogue, Oehlke, Grabinger)

- Voting equipment – replacing voting machines (matching requirement by state)
- Emergency clause should be there.
- 10% line item transfers

SB 2003 – Attorney General (sub-committee: Sorvaag, Bekkedahl, Mathern)

- Litigation authority
- Amount of money for Litigation
- Joining in with other states suing the federal government

- New line in OMB to tap into litigation pool
- Human trafficking grants added to AG bill

SB 2004 – State Auditor (sub-committee: Oehlke, Dever, Mathern)

- Looking at number of FTE requests
- FTEs between University system and Auditor's office
- ITD FTEs.

SB 2005 – State Treasurer (sub-committee: Bekkedahl, Dever, Robinson)

- Investments of the Veterans Post War Trust Fund (low interest)
- Treasurer's salary

SB 2006 – Tax Commissioner (sub-committee: Wanzek, Bekkedahl, Mathern)

- Discovery of compliance of businesses with no physical sales tax.
- Concern about staffing – many retirees and loss of senior staff.
- Authority for line item transfers between the Homestead Tax Credit and Disabled Veteran's Credit programs.
- Litigation funds – or funds in litigation pool.

SB 2007 – Labor & Human Rights (sub-committee: Poolman, Sorvaag, Robinson)

- Salary of Commissioner as she will be in charge of Dept of Labor and Human Rights as well as the Dept. of Commerce.

SB 2008 – Public Service Commissioner (sub-committee: Lee, Wanzek, Grabinger)

- Wanting additional staff for indemnity issues
- Additional staff
- \$100,000 increase in budget

JOB # 31232 -

SB 2009 – Agriculture Commissioner (sub-committee: Wanzek, Erbele, Grabinger)

- Want to move APUC and Trade Office to his office.
- 2 less FTEs
- Ag bio-science program – an appropriation bill. Should it be added to the budget or let it a stand-alone bill.

SB 2010 – Insurance Commissioner (sub-committee: Oehlke, Erbele, Grabinger)

- Moving the Fire & Tornado fund over to the ND Insurance Reserve Fund
- Boiler inspection program
- Fire Departments & Sheriff's tax on insurance

SB 2011 – Securities Commission (sub-committee: Krebsbach)

- Money for a FINTECH position
- Section 3 appropriation of any income from federal funds (14:17)

Larry Martin: Like the transfer language, we added a lot of the language to spend additional federal or other funds to the cabinet agencies. Again, some of them receive money from outside sources, so we wanted them to have the ability to pay out. Job Service has similar language currently because they do get additional federal money so they have to be able to spend it out. We added that language to all the cabinet bills.

SB 2012 – Human Services (sub-committee: Dever, Erbele, Mathern)

- Provider rates. Governor 1-1. They want 3-3-3.
- Medicaid – reauthorization of the expansion. Do we reimburse?
- Behavioral Health
- State Hospital – support the move from New England for the women? Justification for the state hospital – a study?
- Policy and how its structured – for whole department. \$182M
- Nursing Homes
- Study the 36 Critical Access Hospitals - Commercial rates vs. traditional rates
- Study resolution of medical care in the future for the state
- 1915(i) needs support.
- Commercial vs. traditional rates

SB 2013 – Public Instruction; Library, Blind & Deaf (sub-committee: Holmberg, Poolman, Robinson)

- Will have some meetings but need to wait for Education Committee to complete policy. Governor's school information is confusing.
- 1 FTE reinstated.
- Adult education.
- FTEs at school at Devils' Lake
- Governor moved pre-school money from Commerce to DPI (where is the money?)
- Transportation grants

SB 2014 – Protection & Advocacy (sub-committee: Sorvaag, Krebsbach, Grabinger)

- Adding of one employee
- Additional operating expenses
- Transferring guardianship programs to P & A.

SB 2015 – Office of Management & Budget (sub-committee: Holmberg, Bekkedahl, Robinson)

- Transferring money – \$1B of oil revenue to general funds.
If we put \$1B in and oil prices go down and we have less money in the general fund, we might have a risk with allotments.
Do we want to expose ourselves more in the general fund by putting \$1B in the general fund from direct oil revenue?
- Fees or dues for several organizations. Last session we reduced dues by 10%.
- WICHE (Western Interstate Commission for Higher Ed) dues were in OMB and Commission was placed under Higher Ed. Did the \$15,000 get transferred?

SB 2016 – Office of Adjutant General (sub-committee: Hogue, Holmberg, Grabinger)

- Land Acquisition - Proposed 6,000 acres of land in south Camp Grafton. Want to ask the adjutant, you have \$15M set aside to acquire 6000 continuous acres and will not exercise the power of eminent domain. How much will they pay an acre?
How did they come up with \$15M?
- \$15M set aside to gain land - long term leases. Be wary of setting precedent for cost/acre.
- Locals are not on board?

SB 2017 – Game & Fish (sub-committee: Oehlke, Wanzek, Grabinger)

- Section 5 on green sheet – additional amounts appropriated to Game & Fish Dept. There is appropriated additional income from the feds from other funds to that agency. Would the federal funds go to their agency first?
- If they're receiving monies from federal, they can spend them out.
- Section 6 - Require them to hang onto \$15M unless we have a budget section meeting and have an exception for some emergency. They have to invest it and its not making money where its being invested. They'd like it to be invested by the state investment board.
- Sportsman's clubs – raise the fishing licenses; boat tax/gas tax.

2019 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Harvest Room, State Capitol

SB 2014
2/4/2019
Job # 32083

☒ Subcommittee
☐ Conference Committee

Committee Clerk Signature Rose Laning

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:

Testimony Attached # 1.

Legislative Council: Levi Kinnischtzke & Dannielle Foster
OMB: Larry Martin

Chairman Sorvaag: Called the sub-committee to order on SB 2014. Senator Krebsbach and Senator Grabinger.

Danielle Foster, LC: Handed out Base Level Funding Changes for Protection and Advocacy Testimony Attached # 1.

Senator Sorvaag: We have the long sheet. There aren't many changes except you added a request for an employee for the Olmstead Commission. Can you elaborate on that?

Teresa Larsen, Executive Director, North Dakota Protection & Advocacy: there has not been a position with the Olmstead Commission. When we implemented things in ND, there were grant monies that the DHS wrote for and received. They got partial FTEs and grants, most of those went out to community providers. There has been no Olmstead committed person and would like to be out of Human Services altogether. The governor put out an executive order and named members and implementation. A subcommittee of Senator Judy Lee, Pam Sagness (DHS), Leslie Oliver (Gov. office), and myself talked about Olmstead Commission. P&A would actually have staff to support the commission for concerns and proactive training and providers. The Olmstead has had real active involvement for a long time. The goal is to make it even more active in terms of doing its job. There is a required plan that the state needs for the Olmstead activities.

Senator Sorvaag: What is the potential clientele? Who is this extra person working with?

Teresa Larsen: Besides staffing, there are entities required to be accessible and providing the least restrictive environment for people with disabilities and be served within a community. There was an investigation in SD with people who didn't need to be in nursing homes. The clientele is people with disabilities, and also the people serving them.

Senator Sorvaag: This is an extension of what you're doing already? (That was confirmed.) Of the \$74,000 of other funds, is that Federal?

Teresa Larsen: Correct, we tried to pull out some federal money and put it in OAR. We do some of this work, but not to the extent we're talking about.

Senator Sorvaag: \$164,000 in Federal funds is what you're looking for? (Correct.)

(5:56) Senator Grabinger: We talked about P&A taking over the guardianship programs. This would put us in a one-stop-shop. We shouldn't jump into this too quickly and maybe this could be a possible study for the interim. I will try to do something like that. When we're running three different programs, out of three different departments I think we lose a little.

Teresa Larsen: That would be very helpful to have a study. I haven't talked to the other parties, so we'd have to talk to them and governing board.

Senator Grabinger: From the Judiciary standpoint, it was pulled out by House last time and put back in the Senate. That probably isn't that much to tackle. The DD guardianship would be significant.

Senator Sorvaag: If you want to have an amendment drafted for a study, we can look at it. I hope to only meet one more time.

Senator Grabinger: We could notify Legislative Council and could have it drafted and we could approve it right now. If you want to make a decision.

Senator Krebsbach: There are so many different areas that handle the guardianship. We have to be sure we're not under taking something that is greater than what you can handle in your agency. Also that it is compatible by those who are using the service.

Senator Sorvaag: We were waiting for final salary numbers before we started meeting on these. You just have 2 lines for one-time funding, one for the machine, and the retirement payouts. All the other funds are federal funds?

Teresa Larsen: Almost all are grants, except 2 items. We have a contract with DHS to administer the client assistance program for vocational rehabilitation. That is still federal money. We also draw down some money from DHS Medicaid, which we have to match 100% with state general funds.

Senator Sorvaag: These federal grants are pretty well on-going. Over half your budget is federal.

Teresa Larsen: All are dedicated to Protection and Advocacy in all states. We don't even have to do applications usually.

Senator Sorvaag: We understand why you're adding an employee. We've have gotten by without an FTE doing it in the past.

Teresa Larsen: In SD, there were significant findings with the federal investigation. We have an investigation going on in ND for long term care brought by the Department of Justice. I'm not clear who brought that complaint, but we need to make sure ND is compliant.

Senator Krebsbach: The 1 FTE is the one included in the governor's budget? (Correct.)

Senator Sorvaag: I would like to meet one more time. Levi Kinnischtzke, draft the amendment. I want to see the numbers with the changes. Let's have a short meeting this week sometime.

Levi Kinnischtzke: You're asking for the amendment including the governor's numbers and a section involving the study.

Senator Sorvaag: Yes, with executive as it is and also Senator Grabinger's amendment (an interim study for P&A to take over guardianship programs).

Teresa Larsen: If you need anything let me know.

Senator Sorvaag: Adjourned the subcommittee on SB 2014.

2019 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Harvest Room, State Capitol

SB 2014
2/6/2019
Job # 32289

☒ Subcommittee
☐ Conference Committee

Committee Clerk Signature Rose Laning
--

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:

Testimony Attached # 1.

Legislative Council: Levi Kinnischtzke & Danielle Foster
OMB: Stephanie Gullickson

Danielle Foster handed out Base Level Funding Changes – Attached # 1

Senator Sorvaag called the sub-committee to order on SB 2014. **Senator Krebsbach** and **Senator Grabinger** were also present.

Senator Sorvaag: The first thing we talked about an amendment for a study. I know they drafted it and put it in here. It was something Senator Grabinger wanted. I've talked to some people and they said it should've gone thru another process. At this time, I am not going to support that.

Senator Grabinger: I certainly think it's worthy of the study and worthy of investigation. I just think we're reaching these people who need the services and where to go to get the services becomes somewhat combobulated. I think a one stop shop on guardianship that this is the place to put it because they're advocating for the very people who, in most cases, need guardianship services. Who better to oversee the guidelines for guardianship program and administer the funding for it, etc.

Senator Sorvaag: Some feel it's a conflict. Its outside my realm. I would rather have seen it done through the policy committees rather than attach it to a budget at this time too so that's where I'm having resistance to allowing it.

Senator Krebsbach: The idea of a conflict is bothering me more than anything. There are individuals who seek guardianships and they have no connection whatsoever to P&A. Before we waste time studying it, we need to make sure it goes through the proper places first. In addition to that, I think we'd be facing a pretty sizeable fiscal note on it.

Senator Sorvaag: Are there any other questions the committee has on the budget? Basically, we take the executive recommendation except for the pay and the medical. That's all you'd need for a motion, correct?

Levi Kinnischtzke: That will be sufficient. Essentially the budget will be moved as everything that's included in the executive budget except for the compensation package and excluding the study that we discussed.

Senator Sorvaag: the additional FTE is staying in there? (Answer – correct)

Senator Krebsbach: I move that we approve the budget to include executive budget changes excluding the salaries and institute the salary package that we talked about and the medical insurance.

Senator Grabinger seconded the motion.

Senator Sorvaag: Yes

Senator Krebsbach: Yes

Senator Grabinger: Yes

Hearing adjourned.

2019 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Harvest Room, State Capitol

SB 2014
2/7/2019
JOB # 32338

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Alice Delzer
--

Explanation or reason for introduction of bill/resolution:

A Bill for Protection and Advocacy: Do Pass as Amended.

Minutes:

1. Proposed Amendment # 19.0227.01002

Chairman Holmberg called the Committee to order on SB 2014. All committee members were present except Senator Gary Lee. Adam Mathiak, Legislative Council and Becky Deichert, OMB were also present.

Senator Sorvaag: Moved Amendment # 19. 0227.01002. 2nd by Senator Grabinger. He explained the amendment. **(The recorder was started at this time.)**

Chairman Holmberg: called for a voice vote on the Amendment. It carried.

Senator Mathern: had questions regarding the staff member being in the governor's budget. He was told that issue had never came up in the subcommittee.

Becky Deichert, OMB: I am assuming that person is not in the governor's office.

Senator Sorvaag: Moved a Do Pass as Amended on SB 2014. 2nd by Senator Grabinger.

Chairman Holmberg: Call the roll on a Do Pass as Amended. A Roll Call vote was taken. Yea: 13; Nay: 0; Absent: 1. Senator Grabinger will carry the bill. The hearing on SB 2014 was closed.

SK
182

PROPOSED AMENDMENTS TO SENATE BILL NO. 2014

Page 1, line 2, after "advocacy" insert "; and to provide a report to the legislative assembly"

Page 1, replace lines 10 through 16 with:

	Base Level	Adjustments or Enhancements	Appropriation
Protection and advocacy operations	\$6,447,600	\$863,866	\$7,311,466
Total all funds	\$6,447,600	\$863,866	\$7,311,466
Less estimated income	3,488,601	504,729	3,993,330
Total general fund	\$2,958,999	\$359,137	\$3,318,136
Full-time equivalent positions	27.50	1.00	28.50

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-SEVENTH LEGISLATIVE ASSEMBLY. The following amounts reflect one-time funding items approved by the sixty-fifth legislative assembly for the 2017-19 biennium and the one-time funding items included in the appropriation in section 1 of this Act:

One-Time Funding Description	2017-19	2019-21
Polycom machine	\$0	\$8,000
Accrued leave payments	0	132,550
Total all funds	\$0	\$140,550
Total other funds	0	68,000
Total general funds	\$0	\$72,550

The 2019-21 biennium one-time funding amounts are not part of the entity's base budget for the 2021-23 biennium. The protection and advocacy project shall report to the appropriations committees of the sixty-seventh legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2019, and ending June 30, 2021."

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	\$6,447,600	\$863,866	\$7,311,466
Total all funds	\$6,447,600	\$863,866	\$7,311,466
Less estimated income	3,488,601	504,729	3,993,330
General fund	\$2,958,999	\$359,137	\$3,318,136
FTE	27.50	1.00	28.50

2962

Department 360 - Protection and Advocacy Project - Detail of Senate Changes

	Adjusts Funding for Base Payroll Changes ¹	Adds Funding for Salary and Benefit Increases ²	Adds 1 FTE Olmstead Commission Position ³	Adds Funding for Operating Expenses ⁴	Adds One- Time Funding ⁵	Total Senate Changes
Protection and advocacy operations	(\$80,945)	\$288,980	\$238,929	\$276,352	\$140,550	\$863,866
Total all funds	(\$80,945)	\$288,980	\$238,929	\$276,352	\$140,550	\$863,866
Less estimated income	124,158	158,707	74,615	79,249	68,000	504,729
General fund	(\$205,103)	\$130,273	\$164,314	\$197,103	\$72,550	\$359,137
FTE	0.00	0.00	1.00	0.00	0.00	1.00

¹ Funding is adjusted for base payroll changes.

² The following funding is added for 2019-21 biennium salary adjustments of 2 percent on July 1, 2019, and 3 percent on July 1, 2020, and increases in health insurance premiums from \$1,241 to \$1,427 per month:

	<u>General Fund</u>	<u>Other Funds</u>	<u>Total</u>
Salary increase	\$71,909	\$87,671	\$159,580
Health insurance increase	58,364	71,036	129,400
Total	\$130,273	\$158,707	\$288,980

³ Funding of \$238,929, of which \$164,314 is from the general fund, is added for 1 FTE Olmstead Commission related position.

⁴ Funding of \$276,352, of which \$197,103 is from the general fund, is added for operating expenses, primarily related to professional service fees, repairs, and travel expenses.

⁵ One-time funding is added as follows:

	<u>General Fund</u>	<u>Other Funds</u>	<u>Total</u>
Polycom machine	\$8,000	\$0	\$8,000
Accrued leave payments	64,550	68,000	132,550
Total	\$72,550	\$68,000	\$140,550

Date: 2-6-2019
Roll Call Vote #: 1

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2014

Senate Appropriations Committee

☐ Subcommittee

Amendment LC# or Description: accepting the governors recommendation excluding the salaries

Recommendation: ☐ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☒ Accept & Recommend to Full Committee.

Motion Made By Krebsbach Seconded By Grabinger

Senators	Yes	No	Senators	Yes	No
Senator Holmberg			Senator Mathern		
Senator Krebsbach	X		Senator Grabinger	X	
Senator Wanzek			Senator Robinson		
Senator Erbele					
Senator Poolman					
Senator Bekkedahl					
Senator G. Lee					
Senator Dever					
Senator Sorvaag	X				
Senator Oehlke					
Senator Hogue					

Total (Yes) 3 No 0

Absent 0

Floor Assignment _____

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

Date: 2-7-2019
Roll Call Vote #: 1

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2014

Senate Appropriations Committee

☐ Subcommittee

Amendment LC# or Description: 19.0227.01002

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 Sorvaag Seconded By Grabinger

Senators	Yes	No	Senators	Yes	No
Senator Holmberg			Senator Mathern		
Senator Krebsbach			Senator Grabinger		
Senator Wanzek			Senator Robinson		
Senator Erbele					
Senator Poolman					
Senator Bekkedahl					
Senator G. Lee					
Senator Dever					
Senator Sorvaag					
Senator Oehlke					
Senator Hogue					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Voice Vote
Approved

Date: 2-7-2019
Roll Call Vote #: 2

2019 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 Sorvaag Seconded By Grabinger

Senators	Yes	No	Senators	Yes	No
Senator Holmberg	✓		Senator Mathern	✓	
Senator Krebsbach	✓		Senator Grabinger	✓	
Senator Wanzek	✓		Senator Robinson	✓	
Senator Erbele	✓				
Senator Poolman	✓				
Senator Bekkedahl	✓				
Senator G. Lee	A				
Senator Dever	✓				
Senator Sorvaag	✓				
Senator Oehlke	✓				
Senator Hogue	✓				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Grabinger

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, 1 ABSENT AND NOT VOTING). SB 2014 was placed on the Sixth order on the calendar.

Page 1, line 2, after "advocacy" insert "; and to provide a report to the legislative assembly"

Page 1, replace lines 10 through 16 with:

	Base Level	Adjustments or Enhancements	Appropriation
Protection and advocacy operations	\$6,447,600	\$863,866	\$7,311,466
Total all funds	\$6,447,600	\$863,866	\$7,311,466
Less estimated income	3,488,601	504,729	3,993,330
Total general fund	\$2,958,999	\$359,137	\$3,318,136
Full-time equivalent positions	27.50	1.00	28.50

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-SEVENTH LEGISLATIVE ASSEMBLY. The following amounts reflect one-time funding items approved by the sixty-fifth legislative assembly for the 2017-19 biennium and the one-time funding items included in the appropriation in section 1 of this Act:

One-Time Funding Description	2017-19	2019-21
Polycom machine	\$0	\$8,000
Accrued leave payments	0	132,550
Total all funds	\$0	\$140,550
Total other funds	0	68,000
Total general funds	\$0	\$72,550

The 2019-21 biennium one-time funding amounts are not part of the entity's base budget for the 2021-23 biennium. The protection and advocacy project shall report to the appropriations committees of the sixty-seventh legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2019, and ending June 30, 2021."

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	\$6,447,600	\$863,866	\$7,311,466
Total all funds	\$6,447,600	\$863,866	\$7,311,466
Less estimated income	3,488,601	504,729	3,993,330
General fund	\$2,958,999	\$359,137	\$3,318,136
FTE	27.50	1.00	28.50

Department 360 - Protection and Advocacy Project - Detail of Senate Changes

	Adjusts Funding for Base Payroll Changes ¹	Adds Funding for Salary and Benefit Increases ²	Adds 1 FTE Olmstead Commission Position ³	Adds Funding for Operating Expenses ⁴	Adds One- Time Funding ⁵	Total Senate Changes
Protection and advocacy operations	(\$80,945)	\$288,980	\$238,929	\$276,352	\$140,550	\$863,866
Total all funds	(\$80,945)	\$288,980	\$238,929	\$276,352	\$140,550	\$863,866
Less estimated income	124,158	158,707	74,615	79,249	68,000	504,729
General fund	(\$205,103)	\$130,273	\$164,314	\$197,103	\$72,550	\$359,137
FTE	0.00	0.00	1.00	0.00	0.00	1.00

¹ Funding is adjusted for base payroll changes.

² The following funding is added for 2019-21 biennium salary adjustments of 2 percent on July 1, 2019, and 3 percent on July 1, 2020, and increases in health insurance premiums from \$1,241 to \$1,427 per month:

	<u>General Fund</u>	<u>Other Funds</u>	<u>Total</u>
Salary increase	\$71,909	\$87,671	\$159,580
Health insurance increase	58,364	71,036	129,400
Total	\$130,273	\$158,707	\$288,980

³ Funding of \$238,929, of which \$164,314 is from the general fund, is added for 1 FTE Olmstead Commission related position.

⁴ Funding of \$276,352, of which \$197,103 is from the general fund, is added for operating expenses, primarily related to professional service fees, repairs, and travel expenses.

⁵ One-time funding is added as follows:

	<u>General Fund</u>	<u>Other Funds</u>	<u>Total</u>
Polycom machine	\$8,000	\$0	\$8,000
Accrued leave payments	64,550	68,000	132,550
Total	\$72,550	\$68,000	\$140,550

2019 HOUSE APPROPRIATIONS

SB 2014

2019 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee - Human Resources Division Sakakawea Room, State Capitol

SB2014
2/27/2019
32946

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk: Caitlin Fleck

Explanation or reason for introduction of bill/resolution:

Overview of the Protection and Advocacy Project budget.

Minutes:

A,B,C,D,E,F,G,H,I

Opened hearing. Took roll. Discussing schedule for next week with Tom from the Department of Human Services. Discussing trip to the State Hospital in Jamestown, ND, for Friday, March 1, 2019. **Attachment I was emailed and attachment later on.**

Chairman Jon O. Nelson: We will now start the overview for SB2014.

Teresa Larsen, Director of the Protection and Advocacy Project (P&A): (See attachment A & B)

14.10 Chairman Jon O. Nelson: There is some interest in the TBI (traumatic brain injury) grant, that has changed some of the treatment options since 2002 in ND, there is limited options for living conditions for some of the people suffering with that. I am working with some in that group and it seems that they don't fit well with some of the different departments. What do you do in a situation as far as placement and assistance?

Ms. Larsen: This is a relatively small grant; it is \$50,000 a year. It is meant for people who are not having their rights met. We do a lot of systemic work to help shore up the system. We have done some justice plans for people that have TBIs. We don't legally represent individuals, but we work with their attorneys to set up a justice plan that will help to keep the individuals out of jail.

Chairman Jon O. Nelson: In the grant line, you will go through what each grant is?

Ms. Larsen: Yes. I do have that in my testimony. **(continued attachment A)**

21.53 Vice Chairman Gary Kreidt: Under representative pay, that's a new grant within the last 2 years, what does that do?

Ms. Larsen: That is the one I was just speaking about. They will give us information to review this representative payee, and then we will go out and review to make sure they are meeting the standards of the association.

Vice Chairman Gary Kreidt: The top DD (developmental disabilities) grant, does each DD facility get a piece of that?

Ms. Larsen: This money is one that pays for our funds and services, these are not ones that we give out. All this money really is what pays for our staff to provide services.

Representative Lisa Meier: Can you go through the acronyms?

Ms. Larsen: DD is developmental; disabilities. MH is individuals with mental illness. PAIR is for the individuals rights. AT is the assistive technology. PABSS is the beneficiaries of social security. TBI is for the traumatic brain injury. PAVA is for the voting access. REP PAY is for the representative payment.

Chairman Jon O. Nelson: Is the Representative grant going to continue into the future at the same level?

Ms. Larsen: I certainly hope so, and I believe that it will.

Chairman Jon O. Nelson: Do they review the appropriations for these grants yearly?

Ms. Larsen: Not generally. Congress will pass the amount, and then the state will determine the amount to the department. These have been ongoing grants, and have never lost one.

Chairman Jon O. Nelson: When Congress worked better, did you feel like you had a better opportunity to explain the need for more funding, or are you ok with just having the continuation?

Ms. Larsen: We are so fortunate to have state funds so we have been able to make this work. We have had so much support, so we are able to make up for the difference.

Chairman Jon O. Nelson: There will be particular interest in the developmental; disabilities area.

Ms. Larsen: As we look at our case numbers for our clientele per year, the DD area is significantly higher than in any other area.

Chairman Jon O. Nelson: I think that would be good information to have. Is that handout for all the programs?

Ms. Larsen: I can make that for all the programs. **(Continued attachment A)**

35.47 Chairman Jon O. Nelson: The eligibility piece, is that pertaining to their disability or is that income based, or what?

Ms. Larsen: We don't look at income at all, it is related to their disability. It has to be someone with a mental illness that is living in the state of ND. We also look at whether or not we would be duplicating services. **(continued attachment A)**

39.06 Representative Lisa Meier: In the area of education, if you have an issue with a child, how are you being contacted with these individuals?

Ms. Larsen: It is really through both. We have many referrals from schools. We get called in when there is a brick wall between the school and the parent.

Chairman Jon O. Nelson: We just completed the department of corrections budget and in that Lisa Bjergaard talked to us about less institutional placements and more community placements. To me that seems to indicate a higher work load for your agency. Is that a fair statement, or how would you interpret that?

Ms. Larsen: That is a good question. I believe that philosophically we are in the same place. I don't know that I can make a direct correlation between our case load and the number of children in an institution.

