

2021 HOUSE APPROPRIATIONS

HB 1014

**Department 360 - Protection and Advocacy Project
House Bill No. 1014**

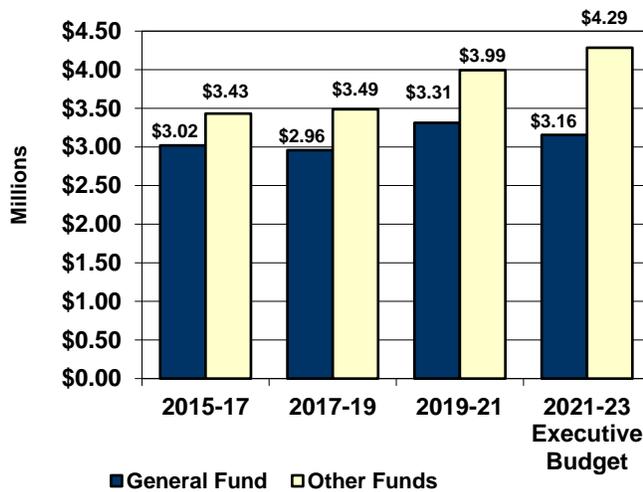
Executive Budget Comparison to Prior Biennium Appropriations

	FTE Positions	General Fund	Other Funds	Total
2021-23 Executive Budget	28.50	\$3,155,580	\$4,285,459	\$7,441,039
2019-21 Legislative Appropriations	28.50	3,312,565	3,994,135	7,306,700
Increase (Decrease)	0.00	(\$156,985)	\$291,324	\$134,339

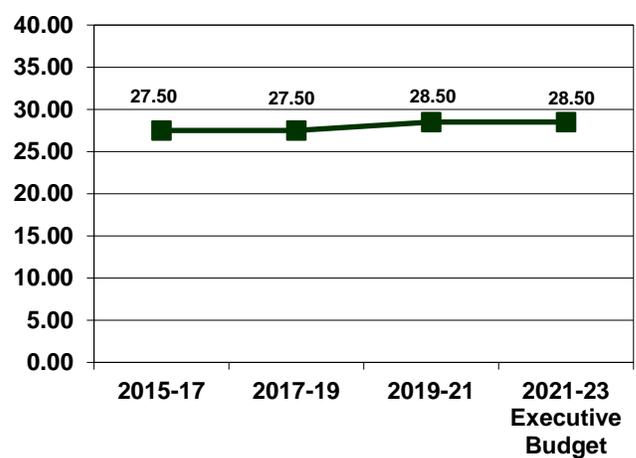
Ongoing and One-Time General Fund Appropriations

	Ongoing General Fund Appropriation	One-Time General Fund Appropriation	Total General Fund Appropriation
2021-23 Executive Budget	\$3,155,580	\$0	\$3,155,580
2019-21 Legislative Appropriations	3,240,015	72,550	3,312,565
Increase (Decrease)	(\$84,435)	(\$72,550)	(\$156,985)

Agency Funding



FTE Positions



Executive Budget Comparison to Base Level

	General Fund	Other Funds	Total
2021-23 Executive Budget	\$3,155,580	\$4,285,459	\$7,441,039
2021-23 Base Level	3,240,015	3,926,135	7,166,150
Increase (Decrease)	(\$84,435)	\$359,324	\$274,889

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 \$140,519 is for salary increases, \$1,414 is for health insurance increases, and \$28,918 is for retirement contribution increases	\$75,986	\$94,865	\$170,851
2. Adjusts funding for operating expenses	(\$48,070)	\$255,299	\$207,229
3. Increases funding for Microsoft Office 365 licensing	\$1,581	\$2,054	\$3,635

**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
House Bill No. 1014
Base Level Funding Changes

	Executive Budget Recommendation			
	FTE Positions	General Fund	Other Funds	Total
2021-23 Biennium Base Level	28.50	\$3,240,015	\$3,926,135	\$7,166,150
2021-23 Ongoing Funding Changes				
Base payroll changes		(\$113,932)	\$7,106	(\$106,826)
Salary increase		62,496	78,023	140,519
Retirement contribution increase		12,861	16,057	28,918
Health insurance increase		629	785	1,414
Adjusts funding for operating expenses		(48,070)	255,299	207,229
Increases funding for Microsoft Office 365 licensing		1,581	2,054	3,635
Total ongoing funding changes	0.00	(\$84,435)	\$359,324	\$274,889
One-time funding items				
No one-time funding items				\$0
Total one-time funding changes	0.00	\$0	\$0	\$0
Total Changes to Base Level Funding	0.00	(\$84,435)	\$359,324	\$274,889
2021-23 Total Funding	28.50	\$3,155,580	\$4,285,459	\$7,441,039
<i>Total ongoing changes as a percentage of base level</i>	<i>0.0%</i>	<i>(2.6%)</i>	<i>9.2%</i>	<i>3.8%</i>
<i>Total changes as a percentage of base level</i>	<i>0.0%</i>	<i>(2.6%)</i>	<i>9.2%</i>	<i>3.8%</i>

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

Executive Budget Recommendation

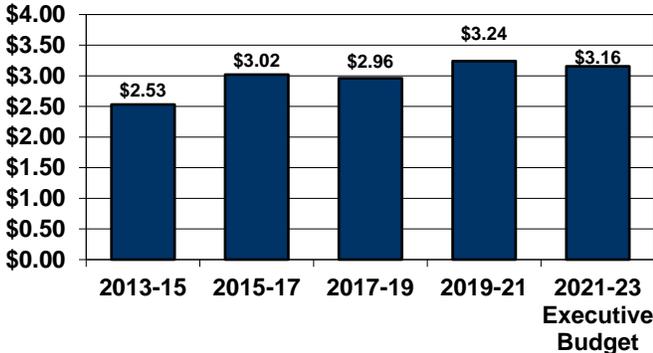
There are no other sections for this agency.

Department 360 - Protection and Advocacy Project

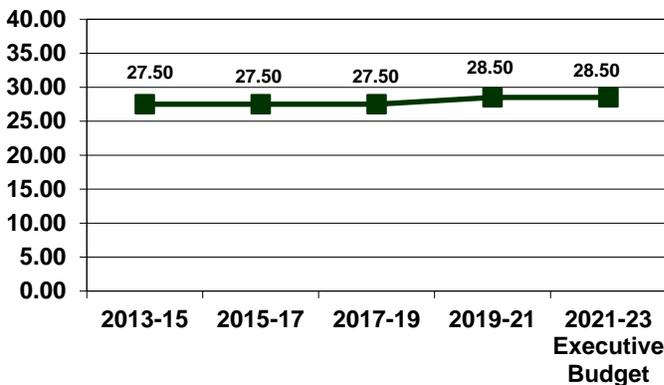
Historical Appropriations Information

Ongoing General Fund Appropriations Since 2013-15

Ongoing General Fund Appropriations (in Millions)



FTE Positions



Ongoing General Fund Appropriations					
	2013-15	2015-17	2017-19	2019-21	2021-23 Executive Budget
Ongoing general fund appropriations	\$2,531,562	\$3,020,926	\$2,958,999	\$3,240,015	\$3,155,580
Increase (decrease) from previous biennium	N/A	\$489,364	(\$61,927)	\$281,016	(\$84,435)
Percentage increase (decrease) from previous biennium	N/A	19.3%	(2.0%)	9.5%	(2.6%)
Cumulative percentage increase (decrease) from 2013-15 biennium	N/A	19.3%	16.9%	28.0%	24.6%

Major Increases (Decreases) in Ongoing General Fund Appropriations

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

- 1. Added funding for 1 FTE Olmstead Commission position \$164,314
- 2. Added funding for operating expenses, primarily related to professional service fees and travel expenses \$190,103

2021-23 Biennium (Executive Budget Recommendation)

- 1. Adjusts funding for operating expenses, resulting in a decrease from the general fund and an increase from federal funds (\$48,070)

**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, 2021 and ending June 30, 2023, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Protection and Advocacy Operations	\$7,166,150	\$274,889	\$7,441,039
Total All Funds	\$7,166,150	\$274,889	\$7,441,039
Less Estimated Income	<u>3,926,135</u>	<u>359,324</u>	<u>4,285,459</u>
Total General Fund	\$3,240,015	(\$84,435)	\$3,155,580
Full-time Equivalent Positions	28.50	0.00	28.50

SECTION 2. ONE-TIME FUNDING. The following amounts reflect the one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium.