Chairman Jon O. Nelson: I would say that that brick wall doesn't go away with a higher work load. We need some professional help for the schools to better their services.

Ms. Larsen: That is part of our work and we do support systemic changes.

Chairman Jon O. Nelson: It sounds great on paper, but I know there is still difficulty in getting the behavioral health professionals to where they are needed.

Ms. Larsen: You are so right. Having the authority and payment to have these services is one thing, but finding the workforce for the professional positions is another thing. **(Continued attachment A)**

Chairman Jon O. Nelson: Give me an example of a healthcare case.

Ms. Larsen: These might be situations that might have Medicaid, health insurance, or some other payer that is denied and it is somehow disability related. **(Continued attachment A)**

Pam Mack, Director of Advocacy for P&A: (see attachment C)

55.49 Chairman Jon O. Nelson: When you have a Native American that is on reservation and they are diagnosed there, is there an overlap in responsibility with the different third payer groups? How do you navigate that?

Ms. Mack: We do a lot of collaboration with the federal entities and those working within the reservation areas. If there is a need for healthcare on the reservation, we will look at Indian services and also may pull in other services. It is about pulling in all of the needed services to provide the best services for that person regardless of where they are living. **(Continued attachment C)**

1.00.01 Representative Lisa Meier: As a follow up with the first 3 cases, how does it work now, how long do you follow up with the cases?

Ms. Mack: That is an individualized case by case decision that we make. We look at, did we resolve the issue that was brought to us. We also make sure that we have out forth the support so that the individuals can go forward and promote the wellbeing of that individual. Our job is to not stay involved long-term. We get the case, resolve the issue, then get out and move onto the next case.

Representative Richard G. Holman: We have several DD providers in the state, and when something gets reported to you and it's under the care of one of our agencies, do you work together?

Ms. Mack: We actually work in a very strong partnership all of the providers involved. With many of them we do have agreements as to how we will work together with them. A great deal of collaboration goes into all of the casework that we do.

1.05.15 Dave Boeck, Director of Legal Services for P&A: (see attachment D)

1.17.23 Chairman Jon O. Nelson: I'm curious about the guardianship court, what does that consist of? Why was that amount of rent money approved?

Mr. Boeck: It went through twice. The first time the judge did not accept it, and sent it back. Ralph and his lawyer slightly modified the budget and gave an explanation of the services that Ralph had to do for Georgia.

Chairman Jon O. Nelson: But it was s district judge?

Mr. Boeck: Yes.

Chairman Jon O. Nelson: Do they make that decision alone, or are there others that help with that decision?

Mr. Boeck: The district judge makes the decision alone, similar to other cases presented to them.

1.20.45 Representative Lisa Meier: How long was Georgia under the guardianship of Ralph?

Mr. Boeck: I believe it was 10 years. **(continued attachment D)**

1.34.14 Chairman Jon O. Nelson: In the case of the air ambulance, was that part of the hospital charges that were written off?

Mr. Boeck: Yes.

Representative Lisa Meier: Were these 2 cases from the last 2 years?

Mr. Boeck: Yes. Probably the last year and a half.

Chairman Jon O. Nelson: Had you not gotten involved in this, the hospitals would have made the individuals responsible for those bills?

Mr. Boeck: That is what the parents were worried about when they came to P&A.

1.37.20 Ms. Larsen: (went back to attachment A)

1.38.22 Corinne Hofmann, Director of Policy & Operations for P&A: (see attachment E)

1.52.42 Ms. Larsen: (went back to attachment A)

1.54.10 Denise Harvey, Director of Advocacy: (see attachment F)

1.58.46 Ms. Larsen: (went back to attachment A)

Chairman Jon O. Nelson: So we will see a \$200,000 appropriation, and that matches the FMAP (Federal Medical Assistance Percentages)?

Ms. Larsen: I believe you are correct. (continued attachment A)

Chairman Jon O. Nelson: Are you subject to turn back?

Ms. Larsen: We would be if we had anything to turn back. We have to use state funds to augment our federal grants, particularly DD. So if we can carry over some federal funds to the next biennium, that will help us, but we can't carry over the general fund money.

Chairman Jon O. Nelson: So you predict to carry over some federal funds?

Ms. Larsen: Yes. (continued attachment A)

Chairman Jon O. Nelson: When you come back tomorrow, can you tell us if you do have some vacant positions in your budget now?

Ms. Larsen: We have no vacancies at the moment. (continued attachment A)

2.07.32 Chairman Jon O. Nelson: With a polycom, it should help with lessening the burden of travel, so you'll have to tell us why you need both.

Ms. Larsen: This is a replacement of a 10-year-old polycom, and we do use it very significantly. (continued attachment A)

Vice Chairman Gary Kreidt: Tell me about the reorganization, have there been members appointed to the new Olmstead commission?

Ms. Larsen: I'm not sure if all the appointments have been made yet.

Vice Chairman Gary Kreidt: Am I off the Olmstead commission?

Ms. Larsen: I'm not sure who will be on there.

Vice Chairman Gary Kreidt: As a member of the board, I never received any notice of this happening. It's surprising that there was some correspondence to the board.

Ms. Larsen: At the meeting that they had some time ago, they started talking about changes to the commission.

Vice Chairman Gary Kreidt: With the reorganization, for previous board members it would have been nice to have the option of staying on or leaving the board.

Ms. Larsen: I would agree with you, but I don't think this is really my area. **(continued attachment A)**

2.14.50 Chairman Jon O. Nelson: The house position on the state pay increase is a 2&2 and the grandfathered health care plan, so you will see that change in your budget for sure.

Ms. Larsen: I have heard that, and I am not surprised by that. **(continued attachment A)**

Chairman Jon O. Nelson: So the general fund increase from the senate version is about 7.3 million. With the change in our budget, there wouldn't be that big of a change.

Ms. Larsen: I would be ok with the increase in the salary, but I am advocating for the additional FTE (fulltime employee).

Chairman Jon O. Nelson: So that would be made of general and federal funds?

Ms. Larsen: I budgeted that with federal funds.

Chairman Jon O. Nelson: Will those federal funds be available to continue that split payment system for that FTE? Also I think that we are in a little bit of a gray area to meet the standards for the Olmstead commission?

Ms. Larsen: We hope there won't be any legal action taken, but we definitely think that something has to happen with the settlement. The governor and his administration is a little scared as to how this will play out, and we want to hire an attorney to help with that.

Chairman Jon O. Nelson: That investigation is currently taking place in our state. I would be interested in seeing how it came out in South Dakota.

Ms. Larsen: Should I bring the summary of that for you?

Chairman Jon O. Nelson: If it's short yes, I'm not going to read 100 pages.

Ms. Larsen: (see attachment G & H)

NO FURTHER QUESTIONS OR TESTIMONY. MEETING CLOSED.

2019 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee - Human Resources Division Sakakawea Room, State Capitol

SB2014
2/28/2019
32988

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk: Caitlin Fleck

Explanation or reason for introduction of bill/resolution:

Detailing budget for the Protection and Advocacy Project.

Minutes:

A,B,C,D,E

Opened hearing. Took roll. Read bill name and number. Discussed rides to the State Hospital for tomorrow.

Teresa Larsen, Director of the Protection and Advocacy Project (P&A): (see attachment A)

Chairman Jon O. Nelson: Can you explain a little bit about the CAP #?

Ms. Larsen: That is a contract. It is for the training and rehabilitation programs on the reservations. They used to have their own employee, but they decided that it was a controversy for them to work with that.

Vice Chairman Gary Kreidt: There is a steady decline since 2011, are you going to end up with no one there at some point?

Ms. Larsen: We have had a decline in the last few years due to staff change. We had someone who worked the program for years just retire, and we have new staff now. I do believe the case numbers will come up some as the new workers get more familiar with the work. We don't tell people how to vote, but we tell them where to get information for how to vote.

Chairman Jon O. Nelson: That contract with the CAP programs, is that with the VR? Is it federal dollars?

Ms. Larsen: Yes.

Representative Lisa Meier: In the area of DD (developmental disabilities), the numbers have gone up, what seems to be the most common situation with some of the individuals that you are hearing about?

Pam Mack, Protection and Advocacy Director for P&A: We have seen some jumps over a number of years in the DD program, and there a couple of factors that have some into play. We have seen more reports where people aren't being provided the services that they are contracted for through our providers. Maybe people aren't showing up for shifts or aren't providing these support that they are supposed to. There also have been many reports where the staff haven't been properly trained. There are some direct correlations to that in the difficulties hiring quality staff. That would be lead to higher stats of abuse and neglect. There are also more reports of serious events such as broken bones or stitches. When those types of incidences occur, we investigate them.

Representative Lisa Meier: I work with one of the industries that deals with DD, and it is challenging to make sure the shifts are properly staffed and I don't foresee that going away. I would assume that those numbers will continue to group.

Ms. Mack: I think that they will happen, but we have done a lot more to work with the DD services to provide support and training to prevent some of these cases from happening. We have one staff in the Bismarck office to do collaborative work with the DD office to give support and training to the providers to give them quality employees.

Representative Lisa Meier: That is encouraging to know that you do that.

Ms. Larsen: A big percent of the state dollars supports the DD programs.

Chairman Jon O. Nelson: Yes, you said that they federal dollars have been fairly stagnant, and that the state dollars help you to provide those DD programs.

Ms. Larsen: (went through attachment B)

Chairman Jon O. Nelson: Why don't we go through the 2.26.19 page first to get an understanding how it works between federal and state dollars.

Ms. Larsen: (continued attachment B)

Chairman Jon O. Nelson: As far as your books are concerned with the federal auditors and those individuals, that works for you?

Ms. Larsen: Yes. Even though I may allocate 25% to DD, she has to record and report how she actually works. That is a federal requirement too. **(continued attachment B)**

22.48 Chairman Jon O. Nelson: Under the professional materials, there is an increase, what's going on there?

Ms. Larsen: That is increased because the Olmstead commission and work materials have increased. I'm not sure if they will all be new members for the commission, but if they do then that would be the materials for that training.

Vice Chairman Gary Kreidt: You have had 27.5 FTE (fulltime employee), so how did you arrive that you need a new employee?

Ms. Larsen: This was a proposal that was put together by a subcommittee of the Olmstead Commission. The DHS (department of human services) didn't want to keep the Olmstead commission in their department because they felt that they couldn't address it, and it would be a conflict of interest for them to run it. It was supported by the governor's office for P&A to be the one to do the Olmstead commission work. Because we are taking on the Olmstead commission, we now need another staff member.

Chairman Jon O. Nelson: It seems when a decision like that is made and it impacts the budget, somebody from the appropriations division should be a part of that decision.

Vice Chairman Gary Kreidt: When this gets into full appropriations, I wouldn't say that the 1 new FTE is going to get wacked, but that is one major thing that is looked at when it goes through.

Ms. Larsen: I totally understand that. We did report on this to the interim committees, health and human services and they were supportive of that.

Chairman Jon O. Nelson: I'm sure that there are some appropriations members on there. When we are discussing new positions, that should be part of that discussion. I personally think that without seeing the findings from South Dakota, we do need to do some more work in the areas of advocacy and with the Olmstead commission and we want to be in as strong of a positions we can.

Ms. Larsen: (continued attachment B)

Chairman Jon O. Nelson: Postage is dropping in other budgets, but yours has an increase, why?

Ms. Larsen: I'm looking at some additional costs for Olmstead being added to our budget. We also do a mailing every spring or summer to all of our clients on what they think our priorities should be and what they think of our work. We also put in a return address stamped envelope for them to return that back to us. With the Olmstead commission, I'm looking at this being beefed up. I want to make sure that there are resources for this commission because there haven't been for year. **(continued attachment B)**

Chairman Jon O. Nelson: Do you know what the turnover % is in DD service?

Ms. Larsen: I don't know for sure but I believe it's around 40%.

Chairman Jon O. Nelson: How many employees do we have?

Ms. Larsen: I'm not sure, but I can get that numbers. I think it's probably comparable to long-term care and other types of providers like that. **(continued attachment B)**

Vice Chairman Gary Kreidt: Do you buy your equipment through rough rider industries?

Ms. Larsen: We do, but more often we get it through surplus property. **(continued attachment B)**

42.53 Representative Lisa Meier: So the individual in Williston, isn't there a staff person at the front desk to announce to that individual who is coming?

Ms. Larsen: She has a halftime assistant who is there 20 hours a week, so the other 20 hours she's there alone.

Representative Lisa Meier: So you're thinking more like a buzzer system there for when the assistant isn't there?

Ms. Larsen: I don't want to do anything outrageous, but something to help protect the staff but not make the visitors uncomfortable.

Representative Randy A. Schobinger: Was there something specific that got you thinking about this a little bit more?

Ms. Larsen: The Williston office used to be downtown, so it was a storefront office. As the town grew, she had some people come to use the restroom, some people coming in that would be questionable. I don't want this to be intrusive, but I do want people to feel safe.
(continued attachment B)

Chairman Jon O. Nelson: Are you being affected by the unification of the ITD (information technology department)?

Larry Martin, Office of Management and Budget: No, this budget is not affected by that.

Ms. Larsen: (continued attachment B)

51.43 Chairman Jon O. Nelson: You need a contingency in the event that there is a case?

Ms. Larsen: I think we contracted out one case so far. Dave Boeck finds an attorney and negotiates a price for them.

Chairman Jon O. Nelson: There is an increase, so you are anticipating something that isn't happening.

Ms. Larsen: That and I don't really know where the Olmstead commission work is going to go, and I thought that it was important for them to have resources.

Chairman Jon O. Nelson: Will it continue at the 90% federal dollars, and does it take away from other programs that you are using those federal dollars for?

Ms. Larsen: It is almost all federal. I have budgeted for next biennium with federal dollars being available for the new FTE for this. So far, it is all covered.

Chairman Jon O. Nelson: The contracts that you have currently with grants, is that the money that will be sued in this area?

Ms. Larsen: Yes.

Chairman Jon O. Nelson: So there will be some supplanting in their areas?

Ms. Larsen: That is true, but I wanted to make sure that we didn't ask for all general funds.

Representative Lisa Meier: With the Olmstead commission, that has been under the DHS since 2008, did they then reduce their budget since they want to transfer that over?

Ms. Larsen: Initially when the Olmstead commission started there was federal grant money to fund it. There hasn't been any money for the Olmstead commission for years, and I think that is one of the reasons why they didn't want to facilitate the commission anymore. There was nothing in it for resources.

Representative Lisa Meier: How much federal money since 2008 has been received?

Ms. Larsen: I don't know. I can find out for you though. I can't remember when the federal grant stopped coming in.

Representative Lisa Meier: Can you find that out, and when the grant funding had stopped.

Ms. Larsen: (continued attachment B)

Chairman Jon O. Nelson: So in the 2.26.19 sheet, was that today's totals or the biennium?

Ms. Larsen: The biennium, and what we have today is what we spent through January.

Chairman Jon O. Nelson: So we have 5 months left?

Ms. Larsen: Yes. (see attachment C)

Chairman Jon O. Nelson: The professional services line is one that I would like to go over, as far as the increase for that. I know that it can be hard to estimate too. Maybe we should talk about the South Dakota incident.

Ms. Larsen: (see attachment D)

107.11 Chairman Jon O. Nelson: I believe ND has a higher % of its population in nursing homes than almost any other state.

Representative Richard G. Holman: What about state institutions, is this going to increase that impact of Olmstead on the state hospital or other cases like that? Also we have a prison system where some of the people in there probably have disabilities? And as the aging process kicks in, people have dementia and Alzheimer's, and they may be staying at home, but at some point they would need to go to a nursing home. Are we talking about that too?

Ms. Larsen: We are talking about nursing homes and institutions, but I don't think they are looking at moving these individuals to other institutions. There are lots of people that need to be in long term nursing homes.

Representative Richard G. Holman: My personal experience with this is that I was on the West River Human Services board and we built a house for 5 men that are disabled. This helped to save money and give them better because they will be out in the community.

Ms. Larsen: There are a lot of things that are happening in the state. There are discussions that are happening to see how we can transfer those individuals out of the nursing home setting, and back out into the community. Since Olmstead's decision came out, there have been a lot of advocates talking with the department of human services (DHS) and legislators, and I think this might be the hammer now that SD has come in.

Representative Richard G. Holman: It seems very broad as opposed to an individual. This decision seems like it's very broad and affects 1000s of people.

Ms. Larsen: I'm not sure what the numbers are. I would imagine that the Department of Justice (DOJ) and with their negotiations with the state, will be talking about those kinds of numbers and issue.

Chairman Jon O. Nelson: If we do implement some of those services, how would that affect your budget then? We have to try and create some offsets here. I would much rather be putting money into those projects that would help those individuals.

Ms. Larsen: While this work seems to be limited to people with physical disabilities that the DOJ is currently looking at. In the recent Human Services Research Institute report, they contracted with this group to do a study on behavioral disabilities in ND. There is a high number of individuals under the age of 60 with mental disabilities and they are not ok with that. One of the change that the DHS is making, it allows long term care facilities to provide at home care for individuals. As of right now, that is almost like a penalty to the nursing homes that do that. The DHS wants to do away with that, and make it more common to have those at home services.

Chairman Jon O. Nelson: I personally have a nephew with a TBI and he is not receiving the care that he should while being at a nursing home. I think that being at home, he would be getting better care.

Ms. Larsen: I would agree with that. I think that is another area that we need to be better in.

Chairman Jon O. Nelson: We'll look at this. Can you break down how you put that money together, and as far as how much is dedicated towards Olmstead in that number.

Ms. Larsen: I can. I know initially we budget 300,000 in that line, primarily money from our bigger grants. That had that \$47,750 in state funds.

Vice Chairman Gary Kreidt: Comparing SD to ND, I don't see any comparison at all. When you do an admission into a nursing home, you look at the most appropriate placement for that individual. I know there are many options for these people as compared to the admission into a nursing facility. You can see that the census of the homes is lower and the numbers of beds is decreased as well. I think that nursing homes are trying to step up to the plate and

meet the requirements but it takes time to be able to do that. I wouldn't compare ND to SD but if everything is fact in this summary, I would see why they would pick SD.

Ms. Larsen: I think that with nursing homes, if someone is eligible to be admitted then they admit them. It seems like they are pointing the fingers more at the state. They are saying that we need to have home health care provided for those people that could stay home instead of going to the nursing home.

Chairman Jon O. Nelson: I would agree. I think that the nursing homes are given what we have because of the lack of services within the community. It is hard to access professional services in many communities.

Ms. Larsen: I think that is true, and I think there are some things in the DHS budget that are good.

Hearing recessed.

Attachment E handed out as reference but not discussed.

2019 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee - Human Resources Division

Sakakawea Room, State Capitol

SB2014

2/28/2019

33002

☐ Subcommittee

☐ Conference Committee

Committee Clerk: Caitlin Fleck

Explanation or reason for introduction of bill/resolution:

Detailing budget for the Protection and Advocacy Project.

Minutes:

A,B,C,D,E,F

Opened hearing. Discussing the issues with the department of justice (DOJ).

Chairman Jon O. Nelson: You are experiencing a 40% turnover?

Bruce Murry, Executive Director of the ND Association of Community Providers for Projection and Advocacy (P&A): The employment opportunities have increased and we don't believe that we will be able to hire new people unless we offer some raises.

Chairman Jon O. Nelson; How many people are on the DD (developmental disabilities) list?

Mr. Murry: There are about 4,000 and about 3,000 for the infant and preventative services. To serve those people we have a workforce of about 7,000, with 5,000 of those being direct care providers. We have been trying for many years to make that career a more comfortable area for people. Our turnover is taking a lot of resources on our end. Each % of turnover costs 360,000 with each individual costing 5500 to 6000 dollars.

Vice Chairman Gary Kreidt: Your direct care staff don't go through the CNA (certified nurse's assistant) training?

Mr. Murry: We do have some DSP (direct support professional) that are also CNA's but many are just solely one or the other. We carry out most of the training at our facilities.

Vice Chairman Gary Kreidt: They have gone through the training and are a part of the workforce, what is the starting salary for a DSP?

Mr. Murry: Starting is 14.30 and it usually goes up a dollar every 6 months. I believe we are a dollar or 2 behind the hospitals and CNA's.

Vice Chairman Gary Kreidt: If they leave the employment, where do they go?

Mr. Murry: They'll leave for a higher paying career, or may go to a completely different type of industry.

Vice Chairman Gary Kreidt: That burnout and turnover will continue to happen, and it always has happened.

Mr. Murry: Having been a DSP myself, it is tough work.

Chairman Jon O. Nelson: When you look at the turnover rate and the cost for that, is that determined to be a direct cost?

Mr. Murry: It's not a direct cost in our system, but there is an allowance for our training costs built into our budget. The allowance is significantly low.

Chairman Jon O. Nelson: If you could lower that bar from 44 to 34%, would you be able to utilize those savings for salary increases?

Mr. Murry: Yes. Anything that we get we should use to try to go after the turnover decreased.

Representative Lisa Meier: How many DD individuals do we have in the state?

Mr. Murry: I think the number is about 4500 under the main waiver and 3000 under the infant waiver so about 8000.

Representative Lisa Meier: How many of those individuals are receiving services from the community providers?

Mr. Murry: I would say about 7000.

Chairman Jon O. Nelson: What are your thoughts about the SD decision and how that may affect us in that way?

Mr. Murry: (see attachment A) SD's P&A is more lawsuit orientated than ours is, and the individuals wouldn't interact with the P&A division in SD as much as they do in ND. I think the ND will get some recognition in some of the investments that have been made over the years. I think that it will be about $\frac{3}{4}$ as tough as the SD investigation.

Chairman Jon O. Nelson: We are just trying to decide what occurred and how we should put ourselves into the system.

Mr. Murry: I think that it would be accurate that we should all push each other to provide the best care for our individuals.

Kristen Dvorak, Executive Director for the Arc of ND: We support P&A and support that people should be able to stay in their homes if they so choose.

Representative Richard G. Holman: (see attachment B) This is the bills that were blended into the SB2012.

Chairman Jon O. Nelson: The additional FTE (fulltime employee) for Olmstead, and there is an increase in the operating line for funding for the Olmstead and how do we go forward with that?

Chris Jones, Director of the Department of Human Services (DHS): There are 2 things that are going on. The Olmstead commission was housed in the DHS and it made more sense to pull it out of the DHS because it has to do with housing, accessibility, housing, etc. and it isn't really a part of the DHS anymore. The governor requested to pull that out and put it into P&A. There has been an ongoing investigation by the DOJ for the individuals with physical disabilities in nursing homes in South Dakota. That work is still ongoing and there is a draft settlement agreement going on. We thought that having a more collaborative approach and whatever it takes to settle the agreement with the DOJ for our state, would be handled in the P&A budget.

Chairman Jon O. Nelson: I feel that we are trying to slide into more policy than we are supposed to be involved with. With that swap from DHS to P&A, are there any offsetting savings in your department as we look at that budget?

Mr. Jones: No. I think the Olmstead commission was currently being staffed by Pam Sagness and that is now just being taken.

Chairman Jon O. Nelson: That gives us a better background of what this is and how we can take care of it now.

Representative Lisa Meier: When did the federal funds quit coming in for the Olmstead commission?

Mr. Jones: Not sure but we will find out.

Representative Randy A. Schobinger: You mentioned the least restrictive environment, in the handout we received from P&A it states that individuals have the right to receive care in the most integrated environment, are those 2 things interchangeable?

Mr. Jones: Yes.

Pam Sagness, Director of the Behavioral Health Division for DHS: (See attachment C & D) These hand will hopefully help to show how we are trying to make that transfer happen.

Chairman Jon O. Nelson: When we sit in this section and go to full appropriations, I think this transfer will provide better services, but in this process there is an additional FTE in the budget and an increase in operations, we will need someone from the appropriations department to be a part of this process.

Ms. Sagness: I have testimony from the legislators and the committee that were involved in this decision making. **(see attachment E & F)**

Chairman Jon O. Nelson: Thank you for coming down on such short notice. We won't make any decisions on this until we hear your budget first.

MEETING CLOSED.

2019 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee - Human Resources Division Sakakawea Room, State Capitol

SB2014
4/1/2019
34416

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk: Caitlin Fleck

Explanation or reason for introduction of bill/resolution:

Committee work on the Protection and Advocacy (P&A) Project budget.

Minutes:

A

Opened hearing. Took roll. **Attachment A** handed out.

Chairman Jon O. Nelson: What you have filled in has to do with the minimums and maximums?

Danielle Foster, Legislative Council: Correct.

Chairman Jon O. Nelson: So that has to do with the 2&3?

Ms. Foster: Correct.

Chairman Jon O. Nelson: I would ask for amendments for this bill at the time.

Vice Chairman Gary Kreidt: I have 2 amendments that I will bring forward. The first would be to reduce the FTE (fulltime employee) from 28.5 back to 27.5.

Chairman Jon O. Nelson: So that would be the 164,314 general fund.

Vice Chairman Gary Kreidt: Then on the operating line item, I have a total of 276,352, and I will reduce the general fund operating by 7,000. That is all.

Chairman Jon O. Nelson: In that amendment is the other funds, is that matched?

Vice Chairman Gary Kreidt: That will probably reduce that some.

Chairman Jon O. Nelson: So you want to reduce 7,000 in general?

Vice Chairman Gary Kreidt: Yes.

Chairman Jon O. Nelson: Is the other funds related to a match? No, actually it's not. We can leave that then.

Vice Chairman Gary Kreidt: Just the general fund then.

Chairman Jon O. Nelson: The net is 165,498?

Vice Chairman Gary Kreidt: No 190,103.

Chairman Jon O. Nelson: No 269,252.

Ms. Foster: The total will be 269,352.

Chairman Jon O. Nelson: Any further amendments? Not seeing any. Danielle, can you work that up and then bring it tomorrow.

Ms. Foster: You would like an amendment prepared for tomorrow?

Chairman Jon O. Nelson: Yes.

Meeting closed.

2019 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee - Human Resources Division Sakakawea Room, State Capitol

SB2014

4/2/2019

34436

☐ Subcommittee

☐ Conference Committee

Committee Clerk: Caitlin Fleck

Explanation or reason for introduction of bill/resolution:

Committee work on the protection and advocacy (P&A) budget.

Minutes:

Opened hearing. Took roll.

Chairman Jon O. Nelson: Brady on SB2014, we asked for the amendments but we haven't voted them out yet.

Brady Larson, Legislative Council: That is correct.

Chairman Jon O. Nelson: How do you suggest we do that?

Mr. Larson: You can either vote on the amendment as a whole, or you can take them apart.

Chairman Jon O. Nelson: Ok, let's adopt the amendment.

Vice Chairman Gary Kreidt: I move to adopt amendment 19.0227.02001.

Representative Randy A. Schobinger: I second that.

Roll Call Vote: 6 yes, 0 no, 0 absent. Motion carries.

Chairman Jon O. Nelson: The amendment is adopted.

Vice Chairman Gary Kreidt: I move for a do pass as amended.

Representative Lisa Meier: Second.

Roll Call Vote: 6 yes, 0 no, 0 absent. Motion carries.

Floor assignment: **Representative Richard G. Holman**

Meeting closed.

2019 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee Roughrider Room, State Capitol

SB 2014
4/3/2019
34502

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk: Risa Bergquist

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 Delzer: Called the meeting to order for SB 2014

Representative Holman: I am working off of amendment 19.0227.02001. The base budget that the senate made changes that we actually adjusted back the other way. The protection and advocacy is in 51 locations nationwide and deals with both state and federal funds. There are 27 ½ employees the senate added 1 based on the request from the department and also it was on the request from the governors to add another attorney, the house took that back again so there is no change in FTEs. Salary and benefits follows through with all the health insurance. We reduced funding for 7 thousand dollars for operating so the total house changes 249 thousand 686 dollars. That's the budget that's before you. 7 million 61 thousand 780 dollars is the total budget; general fund is 3 million 917 thousand 423 dollars; the rest is special funds.

Chairman Delzer: Did you do anything with the one-time funding? It looks like there is 8 thousand for a polycom machine. There's no change to that? And 132,550 for accrued leave payments?

Representative Meier: We did not discuss the accrued leave at all.

Chairman Delzer: I would think that a budget with 27 ½ people, it's the small agencies when you run into trouble because someone retired and you don't have the money to cover them. Are there any vacancies at all? And you did remove the other one?

Representative Bellew: Operating expenses went up by 276 thousand dollars, did you guys discuss that and why?

Representative Holman: We did discussion it and we felt it was justified but that is why we took away the 7 thousand dollars. I'll make the **Motion to Adopt Amendment 19.0227.02001**

Representative Meier: Second

Chairman Delzer: Discussion on the motion to amend? Seeing none. **Voice Vote, All in favor, Motion carries.** Any further amendments for SB 2014?

Representative Bellew: I have a problem with those operating expenses going up by that much, so their increase is 276 so I'll make a motion to make it half of that, 138.

Representative Schatz: Second

Chairman Delzer: We have a motion to reduce the operating expenses increase by 50%, any further discussion? Seeing none we will take a roll call vote.

A Roll Call vote was taken. Yea: 6 Nay: 12 Absent: 3

Chairman Delzer: Motion Fails, any further discussion for the amended bill before us?

Representative Holman: I will make a motion for a Do Pass as Amended

Representative Meier: Second

Chairman Delzer: We have a motion for a do pass as amended, any further discussion?

Representative Schobinger: The accrued leave payments I am showing on the green sheets it looks like there are folks retiming and it looks like it is to pay for those retirements.

Chairman Delzer: Well as long as everything is full it kind of makes sense depending on how long they are going to keep them empty after they retire.

Representative Vigasaa: I just looked at the vacancies report, they had 4 but on the report it says two are hired and 2 are filled since the report was done.

Chairman Delzer: We should have some thought about the fact that we said some of this roll up money could be used for compression and merit. I think we should look at that and make sure the accrued leave is paid first.

Representative Beadle: During the current biennium they had 3 retirements and 2 staff that changed to other locations. The three that retired had total payouts of 63, 874 based on accrued leave and everything else. They checked with staff about plans on retiring; 7 said they had plans on retiring during this time 6 of them are long time employees so there are projected payouts would be 132 thousand 550 dollars.

Chairman Delzer: Further discussion? Seeing none we will call the roll.

A Roll Call vote was taken. Yea: 15 Nay: 3 Absent: 3

Representative Holman will carry the bill.

Chairman Delzer: With that we will close this meeting.

Handwritten initials and date:
4/13/19
10/1

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2014

Page 1, replace lines 12 through 16 with:

"Protection and advocacy operations	<u>\$6,447,600</u>	<u>\$614,180</u>	<u>\$7,061,780</u>
Total all funds	\$6,447,600	\$614,180	\$7,061,780
Less estimated income	<u>3,488,601</u>	<u>428,822</u>	<u>3,917,423</u>
Total general fund	\$2,958,999	\$185,358	\$3,144,357
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	\$6,447,600	\$7,311,466	(\$249,686)	\$7,061,780
Total all funds	\$6,447,600	\$7,311,466	(\$249,686)	\$7,061,780
Less estimated income	3,488,601	3,993,330	(75,907)	3,917,423
General fund	\$2,958,999	\$3,318,136	(\$173,779)	\$3,144,357
FTE	27.50	28.50	(1.00)	27.50

Department 360 - Protection and Advocacy Project - Detail of House Changes

	Adjusts Funding for Salary and Benefit Increases ¹	Removes Olmstead Commission Position ²	Reduces Funding for Operating Expenses ³	Total House Changes
Protection and advocacy operations	(\$3,757)	(\$238,929)	(\$7,000)	(\$249,686)
Total all funds	(\$3,757)	(\$238,929)	(\$7,000)	(\$249,686)
Less estimated income	(1,292)	(74,615)	0	(75,907)
General fund	(\$2,465)	(\$164,314)	(\$7,000)	(\$173,779)
FTE	0.00	(1.00)	0.00	(1.00)

¹ Funding of \$3,757, of which \$2,465 is from the general fund and \$1,292 is from federal funds, is reduced to provide funding for state employee salary increases of 2 percent with a minimum monthly increase of \$120 and a maximum monthly increase of \$200 on July 1, 2019, and an increase of 2.5 percent on July 1, 2020, to provide total salary increases of \$155,823. The Senate provided funding for a salary increase of 2 percent on July 1, 2019, and 3 percent on July 1, 2020 providing total salary increases of \$159,580.

² Funding of \$238,929 is removed for 1 FTE Olmstead Commission position, of which \$164,314 is from the general fund and \$74,615 is from federal funds.

³ Funding for operating expenses is reduced by \$7,000 from the general fund.

Date: 4 / 2 / 19
Roll Call Vote #: 1

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2014

House Appropriations - Human Resources Division Committee

☐ Subcommittee

Amendment LC# or Description: 19.0227.02001

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 Rep. Kreidt Seconded By Rep. Schobinger

Representatives	Yes	No	Representatives	Yes	No
Chairman Jon O. Nelson	X		Rep. Richard G. Holman	X	
Vice Chairman Gary Kreidt	X				
Representative Bert Anderson	X				
Representative Lisa Meier	X				
Rep. Randy A. Schobinger	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

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

Motion Carries

Date: 4-2-19
Roll Call Vote #: 2

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2014**

House Appropriations - Human Resources Division 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 Rep. Kreidt Seconded By Rep. Meier

Representatives	Yes	No	Representatives	Yes	No
Chairman Jon O. Nelson	X		Rep. Richard G. Holman	X	
Vice Chairman Gary Kreidt	X				
Representative Bert Anderson	X				
Representative Lisa Meier	X				
Rep. Randy A. Schobinger	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Rep. Holman

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

Motion Carries

Date: 4/3/2019
Roll Call Vote #: 1

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2014**

House Appropriations Committee

☐ Subcommittee

Amendment LC# or Description: 19.0227.02001

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 Representative Holman Seconded By Representative Meier

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer					
Representative Kempenich					
Representative Anderson			Representative Schobinger		
Representative Beadle			Representative Vigesaa		
Representative Bellew					
Representative Brandenburg					
Representative Howe			Representative Boe		
Representative Kreidt			Representative Holman		
Representative Martinson			Representative Mock		
Representative Meier					
Representative Monson					
Representative Nathe					
Representative J. Nelson					
Representative Sanford					
Representative Schatz					
Representative Schmidt					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

Voice Vote/Motion Carries

Date: 4/3/2019
Roll Call Vote #: 2

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2014**

House Appropriations Committee

☐ Subcommittee

Amendment LC# or Description: Reduce operating budget by 1/2

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 Representative Bellew Seconded By Representative Schatz

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer	X				
Representative Kempenich	A				
Representative Anderson		X	Representative Schobinger		X
Representative Beadle	X		Representative Vigesaa		X
Representative Bellew	X				
Representative Brandenburg		X			
Representative Howe		X	Representative Boe	X	
Representative Kreidt	A		Representative Holman		X
Representative Martinson		X	Representative Mock	X	
Representative Meier		X			
Representative Monson		X			
Representative Nathe		X			
Representative J. Nelson	A				
Representative Sanford		X			
Representative Schatz	X				
Representative Schmidt		X			

Total (Yes) 6 No 12

Absent 3

Floor Assignment _____

Motion Fails

Date: 4/3/2019
Roll Call Vote #: 3

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2014**

House 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 Representative Holman Seconded By Representative Meier

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer		X			
Representative Kempenich	A				
Representative Anderson	X		Representative Schobinger	X	
Representative Beadle	X		Representative Vigesaa	X	
Representative Bellew		X			
Representative Brandenburg	X				
Representative Howe	X		Representative Boe	X	
Representative Kreidt	A		Representative Holman	X	
Representative Martinson	X		Representative Mock	X	
Representative Meier	X				
Representative Monson	X				
Representative Nathe	X				
Representative J. Nelson	A				
Representative Sanford	X				
Representative Schatz		X			
Representative Schmidt	X				

Total (Yes) 15 No 3

Absent 3

Floor Assignment Representative Holman

Motion Carries

REPORT OF STANDING COMMITTEE

SB 2014, as engrossed: Appropriations Committee (Rep. Delzer, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (15 YEAS, 3 NAYS, 3 ABSENT AND NOT VOTING). Engrossed SB 2014
was placed on the Sixth order on the calendar.

Page 1, replace lines 12 through 16 with:

"Protection and advocacy operations	\$6,447,600	\$614,180	\$7,061,780
Total all funds	\$6,447,600	\$614,180	\$7,061,780
Less estimated income	3,488,601	428,822	3,917,423
Total general fund	\$2,958,999	\$185,358	\$3,144,357
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	\$6,447,600	\$7,311,466	(\$249,686)	\$7,061,780
Total all funds	\$6,447,600	\$7,311,466	(\$249,686)	\$7,061,780
Less estimated income	3,488,601	3,993,330	(75,907)	3,917,423
General fund	\$2,958,999	\$3,318,136	(\$173,779)	\$3,144,357
FTE	27.50	28.50	(1.00)	27.50

Department 360 - Protection and Advocacy Project - Detail of House Changes

	Adjusts Funding for Salary and Benefit Increases ¹	Removes Olmstead Commission Position ²	Reduces Funding for Operating Expenses ³	Total House Changes
Protection and advocacy operations	(\$3,757)	(\$238,929)	(\$7,000)	(\$249,686)
Total all funds	(\$3,757)	(\$238,929)	(\$7,000)	(\$249,686)
Less estimated income	(1,292)	(74,615)	0	(75,907)
General fund	(\$2,465)	(\$164,314)	(\$7,000)	(\$173,779)
FTE	0.00	(1.00)	0.00	(1.00)

¹ Funding of \$3,757, of which \$2,465 is from the general fund and \$1,292 is from federal funds, is reduced to provide funding for state employee salary increases of 2 percent with a minimum monthly increase of \$120 and a maximum monthly increase of \$200 on July 1, 2019, and an increase of 2.5 percent on July 1, 2020, to provide total salary increases of \$155,823. The Senate provided funding for a salary increase of 2 percent on July 1, 2019, and 3 percent on July 1, 2020 providing total salary increases of \$159,580.

² Funding of \$238,929 is removed for 1 FTE Olmstead Commission position, of which \$164,314 is from the general fund and \$74,615 is from federal funds.

³ Funding for operating expenses is reduced by \$7,000 from the general fund.

2019 CONFERENCE COMMITTEE

SB 2014

2019 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Harvest Room, State Capitol

SB 2014
4/12/2019
Job #34717

☐ Subcommittee
☒ Conference Committee

Committee Clerk: Rose Laning and Alicia Larsgaard

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 - 2

Legislative Council: Danielle Foster
OMB: Larry Martin

Conferees:

Senator Sorvaag, Senator Krebsbach, Senator Grabinger
Representative Anderson, Representative Meier, Representative Holman

Danielle Foster handed out:

Base Level Funding Changes – Attachment # 1.

Statement of Purpose of Amendment – Attachment # 2.

Senator Sorvaag: Called the conference committee to order on SB 2014.

The House made minimal changes but will someone from the House explain the changes they made and why?

Representative Holman: We removed an FTE that you put in there and made adjustments in the operations. That pretty much covers it. We just made a couple adjustments.

Senator Sorvaag: Why did you remove the FTE?

Representative Meier: The reason why is we are trying to gain more understanding of the need of the FTEs. At the time of discussion, the committee decided that they wanted to be responsible and we didn't understand why it was needed. That was the biggest reason.

Senator Sorvaag: The Senate went with the FTE because some of those were handled by Human Services and they needed someone because the commission activities have changed from direction of the Governor. If the committee is okay, I would like to have Teresa come up and explain why the FTE is needed for the Olmstead Commission and the rational we heard so we are all discussion on the same page as we move forward.

Teresa Larsen, Executive Director, Protection and Advocacy Project:

This came about because of some changes in direction with the Olmstead Commission. There was a new executive order signed by the Governor last September. At the same time, there was a subcommittee of the Olmstead Committee that met and the Department of Human Services said they didn't want to be the facilitator or the resource supporter for the Olmstead Commission. They had done it for many years and Chris Jones said he felt it was a conflict of interest for it to be within the DHS.

The subcommittee consisted of Senator Judy Lee, Leslie Oliver, Pam Sagness, and myself. Senator Lee asked if P&A would be interested in being the point of contact for the Olmstead Commission. We said yes and thought it was appropriate but we would need some resources for that and the subcommittee agreed. The Governor then put it in his budget for us to have an additional FTE to support the Olmstead Commission and its work. This was also agreed to by the Senate.

The position would not only support the Olmstead Commission and its work, but also take on proactive activities to educate other state entities, businesses, public, and people with disabilities about Olmstead and the Americans with Disabilities Act. So it would be a way to really try to help the state to be in compliance with Olmstead.

Senator Sorvaag: Were we out of compliance?

Teresa Larsen: I believe the Department of Justice is currently wrapping up an investigation for North Dakota and yes, they are saying we are out of compliance.

Senator Sorvaag: Was there a full time employee with Human Services who was designated to this?

Teresa Larsen: There was not. Many years ago when Olmstead was first passed, there were some federal grants available so they did have some resources for staff in terms of supporting Olmstead but that has not been the case for at least 10 years. It was a piece meal activity on the part of the Department of Human Services. They felt they did not have the resources to continue doing that in addition to it being a conflict.

Representative Holman: I see that it is hiring an attorney. That is your intent. Is that a requirement?

Teresa Larsen: There really isn't a requirement for a specific position. Because Olmstead is a US Supreme Court decision regarding the Americans with Disabilities Act, this is all very legal. I thought it was very important to have an attorney for this position. We don't want individuals who are not law trained interpreting the law and training other people.

Representative Meier: If the additional FTE was not part of your budget, with the existing attorneys you already have with Protection and Advocacy, is it your feeling that you could go forward with work for the Olmstead Commission?

Teresa Larsen: I don't know that we could do that. Because we said we need more resources and everyone agreed for us to do this, for me to say now that we could do it without

more resources would be very inconsistent. I don't believe we have the resources to do it. All of our staff are very busy with other work. I think it would be not a good quality and a disservice to the Commission to not have someone doing this work full time.

Representative Meier: When will the decision for North Dakota be finalized? Do you have a date?

Teresa Larsen: I have not been in the loop on the communications between the state and the Department of Justice so I can answer very few, if any, questions about that.

Senator Sorvaag: Is that the Attorney General that is in the loop?

Teresa Larsen: I would guess they are involved. I know the Governor's office is. Leslie Oliver has told me they've had a number of meetings and communications. They have pulled legislators into some.

Senator Sorvaag: We'll make an effort to reach out before our next meeting to get input from either the Attorney General or the Governor's office to see where it is.

Representative Holman: Can you hire an attorney for the \$75,000?

Teresa Larsen: That was just the federal dollars that we put in, the \$75,000, for next biennium. The rest of the funding was requested general funds, so \$75,000, probably not.

Representative Holman: I just looked at \$250,000 for two years. Plus, there is operating involved in there. Is that typical of what you are paying other attorneys?

Teresa Larsen: Our attorneys don't make a lot of money. They do the work for other reasons. Hopefully we could find someone. Thank you.

Senator Sorvaag: Are there any other questions or any comments? We will try to gather that information that was requested by Representative Meier and see the status of that. We can discuss that at the next meeting. That is our only difference on this budget; whether we fund that position or not. We will see if we can come to an agreement in the next meeting or two.

Senator Sorvaag: Adjourned the hearing.

2019 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Harvest Room, State Capitol

SB 2014
4/15/2019
Job #34748

☐ Subcommittee
☒ Conference Committee

Committee Clerk: Rose Laning and Alicia Larsgaard

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: 0

Legislative Council: Danielle Foster
OMB: Larry Martin

Conferees:

Senator Sorvaag, Senator Krebsbach, Senator Grabinger
Representative Anderson, Representative Meier, Representative Holman

Senator Sorvaag: Called the conference committee to order on SB 2014.

We're going to talk about the Olmstead Commission because we put an employee in to work with the Commission. The House took it out and our discussions last meeting were that we needed to get more information on it. I am not sure of the information the House had. We were we're going to check with the Governor's office and the Attorney General. I visited with the AG office and they were aware of the situation but haven't had any work with it. The Governor's office came and wanted to tell their side of the story. Come up and explain what you know about it, please.

Leslie Oliver, Governor's office

One of my duties is to work with Olmstead Commission. It was created by executive order. I serve as co-chair with one of the public members. Olmstead is a supreme court decision from 1999 that requires public entities (states, counties, cities, federal government) to provide services to people with disabilities in the most integrated setting possible or the least restrictive. These settings should allow individuals to interact with non-disabled persons to the fullest extent possible in areas of housing, employment, education, and recreation to allow them to receive the same services in the community that non-disabled people do. That is the Olmstead decision.

Following the decision, states were strongly encouraged to make Olmstead plans. North Dakota created an Olmstead Commission for that purpose almost immediately after the

decision was issued by executive order. The order has been updated a number of times. ND has a plan, but the current plan has not been updated since 2008.

In the fall of 2017, after I found out that one of my duties was to serve on the Olmstead Commission, we had a meeting and the Commission that includes Senator Judy Lee. She was talking about the need for changes. Teresa Larsen agreed with that, as did Pam Sagness. The Commission appointed a work group of four people to review plans in other states and to return with recommendations concerning changes we needed in ND to update our plan. The subcommittee was Senator J. Lee, Pam Sagness (DHS), Teresa Larsen (P&A), and myself.

The research was done and reviewed and a set of recommendations was written to include some strategic changes to the Governor's process. Roles, responsibility, membership in internal and external communications focused on health, housing, employment, transportation, community services and support which are consistent with the mission and vision of the Commission.

The recommendations were adopted by the full Olmstead Commission in March of 2018. They were presented to the interim committee on House services in April. The changes include; Governance change, having additional citizen members, fewer voting members, and a greater number of non-voting members from state agencies. The assumption is that the state agencies have an obligation to provide services to individuals with disabilities. They would be contacted or provide input as needed.

Another significant recommendation was to have one identified Olmstead Agency as a point of contact and information as well as an agency that the general public would know to go to if there were an issue involving an individual with disabilities. The Protection and Advocacy was recommended as a natural fit for that role as well as the point of contact to receive calls, request complaints to provide guidance, information, and referrals. It would also provide training as well as training for state agencies about their obligations under Olmstead. There is also training for counties, local governments, businesses, Chambers of Commerce and the public.

Protection & Advocacy has a centralized intake process already and can serve as the point of contact for that purpose. It also has the knowledge base to facilitate solutions for individuals with disabilities through coordination with state, county, and local governments as well as non-profit or private business entities so that issues with employment, transportation, housing, education, medical issues, or challenges can be resolved. With additional resources, P&A can become the identified one stop Olmstead Agency and serve as a liaison for the Commission and proactively identify compliance issues and keep the state in compliance.

Many of heard have probably heard about the Department of Justice investigation into an Olmstead issue. I am going to give a little background on that. In 2015, the Department of Justice's Civil Rights Division received complaints from ND citizens concerning Medicaid recipients residing in skilled nursing facilities who would prefer to reside at home and individuals who qualified for skilled nursing care at one time (at the time of admission) but are no longer qualified.

The Department of Justice conducted an investigation over the course of two years. They visited skilled nursing facilities and talked to residents and families. They interviewed over 200 individuals and families. Those were individuals who were able and wanted to leave the facility and return to the community. I am saying this based on verbal reports from the Department of Justice.

Nearly all individuals were not aware of an option other than skilled nursing care at the time they were admitted. In ND, there is an imbalance between the amount of state funds that are paid to skilled nursing care as opposed to the funds paid to home and community based services or paid for those services. There is a lack of community providers as opposed to a lack of resources. People enter skilled nursing facilities because there are no other resources. Those who are able to remain or return to home, often have unpaid caregivers. ND on paper, has programs to transition people from skilled nursing facilities or to avoid being admitted to a skilled nursing facility at all. There is a lack of awareness about these transition services or the tools available to make the transition.

At the present time, the state is in the process of negotiating a settlement agreement with the Department of Justice through the aging services division of the Department of Human Services. If a successful settlement is not negotiated, the state will receive formal findings that will be published and we will get sued. We are trying to avoid that and find a way to comply so that we don't get sued and we don't have formal findings published.

Senator Sorvaag: Is there change in the makeup of the Commission because of the process of the negotiations, or it to say to did it so the outcome would be better on the final finding?

Leslie Oliver: No. The settlement agreement didn't come until December of 2018. We were told it was coming in March of 2018. The federal government is going to take as long as they take. They have been very helpful to work with. The decision to make the changes in the Olmstead Commission was to further the purpose of the Commission and make it a meaningful body.

Senator Sorvaag: The role of what this employee is doing was sort of being done at the Human Services Department unofficially?

Leslie Oliver: There was no one doing those activities. There was not a place to make an Olmstead complaint. It is important to know that the investigation focuses on a very limited population under the Olmstead decision: disabled individuals residing in skilled nursing facilities or those at risk of admission to skilled nursing facilities. The states obligation under Olmstead applies to all individuals with disabilities who are receiving services from the state, county, or local government.

Senator Sorvaag: The testimony we received is that the Commission is no longer with the Department of Human Services.

Representative Meier: We received testimony on the House side that they were actually taking care of the services along with this Olmstead Commission. That is the testimony that we received on the House side.

Senator Sorvaag: That is what we heard too. The Human Services Department had some type of role.

Senator Grabinger: You said that you sit as co-chair. This isn't your responsibility. You said earlier in your testimony that this was your responsibility under the Governor.

Leslie Oliver: I found that out, yes.

Senator Grabinger: Are you relinquishing your place in this?

Leslie Oliver: No. If I can continue, I will explain further. The investigation is very limited. The complaint was made to the Dept. of Justice because we don't have a state complaint procedure. I can't guarantee this, but more than likely, the complaint would have come into the state and we would have resolved it or resolved it in a more expeditious manner. We are three years into this.

Additional concerns – no state agency has the bandwidth to resolve the complaints that are made without additional support. There is no central agency responsible for providing education, training, and disseminating information concerning the rights and responsibilities under Olmstead. The P&A request for an Olmstead position in its agency would provide us with a single agency source for solving for education, information, referrals, and problem solving or facilitation between individuals with disabilities and state agencies, non-profits, and private businesses, but someone to assist in Olmstead concerns. P&A is the best choice. As the agency created by Congress and an independent protection and advocacy system to protect the rights of an advocate for individuals with disabilities. It predates the Olmstead decision but it really is the best agency suited for this work.

Representative Holman: It requires an attorney, but what role would this person do? Why does it have to be an attorney?

Leslie Oliver: I think an attorney is very important to the role to provide education, training, and problem solving. Hopefully, this person will grow into the role and be in a position to be an Olmstead coordinator and develop expertise on the state's obligation under title II which is state services as opposed to employment which is dealt with under the Department of Labor.

Representative Holman: This would be an attorney or an officer of the court. Would that be an advocate in situations where the state would be involved in a legal proceeding?

Leslie Oliver: It's possible, but facilitating solutions is more of what the Governor's Office had in mind in placing this position in the P&A budget.

Senator Krebsbach: This was being recommended to be moved from Human Services to P&A because of conflict of interest. Does anyone recall that?

Leslie Oliver: That is correct. The DHS was providing administrative support for the Olmstead Commission. We will still have an Olmstead Commission if this bill gets passed. The person with P&A will serve as a liaison. Teresa has built this into her budget that some of the administrative support will be provided through protection and advocacy.

Senator Krebsbach: In the testimony, it says that \$75,000 in federal funds for this position has been budgeted from P&A. The remaining balance of \$164,314 is being requested from state funds.

Senator Sorvaag: Are there any other comments by the committee?

Representative Meier: You stated that the state is in the process of negotiating a settlement. Do you know when the deadline is for negotiating that settlement with the Olmstead?

Leslie Oliver: I don't know that we have been given a deadline. It is in our best interest to negotiate expeditiously while all of you are in town and that is what we have been doing.

Representative Meier: If you have a process in place, that could look more favorable upon the decision.

Leslie Oliver: Yes.

Senator Grabinger: If we were to put this position in there, that would put us into a better position regarding the potential lawsuit that we are facing, correct?

Leslie Oliver: Yes. This position came before the settlement agreement. This will serve us very well if we reach a settlement and I actually think we will reach a settlement.