<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
Accrued Leave Payments	\$132,550	\$ 0
Polycom Machine	<u>8,000</u>	<u>0</u>
Total All Funds	\$140,550	\$ 0
Less Estimated Income	<u>68,000</u>	<u>0</u>
Total General Fund	\$ 72,550	\$ 0

2021 HOUSE STANDING COMMITTEE MINUTES

Appropriations - Human Resources Division Harvest Room, State Capitol

HB 1014
1/8/2021
Human Resources

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

Chair Nelson called the meeting to order at 8:30 a.m. All members were present.

Representative	Present	Absent
Nelson	x	
Kreidt	x	
Andersen	x	
Mitskog	x	
Schobinger	x	
Strinden	x	

Discussion Topics: • Protection and Advocacy Project

Rep Jon Nelson (8:56 am) introduced the bill

Teresa Larsen, Exec. Dir. P&A (8:57 am) testified in favor and submitted testimony #220

Bruce Murry, Exec. Dir. ND Assoc. of Community Providers (10:02 am) testified in favor and submitted testimony #272

Carlotta McCleary, Exec. Dir. NDFFCMH and MHAND (10:05 am) testified in favor and submitted testimony #478

Kirsten Dvorak, ND Arc Exec. Dir. (10:10 am) testified in favor and submitted testimony #476

Additional written testimony: #253 and #291

Chair Nelson closed the hearing at 10:16 a.m.

Cole Fleck, Committee Clerk

House Bill 1014

#220

House Appropriations Committee
Honorable Jeff Delzer, Chairman
Human Resources Section
Honorable Jon Nelson, Chairman

Testimony Of The North Dakota Association Of Community Providers
January 7, 2021

The North Dakota Association of Community Providers (NDACP) is the membership organization of agencies licensed to provide home and community based services to North Dakotans with developmental disabilities. The North Dakota Protection and Advocacy Project (P&A) has jurisdiction to ensure the legal rights of the people we serve.

We appreciate the collaborative attitude of P&A during the COVID-19 emergency and their commitment to helping us protect both the safety and individual rights of the people we serve. A hard, confrontational approach would have consumed valuable resources and undermined the well being and safety of the people we serve safe.

NDACP salutes the partnership and commitment to quality services demonstrated by P&A and the DD Division in streamlining the investigation of allegations of abuse, neglect and exploitation (ANE). P&A demonstrated leadership to focus their resources on cases most in need of outside assistance and support, while allowing the majority of allegations to be investigated and dealt with proactively by providers. Pilots of these new procedures are underway, and rules and policies may need to be adjusted, but we wish to report initial success in this collaboration. Best of all, the ANE process is poised to focus on improving the quality of future services.

Among many other efforts, these serve as parts of the admirable legacy of work by P&A Executive Director, Teresa Larsen, and her service to North Dakotans with disabilities.

I would be happy to answer any questions today or in the future, and have inserted my contact information below.

Bruce Murry, Executive Director
North Dakota Association of Community Providers
1500 E Capitol Ave, Suite 205
Bismarck, ND 58501

cell: 701.220.4933
email: brucemurry@ndacp.org
website: ndacp.org

HB 1014 **#272**
Protection & Advocacy Project (P&A)
House Appropriations/Human Resources Division
Testimony of Teresa Larsen, Executive Director
January 8, 2021

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. The overall purpose of the P&A is to protect, and advocate for, individuals of all ages with all types of disabilities.

In ND, P&A is statutorily authorized under NDCC § 25-01.3 with sections for definitions, the governing board, reporting of alleged abuse & neglect, P&A authority, access, investigations, and confidential information. Accompanying rules are in NDAC Title 65.5 specific to organization of the governing board, relevant definitions, access to records, authority of P&A, grievance procedures, and public inquiries. There are also federal laws and regulations that apply to each of the federal grants.

I. PROGRAM OVERVIEW – FUNDING

P&A continues to receive eight grants from the federal government. These grants come through the:

- U.S. Department of Health & Human Services: Developmental Disabilities (DD), Mental Health (MH), Assistive Technology (AT), Help America Vote Act (HAVA), Traumatic Brain Injury (TBI);
- U.S. Department of Education: Individual Rights (PAIR);
- Social Security Administration: Beneficiaries of Social Security (PABSS), Strengthening Protections for Social Security Beneficiaries (Rep Payee).

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.

NINE YEAR HISTORY OF FEDERAL GRANT FUNDING									
	2012	2013	2014	2015	2016	2017	2018	2019	2020
DD	384,693	362,881	362,881	362,881	384,693	390,405	404,556	404,556	405,053
MH	429,100	406,700	428,000	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	171,598
AT	50,000	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	100,000
TBI	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000
HAVA	70,000	70,000	70,000	70,000	70,000	70,000	98,209	98,209	105,261
REP PAYEE							60,000	62,137	62,667
TOTAL	1,259,425	1,205,713	1,232,479	1,232,479	1,254,291	1,260,003	1,362,363	1,364,500	1,372,579

NOTE: Federal grants are based on the fiscal year running from October – September with the exception of the 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/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 service agreement for the upcoming biennium is budgeted at \$263,834.

P&A was audited by the Office of the State Auditor in 2019 for the two-year period ending June 30, 2018. 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 1,970 clients (1,100 in FY 2019 and 870 in FY 2020). The previous two years totaled 2,321.

While there was a decrease in cases due to the pandemic, information and referral services totaled 5,652 for these same fiscal years, an increase of 961 from the previous two years. 3,355 individuals participated in education & training activities in these two years as compared with 5,773 for the previous two years. Again, the pandemic had an impact as education & training activities had generally been provided in-person and were “shut down” when the pandemic started. P&A has been able to begin using TEAMS or ZOOM to successfully execute these activities.

Each federal fiscal year, as required by federal grantors, P&A develops or revises its priorities after receiving public input. For federal fiscal years 2019 & 2020, service requests/reports were specific to the following priorities:

	<u>FY 2019</u>	<u>FY 2020</u>
Protective Services (a/n/e)	64.8%	64.4%
Education	20.6%	19.8%
Employment	2.0%	1.4%
Community Inclusion	10.0%	11.3%
Healthcare	1.4%	1.3%
Criminal Justice	0.6%	1.6%
Other, including accessibility	0.6%	0.2%

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 situations, P&A’s role is to conduct objective investigations or to review investigations completed by providers. P&A addresses identified problems such as a change in guardianship.

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 is focused on exercising the rights of its clients and is dedicated to working with its clients until their issues are resolved. Of the closed service requests in FY 2019 and FY 2020, over 90% were fully or partially resolved in the clients' favor. In July 2020, 478 clients (or their parents/guardians) were sent surveys and asked about their satisfaction with services provided by P&A. 118 (26.22%) responded with 92 answering the relevant question. Of those, 87 (94%) checked that they were satisfied with the help they received from P&A.

P&A is working with developmental disabilities providers, along with the DHS/DD Division, to identify ways to make the quality assurance system less onerous on everyone. This includes responses to reports of alleged abuse, neglect, or exploitation. We all believe there are areas for improvement. P&A also collaborates with the DD Division to systemically implement training and monitoring activities for service providers.

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.

P&A is staffed with 28.5 FTE's. This includes seventeen advocates, two program directors, a director of policy & operations, three attorneys, a half-time legal assistant, a fiscal manager, an executive director, and two full-time administrative assistants. This model works well for our geographically large state, allowing staff to engage personally with clients, families, and other stakeholders. Last Session, the Legislature added an additional attorney position to staff the Olmstead Commission. The newly hired Director of Policy & Operations is not attorney while the individual who retired was one. P&A has

been employing a temporary staff person to provide work under the Help America Vote Act (HAVA) grant. An organizational chart is attached.

III. 2019 – 2021 BIENNIUM

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 \$210,000. As federally required, these monies are matched 100% with State General Funds.

For the current biennium, P&A has spent approximately 62% of its total appropriated budget through November 30, 2020. All projected unspent federal funds from the 2019 – 2021 biennium are budgeted for the 2021 – 2023 biennium.

P&A is experiencing retirements of a significant number of long-term employees in the current biennium. Last Session P&A requested, and received, authorization to include one-time retirement pay-outs in its budget for the 19-21 biennium. With a total of \$132,550, this includes \$68,000 in Federal Funds and \$64,550 in General Funds. Operationally, this makes a significant difference in allowing the agency to fill vacant positions in a timely way vs. holding vacancies open to allow for a roll-up of funds. Approximately 1/3 third of these funds have been spent to-date. It appears P&A will spend the balance of these funds on planned retirements yet this biennium.

The other one-time item included in the current biennium budget is \$8,000 in General Funds for a replacement Polycom system. ND Information Technology (NDIT) was able to use federal monies for purchase of this equipment. The \$8,000 will be returned to the State.