Senator Sorvaag: Any other comments? We will adjourn. We will meet again.

2019 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Harvest Room, State Capitol

SB 2014
4/23/2019
JOB # 34965

☐ Subcommittee
☒ Conference Committee

Committee Clerk: Alice Delzer

Explanation or reason for introduction of bill/resolution:

A Conference Committee hearing for Protection and Advocacy

Minutes:

1. Proposed Amendment # 19.0227.02002

SENATORS: Ron Sorvaag, Karen Krebsbach, John Grabinger
REPRESENTATIVES: Bert Anderson, Lisa Meier, Richard Holman

Danielle Foster, Legislative Council
Larry Martin, OMB

Senator Sorvaag: called the Conference Committee to order on SB 2014 at 8:00 pm in the Harvest Room. Roll call was taken. All committee members were present.

Senator Sorvaag: We only had one difference from our first meeting and that was the one employee to work with the Olmstead Commission. Has the House made any decisions?

Representative Meier: Submitted Attachment # 1, Proposed Amendment # 19.0227.02002. Actually on your desks you do have an amendment to actually place the FTE back into the budget. **I would propose that the House recede from House amendments and amend to place the FTE into the P & A budget. 2nd by Representative Holman.**

Senator Sorvaag: It's been moved and seconded. Is there any further discussion?

Representative Meier: I just want to add that I know this is very important for the P&A and it's been a really good process. We actually settled some information and realized that this is a really important position for the P & A and I believe for the state. In the long run it will benefit individuals very well. I appreciate the fact that we were able to work together and through better understanding, allowing for the FTE.

Senator Sorvaag: I would like to thank the committee too that we did come to the conclusion because the Senate believed it was the right action too with the information we had. It was good this came together pretty easily.

Representative Meier: I do appreciate the work of the committee members. We all sought out information and I do truly believe this is the right effort.

Senator Sorvaag: If there are no further comments, will you take the roll?

A Roll Call vote was taken. Yea: 6; Nay:0. Absent: 0.

Carriers:

Senator Grabinger:

Representative Holman

Senator Sorvaag: OK. It passes. Thanks to the committee. Our work is done. Senator Grabinger will carry it from our side. Representative Holman will carry it. With that, thank you to the committee and we are adjourned for the night.

5/10
5/13/19
10/1

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2014

That the House recede from its amendments as printed on pages 1308 and 1309 of the Senate Journal and page 1500 of the House Journal and that engrossed Senate Bill No. 2014 be amended as follows:

Page 1, replace lines 12 through 16 with:

"Protection and advocacy operations	<u>\$6,447,600</u>	<u>\$859,100</u>	<u>\$7,306,700</u>
Total all funds	\$6,447,600	\$859,100	\$7,306,700
Less estimated income	<u>3,488,601</u>	<u>505,534</u>	<u>3,994,135</u>
Total general fund	\$2,958,999	\$353,566	\$3,312,565
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 - Conference Committee Action

	Base Budget	Senate Version	Conference Committee Changes	Conference Committee Version	House Version	Comparison to House
Protection and advocacy operations	\$6,447,600	\$7,311,466	(\$4,766)	\$7,306,700	\$7,061,780	\$244,920
Total all funds	\$6,447,600	\$7,311,466	(\$4,766)	\$7,306,700	\$7,061,780	\$244,920
Less estimated income	3,488,601	3,993,330	805	3,994,135	3,917,423	76,712
General fund	\$2,958,999	\$3,318,136	(\$5,571)	\$3,312,565	\$3,144,357	\$168,208
FTE	27.50	28.50	0.00	28.50	27.50	1.00

Department 360 - Protection and Advocacy Project - Detail of Conference Committee Changes

	Adjusts Funding for Salary and Benefit Increases ¹	Reduces Funding for Operating Expenses ²	Total Conference Committee Changes
Protection and advocacy operations	\$2,234	(\$7,000)	(\$4,766)
Total all funds	\$2,234	(\$7,000)	(\$4,766)
Less estimated income	805	0	805
General fund	\$1,429	(\$7,000)	(\$5,571)
FTE	0.00	0.00	0.00

¹ Funding of \$2,234 of which \$1,429 is from the general fund and \$805 is from federal funds, is added to provide funding for state employee salary increases of 2 percent with a minimum monthly increase of \$120 and a maximum monthly increase of \$200 on July 1, 2019, and an increase of 2.5 percent on July 1, 2020, to provide total salary increases of \$161,814. The Senate provided funding for salary increases of 2 percent on July 1, 2019, and 3 percent on July 1, 2020 providing total salary increases of \$159,580.

² Funding for operating expenses is reduced by \$7,000 from the general fund, the same as the House version. The Senate did not reduce funding for operating expenses.

The House removed one FTE Olmstead Commission position. The Conference Committee included the FTE Olmstead Commission position, the same as the Senate.

Date: 4-23-19
Roll Call Vote #: 1

**2019 SENATE CONFERENCE COMMITTEE
ROLL CALL VOTES**

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

Senate "Enter committee name" 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: Meier Seconded by: Holman

Senators	<u>4/12</u>	<u>4/23</u>	Yes	No	Representatives	<u>4/12</u>	<u>4/23</u>	Yes	No
Senator Sorvaag	<u>✓</u>	<u>✓</u>			Representative Anderson	<u>✓</u>	<u>✓</u>		
Senator Krebsbach	<u>✓</u>	<u>✓</u>			Representative Meier	<u>✓</u>	<u>✓</u>		
Senator Grabinger	<u>✓</u>	<u>✓</u>			Representative Holman	<u>✓</u>	<u>✓</u>		
Total Senate Vote					Total Rep. Vote				

Vote Count Yes: 6 No: 0 Absent: 0

Senate Carrier Grabinger House Carrier Holman

LC Number 19. 0227 . 02002 of amendment

LC Number 19. 0227 . 04000 of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

Insert LC: 19.0227.02002
Senate Carrier: Grabinger
House Carrier: Holman

REPORT OF CONFERENCE COMMITTEE

SB 2014, as engrossed: Your conference committee (Sens. Sorvaag, Krebsbach, Grabinger and Reps. B. Anderson, Meier, Holman) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ pages 1308-1309, adopt amendments as follows, and place SB 2014 on the Seventh order:

That the House recede from its amendments as printed on pages 1308 and 1309 of the Senate Journal and page 1500 of the House Journal and that engrossed Senate Bill No. 2014 be amended as follows:

Page 1, replace lines 12 through 16 with:

"Protection and advocacy operations	<u>\$6,447,600</u>	<u>\$859,100</u>	<u>\$7,306,700</u>
Total all funds	<u>\$6,447,600</u>	<u>\$859,100</u>	<u>\$7,306,700</u>
Less estimated income	<u>3,488,601</u>	<u>505,534</u>	<u>3,994,135</u>
Total general fund	<u>\$2,958,999</u>	<u>\$353,566</u>	<u>\$3,312,565</u>
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 - Conference Committee Action

	Base Budget	Senate Version	Conference Committee Changes	Conference Committee Version	House Version	Comparison to House
Protection and advocacy operations	\$6,447,600	\$7,311,466	(\$4,766)	\$7,306,700	\$7,061,780	\$244,920
Total all funds	\$6,447,600	\$7,311,466	(\$4,766)	\$7,306,700	\$7,061,780	\$244,920
Less estimated income	3,488,601	3,993,330	805	3,994,135	3,917,423	76,712
General fund	\$2,958,999	\$3,318,136	(\$5,571)	\$3,312,565	\$3,144,357	\$168,208
FTE	27.50	28.50	0.00	28.50	27.50	1.00

Department 360 - Protection and Advocacy Project - Detail of Conference Committee Changes

	Adjusts Funding for Salary and Benefit Increases ¹	Reduces Funding for Operating Expenses ²	Total Conference Committee Changes
Protection and advocacy operations	\$2,234	(\$7,000)	(\$4,766)
Total all funds	\$2,234	(\$7,000)	(\$4,766)
Less estimated income	805	0	805
General fund	\$1,429	(\$7,000)	(\$5,571)
FTE	0.00	0.00	0.00

¹ Funding of \$2,234 of which \$1,429 is from the general fund and \$805 is from federal funds, is added to provide funding for state employee salary increases of 2 percent with a minimum monthly increase of \$120 and a maximum monthly increase of \$200 on July 1, 2019, and an increase of 2.5 percent on July 1, 2020, to provide total salary increases of \$161,814. The Senate provided funding for salary increases of 2 percent on July 1, 2019, and 3 percent on July 1, 2020 providing total salary increases of \$159,580.

² Funding for operating expenses is reduced by \$7,000 from the general fund, the same as the House version. The Senate did not reduce funding for operating expenses.

The House removed one FTE Olmstead Commission position. The Conference Committee

Insert LC: 19.0227.02002
Senate Carrier: Grabinger
House Carrier: Holman

included the FTE Olmstead Commission position, the same as the Senate.
Engrossed SB 2014 was placed on the Seventh order of business on the calendar.

2019 TESTIMONY

SB 2014

Department 360 - Protection and Advocacy Project
Senate Bill No. 2014

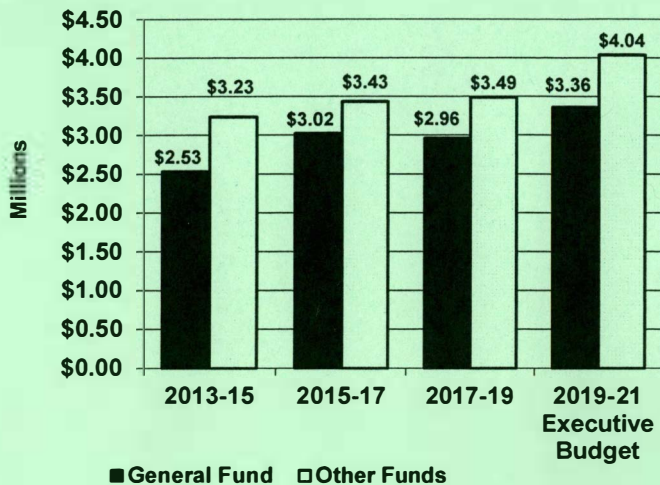
Executive Budget Comparison to Prior Biennium Appropriations

	FTE Positions	General Fund	Other Funds	Total
2019-21 Executive Budget	28.50	\$3,360,799	\$4,036,276	\$7,397,075
2017-19 Legislative Appropriations	27.50	2,958,999	3,488,601	6,447,600
Increase (Decrease)	1.00	\$401,800	\$547,675	\$949,475

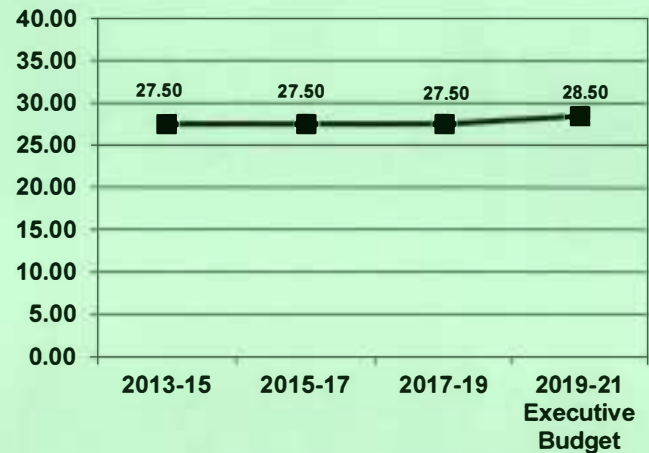
Ongoing and One-Time General Fund Appropriations

	Ongoing General Fund Appropriation	One-Time General Fund Appropriation	Total General Fund Appropriation
2019-21 Executive Budget	\$3,288,249	\$72,550	\$3,360,799
2017-19 Legislative Appropriations	2,958,999	0	2,958,999
Increase (Decrease)	\$329,250	\$72,550	\$401,800

Agency Funding



FTE Positions



Executive Budget Comparison to Base Level

	General Fund	Other Funds	Total
2019-21 Executive Budget	\$3,360,799	\$4,036,276	\$7,397,075
2019-21 Base Level	2,958,999	3,488,601	6,447,600
Increase (Decrease)	\$401,800	\$547,675	\$949,475

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 \$235,294 is for salary increases, \$109,595 is for health insurance increases, and \$29,700 is for retirement contribution increases	\$172,936	\$201,653	\$374,589
2. Adds funding for 1 FTE Olmstead Commission-related position	\$164,314	\$74,615	\$238,929
3. Adds funding for operating expenses, primarily related to professional service fees and travel expenses	\$197,103	\$79,249	\$276,352
4. Adds one-time funding for a polycam communications machine	\$8,000	\$0	\$8,000
5. Adds one-time funding for retirement payouts	\$64,550	\$68,000	\$132,550

Other Sections Recommended to be Added in the Executive Budget
(As Detailed in the Attached Appendix)

There are no other sections related to this agency.

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

At this time, no major related legislation has been introduced affecting this agency.

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

Executive Budget Recommendation				
	FTE Position	General Fund	Other Funds	Total
2019-21 Biennium Base Level	27.50	\$2,958,999	\$3,488,601	\$6,447,600
2019-21 Ongoing Funding Changes				
Base payroll changes		(\$205,103)	\$124,158	(\$80,945)
Salary increase		112,063	123,231	235,294
Health insurance increase		46,693	62,902	109,595
Retirement contribution increase		14,181	15,519	29,700
Add 1 FTE Olmstead Commission position	1.00	164,314	74,615	238,929
Add funding for operating expenses		197,103	79,249	276,352
Total ongoing funding changes	1.00	\$329,250	\$479,675	\$808,925
One-time funding items				
Add funding for a polycom machine		\$8,000	\$0	\$8,000
Add funding for retirement payouts		64,550	68,000	132,550
Total one-time funding changes	0.00	\$72,550	\$68,000	\$140,550
Total Changes to Base Level Funding	1.00	\$401,800	\$547,675	\$949,475
2019-21 Total Funding	28.50	\$3,360,799	\$4,036,276	\$7,397,075

Other Sections for Protection and Advocacy Project - Budget No. 360

Executive Budget Recommendation

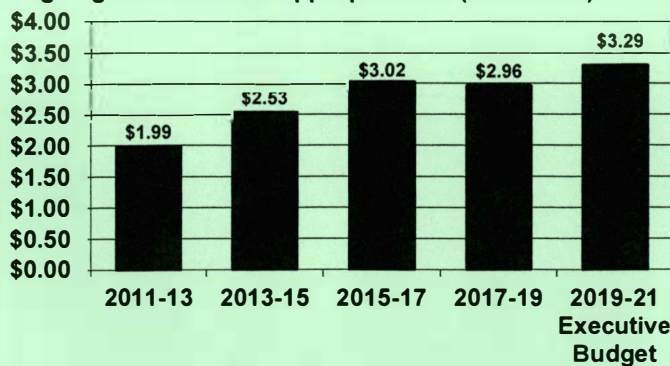
There are no other sections for this agency.

Department 360 - Protection and Advocacy Project

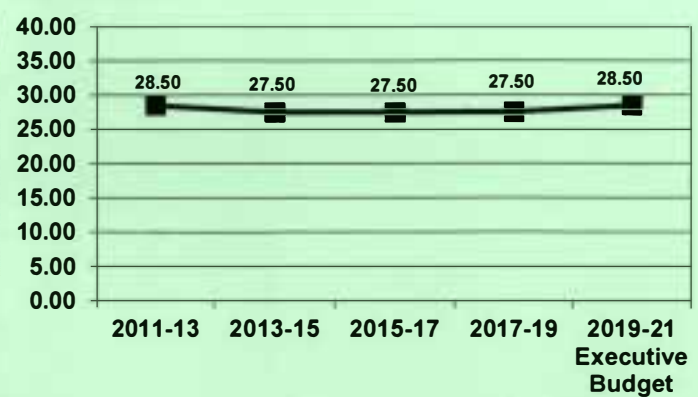
Historical Appropriations Information

Ongoing General Fund Appropriations Since 2011-13

Ongoing General Fund Appropriations (in Millions)



FTE Positions



Ongoing General Fund Appropriations					
	2011-13	2013-15	2015-17	2017-19	2019-21 Executive Budget
Ongoing general fund appropriations	\$1,985,365	\$2,531,562	\$3,020,926	\$2,958,999	\$3,288,249
Increase (decrease) from previous biennium	N/A	\$546,197	\$489,364	(\$61,927)	\$329,250
Percentage increase (decrease) from previous biennium	N/A	27.5%	19.3%	(2.0%)	11.1%
Cumulative percentage increase (decrease) from 2011-13 biennium	N/A	27.5%	52.2%	49.0%	65.6%

Major Increases (Decreases) in Ongoing General Fund Appropriations

2013-15 Biennium

1. Provided funding for market equity salary adjustments \$194,400

2015-17 Biennium

1. Increased funding for operating expenses, including \$37,833 for building rent expense \$70,776
2. Added funding for desktop support services from the Information Technology Department \$90,598

2017-19 Biennium

1. Reduced funding for operating expenses (\$63,243)

2019-21 Biennium (Executive Budget Recommendation)

1. Adds funding for 1 FTE Olmstead Commission position \$164,314
2. Adds funding for operating expenses, primarily related to professional service fees and travel expenses \$197,103

GOVERNOR'S RECOMMENDATION FOR THE PROTECTION AND ADVOCACY PROJECT AS SUBMITTED BY THE OFFICE OF MANAGEMENT AND BUDGET

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the committee on protection and advocacy for the purpose of defraying the expenses of the committee on protection and advocacy, for the biennium beginning July 1, 2019, and ending June 30, 2021, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Protection and advocacy operations	\$6,447,600	\$949,475	\$7,397,075
Total all funds	\$6,447,600	\$949,475	\$7,397,075
Less estimated income	<u>3,488,601</u>	<u>547,675</u>	<u>4,036,276</u>
Total general fund	\$2,958,999	\$401,800	\$3,360,799
Full-time equivalent positions	27.50	1	28.50

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-SEVENTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-fifth legislative assembly for the 2017-19 biennium and the 2019-21 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2017-19</u>	<u>2019-21</u>
Retirement Lump Sum	\$0	\$132,550
Polycom Machine	0	8,000
Total all funds	\$0	\$140,550
Less estimated income	<u>0</u>	<u>68,000</u>
Total general fund	\$0	\$72,550

The 2019-21 one-time funding amounts are not a part of the entity's base budget for the 2019-21 biennium. The committee on protection and advocacy shall report to the appropriations committees of the sixty-seventh legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2019 and ending June 30, 2021.

SB 2014
1-14-19
#1

SB 2014
Protection & Advocacy Project (P&A)
Senate Appropriations
Testimony of Teresa Larsen, Executive Director
January 14, 2019

There is a protection & advocacy (P&A) agency for individuals with disabilities in every U.S. state and territory. While most are private, non-profit entities, in ND the P&A is an independent state agency with a seven-member governing board as designated by state statute. The overall purpose of the P&A is to protective, and advocate for, individuals of all ages with all types of disabilities.

I. PROGRAM OVERVIEW

P&A continues to receive the seven federal grants it has gotten for a number of years. These grants come through the:

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

In addition, P&A has a new grant from the Social Security Administration (SSA). Passed unanimously by Congress and signed by the President in April 2018, HR 4547, called Strengthening Protections for Social Security Beneficiaries, is focused on reviewing the performance of individual and organizational representative payees in meeting the federal obligations for their beneficiaries. Generally, SSA assigns the reviews to each P&A though the P&A can also initiate reviews with the approval of SSA. In ND, P&A has done two reviews with a third one just being assigned.

ND is a minimum allotment state for federal grants. As you can see from the chart that follows, funding has been mostly stagnant for these grants.

Seven Year Federal Grant History							
	2012	2013	2014	2015	2016	2017	2018
DD	384,693	362,881	362,881	362,881	384,693	390,405	404,556
MH	429,100	406,700	428,000	428,000	428,000	428,000	428,000
PAIR	175,632	166,132	171,598	171,598	171,598	171,598	171,598
AT	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
TBI	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	98,209
REP PAYEE							60,000
TOTAL	1,259,425	1,205,713	1,232,479	1,232,479	1,254,291	1,260,003	1,362,363

NOTE: Federal grants are based on the fiscal year running from October – September with the exception of the new Rep Payee grant which runs from August – July.

P&A continues to be 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 to address challenges they may experience with federally funded rehabilitation programs (Vocational Rehabilitation, Centers for Independent Living, and Tribal Vocational Rehabilitation). The contract for the current biennium is budgeted at \$255,832.

P&A was audited by the Office of the State Auditor in 2017 for the two-year period ending June 30, 2016. There were no findings.

II. SERVICES

P&A services include information & referral, education & training, advocacy, protective services, legal representation, and systems advocacy. Over the last two federal fiscal years, P&A provided advocacy, legal representation, & protective services investigations for 2,321 clients (1,134 in FY 2017 and 1,187 in FY 2018). This is an increase from a total of 2,001 the previous two fiscal years. Information and referral services totaled 4,691 for these same fiscal years (as compared to 4,493 for the previous

SB 2014
1-14-19
#1
P3

two years). 5,773 individuals participated in education & training activities in these two years (as compared with 3,735 for the previous two years).

For federal fiscal years 2017 & 2018, service requests/reports were specific to the following priorities:

	<u>FY 2017</u>	<u>FY 2018</u>
Protective Services (a/n/e)	59%	62.5%
Education	22%	22.5%
Employment	5%	3%
Community Inclusion	11.5%	9%
Healthcare	1.3%	2%
Criminal Justice	1.1%	1%
Other, including accessibility	0.1%	0%

The statistics continue to show a consistent trend over the years with protective services making up close to 2/3 of the casework. In these cases, P&A's role is to conduct investigations or to review investigations completed by providers. P&A addresses identified problems such as a need for guardianship. Thorough and timely work is essential.

P&A is working with developmental disabilities providers to continue to identify ways to make the quality assurance system less onerous on everyone. We know there are areas for improvement. P&A also collaborates with the DD Division to systemically approach training and monitoring activities for service providers.

It is important to note that P&A uses the least intrusive method in its casework. In other words, litigation is a last resort. While there really is no typical case, I have provided some examples in **Attachment A**.

P&A provides its services through ten offices around the State – one in each of the eight “major cities” as well as in Belcourt and Grafton. The Grafton office is at the Life Skills & Transition Center, the Devils Lake office

SB 2014
1-14-19
1
P 4

is at the School for the Deaf, and the Jamestown office is located at the State Hospital.

P&A is staffed with 27.5 FTE's. This includes seventeen advocates, two program directors, four attorneys, a fiscal manager, an executive director, two full-time and one half-time administrative assistants. This model works well for our geographically large state, allowing staff to engage personally with clients, families, and other stakeholders. As a reminder, in the 2013 Session, P&A voluntarily "turned back" one position having had 28.5 FTE's at that point. The work provided by this position, primarily for the Help America Vote Act (HAVA) grant, is now done through a part-time, temporary employee. This continues to make sense for this particular program.

III. 2017 – 2019 BIENNIUM FUNDING

Besides General Funds, P&A's estimated income is from the eight federal grants and the contract with DHS for CAP. P&A also receives Medicaid funds through DHS as it serves as an independent screener of mandated reports of serious events concerning individuals with developmental disabilities. These are categorically defined with examples to include broken bones or sexual assault. The Center for Medicare & Medicaid Services (CMS) encouraged this arrangement a number of years ago. For the current biennium, P&A has budgeted approximately \$100,000/year. As federally required, these monies are matched 100% with State General Funds.

For the current biennium, P&A has spent approximately 67% of its total appropriated budget through November 30, 2018. All projected unspent federal funds from the 2017 – 2019 biennium are budgeted for the 2019 – 2021 biennium.

P&A had several retirements of long-term employees in the current biennium. While not ideal, the positions remained vacant for a time to for

SB 2014
1-14-19
#1
p5

allow roll-up for these payments. For the next biennium, P&A is requesting funds for projected retirement payouts.

IV. 2019 – 2021 BIENNIUM

For the next biennium, over and above the base budget, P&A is requesting one additional FTE for the Olmstead Commission and related work; funds for projected retirement payouts; and additional funds for operating.

The Governor's Olmstead Commission has been working for a year to redesign its structure and become more effective. Governor Burgum issued an Executive Order in September of 2018 to this effect. It states, in part, that the previous Executive order "requires revision to expand the Olmstead Commission's advisory and oversight role, focused on moving the State forward toward greater integration and inclusion for people with disabilities with respect to community services and support, health care, housing, employment, education and transportation." The Commission is no longer with the Department of Human Services. It will be chaired by a representative of the Governor's Office and a member of the public chosen by the Governor.

There are no funds allocated for the Commission. It has therefore proposed that it be staffed by P&A which would also have also have proactive roles with information and training. P&A has a centralized intake line and would receive and respond to calls as well as provide training statewide to help entities to be in compliance. P&A has budgeted almost \$75,000 in federal funds towards this position with the remaining \$164,314 being requested from State funds. Having P&A as the point of contact for the Olmstead Commission was supported by the Human Services and Health Services Interim Committees.

P&A staff were surveyed regarding retirement during the next biennium. It is estimated that a payout of \$132,550 will be needed for

SB 2014
1-14-19
#1
P6

annual and sick leave. This includes \$68,000 in federal funds and a request of \$64,550 in State funds. In addition, P&A is requesting \$8,000 for a Polycom system. Both the retirement and Polycom are one-time funding items.

The remaining dollars include increased operating funds, of which almost \$80,000 are in federal dollars, along with increases included by the Governor for salary and benefit increases, health insurance increases, and retirement contribution increases. This totals \$374,589 of which \$201,653 are federal funds.

In summary, here is a comparison for the base level budget to the Governor's recommended budget:

	General Fund	Federal Funds	TOTAL
2019-21 Governor's Budget	3,360,799	4,036,276	7,397,075
2019-21 Base Level	2,958,999	3,488,601	6,447,600
Increase	401,800	547,685	949,475

Grant amounts beyond federal fiscal year 2019 are estimated at a maintenance level. Federal grant dollars that are projected to not be spent during the current biennium (carry-over funds) are tracked carefully and budgeted into 2019-2021.

The budget recommended by Governor Burgum is the same as the one submitted by P&A to OMB with the exception of changes made for all State agencies for salaries and benefits.