When P&A was asked about the need for COVID-19 money by OMB, P&A responded that it would cover the costs within its existing budget. From March – December, P&A spent approximately \$21,000 for supplies (masks, hand sanitizer), for IT equipment for staff to work at home (headsets, webcams), pandemic-related systemic advocacy work, and COVID-related leave.

IV. 2021 – 2023 BIENNIUM

For the next biennium, P&A submitted its budget to OMB with the 5% decrease in General Funds totaling \$162,001 after one-time funding was removed. P&A is not requesting any new FTE's. Salaries and benefits are somewhat reduced for positions for long-term employees who have, or are, retiring.

In the current biennium, operating monies are included only for the Olmstead Coordinator. Operating funds are added for the next biennium for the Olmstead Commission itself. For example, there is currently no funding in place for Commission members' travel to/from meetings. This in the budget for 21-23.

The operating budget is increased by \$207,229. This includes an increase of \$255,299 in federal funds and a decrease of \$48,070 in General Funds to help meet the 5% reduction. An additional \$3,635 is included for the increased costs for Microsoft Office 365 licensing.

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

	General Fund	Federal Funds	TOTAL
2021-23 Governor's Budget	3,155,580	4,285,459	7,441,039
Base Level (less one-time \$)	3,240,015	3,926,135	7,166,150
Increase	(84,435)	359,324	274,889

Grant amounts beyond federal fiscal year 2020 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 2021-2023.

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.

SB 2134, just introduced, relates to the duties of P&A. It does not appear to have a fiscal impact.

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

tlarsen@nd.gov
328-2950

Case #1

Joe is ten years old. He lives with his family in rural ND. He has diagnoses which include ADHD, Autism, and an Intellectual Disability. P&A services were requested by the child's parents to provide advocacy for their son as the rural school district was struggling to provide for Joe's needs. Joe was exhibiting behaviors that were impacting himself and others in the school. P&A assisted the school district with bringing in outside specialists that could consult with the Joe's educational team. The school was educated on best practices when working with a student with Joe's needs, including creating an environment that would decrease Joe's anxiety. The specialists also supported Joe's team to develop interventions and effective learning goals so that he would engage and benefit from his education.

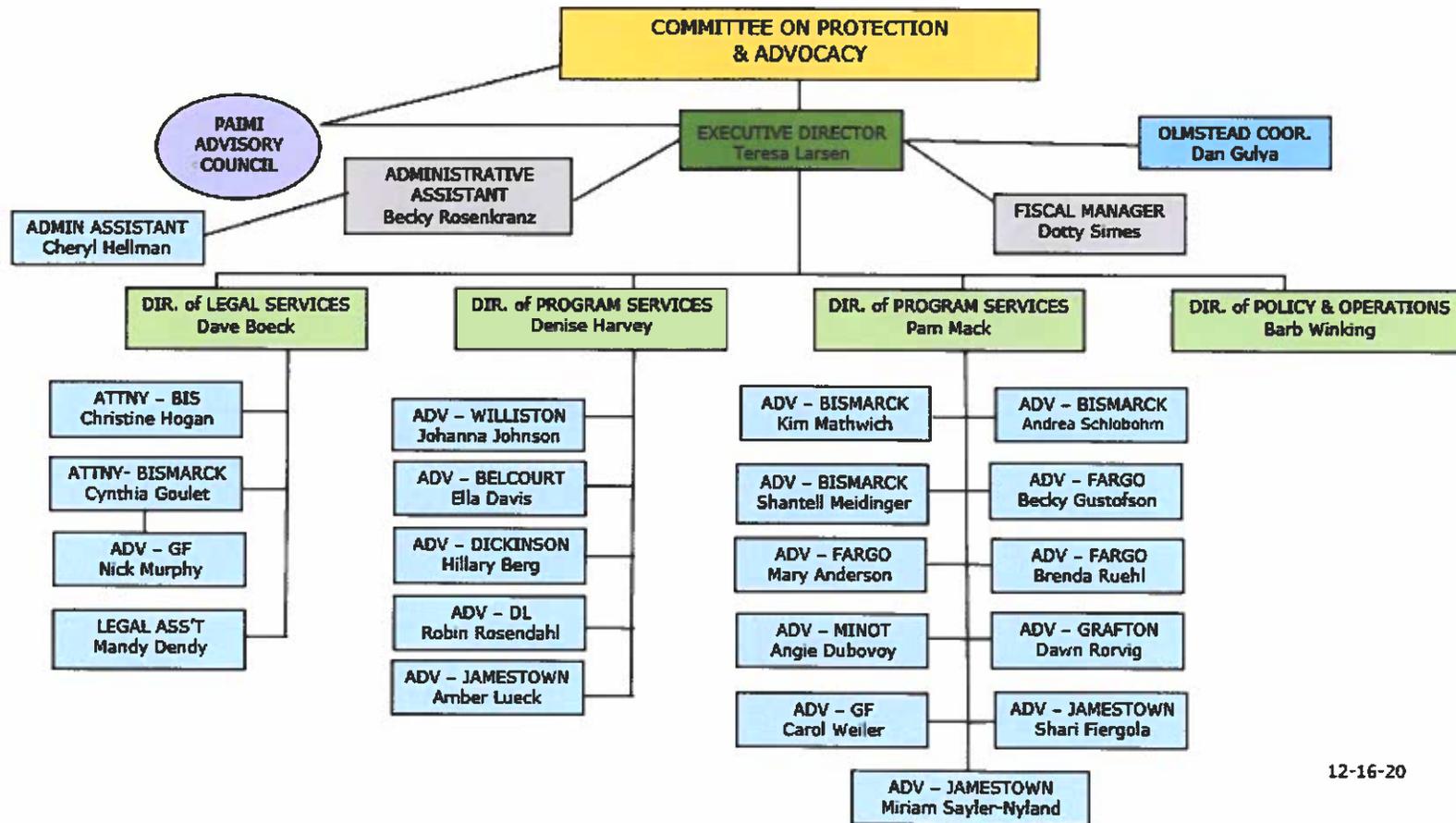
Case #2

Advocacy services were requested by a 47-year-old female's husband, who was her guardian, to address a recent denial of coverage by their private health insurer. Ten years earlier, the woman experienced a stroke that resulted in her requiring total care for all aspects of her life. Her family has been able to provide care for her within their family home with the support of nursing services, which was funded by the family's health insurance provider. Upon request for continued payment, the agency who was providing the nursing services was informed that payment would no longer be provided as the insurance company had determined that it was no longer a covered service. P&A provided legal representation to the client to negotiate an outcome for continued coverage of nursing services within the family home. These efforts were successful and funding for the nursing services was approved. Ultimately, this allowed the woman to remain living in her family home vs. moving to a skilled nursing facility.

Case #3

Fred is a 14-year-old student attending a public middle school. He has diagnoses that include depression, anxiety and a significant learning disorder. Advocacy services were requested by Fred's parents to address the school district's response to their son's behavior, which at times was physical in nature. At the time of referral, the school district was having the School Resource Officer (SRO) respond to the student's behavior, which in turn resulted in Fred's behavior escalating and becoming more physically aggressive. The SRO issued citations which resulted in the juvenile court officer getting involved. Juvenile court staff encouraged the parents to contact P&A as the use of the juvenile justice system to address disability-related behavior within the school was not effective. In addition, it resulted in Fred being removed from the school setting when what he needed were behavioral supports and interventions. P&A provided advocacy services for Fred, working with the school to address the need to develop positive behavioral supports that did not involve the use of law enforcement or the SRO. As a result of these efforts, Fred is doing very well in school and there have been no behavioral concerns for an extensive period of time.

NORTH DAKOTA PROTECTION AND ADVOCACY PROJECT



HB 1014 Testimony #478
House Appropriations Committee
Human Resources Division
Representative Jon Nelson, Chairman
January 8, 2021

Chairman Nelson and Members of the Committee, 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 which is a consumer-run organization whose mission is to promote mental health through education, advocacy, understanding, and access to quality care for all individuals.

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

Last session, Protection and Advocacy became 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. Since the Olmstead Commission redesign, Protection and Advocacy answers questions from individuals and providers. If inquiries from individuals and providers are determined to be outside the purview of the Olmstead Commission, they give those individuals referrals to more appropriate entities. Protection and



P.O. Box 2081 #476
Bismarck, ND 58502-2081
Phone: (701)222-1854
Email: k.dvorak@thearcofbismarck.org
Website: www.thearcofbismarck.org

Testimony of Support House Bill 1014
House Appropriations Committee, Human Resources Division
January 8, 2021

Chairman Nelson and members of the committee, my name is Kirsten Dvorak. I am the Arc North Dakota executive director, and I represent six Arc chapters within North Dakota, which includes: Bismarck, Bowman, Dickinson, Fargo, Grand Forks, and Valley City. Our mission is to improve people's quality of life with intellectual and developmental disabilities and actively support their full inclusion and participation in the community.