P&A respectfully requests the Senate Appropriations Committee approve the budget as recommended by the Governor. P&A has timelines to meet with its casework and with completing investigations of alleged abuse, neglect, & exploitation. P&A is already doing more with less but workloads continue to increase. Your consideration is appreciated.

I'm happy to answer any questions and prepare additional information
you may find helpful. Thank you.

tlarsen@nd.gov
328-2950

SB
2014
1-14-14
#1
p7

SB 2014
1-14-19

Attachment A #1
p8

Case Example A: EDUCATION

The client is currently attending middle school and is 13 years old. He lives in an urban community with his parents. His diagnoses includes Posterior Sclerites which results in antibodies attacking the back of his eyes. To treat his condition, the client receives chemotherapy pills and intravenous infusions every 6 weeks. The disorder is painful and treatment causes side effects resulting in him missing school. In addition, the pain and discomfort becomes overwhelming and this creates emotional and behavioral challenges at school. P&A was contacted by the student's parents and requested advocacy to address educational accommodations and modifications related to the client's disability. P&A provided advocacy representation to the client and attended meetings with the school district to develop a comprehensive 504 Plan to accommodate his attendance, along with his academic and healthcare needs. These accommodations included the identification of critical learning activities, selection of critical assignments, along with additional time to make up work. Other supports and services were identified by his team to allow for him to gain the essential academic learning without having to complete all of the assignments. The student's plan was noted to be thorough and at the time of case closure, he was caught up with his educational work and was doing well in school.

Case Example B: COMMUNITY INTEGRATION

The client is a 25 year-old Caucasian male who currently resides in an ICF/IID group home in an urban community in the state. He has diagnoses which include Cerebral Palsy, a significant intellectual disability and a seizure disorder that is poorly controlled. He is dependent on a caregiver for all aspects of his care. His parents are his full legal guardians. P&A received a referral that identified that he was at-risk of placement within a nursing home. He has been living in the ICF/IID group home for the past three years, but the provider who oversaw his residential services has indicated that they do not feel that they have the nursing supports needed to continue to support him in the group home as a result of his seizures. At the time of referral, the client was experiencing a period of instability regarding his seizures, which is not uncommon for him. His parents, who know him extremely well, have not been concerned with this as this is typical and does not pose any significant risks, other than need to use his Vagus Nerve Stimulator (VNS) and monitoring the situation. At the time of referral, there was a significant degree of conflict that was present between the provider and parents. P&A negotiated with the provider through the team process, and included the client's neurologist in establishing a seizure protocol, which

p8

SB 2014
1-14-19
#1
P9

outlined steps for his caregiver's to take at the various stages of a seizure. With these details established and included in his physician's orders, his caregivers were then able to better understand at what point in time they should swipe his VNS, when to administer additional medication, when to notify his parents, and when to seek emergency services. This protocol was very successful in helping to support the caregivers and to provide the detail to ensure that staff were supporting the client throughout his seizures. As a result of these efforts and the negotiation between the parties, the client was able to remain living within the ICF/IID group home.

Case Example C: Protective Services (A/N/E)

The client is a 46-year-old Native American female and an enrolled member of a ND tribe. She is currently receiving inpatient treatment at the ND State Hospital (NDSH). She is diagnosed with Borderline Personality Disorder, Borderline Intellectual Functioning, and congenital blindness in her left eye. The client's NDSH social worker reported a concern that the client's guardian would not engage with the client or the NDSH treatment team and that this was impacting the ability to plan for discharge. The guardian did not agree with the client's choice of city for discharge because "it would be more difficult for her to keep an eye on her", although the city of the client's choice had more and better options for housing and services. P&A provided advocacy to help the client in her desire to obtain a new guardian. She was supported to identify guardian options and provided information relative to the process for communicating her wishes with the court. Because of P&A involvement, the client was able to obtain a guardian of her choice. The new guardian has become actively engaged with both the client and her team.

Case Example D: Protective Services (A/N/E)

At the time of his death the client was a 43-year-old single white male. The client had come to this state to work in the oil fields and his family lived several states away to the west. He presented at a medical hospital and the human service center with symptoms of severe depression (suicidal ideation/talk) and chronic pancreatitis due to substance abuse. He was homeless. He was provided a safe bed at the local Crisis Residential Unit. P&A received a report that the client committed suicide while at the Crisis Residential Unit.

P&A completed an investigation. P&A found inadequate staffing of the CRU. Staff doing screening and admission had inadequate training. There was a lack of coordination between service providers in the community and law enforcement. P&A concluded that there was sufficient evidence to determine neglect occurred. Because of the investigation, improvements were made to include everyone entering the CRU is provided with an emergency assessment by a licensed professional to ensure the appropriateness of the

P9

placement. This ensures that anyone who needs a higher level of care is hospitalized; and anyone entering the CRU is provided case management from the regional Human Service Center while at the CRU to ensure coordination of services in the community and with other regions, as needed. The CRU is now staffed 24/7 by appropriately trained staff.

SB2014
1-14-19
#1
P10

P10

SENATE APPROPRIATIONS COMMITTEE
SENATOR RAY HOLMBERG, CHAIRMAN
SENATE BILL 2014
TESTIMONY OF BRUCE MURRY
JANUARY 14, 2019

1-14-19
SB 2014
2
P 1

Chairman Holmberg, and members of the Senate Appropriations Committee, I am Bruce Murry, Executive Director of the North Dakota Association of Community Providers. NDACP is a membership organization of 32 licensed developmental disability (DD) service providers throughout North Dakota.

The Protection and Advocacy Project is an important oversight organization to the DD System. P&A investigates allegations of abuse, neglect, and exploitation of people with disabilities, including those receiving services from our members. Along with self-advocates, families, and our members, they advocate for individual rights and system reforms. In these roles, P&A challenges us to continuously improve our services.

Under the Level System developed with the Developmental Disability Division, P&A delegates many investigations to the providers themselves. Having us investigate ourselves whenever possible allows us to learn from near misses and human error to improve our training, policies, and supervision. They have worked diligently to allow more DD providers to achieve the "deemed status" to investigate themselves.

P&A trains their staff to complete investigations promptly when they must take the lead. Their advocates balance the rights of those they represent with fairness to people receiving services statewide. We appreciate and support these efforts.

Thank you for your consideration, and I would be happy to answer any questions.



1500 E Capitol Ave
Suite 200
Bismarck, ND 58501

Bruce Murry
Executive Director

Phone: (701) 390-1021
Cell: (701) 220-4933

brucemurry@ndacp.org
NDACP.org

North Dakota Association of Community Providers

P 1

SB 2014 Testimony
Senate Appropriations Committee
Senator Holmberg, Chairman
January 14, 2019

SB 2014
1-14-19
3
P1

I am Carlotta McCleary, the 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. 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. I am also the spokesperson for Mental Health Advocacy Network and the Chair of the Protection Advocacy with Mental Illness Council. In the interest of time, I have combined the testimonies from each of those organizations.

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.

Recently, Protection and Advocacy has been asked to be the point of contact for the Olmstead Commission. The Olmstead Commission monitors services and conducts planning in order to comply with the United States Supreme Court's *Olmstead* decision which ruled that Americans with disabilities have the right to community services before being placed in institutional facilities. The Olmstead Commission recommended to the Governor that the Olmstead Commission needed to be restructured in order to be more effective. As a result of that recommendation, the Governor issued Executive Order 2018-05.1, which instituted a redesign of the Olmstead Commission. Under the new design, the co-chairs of the Olmstead Commission will be a representative of the

P1

SB 2014
1-14-19
3
P 2

Governor's office and a public member chosen by the Governor. As a result of the Olmstead Commission redesign, Protection and Advocacy will answer questions from individuals and providers and make referrals. Protection and Advocacy will also provide education and communications regarding commission requirements for businesses and community groups. Therefore, we support the additional FTE that is needed to truly ensure the ND Olmstead Commission can be fully functional.

Protection and Advocacy's is well respected for the work they do on behalf of individuals with disabilities, including adults and children with mental illness. 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. Therefore, we ask you to fully fund Protection and Advocacy as recommended in the Governor's recommended budget.

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

Carlotta McCleary

Executive Director, ND Federation of Families for Children's Mental Health
Executive Director, Mental Health America of North Dakota
Spokesperson, Mental Health Advocacy Network
Chair, PAIMI Council

523 North 4th St
Bismarck, ND 58501

(701) 255-3692
cmccleary@mhand.org

P 2

#1 SB 2014 Subcom
2-4-2019
pg 1

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

	Executive Budget Recommendation				Senate Version				Senate Changes to Executive Budget Increase (Decrease) - Executive Budget			
	FTE Position	General Fund	Other Funds	Total	FTE Position	General Fund	Other Funds	Total	FTE Positions	General Fund	Other Funds	Total
2019-21 Biennium Base Level	27.50	\$2,958,999	\$3,488,601	\$6,447,600	27.50	\$2,958,999	\$3,488,601	\$6,447,600	0.00	\$0	\$0	\$0
2019-21 Ongoing Funding Changes												
Base payroll changes		(\$205,103)	\$124,158	(\$80,945)				\$0		\$205,103	(\$124,158)	\$80,945
Salary increase		112,063	123,231	235,294				0		(112,063)	(123,231)	(235,294)
Health insurance increase		46,693	62,902	109,595				0		(46,693)	(62,902)	(109,595)
Retirement contribution increase		14,181	15,519	29,700				0		(14,181)	(15,519)	(29,700)
Add 1 FTE Olmstead Commission position	1.00	164,314	74,615	238,929				0	(1.00)	(164,314)	(74,615)	(238,929)
Add funding for operating expenses		197,103	79,249	276,352				0		(197,103)	(79,249)	(276,352)
Total ongoing funding changes	1.00	\$329,250	\$479,675	\$808,925	0.00	\$0	\$0	\$0	(1.00)	(\$329,250)	(\$479,675)	(\$808,925)
One-time funding items												
Add funding for a polycom machine		\$8,000	\$0	\$8,000				\$0		(\$8,000)	\$0	(\$8,000)
Add funding for retirement payouts		64,550	68,000	132,550				0		(64,550)	(68,000)	(132,550)
Total one-time funding changes	0.00	\$72,550	\$68,000	\$140,550	0.00	\$0	\$0	\$0	0.00	(\$72,550)	(\$68,000)	(\$140,550)
Total Changes to Base Level Funding	1.00	\$401,800	\$547,675	\$949,475	0.00	\$0	\$0	\$0	(1.00)	(\$401,800)	(\$547,675)	(\$949,475)
2019-21 Total Funding	28.50	\$3,360,799	\$4,036,276	\$7,397,075	27.50	\$2,958,999	\$3,488,601	\$6,447,600	(1.00)	(\$401,800)	(\$547,675)	(\$949,475)

Other Sections for Protection and Advocacy Project - Budget No. 360

	Executive Budget Recommendation				Senate Version			
There are no other sections for this agency.								

/ SB 2014 sub.
2-6-2019
pg 1

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

	Executive Budget Recommendation				Senate Version				Senate Changes to Executive Budget Increase (Decrease) - Executive Budget			
	FTE Position	General Fund	Other Funds	Total	FTE Position	General Fund	Other Funds	Total	FTE Positions	General Fund	Other Funds	Total
2019-21 Biennium Base Level	27.50	\$2,958,999	\$3,488,601	\$6,447,600	27.50	\$2,958,999	\$3,488,601	\$6,447,600	0.00	\$0	\$0	\$0
2019-21 Ongoing Funding Changes												
Base payroll changes		(\$205,103)	\$124,158	(\$80,945)		(\$205,103)	\$124,158	(\$80,945)				\$0
Salary increase		112,063	123,231	235,294		71,909	87,671	159,580		(40,154)	(35,560)	(75,714)
Health insurance increase		46,693	62,902	109,595		58,364	71,036	129,400		11,671	8,134	19,805
Retirement contribution increase		14,181	15,519	29,700				0		(14,181)	(15,519)	(29,700)
Add 1 FTE Olmstead Commission position	1.00	164,314	74,615	238,929	1.00	164,314	74,615	238,929				0
Add funding for operating expenses		197,103	79,249	276,352		197,103	79,249	276,352				0
Total ongoing funding changes	1.00	\$329,250	\$479,675	\$808,925	1.00	\$286,587	\$436,729	\$723,316	0.00	(\$42,663)	(\$42,946)	(\$85,609)
One-time funding items												
Add funding for a polycom machine		\$8,000	\$0	\$8,000		\$8,000		\$8,000		\$0	\$0	\$0
Add funding for retirement payouts		64,550	68,000	132,550		64,550	68,000	132,550		0	0	0
Total one-time funding changes	0.00	\$72,550	\$68,000	\$140,550	0.00	\$72,550	\$68,000	\$140,550	0.00	\$0	\$0	\$0
Total Changes to Base Level Funding	1.00	\$401,800	\$547,675	\$949,475	1.00	\$359,137	\$504,729	\$863,866	0.00	(\$42,663)	(\$42,946)	(\$85,609)
2019-21 Total Funding	28.50	\$3,360,799	\$4,036,276	\$7,397,075	28.50	\$3,318,136	\$3,993,330	\$7,311,466	0.00	(\$42,663)	(\$42,946)	(\$85,609)

Other Sections for Protection and Advocacy Project - Budget No. 360

	Executive Budget Recommendation	Senate Version
Guardianship study		Section 3 requires the Legislative Management consider studying the feasibility of combining all guardianship programs in the Protection and Advocacy Project.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2014

Page 1, replace lines 10 through 16 with:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Protection and advocacy operations	\$6,447,600	\$863,866	\$7,311,466
Total all funds	\$6,447,600	\$863,866	\$7,311,466
Less estimated income	3,488,601	504,729	3,993,330
Total general fund	\$2,958,999	\$359,137	\$3,318,136
Full-time equivalent positions	27.50	1.00	28.50

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-SEVENTH LEGISLATIVE ASSEMBLY. The following amounts reflect one-time funding items approved by the sixty-fifth legislative assembly for the 2017-19 biennium and the one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2017-19</u>	<u>2019-21</u>
Polycom machine	\$0	\$8,000
Accrued leave payments	0	132,550
Total all funds	\$0	\$140,550
Total other funds	0	68,000
Total general funds	\$0	\$72,550

The 2019-21 biennium one-time funding amounts are not part of the entity's base budget for the 2021-23 biennium. The protection and advocacy project shall report to the appropriations committees of the sixty-seventh legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2019, and ending June 30, 2021."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

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

	<u>Base Budget</u>	<u>Senate Changes</u>	<u>Senate Version</u>
Protection and advocacy operations	\$6,447,600	\$863,866	\$7,311,466
Total all funds	\$6,447,600	\$863,866	\$7,311,466
Less estimated income	3,488,601	504,729	3,993,330
General fund	\$2,958,999	\$359,137	\$3,318,136
FTE	27.50	1.00	28.50

Department 360 - Protection and Advocacy Project - Detail of Senate Changes

2/

SB 2014
2-7-2019

Ag 2

	Adjusts Funding for Base Payroll Changes ¹	Adds Funding for Salary and Benefit Increases ²	Adds 1 FTE Olmstead Commission Position ³	Adds Funding for Operating Expenses ⁴	Adds One- Time Funding ⁵	Total Senate Changes
Protection and advocacy operations	(\$80,945)	\$288,980	\$238,929	\$276,352	\$140,550	\$863,866
Total all funds	(\$80,945)	\$288,980	\$238,929	\$276,352	\$140,550	\$863,866
Less estimated income	124,158	158,707	74,615	79,249	68,000	504,729
General fund	(\$205,103)	\$130,273	\$164,314	\$197,103	\$72,550	\$359,137
FTE	0.00	0.00	1.00	0.00	0.00	1.00

¹ Funding is adjusted for base payroll changes.

² The following funding is added for 2019-21 biennium salary adjustments of 2 percent on July 1, 2019, and 3 percent on July 1, 2020, and increases in health insurance premiums from \$1,241 to \$1,427 per month:

	<u>General Fund</u>	<u>Other Funds</u>	<u>Total</u>
Salary increase	\$71,909	\$87,671	\$159,580
Health insurance increase	58,364	71,036	129,400
Total	\$130,273	\$158,707	\$288,980

³ Funding of \$238,929, of which \$164,314 is from the general fund, is added for 1 FTE Olmstead Commission related position.

⁴ Funding of \$276,352, of which \$197,103 is from the general fund, is added for operating expenses, primarily related to professional service fees, repairs, and travel expenses.

⁵ One-time funding is added as follows:

	<u>General Fund</u>	<u>Other Funds</u>	<u>Total</u>
Polycom machine	\$8,000	\$0	\$8,000
Accrued leave payments	64,550	68,000	132,550
Total	\$72,550	\$68,000	\$140,550

Department 360 - Protection and Advocacy Project
Senate Bill No. 2014

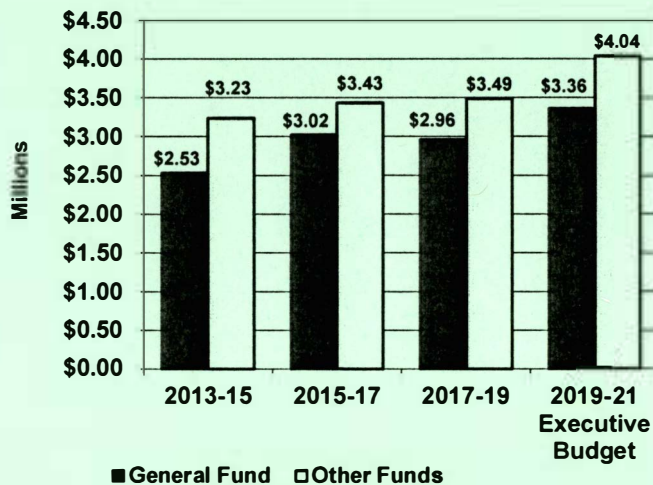
Executive Budget Comparison to Prior Biennium Appropriations

	FTE Positions	General Fund	Other Funds	Total
2019-21 Executive Budget	28.50	\$3,360,799	\$4,036,276	\$7,397,075
2017-19 Legislative Appropriations	27.50	2,958,999	3,488,601	6,447,600
Increase (Decrease)	1.00	\$401,800	\$547,675	\$949,475

Ongoing and One-Time General Fund Appropriations

	Ongoing General Fund Appropriation	One-Time General Fund Appropriation	Total General Fund Appropriation
2019-21 Executive Budget	\$3,288,249	\$72,550	\$3,360,799
2017-19 Legislative Appropriations	2,958,999	0	2,958,999
Increase (Decrease)	\$329,250	\$72,550	\$401,800

Agency Funding



FTE Positions



Executive Budget Comparison to Base Level

	General Fund	Other Funds	Total
2019-21 Executive Budget	\$3,360,799	\$4,036,276	\$7,397,075
2019-21 Base Level	2,958,999	3,488,601	6,447,600
Increase (Decrease)	\$401,800	\$547,675	\$949,475

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 \$235,294 is for salary increases, \$109,595 is for health insurance increases, and \$29,700 is for retirement contribution increases. The Senate added funding for salary adjustments of 2 percent for the 1st year of the biennium and 3 percent for the 2nd year and increases in health insurance premiums from \$1,241 to \$1,427 per month. The Senate did not add funding for retirement contribution increases.	\$172,936	\$201,653	\$374,589
2. Adds funding for 1 FTE Olmstead Commission-related position	\$164,314	\$74,615	\$238,929
3. Adds funding for operating expenses, primarily related to professional service fees and travel expenses	\$197,103	\$79,249	\$276,352

4. Adds one-time funding for a Polycom communications machine	\$8,000	\$0	\$8,000
5. Adds one-time funding for retirement payouts	\$64,550	\$68,000	\$132,550

Other Sections in Senate Bill No. 2014

There are no other sections related to this agency.

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

At this time, no major related legislation has been introduced affecting this agency.

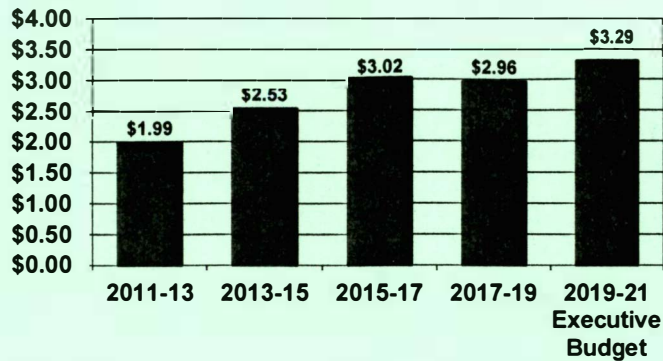
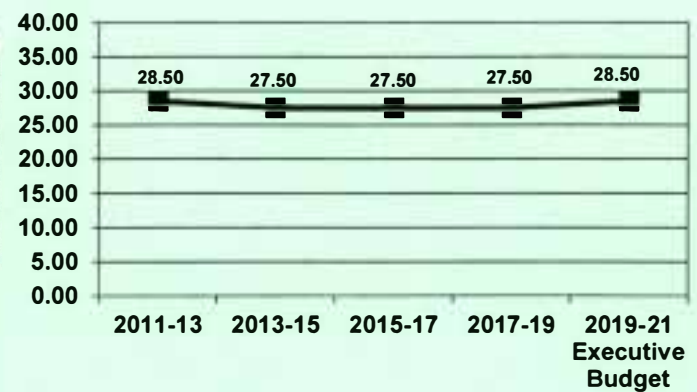
Protection and Advocacy Project - Budget No. 360
Senate Bill No. 2014
Base Level Funding Changes

	Executive Budget Recommendation				Senate Version			
	FTE Position	General Fund	Other Funds	Total	FTE Position	General Fund	Other Funds	Total
2019-21 Biennium Base Level	27.50	\$2,958,999	\$3,488,601	\$6,447,600	27.50	\$2,958,999	\$3,488,601	\$6,447,600
2019-21 Ongoing Funding Changes								
Base payroll changes		(\$205,103)	\$124,158	(\$80,945)		(\$205,103)	\$124,158	(\$80,945)
Salary increase		112,063	123,231	235,294		71,909	87,671	159,580
Health insurance increase		46,693	62,902	109,595		58,364	71,036	129,400
Retirement contribution increase		14,181	15,519	29,700				0
Add 1 FTE Olmstead Commission position	1.00	164,314	74,615	238,929	1.00	164,314	74,615	238,929
Add funding for operating expenses		197,103	79,249	276,352		197,103	79,249	276,352
Total ongoing funding changes	1.00	\$329,250	\$479,675	\$808,925	1.00	\$286,587	\$436,729	\$723,316
One-time funding items								
Add funding for a polycom machine		\$8,000	\$0	\$8,000		\$8,000		\$8,000
Add funding for retirement payouts		64,550	68,000	132,550		64,550	\$68,000	132,550
Total one-time funding changes	0.00	\$72,550	\$68,000	\$140,550	0.00	\$72,550	\$68,000	\$140,550
Total Changes to Base Level Funding	1.00	\$401,800	\$547,675	\$949,475	1.00	\$359,137	\$504,729	\$863,866
2019-21 Total Funding	28.50	\$3,360,799	\$4,036,276	\$7,397,075	28.50	\$3,318,136	\$3,993,330	\$7,311,466

Other Sections for Protection and Advocacy Project - Budget No. 360

	Executive Budget Recommendation				Senate Version			
There are no other sections related to this agency.								

Department 360 - Protection and Advocacy Project

Historical Appropriations Information**Ongoing General Fund Appropriations Since 2011-13****Ongoing General Fund Appropriations (in Millions)****FTE Positions**

Ongoing General Fund Appropriations					
	2011-13	2013-15	2015-17	2017-19	2019-21 Executive Budget
Ongoing general fund appropriations	\$1,985,365	\$2,531,562	\$3,020,926	\$2,958,999	\$3,288,249
Increase (decrease) from previous biennium	N/A	\$546,197	\$489,364	(\$61,927)	\$329,250
Percentage increase (decrease) from previous biennium	N/A	27.5%	19.3%	(2.0%)	11.1%
Cumulative percentage increase (decrease) from 2011-13 biennium	N/A	27.5%	52.2%	49.0%	65.6%

Major Increases (Decreases) in Ongoing General Fund Appropriations**2013-15 Biennium**

- | | |
|--|-----------|
| 1. Provided funding for market equity salary adjustments | \$194,400 |
|--|-----------|

2015-17 Biennium

- | | |
|---|----------|
| 1. Increased funding for operating expenses, including \$37,833 for building rent expense | \$70,776 |
| 2. Added funding for desktop support services from the Information Technology Department | \$90,598 |

2017-19 Biennium

- | | |
|---|------------|
| 1. Reduced funding for operating expenses | (\$63,243) |
|---|------------|

2019-21 Biennium (Executive Budget Recommendation)

- | | |
|--|-----------|
| 1. Adds funding for 1 FTE Olmstead Commission position | \$164,314 |
| 2. Adds funding for operating expenses, primarily related to professional service fees and travel expenses | \$197,103 |

**GOVERNOR'S RECOMMENDATION FOR THE
PROTECTION AND ADVOCACY PROJECT AS SUBMITTED
BY THE OFFICE OF MANAGEMENT AND BUDGET**

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the committee on protection and advocacy for the purpose of defraying the expenses of the committee on protection and advocacy, for the biennium beginning July 1, 2019, and ending June 30, 2021, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Protection and advocacy operations	\$6,447,600	\$949,475	\$7,397,075
Total all funds	\$6,447,600	\$949,475	\$7,397,075
Less estimated income	3,488,601	547,675	4,036,276
Total general fund	\$2,958,999	\$401,800	\$3,360,799
Full-time equivalent positions	27.50	1	28.50

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-SEVENTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-fifth legislative assembly for the 2017-19 biennium and the 2019-21 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2017-19</u>	<u>2019-21</u>
Retirement Lump Sum	\$0	\$132,550
Polycom Machine	0	8,000
Total all funds	\$0	\$140,550
Less estimated income	0	68,000
Total general fund	\$0	\$72,550

The 2019-21 one-time funding amounts are not a part of the entity's base budget for the 2019-21 biennium. The committee on protection and advocacy shall report to the appropriations committees of the sixty-seventh legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2019 and ending June 30, 2021.