The Arc of North Dakota is a strong supporter of the North Dakota Protection and Advocacy Project (P&A). P&A, in its entirety, works towards achieving positive outcomes for people with disabilities in all aspects of life. Acting in the best interest of individuals with disabilities guides their daily activities and is exemplified in their services.

As an agency, The Arc provides referrals to businesses, families, and most importantly, individuals with disabilities. Often, I refer individuals to P&A for further information or consulting on legal and civil rights issues. Regardless of the cases, self-advocates have always given positive feedback about the helpful and professional service they receive when working with P&A. I myself have on more than one occasion called on P&A to answer questions about services legal issues and have always been greeted with friendly staff that provides quality information. P&A's services are necessary for many individuals with disabilities in our state. P&A gives a voice to a population of individuals that are not always being heard.

Another instance of P&A's quality work is in the organization of the Legislative Working Group. By managing and facilitating these groups, they have allowed people of all abilities around the state to take action when it comes to disability-related issues and encourages people with disabilities to become active citizens. This group is a forum for education, information exchange, and action. I know of many advocates and professionals who have been inspired and encouraged to speak up because of P&A's support. P&A fosters positive change in the lives of people with disabilities.

Finally, The Arc has had the privilege of collaborating with P&A on an infinite number of projects. These have included community education workshops and events with mental health, employment, and self-advocacy. The Arc of North Dakota believes that P&A is a vital agency and serves a definite need in North Dakota. P&A's work completed by the staff at P&A is always professional, directed, and friendly, aligns with what P&A is doing on a national level.

In closing, I believe P&A's efforts have limited instances of abuse, neglect, and exploitation in our state, all while creating opportunities for people with disabilities. I urge the committee to support House Bill 1014. Thank you for your time and attention.

House Appropriations Human Resources Division #253

Sixty-seventh Legislative Assembly of North Dakota

House Bill No. 1014

January 8, 2021

Good afternoon, Chairman Nelson and Members of the House Appropriations Human Resources Division. I am Pam Mack, Director of Program Services for the Protection & Advocacy Project (P&A). I do not have any formal written testimony for the hearing today, but will be present to answer any questions that the Committee may have. Teresa Larsen, P&A Executive Director will provide P&A's written testimony for today's hearing.

Thank you and I happy to answer any question today or you may reach me at (701) 328-3975 or by e-mail at pmack@nd.gov.

House Appropriations Human Resources Division #291

Sixty-seventh Legislative Assembly of North Dakota

House Bill No. 1014

January 8, 2021

Good afternoon, Chairman Nelson and Members of the House Appropriations Human Resources Division. I am Dan Gulya, North Dakota Olmstead Commission Coordinator and an FTE under the Protection & Advocacy Project (P&A). I do not have any formal written testimony for the hearing today, but will be present to answer any questions that the Committee may have. Teresa Larsen, P&A Executive Director will provide P&A's written testimony for today's hearing.

Thank you and I happy to answer any question today or you may reach me at (701) 328-3946 or by e-mail at danigulya@nd.gov.

2021 HOUSE STANDING COMMITTEE MINUTES

Appropriations - Human Resources Division Harvest Room, State Capitol

HB 1014
2/9/2021 am
House Appropriations Human Resources

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

Chair Nelson Opened the meeting at 10:59

Representative	Present	Absent
Nelson	P	
Kreidt	P	
Andersen	P	
Mitskog	P	
Schobinger		A
Strinden	P	

Discussion Topics:

- Vote
- P&A

Rep Anderson made a do pass motion on HB 1014

Rep Mitskog seconded the motion

Voice Vote: Motion Carried

Rep Anderson moved do pass as amended

Rep Mitskog seconded

Roll Call Vote:

Representatives	Yay	Nay	Absent
Nelson	x		
Kreidt	x		
Anderson	x		
Mitskog	x		
Schobinger			x
Strinden	x		

Motion Passed 5 yay 0 nay 1 absent

Chair Nelson closed the meeting at 11:05 a.m.