SB 2014
Protection & Advocacy Project (P&A)
House Appropriations – Human Resources Division
Testimony of Teresa Larsen, Executive Director
February 27, 2019

There is a protection & advocacy (P&A) agency for individuals with disabilities in every U.S. state and territory. This began in 1975, with the discovery of inhumane conditions in an institution in New York, resulting in the Developmental Disabilities Assistance and Bill of Rights Act. While most P&A's are private, non-profit entities, in ND the P&A is an independent state agency with a seven-member governing board (named the Committee on Protection & Advocacy) as designated by state statute.

I. PROGRAM OVERVIEW

The overall purpose of the P&A is to protect, and advocate for, individuals of all ages with all types of disabilities. To help achieve this, the number and types of federal grants to P&A's have increased over the years. Some are targeted to specific types of disabilities (e.g., traumatic brain injury) while others are issue-based (e.g., assistive technology). P&A continues to receive the seven federal grants it has been awarded for many of years. These grants are:

- Protection & Advocacy for Developmental Disabilities (1977)
- Protection & Advocacy for Individuals with Mental Illness (1986)
- Protection & Advocacy for Individual Rights (1994)
- Protection & Advocacy for Assistive Technology (1994)
- Protection & Advocacy for Beneficiaries of Social Security (1999)
- Protection & Advocacy for Traumatic Brain Injury (2002)
- Protection & Advocacy for Voting Access (2002)

In addition, P&A has a new grant from the Social Security Administration (SSA). Passed unanimously by Congress and signed by the President in April 2018, HR 4547, called Strengthening Protections for Social Security Beneficiaries, is focused on reviewing the performance of individual and organizational representative payees in meeting the federal obligations for their beneficiaries. Generally, SSA assigns the reviews to each P&A though the P&A can also initiate reviews with the approval of SSA. In ND, P&A has done two reviews with several more having been recently assigned.

ND is a minimum allotment state for federal grants. As you can see from the chart that follows, funding has been mostly stagnant for these grants.

Eight Year Federal Grant History								
	2012	2013	2014	2015	2016	2017	2018	2019
DD	384,693	362,881	362,881	362,881	384,693	390,405	404,556	404,556
MH	429,100	406,700	428,000	428,000	428,000	428,000	428,000	428,000
PAIR	175,632	166,132	171,598	171,598	171,598	171,598	171,598	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
PAVA	70,000	70,000	70,000	70,000	70,000	70,000	98,209	98,209
REP PAY							60,000	60,000
TOTAL	1,259,425	1,205,713	1,232,479	1,232,479	1,254,291	1,260,003	1,362,363	1,362,363

NOTE: Federal grants are based on the fiscal year running from October – September with the exception of the new Rep Payee grant which runs from August – July. The 2019 grant for Rep Payee is estimated.

As first awarded in 2011, P&A continues to be the recipient of a contract from the ND Department of Human Services (DHS)/Vocational Rehabilitation Division to implement the Client Assistance Program (CAP). This is a federally funded grant designed to assist individuals with disabilities to address challenges they may experience with federally funded rehabilitation programs (Vocational Rehabilitation, Centers for Independent Living, and Tribal Vocational Rehabilitation). The contract for the current biennium is budgeted at \$255,832. The same amount is budgeted for 2019 – 2021.

P&A was audited by the Office of the State Auditor in 2017 for the two-year period ending June 30, 2016. There were no findings (i.e., compliance issues). The audit for the two-period ending June 30, 2018 is currently being completed.

II. SERVICES

P&A services include information & referral, education & training, advocacy, protective services, legal representation, and systems advocacy. Over the last two federal fiscal years, P&A provided advocacy, legal representation, & protective services investigations for 2,321 clients (1,134 in FY 2017 and 1,187 in FY 2018). This is an increase from a total of 2,001 the previous two fiscal years. In order to be eligible for advocacy, protective services, or legal representation, individuals must meet federal eligibility criteria as well as have issues that fall within ND P&A's priorities. As required by the federal government, state priorities are set annually following input from stakeholders.

For federal fiscal years 2017 & 2018, service requests (asserting rights issues) and reports (alleging abuse, neglect, and/or exploitation) to P&A were specific to the following priorities:

	<u>FY 2017</u>	<u>FY 2018</u>
Protective Services (a/n/e)	59%	62.5%
Education	22%	22.5%
Employment	5%	3%
Community Inclusion	11.5%	9%
Healthcare	1.3%	2%
Criminal Justice	1.1%	1%
Other, including accessibility	0.1%	0%

The statistics continue to show a consistent trend over the years with protective services making up close to 2/3 of the casework. In these cases,

P&A's role is to conduct investigations or to review investigations completed by providers. P&A addresses identified problems such as a need for a change in guardianship or provider staff training. Thorough and timely work is essential.

It is important to note that P&A uses the least intrusive method in its casework. In other words, litigation is a last resort. While there really is no typical case, we'd like to provide some examples. Pam Mack, Director of Advocacy, will review a few advocacy representation and protective services cases with you. Dave Boeck, Director of Legal Services, will present a couple of legal representation cases for you.

Information and referral services (I&R) totaled 4,691 for these same fiscal years (as compared to 4,493 for the previous two years). This is an integral process to P&A's work. Corinne Hofmann, Director of Policy & Operations, will share information with you regarding P&A's centralized intake process, which is how most of the I&R is provided.

5,773 individuals participated in education & training activities in these two years (as compared with 3,735 for the previous two years). This is in addition to the many systemic projects P&A undertakes. For example, P&A is working with developmental disabilities providers to continue to identify ways to make the quality assurance system less onerous on everyone. We know there are areas for improvement. P&A also collaborates with the DD Division to systemically approach training and monitoring activities for service providers. Denise Harvey, Director of Advocacy, will provide information for you about P&A's systemic work.

P&A provides its services through ten offices around the State – one in each of the eight "major cities" as well as in Belcourt and Grafton. The Grafton office is at the Life Skills & Transition Center, the Devils Lake office is at the School for the Deaf, and the Jamestown office is located at the State Hospital. Except for Bismarck, Jamestown, Fargo, and Grand Forks, all

P&A offices have one disabilities advocate. Williston also has a ½ time administrative assistant position.

P&A is staffed with 27.5 FTE's. This includes seventeen advocates, two program directors, four attorneys, a fiscal manager, an executive director, two full-time and one half-time administrative assistants. This model works well for our geographically large state, allowing staff to engage personally with clients, families, and other stakeholders. Part-time, temporary staff are used for driving the Willison advocate and for activities association with the P&A Voting Access grant. The voting grant includes collaborative work with the Secretary of State's Office, education & awareness about the voting process as well as requirements for identification, and training on how to use accessible voting machines. A temporary, part-time position works well for this grant since the work is cyclical in nature.

III. 2017 – 2019 BIENNIUM FUNDING

Besides General Funds, P&A's estimated income is from the eight federal grants and the contract with DHS for CAP. In addition, P&A also receives Medicaid funds through DHS as P&A serves as an independent screener of mandated reports of serious events concerning individuals with developmental disabilities. These are categorically defined with examples to include broken bones or sexual assault. The Center for Medicare & Medicaid Services (CMS) encouraged this arrangement a number of years ago. For the current biennium P&A has budgeted approximately \$100,000/year. As federally required, these monies are matched 100% with State General Funds.

For the current biennium, P&A has spent approximately 73.5% of its total appropriated budget through January 31, 2019. All projected unspent federal funds from the 2017 – 2019 biennium are budgeted for the 2019 – 2021 biennium.

P&A had several retirements of long-term employees in the current biennium. While not ideal, the positions remained vacant for a time to allow for roll-up for annual and sick leave payments. For the 2019-2021 biennium, P&A is requesting funds for projected retirement payouts.

IV. 2019 – 2021 BIENNIUM

For the next biennium, over and above the base budget, P&A is requesting one additional FTE for the Olmstead Commission and related work; funds for projected retirement payouts (one-time funding); purchase of a Polycom for the administrative office in Bismarck (one-time funding) and additional funds for operating. These were all included in the recommended Executive budget and as well as SB 2014 as it was passed by the Senate.

The Governor's Olmstead Commission has been working for a year to redesign its structure and become more effective. Governor Burgum issued an Executive Order in September of 2018 to this effect. It states, in part, that the previous Executive order "requires revision to expand the Olmstead Commission's advisory and oversight role, focused on moving the State forward toward greater integration and inclusion for people with disabilities with respect to community services and support, health care, housing, employment, education and transportation." The Commission is no longer with the Department of Human Services. It will be chaired by a representative of the Governor's Office and a member of the public chosen by the Governor.

There are no funds allocated for the Commission. It has therefore proposed that it be staffed by P&A which would also have proactive roles with information and training. P&A has a centralized intake line and would receive and respond to calls as well as provide training statewide to help entities to be in compliance. P&A has budgeted almost \$75,000 in federal funds towards this position with the remaining \$164,314 being requested

from State funds. Having P&A as the point of contact for the Olmstead Commission was supported by the Human Services and Health Services Interim Committees.

P&A staff were surveyed regarding retirement during the next biennium. It is estimated that a payout of \$132,550 will be needed for annual and sick leave. This includes \$68,000 in federal funds and a request of \$64,550 in State funds. In addition, P&A is requesting \$8,000 for a Polycom system. Again, both the retirement pay-out and Polycom are one-time funding items.

The changes to the Executive budget, as passed by the Senate, are: decreasing annual salary increases (from 4%+2% to 2%+3%); increases for health insurance premiums (from \$1,241 to \$1,427/month); removing retirement contribution increases.

In summary, here is a comparison for the base level budget to the Governor's recommended budget as well as the Senate version compared to the base level budget:

	FTE's	General Fund	Federal Funds	TOTAL
2019-21 Governor's Budget	28.5	3,360,799	4,036,276	7,397,075
2019-21 Base Level	27.5	2,958,999	3,488,601	6,447,600
Increase from Base Level to Governor's budget	1	401,800	547,685	949,475
As passed by the Senate	28.5	3,318,136	3,993,330	7,311,466
Increase from Base Level to Senate version	1	359,137	504,729	863,866

Grant amounts beyond federal fiscal year 2019 are estimated at a maintenance level. Federal grant dollars that are projected to not be spent during the current biennium (carry-over funds) are tracked carefully and budgeted into 2019-2021.

The budget recommended by Governor Burgum is the same as the one submitted by P&A to OMB with the exception of changes made for all State agencies for salaries and benefits.

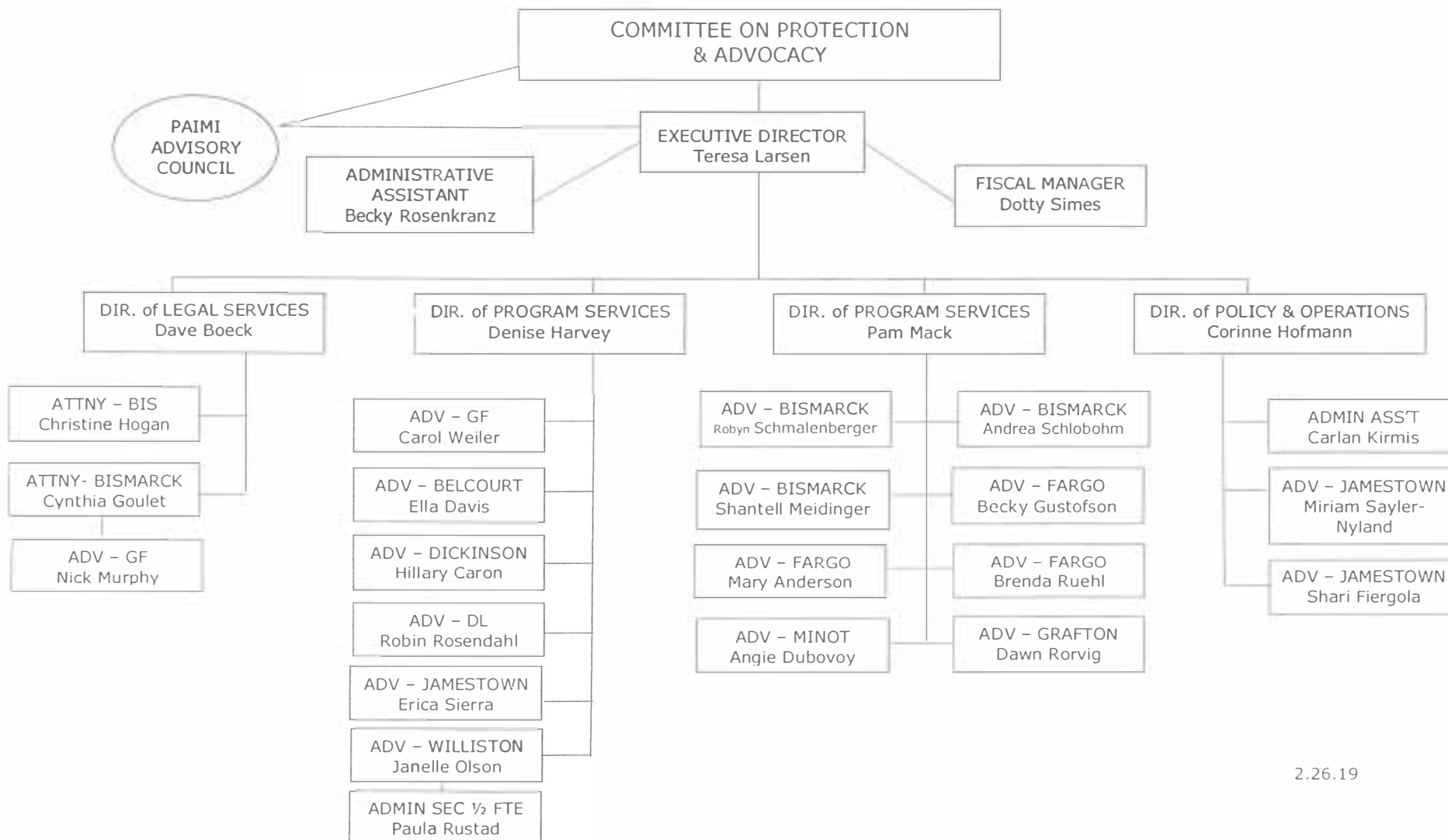
P&A respectfully requests the House Appropriations Committee approve the budget as passed by the Senate. P&A has timelines to meet with its casework and with completing investigations of alleged abuse, neglect, & exploitation. P&A is already doing more with less... workloads continue to increase. Your consideration is appreciated.

I'm happy to answer any questions and prepare additional information you may find helpful. Thank you.

tlarsen@nd.gov
328-2950

SB2014
2/27/2019
B

NORTH DAKOTA PROTECTION AND ADVOCACY PROJECT



2.26.19

Case Example A: EDUCATION

- 13 year old in middle school in an urban community.
- Posterior Scleritis – antibodies attacking the back of the eyes.
- Treatment – oral chemotherapy daily and intravenous infusions ever six weeks.
- Disorder is quite painful and this affects his ability to attend school on a regular basis.
- School district was counting absences against him and not allowing him to make up work when gone for his healthcare condition.
- Advocacy Representation to develop a 504 plan that addressed accommodations with attendance, methods to ensure he received his classwork and additional time to receive credit for work completed.
- His plan was very successful, and he was able to catch up and then maintain the pace of work with his peers.

Case Example B: COMMUNITY INTEGRATION

- 25 year-old male who lives in a group home.
- Diagnosis of Cerebral Palsy, an intellectual disability and a seizure disorder that is poorly controlled.
- P&A received a referral that identified that he was at-risk of placement within a nursing home as it was thought that his seizures could be better controlled in a different setting.
- P&A worked with the provider, his parents and his team of physicians to address his seizures and to develop a written protocol and response for group home staff to follow.
- This protocol was very successful in helping to support the caregivers and to provide the best possible care.
- As a result of these efforts and the negotiation between the parties, the client was able to remain living within the group home.

Case Example C: Protective Services (A/N/E)

- 46-year-old Native American female and an enrolled member of a ND tribe.
- Inpatient treatment at the ND State Hospital (NDSH).
- Diagnosed with Borderline Personality Disorder, Borderline Intellectual Functioning, and congenital blindness in her left eye.
- Treatment team concerned that the client's guardian would not engage with the client or the treatment team and that this was impacting the ability to plan for discharge.
- Client chose city – good choice more housing and services.
- The guardian - "it would be more difficult for her to keep an eye on her"
- P&A worked with the treatment team and brought the guardian to the table. These efforts resulted in ensuring that the guardian was supporting the clients wishes and establishing the necessary supports for her to be successful upon discharge.

Case Example D: Protective Services (A/N/E)

- At the time of his death the client was a 43-year-old single white male.
- The client had come to this state to work in the oil fields and his family lived several states away.
- He presented at a medical hospital and the human service center with symptoms of severe depression (suicidal ideation/talk) and chronic pancreatitis due to substance abuse.
- He was homeless.
- He was provided a safe bed at the local Crisis Residential Unit (CRU) unfortunately the client committed suicide while at the Crisis Residential Unit.
- P&A completed an investigation and identified systemic issues that needed to be addressed with staffing, training of admissions staff, and coordination of services for people who enter CRU.
- This resulted in procedures being developed to address the concerns and to establish training protocols for people being served at CRU.
- Appropriate staffing patterns were also identified for CRU and is in place now.

House Appropriations Committee -- Human Resources Division
Sixty-Sixth Legislative Assembly of North Dakota
Senate Bill No. 2014
February 27, 2019

Good Afternoon, Chairman Nelson and Members of the Human Resources Division of the House Appropriations Committee. I am David Boeck, a State employee and a lawyer for the Protection & Advocacy Project. The Protection & Advocacy Project is an independent state agency that acts to protect people with disabilities from abuse, neglect, and exploitation, and advocates for the disability-related rights of people with disabilities.

I have served as Director of Legal Services for the Protection & Advocacy Project since 1996.

I will briefly describe two cases in which P&A has provided legal representation during the past year. Fictitious identifying information has been substituted for any identifying information that might otherwise be used to identify individuals with disabilities.

Example I

The first case involves "Georgia." Georgia has an intellectual disability along with other diagnoses. P&A received an anonymous report that Georgia was being financially exploited by her guardian, Ralph. The reporter stated that Ralph was likely to continue exploiting Georgia financially.

Ralph was a stranger who met Georgia while Ralph was a patient in a treatment program for substance (alcohol) use disorder a few years ago. Ralph has three teenage children who live with him. Ralph and his wife, Hilda, have an unstable relationship; they sometimes live apart from one another.

An experienced P&A Disabilities Advocate investigated this report and determined it was well-founded. Having completed the investigation, the Disabilities Advocate tried to assist Georgia to avoid future exploitation by Ralph.

Ralph owned a building and rented a one-bedroom apartment to Georgia for \$2,000 per month. Ralph later offered an identical apartment to someone else for \$825 per month.

Georgia's psychologist recommended that Georgia get a psychological support animal. Georgia got a cat. Ralph told Georgia that she could have a support animal (the cat) in her apartment. Ralph then charged an additional \$250 per month rent for the privilege of having a cat, contrary to landlord-tenant law and the Fair Housing Act.

In addition to the exorbitant rent, Ralph charged Georgia \$500 per month as a guardianship fee.

On a motion to the guardianship court, the court approved the \$500 per month guardianship fee, Ralph's proposed monthly budget

that included \$2000 per month rent, and a miscellaneous expense of \$250 per month (probably the cat's rent). Ralph's lawyer explained to the judge that Ralph constantly had to supervise because she often came home in the evening with several new friends. During one incident, the new friends stole a large flat screen TV, some jewelry, and other valuables when they left while Georgia was sleeping.

Georgia did not have a lawyer in the guardianship proceeding. Georgia trusted Ralph and believed Ralph was looking out for Georgia's best interest.

P&A does not know what conversations were taking place between Ralph and Georgia, but suddenly Georgia announced that she "wanted to own" a new four-wheel drive, crew cab pickup (priced at more than \$70,000), a pontoon boat, and a camper. Georgia is not licensed to drive a motor vehicle and she does not drive motor vehicles. Ralph said Georgia would keep the pickup at Ralph's home. [Fortunately(?), the crew cab would be large enough for Ralph and his family.]

Georgia was the beneficiary of a substantial trust, so Ralph applied to the trustee for funds to make the purchases. Ralph explained this would be in Georgia's best interest because it provided a way for Georgia to get some benefit from the substantial trust funds dedicated to her.

Georgia had no natural heirs, no close family, and no one financially dependent upon her.

Ralph next began to consider the purchase of a home on "Georgia's behalf." Ralph showed Georgia some 3- and 4-bedroom homes that Georgia said were far too large for her. Georgia expected that Ralph was planning to live with his family in this new home and that Georgia would have a small apartment or room in the basement.

Ralph began trying to convince the trustee this would be a good investment for Georgia.

When P&A learned of the plans for the pickup truck, boat, camper, and house, P&A cautioned Ralph that P&A was watching his actions. P&A assigned a P&A lawyer to the case. Georgia wanted P&A to immediately restrict Ralph's decisionmaking authority over Georgia and her property. P&A should also try to get a different guardian for Georgia.

At the same time, P&A contacted the trustee to caution the trustee of possible financial exploitation. The trustee was already leery of Ralph's requests for purchases.

A couple years earlier, Georgia got on a waiting list for a specific reputable, professional guardianship business, Acme Guardianships. After more than a year, Georgia had risen to the top of the list. Acme Guardianships could now serve as guardian to Georgia.

Through negotiations with Ralph's lawyer, P&A got Ralph to resign as guardian without having purchased the pickup truck, boat, camper, or house. P&A noted Georgia's abilities and asked the court to give Georgia more decisionmaking authority, commensurate with her capacity.

Georgia now is justifiably secure with Acme as her guardian.

Example II

Polly was born prematurely to Maxine Blue and Max Brown. Polly had "some" complications at birth and was hospitalized in a neonatal intensive care unit (NICU) throughout her first 86 days. During this time, Polly had numerous troubling diagnoses, surgeries, and surgical procedures. Her medical problems involved breathing, eating, club feet (complex), vision, and sleep. Polly remains medically fragile. Max and Maxine had learned from Polly's treatment team that when questions arose about Polly's need for treatment, it was better to err on the side of caution and safety.

Members of Polly's treatment team went to Max and Maxine's home to help them set up everything necessary for Polly to live there safely. Max and Maxine had learned much from watching the NICU staff caring for Polly. They also got detailed training from medical staff on caring for Polly at home.

After 86 days, Polly was discharged home. She was able to live at home for only two weeks. Polly then had a medical crisis and had to be transported by ambulance to an out-of-state [Oz] hospital with a pediatric pulmonologist, as no pediatric pulmonologist was available in North Dakota at the time of the emergency.

The day the family returned from the hospitalization in Oz, Polly had a follow-up appointment with her primary physician. In the evening that day, Polly was having tachypnea, tachycardia (in the 200s), fever, and Respiratory Syncytial Virus (RSV). Max and Maxine took Polly to the emergency room for urgent care. The hospital was familiar with Polly as this is the hospital where she had received most of her hospital-level care.

Polly saw Dr. Orange, a board-certified specialist in emergency medicine. Dr. Orange recommended that Polly be transferred to an out-of-state [Webster] specialty hospital by air transport for emergency care. At this time, Dr. Orange would not release Polly to her parents because of Polly's condition.

The specialty hospital in Webster was hundreds of miles away. Max and Maxine drove to be at the hospital to be with Polly while Polly was traveling in the air ambulance. Max and Maxine arrived in Webster at 6:00 a.m.

Up to this time, Medicaid had covered all Polly's medical care.

Medicaid denied coverage for this air transport and all charges from the Webster regional specialty hospital. Days after the emergency, Dr. Second, a medical consultant for ND Medicaid, decided this was not an emergency. Dr. Second is not a neonatologist, not a pediatric pulmonologist, not a specialist in emergency medicine.

Max and Maxine had followed all the specially established procedures to care for Polly in their home. Max and Maxine had not requested that Polly be transferred to the regional specialty hospital. They did not argue about it. In good faith, they followed Dr. Orange's advice.

Inexplicitly, days later, the ER could not find its record of Polly's vital signs when she arrived at the ER. So the ER had no notes of Polly's heart rate, breathing, temperature.

This lack of records is the reason Medicaid denied coverage of these expenses. Without real-time documentation, Medicaid would not provide coverage, despite Dr. Orange's expertise, Dr. Orange's familiarity with Polly, and Dr. Orange's analysis of the reasons supporting the decision for air transport to the Webster specialty hospital.

During the air transport, Polly's fragile medical condition had changed. Upon arrival in Webster, Polly's vital signs surprisingly had returned to normal. Under these circumstances, Dr. Bigg, the ER

specialist at the specialty hospital wondered what to do for Polly. So, the specialty hospital began a series of tests and observations that concluded only after Polly had been a patient there for ten days.

Medicaid denied coverage for all expenses at the specialty hospital because there was no documentation of vital signs when Polly had arrived at the ER in her hometown. While the testing and observations at the specialty hospital proved valuable, Medicaid requires preapproval before accepting coverage of inpatient hospital testing of this nature.

P&A contacted the lawyer for the hometown hospital and the lawyer for the specialty hospital. They discussed the Medicaid Provider agreement that is required of all medical providers who want payment from Medicaid. Both lawyers were familiar with the Medicaid Provider agreement provision that requires certain procedures.

Once a hospital accepts an individual as a Medicaid patient, the hospital must accept Medicaid payment as payment in full. A hospital cannot go after a Medicaid patient for payment after Medicaid has paid everything covered by Medicaid.

Here due to errors of the hospitals, neither could collect anything from Medicaid. Medicaid's zero payment fully discharged the medical bills.

The hospitals had control over this. The hometown hospital had control over its failure to properly document Polly's crisis upon arrival at the ER. This affected both hospitals and the air transport. The specialty hospital had control over its failure to seek prior approval for the care it provided.

Some of the medical testing revealed that Polly has a very rare genetic disorder which is the cause of her symptoms. She can now receive medical care that is tailored to her underlying condition. Unfortunately, Polly still is medically fragile and has ongoing needs for expert care.

Thank you. Please let me know if you have any questions about these.

House Appropriations [HRD]

Sixty-six Legislative Assembly of North Dakota

Senate Bill No. 2014

February 27, 2019

Good afternoon, Chairman Nelson and Members of the Committee. I am Corinne Hofmann, Director of Policy and Operations for the Protection & Advocacy Project (P&A).

10 years ago P&A implemented a Centralized Intake process. Previous to that, all reports of abuse, neglect, and exploitation and requests for services were made to regional offices and processed by regional advocates. With Centralized Intake, all reports and requests come to our Bismarck office and are processed by Intake Specialists. Currently, P&A has two full-time and one part-time position focused on Intake services who are located in Jamestown, Dickinson, and Bismarck. We have a couple of other positions that provide back up and coverage as needed, when designated staff are absent due to annual or sick leave. Most requests and reports are received by phone, although they can also be received by letter or email. Occasionally, walk-ins occur in regional offices and regional advocates meet with those individuals and coordinate with intake staff to ensure appropriate processing.

Intake specialists provide technical assistance to providers; information and referral services to individuals with disabilities, their families, and the public; screen reports of serious events for suspected abuse or neglect; and evaluate and process incidents that are reported as possible abuse and neglect.

Intake staff gather and analyze information and document it our Disability Advocacy Database. They transfer reports and requests pertaining to individuals with disabilities that meet Federal eligibility criteria and case selection criteria to regional disabilities advocates for further, more long-term and intensive services when appropriate. Other reports and requests are handled as technical assistance or information and referral.

There is no typical call, but some examples of calls handled as technical assistance or I&R include the following:

1. A DD Program Manager called - Her parents created an apartment in their basement for her so she could be more independent. The basement was deep. It had egress windows, but they seemed really high. She wondered what the ADA standards were for Egress Windows. [min. 20 wide, 24 high, and no > than 44 from floor].
2. Mom called regarding her 12-year-old with Learning Disabilities. She just wanted advice about how to deal with his in-school suspension for "horseplay". She didn't think the school followed

their own policy on discipline. She wanted to know her options to for addressing this.

3. A woman with a disability related to a back injury called. She was renting a house in the country and the landlord seemed to suggest he would keep her road open. He's only come once to do that and she is snow bound. There is no written rental agreement. She wants to know what her rights are?
4. A patient at the ND State Hospital called. He experienced a recent involuntary commitment and he doesn't want to be there. He wants to know what his rights are and wants to get out ASAP. He has a lawyer, but the lawyer never answers when he calls.
5. The sister of an individual with traumatic brain injury called and needs to know what resources are available for her brother. He has diabetes and also just had a stroke. He is in the hospital, but is ready for discharge. He can't live alone and has significant short term memory issues and is angry and demanding. No nursing home will take him.
6. A mother called about her son. He has a mental illness and is off his medication. He currently has a girlfriend living with him who is running up charges on his credit card and hits him when she get mad. Last time she saw him, he had a black eye.

5/3/2014
2/27/2019
E

Centralized Intake has been beneficial for a number of reasons, including the following:

1. Regional offices do not have support staff and regional advocates are frequently out of the office following up on investigation and advocacy cases. The Centralized intake process allows for a more immediate response to calls and concerns.
2. Centralization ensures greater consistency across the state in P&A's response to reports and requests. It ensures there is a standard and consistent application of state abuse and neglect laws, policies, and procedures. This is also true for federal eligibility criteria and implementation of annual case selection criteria and priorities. This is particularly important as P&A has expanded the number of programs implemented.
3. Centralization allows Intake Specialists to develop the expertise and knowledge base to provide competent information and referral services on a multitude of issues for people across the state.

Thank you. I'm happy to answer questions.

SB2014/
2/27/2018
F

P&A Systemic Work

2/27/19

P&A works with dozens of systemic issues each year. Some issues are addressed through protective service work and some through advocacy. I'll briefly describe some of the additional systemic work that P&A is involved in through various committees and collaborations.

- P&A worked with the Developmental Disabilities (DD) Division to develop a serious incidents protocol. P&A takes the lead in screening these incidents to improve the quality of services for persons receiving waiver services within the DD system.
- In FY 2018, P&A received grant funding from the ND State Council on Developmental Disabilities to address Supported Decision-making in North Dakota. Steering committee meetings, a state-wide community input meeting and trainings for self-advocacy groups were held across the state to gather input. Legislation was drafted and introduced in the 2019 Legislative session.
- P&A worked as a member of the Court's Guardianship Work Group and subcommittee. These groups, along with the National Center for State Courts, developed an online training program required for all guardians in ND.
- P&A staff attends the ND State Hospital Governing Board meetings and provides feedback on activities relating to patient rights and overall quality assurance.
- P&A has been active with the ND Money Follows the Person program that targets the movement of individuals with physical disabilities living in nursing facilities and individuals with developmental/intellectual disabilities in ICF's/IDD, to community placements. Funds are also made available to patients moving from the State Hospital and private psychiatric placements to community settings to help with deposits on apartments, the purchase of home goods, etc.
- The Transition to the Community Task Force was developed to address barriers to placement of individuals from the State's institution for individuals with developmental disabilities into the community. The task force has been working on procedural changes with the goal of preventing LSTC placements, transitioning more individuals out, and having stays be shorter when admissions are needed.
- The Autism Spectrum Disorder (ASD) Task Force has actively worked on revising and updating the autism state plan. Committees are working on services for adults, children and the plan for services.

- Through parents of children with diagnosis on the Autism Spectrum, it was learned that children who accessed Applied Behavior Analysis (ABA) therapy with Medicaid as a payor, were being denied the coverage. When addressed with the Department of Human Services, DHS authorized individuals to receive ABA services and issued policy and procedures regarding this.
- P&A participated in Justice and Mental Health Task Force that is working to reduce the number of persons with perceived behavioral health issues detained due to lack of community resources. Goals were set to include training officers, developing a diversion program that includes emergency services.
- P&A serves on the state IDEA Advisory Committee and provided recommendations and advice regarding the outcomes of the State Systemic Improvement Plan. P&A advocated for prioritization of educational issues for students with disabilities this committee.
- Sanford Pediatric Rehabilitation Forum works in conjunction with outreach conducted by Gillette Children's Hospital-St. Paul, MN. This group assesses and develops plans of action to address healthcare and systemic issues that people with disabilities face.
- P&A participates in the ND Brain Injury Advisory Council. This group works to identify needs and gaps in services for individuals with brain injury, and to and develop solutions for these areas.
- The Governor's Children's Behavioral Health Task Force addresses gaps in services for children with behavioral health needs in the state. During FY 2018, the task force established areas of focus and recommendation to the Governor's office.

SB2014
2/27/2019
G

PROTECTION & ADVOCACY PROJECT
SPEND DOWN OF THE 2017-2019 BIENNIUM (through January 2019 – 79% of the biennium)

2.26.19

	17-19 BIENNIUM				NOTES
	BUDGETED	SPENT			
		Federal	State	Total	
SALARIES & BENEFITS	5,358,071	2,108,174	2,011,797	4,119,971	77% spent through 19 months of the biennium
Travel	132,900	55,725	37,388	93,113	Staff, board, MH advisory council
Supplies – IT	1,842	200	0	200	IT equip < 750; software licenses; data processing supplies
Prof. materials	36,250	11,038	13,268	24,305	Spec. Ed. Conn.; Westlaw; web-based data sys; resource materials
Misc. supplies	10,000	12,861	100	12,961	Equipment < 750; outreach materials
Office supplies	14,050	1,257	6,488	7,745	Central supply; misc. office supplies
Postage	11,425	3,264	3,182	6,446	Stamps; mailing services; PO Box rental
Printing	15,000	3,233	1,459	4,692	Brochures; business cards; letterhead; reports
IT equip < \$5K	4,160	0	0	0	As needed for urgent replacement
Other equip < \$5K	0	30	0	30	Purchase multi-function machines (IT) vs. copiers
Office equip/furniture	10,000	1,023	1,459	2,482	As needed for essential replacement & accommodations
Insurance	2,500	902	1,093	1,995	Risk management premiums; property insurance
Rentals/leases	259,366	114,318	79,964	194,282	Office leases; Williston utilities; booth/room rental; equip. rental
Repairs	13,950	2,257	4,947	7,204	Service contracts for copiers/printers
IT/data process	195,939	78,015	57,020	135,035	ITD desktop support
IT/communication	32,991	11,849	10,712	22,251	Telephone – ITD and AT&T (toll free line); Polycom
IT/cont. serv's	5,000	477	0	477	As needed
Prof development	31,316	32,747	7,264	40,011	Conf. reg.'s; national association dues; attorney licenses; stipends
Oper. fees/serv's	77,840	23,899	14,573	38,472	Workers comp.; advertise; serv. awards; Presort; answering serv.
Fees/prof serv's	235,000	27,871	1,102	28,973	Interpreter services; PAVA contracts; consultants; legal contracts
IT equip. > \$5K					Polycom for Bismarck (one-time funding)
OPERATING	1,089,529	380,965	240,020	620,675	57% spent through 19 months of the biennium
TOTAL	6,447,600	2,489,139	2,251,817	4,740,646	73.5% spent through 19 months of the biennium
FTE's	27.5				

SB 2014
2/27/2019

H

**PROTECTION & ADVOCACY PROJECT
BUDGET CHANGES FROM 17-19 TO 19-21**

2.27.19

	17-19 BIENNIUM		19-21 BIENNIUM	
	BUDGETED	SPENT	SENATE	NOTES
SALARIES & BENEFITS	5,358,071	4,119,971	5,911,835	new FTE - Olmstead; salary inc's; health insur. prem. increases; retirement payouts
Travel	132,900	93,113	173,000	Increase for Olmstead FTE, board members, PAIMI AC members to attend trainings
Supplies – IT	1,842	200	2,424	Upgrades for Drag'n users; Adobe Acrobat
Prof. materials	36,250	24,305	40,250	Increase for resource materials: Olmstead Commission
Misc. supplies	10,000	12,961	14,000	Increase for PAVA outreach materials
Office supplies	14,050	7,745	18,750	Increase for Olmstead Commission
Postage	11,425	6,446	16,250	Increase for Olmstead Commission work
Printing	15,000	4,692	38,500	Reprint IJP manuals; print a/n/e booklets; Olmstead materials/reports
IT equip < \$5K	4,160	0	15,210	Multifunction mach's: GF, Grafton; 2 printers: Bis.; solid state recorder w/ mic's
Other equip < \$5K	0	30		
Office equip/furniture	10,000	2,482	10,000	Standing desks; replacements (e.g., desk chairs)
Insurance	2,500	1,995	3,000	
Rentals/leases	259,366	194,282	247,950	Decrease in lease agreement amount for office space
Repairs	13,950	7,204	47,575	Increase for office upgrades including security (\$30,000)
IT/data process	195,939	135,035	185,304	Decrease in ITD costs
IT/communication	32,991	22,251	30,178	Decrease in ITD costs
IT/cont. serv's	5,000	477		
Prof development	31,316	40,011	57,440	More participation by board, PAIMI AC, & staff in trainings; stipends for consumers
Oper. fees/serv's	77,840	38,472	43,860	
Fees/prof serv's	235,000	28,973	447,940	contracts for PAVA and AT; Olmstead Commission consultants, etc.
IT equip. > \$5K			8,000	Polycom for Bismarck (1X purchase)
OPERATING	1,089,529	620,675	1,399,631	
TOTAL	6,447,600	4,740,646	7,311,466	
FTE's	27.5		28.5	

SB 2014
3/4/2019

I

SB 2014 Testimony
House Appropriations Committee
Representative Nelson, Chairman
February 27, 2019

I am Carlotta McCleary, the 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. 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. I am also the spokesperson for Mental Health Advocacy Network and the Chair of the Protection Advocacy with Mental Illness Council. In the interest of time, I have combined the testimonies from each of those organizations.

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.

Recently, Protection and Advocacy has been asked to be the point of contact for the Olmstead Commission. The Olmstead Commission monitors services and conducts planning in order to comply with the United States Supreme Court's *Olmstead* decision which ruled that Americans with disabilities have the right to community services before being placed in institutional facilities. The Olmstead Commission recommended to the Governor that the Olmstead Commission needed to be restructured in order to be more effective. As a result of that recommendation, the Governor issued Executive Order 2018-05.1, which instituted a redesign of the Olmstead Commission. Under the new design, the co-chairs of the Olmstead Commission will be a representative of the

SB 2014
3/4/2019

I

Governor's office and a public member chosen by the Governor. As a result of the Olmstead Commission redesign, Protection and Advocacy will answer questions from individuals and providers and make referrals. Protection and Advocacy will also provide education and communications regarding commission requirements for businesses and community groups. Therefore, we support the additional FTE that is needed to truly ensure the ND Olmstead Commission can be fully functional.

Protection and Advocacy's is well respected for the work they do on behalf of individuals with disabilities, including adults and children with mental illness. 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. Therefore, we ask you to fully fund Protection and Advocacy as recommended in the Governor's recommended budget.

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

Carlotta McCleary

Executive Director, ND Federation of Families for Children's Mental Health
Executive Director, Mental Health America of North Dakota
Spokesperson, Mental Health Advocacy Network
Chair, PAIMI Council

523 North 4th St
Bismarck, ND 58501

(701) 255-3692
cmccleary@mhand.org

1.10.19

SB 2014
2/28/2019
A

NUMBER OF CLIENTS (Protective Services, Advocacy, Legal Representation)

YEAR	DD	MH	PR	AT	SS	TBI	HAVA	CAP#	TOTAL
2008	344	201	87	34	87	11	0	-	764
2009	394	168	92	24	75	6	0	-	759
2010	548	224	93	14	96	9	0	-	984
2011	512	234	75	20	89	9	0	-	939
2012	519	191	75	26	94	22	0	68	995
2013	508	172	79	18	71	26	0	73	947
2014	557	171	84	15	19	21	0	41	908
2015	625	192	74	18	26	18	0	49	1002
2016	632	224	61	22	37	14	0	36	999
2017	665	253	86	30	46	14	0	40	1,134
2018	739	268	92	23	21	16	0	28	1,187

#P&A started administering CAP 7/1/11. The first full fiscal year was 2012.

SB2014
2/28/2019
B

PROTECTION & ADVOCACY PROJECT
SPEND DOWN OF THE 2017-2019 BIENNIUM (through January 2019 – 79% of the biennium)

2.26.19

	17-19 BIENNIUM				NOTES
	BUDGETED	SPENT			
		Federal	State	Total	
SALARIES & BENEFITS	5,358,071	2,108,174	2,011,797	4,119,971	77% spent through 19 months of the biennium
Travel	132,900	55,725	37,388	93,113	Staff, board, MH advisory council
Supplies – IT	1,842	200	0	200	IT equip < 750; software licenses; data processing supplies
Prof. materials	36,250	11,038	13,268	24,305	Spec. Ed. Conn.; Westlaw; web-based data sys; resource materials
Misc. supplies	10,000	12,861	100	12,961	Equipment < 750; outreach materials
Office supplies	14,050	1,257	6,488	7,745	Central supply; misc. office supplies
Postage	11,425	3,264	3,182	6,446	Stamps; mailing services; PO Box rental
Printing	15,000	3,233	1,459	4,692	Brochures; business cards; letterhead; reports
IT equip < \$5K	4,160	0	0	0	As needed for urgent replacement
Other equip < \$5K	0	30	0	30	Purchase multi-function machines (IT) vs. copiers
Office equip/furniture	10,000	1,023	1,459	2,482	As needed for essential replacement & accommodations
Insurance	2,500	902	1,093	1,995	Risk management premiums; property insurance
Rentals/leases	259,366	114,318	79,964	194,282	Office leases; Williston utilities; booth/room rental; equip. rental
Repairs	13,950	2,257	4,947	7,204	Service contracts for copiers/printers
IT/data process	195,939	78,015	57,020	135,035	ITD desktop support
IT/communication	32,991	11,849	10,712	22,251	Telephone – ITD and AT&T (toll free line); Polycom
IT/cont. serv's	5,000	477	0	477	As needed
Prof development	31,316	32,747	7,264	40,011	Conf. reg.'s; national association dues; attorney licenses; stipends
Oper. fees/serv's	77,840	23,899	14,573	38,472	Workers comp.; advertise; serv. awards; Presort; answering serv.
Fees/prof serv's	235,000	27,871	1,102	28,973	Interpreter services; PAVA contracts; consultants; legal contracts
IT equip. > \$5K					Polycom for Bismarck (one-time funding)
OPERATING	1,089,529	380,965	240,020	620,675	57% spent through 19 months of the biennium
TOTAL	6,447,600	2,489,139	2,251,817	4,740,646	73.5% spent through 19 months of the biennium
FTE's	27.5				

SB2014
2/28/2019
C

**PROTECTION & ADVOCACY PROJECT
BUDGET CHANGES FROM 17-19 TO 19-21**

2.27.19

	17-19 BIENNIUM		19-21 BIENNIUM	
	BUDGETED	SPENT	SENATE	NOTES
SALARIES & BENEFITS	5,358,071	4,119,971	5,911,835	new FTE - Olmstead; salary inc's; health insur. prem. increases; retirement payouts
Travel	132,900	93,113	173,000	Increase for Olmstead FTE, board members, PAIMI AC members to attend trainings
Supplies – IT	1,842	200	2,424	Upgrades for Drag'n users; Adobe Acrobat
Prof. materials	36,250	24,305	40,250	Increase for resource materials: Olmstead Commission
Misc. supplies	10,000	12,961	14,000	Increase for PAVA outreach materials
Office supplies	14,050	7,745	18,750	Increase for Olmstead Commission
Postage	11,425	6,446	16,250	Increase for Olmstead Commission work
Printing	15,000	4,692	38,500	Reprint IJP manuals; print a/n/e booklets; Olmstead materials/reports
IT equip < \$5K	4,160	0	15,210	Multifunction mach's: GF, Grafton; 2 printers: Bis.; solid state recorder w/ mic's
Other equip < \$5K	0	30		
Office equip/furniture	10,000	2,482	10,000	Standing desks; replacements (e.g., desk chairs)
Insurance	2,500	1,995	3,000	
Rentals/leases	259,366	194,282	247,950	Decrease in lease agreement amount for office space
Repairs	13,950	7,204	47,575	Increase for office upgrades including security (\$30,000)
IT/data process	195,939	135,035	185,304	Decrease in ITD costs
IT/communication	32,991	22,251	30,178	Decrease in ITD costs
IT/cont. serv's	5,000	477		
Prof development	31,316	40,011	57,440	More participation by board, PAIMI AC, & staff in trainings; stipends for consumers
Oper. fees/serv's	77,840	38,472	43,860	
Fees/prof serv's	235,000	28,973	447,940	contracts for PAVA and AT; Olmstead Commission consultants, etc.
IT equip. > \$5K			8,000	Polycom for Bismarck (1X purchase)
OPERATING	1,089,529	620,675	1,399,631	
TOTAL	6,447,600	4,740,646	7,311,466	
FTE's	27.5		28.5	

SB 2014
2/28/2019
D

May 2, 2016

Re: United States' Investigation, Pursuant to the Americans with Disabilities Act, of South Dakota's Use of Nursing Facilities to Serve Individuals with Disabilities

Findings of our investigation of South Dakota's system of care for individuals with disabilities who receive services and supports in nursing facilities. We find that the State does not comply with Title II of the Americans with Disabilities Act of 1990 ("ADA"), 42 U.S.C. §§ 12131-12134 (2006), as interpreted in *Olmstead v. L.C.*, 527 U.S. 581 (1999). In *Olmstead*, the Supreme Court held that individuals with disabilities are entitled to receive supports and services in the most integrated setting appropriate to their needs.

I. SUMMARY OF FINDINGS

South Dakota fails to provide services to individuals with disabilities in the most integrated setting appropriate to their needs, in violation of Title II of the ADA. Instead, South Dakota's system of care requires thousands of people with disabilities to live in segregated nursing facilities to receive the services they need and for which they are eligible under Medicaid, despite their preference to remain in their own homes and communities. These individuals include those with physical disabilities, such as mobility limitations or blindness; chronic illnesses, like diabetes or heart disease; or cognitive disabilities, like brain injury due to stroke or trauma. They include younger and working-age people as well as older adults who have developed a disability as part of the aging process. Many of these individuals, and their families, have sought long-term care services from the State only to find that a nursing facility is the only available option. And many have never been informed by the State that they could be receiving care while living in their own homes.

Our specific findings include:

- Individuals with disabilities who rely on South Dakota's public healthcare system for essential services have little choice but to receive those services in nursing facilities. South Dakota has one of the highest nursing facility utilization rates in the nation. The State needlessly places South Dakotans with disabilities in nursing facilities because it does not sufficiently provide community-based services. Many South Dakotans who live in nursing facilities want to live in the community, where they can receive appropriate services. The State can serve people with disabilities in their own homes with appropriate services, but the State does not sufficiently make these services available.
- The State acknowledges that many South Dakotans want to receive services in their homes and communities and that providing such services is cost effective. Yet South Dakota has not significantly allocated resources toward home- and community-based services. Instead, South Dakota spends approximately 83% of its Medicaid long-term care budget on expensive nursing facility services – far above national norms. South Dakota has not taken advantage of federal funding opportunities to create additional cost savings for home- and community-based services.
- The State offers an array of services that could be used to provide home- and community-based support to most nursing facility residents with disabilities, but these services are not consistently available throughout the State. Further, unnecessary limits on these services undermine their effectiveness. When services are available, they are either capped or allocated in amounts that are often insufficient to support people in their own homes.
- Many people living in South Dakota's nursing facilities, as well as their families, are not aware that any home- and community-based services are available. Likewise, few think they have the option to choose to stay in their own homes. Because the State has not developed a system to immediately connect individuals with available alternatives when they seek or are referred to nursing facility care, most people never have a choice but to enter a nursing facility. Similarly, the State has failed to develop a system to identify and provide transition assistance to nursing facility residents who can return home.

- The State's actions also put people with disabilities who live in the community at serious risk of unnecessary placement in nursing facilities. People who live in rural areas and Native Americans are at heightened risk due to a significant lack of home- and community-based services available to them.
- While some individuals may choose to live in nursing facilities, individuals in South Dakota do not have a meaningful option to receive services in the most integrated setting appropriate to their needs, because the State fails to offer sufficient services and has failed to develop systems that allow individuals to identify and select from among these services and settings. Similarly, while older adults who choose to live with others of the same age group should be able to do so, older adults with disabilities are often segregated together because of their disabilities.
- South Dakota's key agencies are well positioned to make essential changes. South Dakota's Department of Social Services already has systems that, if expanded and modified to effectively assist individuals in accessing services, could remedy the violations described in this letter. For example, the State already regularly reviews nursing facility residents for continued placement, but it does not appear to focus on home- and community-based alternatives in these reviews. Similarly, the State assesses those living in the community for long-term care services, but individuals are often placed in nursing facilities when the individual could be served at home. South Dakota can take advantage of and expand these and other existing systems to ensure that people with disabilities can receive the services they need in the most integrated setting appropriate.

The unnecessary segregation of people with disabilities in nursing facilities violates their civil rights and wastes the State's fiscal resources. Community integration with core services and supports will permit the State to support people in their homes and in their communities to achieve maximum independence, inclusion, and self-determination.

V. RECOMMENDED REMEDIAL MEASURES

The State should promptly implement remedial measures to include:

- Increasing capacity by expanding services and addressing limitations to adequately serve, in the community, individuals who are currently living in nursing facilities or who are at serious risk of entering nursing facilities. The State must identify and remove barriers to accessing such services that result in individuals' placement in nursing facilities. Services must be culturally competent and individuals must have a meaningful choice to receive services in the most integrated setting appropriate to their needs.
- Preventing unnecessary admissions of individuals with disabilities to nursing facilities by developing a system to identify potential admissions and to promptly arrange for in-home care. The State should not rely on hospitals or nursing facilities alone to refer people to the State for services.
- Developing a system to disseminate information about community services, identify individuals in nursing facilities who are appropriate for and do not oppose community placement, and conduct adequate transition planning to ensure that people with disabilities receive services in the most integrated setting appropriate to their needs. The State must ensure that residents have an individualized, person-centered, ⁵⁴ written transition plan that identifies the services and supports needed to successfully serve the person in the community. The State cannot solely rely, as it currently does, on the staff of nursing facilities to locate and arrange for appropriate alternative services upon an individual's discharge.
- For those individuals who currently live in, and those who have transitioned to, the community, the State must ensure that individuals are receiving necessary services in sufficient quantity to enable individuals to succeed in the community and to maximize integration with the community.

SB2014
2/28/2019
E

OFFICE LEASE INFORMATION FOR 2017-2019 WITH PROPOSED AMOUNTS FOR 2019-2021

			CURRENT MONTHLY RENT	2017-2019 RENT FOR BIENNIUM	2019-2021 PROPOSED PRICE/SQ FT	PROPOSED MONTHLY RENT	PROPOSED RENT FOR 19-21 BIENNIUM
LOCATION	# SQ FT	PRICE /SQ.FT					
WILLISTON (YR 1)	900	\$21.11	\$1,521.75	\$18,261.00	\$10.67	\$800.00	\$9,600.00
WILLISTON (YR 2)	900	\$10.67	\$800.00	\$9,600.00	\$10.67	\$800.00	\$9,600.00
MINOT	320	\$19.69	\$525.00	\$12,600.00	\$19.69	\$525.00	\$12,600.00
D LAKE	270	\$10.00	\$225.00	\$5,400.00	\$10.15	\$228.40	\$5,481.60
BELCOURT	144	\$15.00	\$180.00	\$4,320.00	\$15.90	\$190.80	\$4,579.20
GR FORKS	540	\$12.78	\$575.00	\$13,800.00	\$13.50	\$607.50	\$14,580.00
FARGO	866	\$12.00	\$866.00	\$20,784.00	\$13.00	\$938.25	\$22,518.00
JAMESTOWN	571.25	\$0.50	\$285.00	\$6,840.00	\$0.55	\$314.25	\$7,542.00
DICKINSON	266.39	\$16.89	\$375.00	\$9,000.00	\$17.50	\$388.44	\$9,322.56
BISMARCK	4661	\$14.95	\$5,806.83	\$139,363.92	\$15.89	\$6,171.95	\$148,126.80
GRAFTON		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

TOTAL: **\$9,637.83** **\$239,968.92** **\$10,164.59** **\$243,950.16**

NOTE: PREVIOUS RENT DURING 15-17 BIENNIUM:

LOCATION	# SQ FT	PRICE /SQ.FT	MONTHLY RENT	RENT FOR BIENNIUM
BELCOURT	256	\$25.78	\$550.00	\$13,200.00

HOUSE APPROPRIATIONS COMMITTEE
HUMAN RESOURCES SUBCOMMITTEE
HON. JON NELSON, CHAIRMAN
SB 2014 — PROTECTION AND ADVOCACY BUDGET
TESTIMONY OF BRUCE MURRY
NORTH DAKOTA ASSOCIATION OF COMMUNITY PROVIDERS

Chairman Nelson, and members of the House Appropriations Human Resources Subcommittee, I am Bruce Murry, Executive Director of the North Dakota Association of Community Providers. NDACP is a membership organization of 32 licensed developmental disability (DD) service providers throughout North Dakota.

The Protection and Advocacy Project is an important oversight organization to the DD System. P&A investigates allegations of abuse, neglect, and exploitation of people with disabilities, including while receiving services from our members. Along with self-advocates, families, and our staff, they advocate for individual rights and system reforms.

In these roles, P&A has focused its efforts in a healthy way that challenges us to continually improve our services. Under the Level System developed with the Developmental Disability Division, they delegate many investigations to the providers themselves. Having us investigate ourselves whenever possible allows us to learn from near misses and human error to improve our training, policies, and supervision. They have worked diligently to allow more DD providers to achieve the "deemed status" to investigate themselves. They train their staff to complete investigations promptly when P&A must lead the investigation. We support these trends.

Thank you for your consideration, and I would be happy to answer any questions.



1500 E Capitol Ave
Suite 200
Bismarck, ND 58501

Bruce Murry
Executive Director

Phone: (701) 390-1021
Cell: (701) 220-4933

brucemurry@ndacp.org
NDACP.org

North Dakota Association of Community Providers

SB 2014
2/28/2019
B

Cross over Behavioral Health Update

The first period of the 66th Legislative Session is completed. All the bills introduced in one Chamber have been acted on by that chamber and now the bills that passed go to the second Chamber.

Attached is the Behavioral Health Matrix prepared by Pam Sagness on the status of all the bills. This is an important document because it becomes the master grid for the HSRI study implementation.

Eight bills (SB 2026, 2028, 2029, 2030, 2032, 2031, 2175 and 2298) were defeated as a strategic move. The funding for those bills was included in **SB 2012** with the related policy recommendations in the following Sections:

SECTION 3 (2032) – Adds peer support certification – needed to ensure quality and effective services are provided.

SECTION 4 (2029) – Expands Free Through Recovery to individuals NOT in the criminal justice system or DOCR custody.

SECTION 12 (2026) – Creates a mental health voucher program addressing system gaps for young adults between 17-25 with a serious mental illness.

SECTION 13 – Continues the work started during last session – developing infrastructure for school to address behavioral health. This funding continues Simle Middle School and expands to include a rural and tribal school next biennium.

SECTIONS 27 & 28 (2031) – Expands the providers that can provide targeted case management to private providers. Currently tribes and human service centers are approved providers.

SECTION 29 – Directs the department to include withdrawal management as a covered service under the Medicaid state plan.

SECTION 30 (SB2030) – Continues the Human Services Research Institute (HSRI) recommendation implementation in the state.

ADDED IN THE BEHAVIORAL HEALTH DIVISION BUDGET OF 2012:

2175 – SUD Voucher to age 14

2291 – Trauma Training funding

2028 – Prevention and Early Intervention funding

ADDED IN THE MEDICAID SECTION OF 2012:

2298 – 1915i for youth

The Olmstead Quick Guide

North Dakota's Olmstead Plan

CHANGES AHEAD for individuals with disabilities

To integrate into communities
with choices in

- ☐ Health
- ☐ Housing
- ☐ Employment
- ☐ Transportation
- ☐ Community Services and Supports

It's the Law!

This road made possible
by the US Supreme Court
Olmstead Decision

**HUMAN
RIGHTS**

**COMMUNITY
INTEGRATION**

You are now
leaving behind:
one size fits all

EMPLOYMENT

FULL SERVICES

HOUSING

OLMSTEAD - NORTH DAKOTA

Mission: Olmstead will move the state forward, towards greater integration and inclusion for people with disabilities.

Vision: North Dakota will be a place where: People with disabilities are living, learning, working, and enjoying life in the most integrate setting.



HOUSING

Individuals who have a disability will have a choice in community services and supports that are accessible, effective, responsive, and safe.



EMPLOYMENT

Individuals who have a disability will have a choice in community services and supports that are accessible, effective, responsive, and safe.



TRANSPORTATION

Individuals with disabilities will have access to reliable and affordable transportation to get where they want to go to rake full part in community life.



COMMUNITY SERVICES & SUPPORTS

Individuals who have a disability will have a choice in community services and supports that are accessible, effective, responsive, and safe.



IT'S THE LAW

In 1999, the US Supreme Court ruled that segregation of people with disabilities is illegal. This "Olmstead Decision" said people with disabilities are best served alongside everyone else, and must be integrated in the community as much as possible, with supports necessary. We all belong where everyone else is, whether that's jobs, housing, school, doctor's office, or playing golf. Full supports for full inclusion.

NORTH DAKOTA OLMSTEAD

It's the law. Olmstead Helps People Move

Institutionalization	»»»	Community Integration
Sheltered workshop	»»»	Employment in the community
Separate classes	»»»	Included with all students
Professionals direct my services and funding	»»»	I direct my services and funding
You have to know how to work the system	»»»	Supports come to you and work for you
Segregated living situations	»»»	Integrated housing

Olmstead Quiz: True or False

- 1. Olmstead is a way to support all people with disabilities to be living and working and playing out in the community alongside everybody else. **True**
- 2. Olmstead calls for people with disabilities to be a part of the leadership in any program that affects their lives. **True**
- 3. Better transportation is NOT part of Olmstead. **False**
- 4. Once Olmstead goals are in place, everyone will have a good paying job. **False**
- 5. Olmstead does not call for people with disabilities to change. It calls for government services and spending to change to help folks be more integrated into their home communities. **True**
- 6. If people want to move into a segregated housing, Olmstead goals will help them do that. **False**
- 7. Olmstead will create more ways for people with disabilities to support each other to live in the community. **True**
- 8. The Government is making these changes just because they are nice people. **False**
- 9. Olmstead goals will create more ways for people to be working out in the community, in productive jobs. **True**
- 10. Olmstead assumes that there can only be a few types of supports, and people with disabilities will just have to fit in as best they can. **False**

1. True 2. True 3. False 4. False 5. True 6. False 7. True 8. False 9. True 10. False, needs differ and supports must also.

WHAT CAN YOU DO NOW:

Learn more at:

- ☐ www.nd.gov
- ☐ www.nd.gov/dhs/info/olmstead-commission.html
- ☐ www.ada.gov/olmstead/olmstead_about.htm
- ☐ www.bazelon.org/Where-We-Stand/Community-Integration/Olmstead-Implementing-the-Integration-Mandate/The-Olmstead-Decision.aspx
- ☐ www.hhs.gov/civil-rights/for-individuals/special-topics/community-living-and-olmstead/index.html



— State of —
North Dakota
Office of the Governor

Doug Burgum
Governor

SB 2014
2/28/2019
D

EXECUTIVE ORDER 2018-05.1

WHEREAS, the State of North Dakota is committed to providing opportunities for community integration and inclusion for people with disabilities; North Dakota strives to be a place where people with disabilities are living, learning, working and enjoying life in a least restrictive setting possible, considering the resources available and the needs of others with disabilities; and,

WHEREAS, on June 19, 2001, President George W. Bush issued an Executive Order directing the United States Attorney General, the Secretaries of Health and Human Services, Education, Labor and Housing and Urban Development to work closely with individual States to implement the decision in *Olmstead v. LC*, 527 U.S. 581 (1999), particularly with those States that choose to develop comprehensive, effective plans to provide services to qualified individuals under the criteria set forth in *Olmstead*; and

WHEREAS, Executive Order 2010-15 requires revision to expand the Olmstead Commission's advisory and oversight role, focused on moving the State forward toward greater integration and inclusion for people with disabilities with respect to community services and supports, health care, housing, employment, education and transportation. North Dakota must be a place where people with disabilities can live, learn, work, travel and enjoy life in the most integrated setting possible.

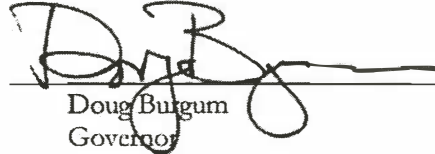
NOW, THEREFORE, pursuant to the authority vested in the Governor of the State of North Dakota, it is hereby ordered:

1. The North Dakota Olmstead Commission shall consist of ten voting members representing the State, community services and supports and citizens. A representative of the Governor's office and a public member, chosen by the Governor, shall serve as the Commission Co-Chairs. Voting members shall include:
 - A representative of the Office of the Governor;
 - A member of the North Dakota Senate;
 - A member of the North Dakota House of Representatives;
 - A representative of the Judicial Branch;
 - A representative of Protection & Advocacy Project;
 - A representative of the Mental Health America North Dakota;
 - A representative of the North Dakota Statewide Council for Independent Living;
 - A representative of the North Dakota State Council on Developmental Disabilities;
 - Two representatives of the public at large.

2. Voting commission members representing the Legislative Assembly and the Judicial Branch shall be appointed by Legislative Management and the Chief Justice, respectively. All other voting members shall be appointed by the Governor, with consideration given to recommendations provided by those entities represented on the commission.
3. The term of appointment is three years; each voting member may serve no more than two consecutive terms.
4. Non-voting members shall include the Executive Directors or Officers of the following state agencies, or a designee:
 - Department of Human Services;
 - Department of Health;
 - Department of of Public Instruction;
 - Department of Commerce;
 - Job Service North Dakota;
 - Department of Transportation;
 - North Dakota Indian Affairs Commission;
 - North Dakota Industrial Commission, Housing Finance Agency.
5. The Olmstead Commission shall meet at the call of the Co-Chairs.
6. All Executive Branch agencies shall provide assistance and support to the Commission as appropriate and as requested.
7. The Commission may create subgroups for purposes of seeking expertise and input on community services and supports, health care, housing, employment, education and transportation.

The Governor is vested with the executive authority to issue this Order pursuant to Article V, Sections 1 and 7 of the North Dakota Constitution. This Order supersedes and replaces Executive Order 2018-05.1. It is effective immediately and will continue until further order of the Governor.

Executed in Bismarck, North Dakota this 21st day of December 2018.


Doug Burgum
Governor

ATTEST:


Al Jaeger
Secretary of State

Deputy

JB 2014
2/28/2019
E

OLMSTEAD COMMISSION UPDATE
Interim Health Services Committee -- September 12, 2018
Senator Judy Lee, Chair

Good Morning Senator Lee and members of the Health Services Committee. I am Leslie Bakken Oliver, general counsel for Governor Burgum and am here to provide an update about the status of North Dakota's Olmstead commission.

The Olmstead Commission structure is being revised based upon recommendations from an informal advisory group: Senator Judy Lee, Teresa Larson, Protection & Advocacy Executive Director, Pamela Sagness, Director of the Behavioral Health Unit with DHS and me. I am happy to report that after several iterations, the Executive Order is in final format, awaiting the Governor's approval/signature.

The strategic changes reviewed with this Committee several months ago are essentially the same, including changes in governance, roles and responsibilities and focus: access for individuals with disabilities to all essential services including health, housing, employment, transportation and community services and support.

Eight of the ten voting members have been appointed or are in the appointment process. We are looking for a citizen member to serve as Co-Chair and have identified a potential judicial branch member, but do not have a commitment confirmed.

The non-voting members will include state agencies and non-profit groups that provide or support the essential services: health, housing, employment, transportation and community services and support.

Having a centralized point of contact for the Olmstead Commission was a key recommendation from the advisory group. Protection & Advocacy has structures and processes in place to take on this responsibility, as a resource to answer questions from individuals and providers, make referrals and provide education and communications about the Olmstead requirements for businesses and community groups statewide.

Teresa Larson will provide you with information about the steps that Protection & Advocacy is taking to step into this role.

Plans to hold the initial meeting of the new Commission in September did not come together completely. Appointing the second Co-Chair is a priority, and it is my expectation that role will be filled by the end of September, with the kickoff meeting and board training in mid-to-late October.

I would be happy to respond to questions or comments.

Leslie Bakken Oliver

HEALTH SERVICES COMMITTEE

Wednesday, September 12, 2018

Testimony of Teresa Larsen, Executive Director
Protection & Advocacy Project

Chairman Lee and members of the Committee, thank you for the opportunity to speak about the proposed role of the Protection & Advocacy Project (P&A) and the Olmstead Commission. As it stands, the Commission has no staff or resources. The changes being put forth include establishing a point of contact for individuals and agencies that desire information about Olmstead. It is proposed that P&A fill this role.

Activity related to Olmstead needs to be more proactive rather than reactive. While the U.S. Supreme Court issued the decision in 1999, there remains a need to educate entities, including organizations and government agencies, to help ensure compliance. Individuals with disabilities also need to understand Olmstead, the most important civil rights decision for people with disabilities in our country's history.

As part of its 2019-2021 proposed budget to the Governor, P&A submitted an optional request for an FTE. Because Olmstead work is legal in nature, requiring interpretation of federal law, regulations, and case law, the request is for an Attorney II

SB2014
2/28/2019
F

position. The total funding is \$238,929. Here is the breakdown of costs:

Salaries	\$152,568
Benefits	60,611
Operating	25,750

Operating includes travel (\$8,000), supplies (\$1,000), postage (\$750), printing (\$5,000 – educational materials), booth/room rental for outreach and training (\$2,000), IT costs (\$6,000), professional development (\$3,000). P&A has existing office space.

P&A has budgeted \$74,615 in federal monies for this position. \$164,314 in General Funds would be needed to make up the difference for this position and its work.

I'm happy to respond to any questions you might have for me. Thank you.

Teresa Larsen
328-2950
tlarsen@nd.gov

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

	Senate Version				House Version				House Changes to Senate Version Increase (Decrease) - Senate Version			
	FTE Position	General Fund	Other Funds	Total	FTE Position	General Fund	Other Funds	Total	FTE Positions	General Fund	Other Funds	Total
2019-21 Biennium Base Level	27.50	\$2,958,999	\$3,488,601	\$6,447,600	27.50	\$2,958,999	\$3,488,601	\$6,447,600	0.00	\$0	\$0	\$0
2019-21 Ongoing Funding Changes												
Base payroll changes		(\$205,103)	\$124,158	(\$80,945)		(\$205,103)	\$124,158	(\$80,945)				\$0
Salary increase		71,909	87,671	159,580		73,338	88,476	161,814		1,429	805	2,234
Salary increase - Market equity				0				0				0
Health insurance increase		58,364	71,036	129,400		58,364	71,036	129,400				0
Retirement contribution increase				0				0				0
Add 1 FTE Olmstead Commission position	1.00	164,314	74,615	238,929	1.00	164,314	74,615	238,929				0
Add funding for operating expenses		197,103	79,249	276,352		197,103	79,249	276,352				0
Total ongoing funding changes	1.00	\$286,587	\$436,729	\$723,316	1.00	\$288,016	\$437,534	\$725,550	0.00	\$1,429	\$805	\$2,234
One-time funding items												
Add funding for a polycom machine		\$8,000		\$8,000		\$8,000		\$8,000				\$0
Add funding for retirement payouts		64,550	\$68,000	132,550		64,550	68,000	132,550				0
Total one-time funding changes	0.00	\$72,550	\$68,000	\$140,550	0.00	\$72,550	\$68,000	\$140,550	0.00	\$0	\$0	\$0
Total Changes to Base Level Funding	1.00	\$359,137	\$504,729	\$863,866	1.00	\$360,566	\$505,534	\$866,100	0.00	\$1,429	\$805	\$2,234
2019-21 Total Funding	28.50	\$3,318,136	\$3,993,330	\$7,311,466	28.50	\$3,319,565	\$3,994,135	\$7,313,700	0.00	\$1,429	\$805	\$2,234

Other Sections for Protection and Advocacy Project - Budget No. 360

	Senate Version				House Version			
There are no other sections related to this agency.								

SB2014
4/1/19
A
Pg. 1

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

#1 SA 2014
 4-12-19
 pg 1

	Senate Version				House Version				House Changes to Senate Version			
	FTE Position	General Fund	Other Funds	Total	FTE Position	General Fund	Other Funds	Total	FTE Positions	General Fund	Other Funds	Total
2019-21 Biennium Base Level	27.50	\$2,958,999	\$3,488,601	\$6,447,600	27.50	\$2,958,999	\$3,488,601	\$6,447,600	0.00	\$0	\$0	\$0
2019-21 Ongoing Funding Changes												
Base payroll changes		(\$205,103)	\$124,158	(\$80,945)		(\$205,103)	\$124,158	(\$80,945)				\$0
Salary increase		71,909	87,671	159,580		69,444	86,379	155,823		(2,465)	(1,292)	(3,757)
Health insurance increase		58,364	71,036	129,400		58,364	71,036	129,400				0
Retirement contribution increase				0				0				0
Adds 1 FTE Olmstead Commission position	1.00	164,314	74,615	238,929	0.00	0	0	0	(1.00)	(164,314)	(74,615)	(238,929)
Adjusts funding for operating expenses		197,103	79,249	276,352		190,103	79,249	269,352		(7,000)		(7,000)
Total ongoing funding changes	1.00	\$286,587	\$436,729	\$723,316	0.00	\$112,808	\$360,822	\$473,630	(1.00)	(\$173,779)	(\$75,907)	(\$249,686)
One-time funding items												
Adds funding for a polycam machine		\$8,000		\$8,000		\$8,000		\$8,000				\$0
Adds funding for retirement payouts		64,550	\$68,000	132,550		64,550	68,000	132,550				0
Total one-time funding changes	0.00	\$72,550	\$68,000	\$140,550	0.00	\$72,550	\$68,000	\$140,550	0.00	\$0	\$0	\$0
Total Changes to Base Level Funding	1.00	\$359,137	\$504,729	\$863,866	0.00	\$185,358	\$428,822	\$614,180	(1.00)	(\$173,779)	(\$75,907)	(\$249,686)
2019-21 Total Funding	28.50	\$3,318,136	\$3,993,330	\$7,311,466	27.50	\$3,144,357	\$3,917,423	\$7,061,780	(1.00)	(\$173,779)	(\$75,907)	(\$249,686)

Other Sections for Protection and Advocacy Project - Budget No. 360

	Senate Version				House Version			
There are no other sections related to this agency.								

2 SB 2014
4-12-19
pg 1

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2014 - Funding Summary

	Base Budget	Senate Version	House Changes	House Version
Protection and Advocacy Project				
Protection and advocacy operations	\$6,447,600	\$7,311,466	(\$249,686)	\$7,061,780
Total all funds	\$6,447,600	\$7,311,466	(\$249,686)	\$7,061,780
Less estimated income	3,488,601	3,993,330	(75,907)	3,917,423
General fund	\$2,958,999	\$3,318,136	(\$173,779)	\$3,144,357
FTE	27.50	28.50	(1.00)	27.50
Bill total				
Total all funds	\$6,447,600	\$7,311,466	(\$249,686)	\$7,061,780
Less estimated income	3,488,601	3,993,330	(75,907)	3,917,423
General fund	\$2,958,999	\$3,318,136	(\$173,779)	\$3,144,357
FTE	27.50	28.50	(1.00)	27.50

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

	Base Budget	Senate Changes	Senate Version
Protection and advocacy operations	\$6,447,600	\$863,866	\$7,311,466
Total all funds	\$6,447,600	\$863,866	\$7,311,466
Less estimated income	3,488,601	504,729	3,993,330
General fund	\$2,958,999	\$359,137	\$3,318,136
FTE	27.50	1.00	28.50

Department 360 - Protection and Advocacy Project - Detail of Senate Changes

	Adjusts Funding for Base Payroll Changes ¹	Adds Funding for Salary and Benefit Increases ²	Adds 1 FTE Olmstead Commission Position ³	Adds Funding for Operating Expenses ⁴	Adds One-Time Funding ⁵	Total Senate Changes
Protection and advocacy operations	(\$80,945)	\$288,980	\$238,929	\$276,352	\$140,550	\$863,866
Total all funds	(\$80,945)	\$288,980	\$238,929	\$276,352	\$140,550	\$863,866
Less estimated income	124,158	158,707	74,615	79,249	68,000	504,729
General fund	(\$205,103)	\$130,273	\$164,314	\$197,103	\$72,550	\$359,137
FTE	0.00	0.00	1.00	0.00	0.00	1.00

¹ Funding is adjusted for base payroll changes.

² The following funding is added for 2019-21 biennium salary adjustments of 2 percent on July 1, 2019, and 3 percent on July 1, 2020, and increases in health insurance premiums from \$1,241 to \$1,427 per month:

	General Fund	Other Funds	Total
Salary increase	\$71,909	\$87,671	\$159,580
Health insurance increase	58,364	71,036	129,400
Total	\$130,273	\$158,707	\$288,980

³ Funding of \$238,929, of which \$164,314 is from the general fund, is added for 1 FTE Olmstead Commission related position.

⁴ Funding of \$276,352, of which \$197,103 is from the general fund, is added for operating expenses, primarily related to professional service fees, repairs, and travel expenses.

#2 SB 2014
4-12-19
pg 2

⁵ One-time funding is added as follows:

	<u>General Fund</u>	<u>Other Funds</u>	<u>Total</u>
Polycom machine	\$8,000	\$0	\$8,000
Accrued leave payments	64,550	68,000	132,550
Total	\$72,550	\$68,000	\$140,550

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

	<u>Base Budget</u>	<u>Senate Version</u>	<u>House Changes</u>	<u>House Version</u>
Protection and advocacy operations	\$6,447,600	\$7,311,466	(\$249,686)	\$7,061,780
Total all funds	\$6,447,600	\$7,311,466	(\$249,686)	\$7,061,780
Less estimated income	3,488,601	3,993,330	(75,907)	3,917,423
General fund	\$2,958,999	\$3,318,136	(\$173,779)	\$3,144,357
FTE	27.50	28.50	(1.00)	27.50

Department 360 - Protection and Advocacy Project - Detail of House Changes

	<u>Adjusts Funding for Salary and Benefit Increases¹</u>	<u>Removes Olmstead Commission Position²</u>	<u>Reduces Funding for Operating Expenses³</u>	<u>Total House Changes</u>
Protection and advocacy operations	(\$3,757)	(\$238,929)	(\$7,000)	(\$249,686)
Total all funds	(\$3,757)	(\$238,929)	(\$7,000)	(\$249,686)
Less estimated income	(1,292)	(74,615)	0	(75,907)
General fund	(\$2,465)	(\$164,314)	(\$7,000)	(\$173,779)
FTE	0.00	(1.00)	0.00	(1.00)

¹ Funding of \$3,757, of which \$2,465 is from the general fund and \$1,292 is from federal funds, is reduced to provide funding for state employee salary increases of 2 percent with a minimum monthly increase of \$120 and a maximum monthly increase of \$200 on July 1, 2019, and an increase of 2.5 percent on July 1, 2020, to provide total salary increases of \$155,823. The Senate provided funding for a salary increase of 2 percent on July 1, 2019, and 3 percent on July 1, 2020 providing total salary increases of \$159,580.

² Funding of \$238,929 is removed for 1 FTE Olmstead Commission position, of which \$164,314 is from the general fund and \$74,615 is from federal funds.

³ Funding for operating expenses is reduced by \$7,000 from the general fund.

4.23-19
SB 2014
#1
P1
cont
com.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2014

That the House recede from its amendments as printed on pages 1308 and 1309 of the Senate Journal and page 1500 of the House Journal and that engrossed Senate Bill No. 2014 be amended as follows:

Page 1, replace lines 12 through 16 with:

"Protection and advocacy operations	\$6,447,600	\$859,100	\$7,306,700
Total all funds	\$6,447,600	\$859,100	\$7,306,700
Less estimated income	3,488,601	505,534	3,994,135
Total general fund	\$2,958,999	\$353,566	\$3,312,565
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 - Conference Committee Action

	Base Budget	Senate Version	Conference Committee Changes	Conference Committee Version	House Version	Comparison to House
Protection and advocacy operations	\$6,447,600	\$7,311,466	(\$4,766)	\$7,306,700	\$7,061,780	\$244,920
Total all funds	\$6,447,600	\$7,311,466	(\$4,766)	\$7,306,700	\$7,061,780	\$244,920
Less estimated income	3,488,601	3,993,330	805	3,994,135	3,917,423	76,712
General fund	\$2,958,999	\$3,318,136	(\$5,571)	\$3,312,565	\$3,144,357	\$168,208
FTE	27.50	28.50	0.00	28.50	27.50	1.00

Department 360 - Protection and Advocacy Project - Detail of Conference Committee Changes

	Adjusts Funding for Salary and Benefit Increases ¹	Reduces Funding for Operating Expenses ²	Total Conference Committee Changes
Protection and advocacy operations	\$2,234	(\$7,000)	(\$4,766)
Total all funds	\$2,234	(\$7,000)	(\$4,766)
Less estimated income	805	0	805
General fund	\$1,429	(\$7,000)	(\$5,571)
FTE	0.00	0.00	0.00

¹ Funding of \$2,234 of which \$1,429 is from the general fund and \$805 is from federal funds, is added to provide funding for state employee salary increases of 2 percent with a minimum monthly increase of \$120 and a maximum monthly increase of \$200 on July 1, 2019, and an increase of 2.5 percent on July 1, 2020, to provide total salary increases of \$161,814. The Senate provided funding for salary increases of 2 percent on July 1, 2019, and 3 percent on July 1, 2020 providing total salary increases of \$159,580.

² Funding for operating expenses is reduced by \$7,000 from the general fund, the same as the House version. The Senate did not reduce funding for operating expenses.

The House removed one FTE Olmstead Commission position. The Conference Committee included the FTE Olmstead Commission position, the same as the Senate.