Cole Fleck, Committee Clerk

2021 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee
Brynhild Haugland Room, State Capitol

HB 1014
2/17/2021

A BILL for an Act to provide an appropriation for defraying the expenses of the protection and advocacy project.
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9:49 Chairman Delzer- Opens the meeting for HB 1014

Attendance	P/A
Representative Jeff Delzer	P
Representative Keith Kempenich	P
Representative Bert Anderson	P
Representative Larry Bellew	P
Representative Tracy Boe	P
Representative Mike Brandenburg	P
Representative Michael Howe	A
Representative Gary Kreidt	P
Representative Bob Martinson	P
Representative Lisa Meier	P
Representative Alisa Mitskog	P
Representative Corey Mock	P
Representative David Monson	P
Representative Mike Nathe	P
Representative Jon O. Nelson	P
Representative Mark Sanford	P
Representative Mike Schatz	P
Representative Jim Schmidt	P
Representative Randy A. Schobinger	P
Representative Michelle Strinden	P
Representative Don Vigesaa	P

Discussion Topics:

- Amendment

9:49 Representative B. Anderson- Introduces the budget and the amendment
21.0273.01001

9:53 Representative B. Anderson Makes a motion to adopt the amendment

Representative Jon O. Nelson Second

9:53 Voice Vote Motion Carries

9:54 Representative Anderson Makes a motion for a Do Pass as Amended

Representative Strinden Second

Further discussion

Roll call vote was taken;

Representatives	Vote
Representative Jeff Delzer	Y
Representative Keith Kempenich	Y
Representative Bert Anderson	Y
Representative Larry Bellew	N
Representative Tracy Boe	Y
Representative Mike Brandenburg	Y
Representative Michael Howe	A
Representative Gary Kreidt	Y
Representative Bob Martinson	Y
Representative Lisa Meier	Y
Representative Alisa Mitskog	Y
Representative Corey Mock	Y
Representative David Monson	Y
Representative Mike Nathe	Y
Representative Jon O. Nelson	Y
Representative Mark Sanford	Y
Representative Mike Schatz	Y
Representative Jim Schmidt	Y
Representative Randy A. Schobinger	Y
Representative Michelle Strinden	Y
Representative Don Vigesaa	Y

Motion Carries 19-1-1 Representative B. Anderson will carry the bill

Additional written testimony: No written testimony

Chairman Delzer Closes the meeting for HB 1014

Risa Berube,

House Appropriations Committee Clerk

Handwritten initials and date:
2/17/21

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1014

Page 1, replace lines 10 through 16 with:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Protection and advocacy operations	\$7,166,150	\$232,002	\$7,398,152
Total all funds	\$7,166,150	\$232,002	\$7,398,152
Less estimated income	3,926,135	334,447	4,260,582
Total general fund	\$3,240,015	(\$102,445)	\$3,137,570
Full-time equivalent positions	28.50	0	28.50"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

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

	Base Budget	House Changes	House Version
Protection and advocacy operations	\$7,166,150	\$232,002	\$7,398,152
Total all funds	\$7,166,150	\$232,002	\$7,398,152
Less estimated income	3,926,135	334,447	4,260,582
General fund	\$3,240,015	(\$102,445)	\$3,137,570
FTE	28.50	0.00	28.50

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

	Adjusts Funding for Base Payroll Changes ¹	Adds Funding for Salary and Benefit Increases ²	Adjusts Funding for Operating Expenses ³	Adds Funding for Microsoft Office 365 Licensing Expenses ⁴	Total House Changes
Protection and advocacy operations	(\$106,826)	\$127,964	\$207,229	\$3,635	\$232,002
Total all funds	(\$106,826)	\$127,964	\$207,229	\$3,635	\$232,002
Less estimated income	7,106	69,988	255,299	2,054	334,447
General fund	(\$113,932)	\$57,976	(\$48,070)	\$1,581	(\$102,445)
FTE	0.00	0.00	0.00	0.00	0.00

¹ Funding is adjusted for base payroll changes.

² The following funding is added for 2021-23 biennium salary adjustments of 1.5 percent on July 1, 2021, and July 1, 2022, with a minimum monthly increase of \$100 and a maximum monthly increase of \$250, and increases in health insurance premiums from \$1,427 to \$1,429 per month:

	<u>General Fund</u>	<u>Other Funds</u>	<u>Total</u>
Salary increase	\$57,347	\$69,203	\$126,550
Health insurance increase	629	785	1,414
Total	\$57,976	\$69,988	\$127,964

³ Funding is adjusted for operating expenses primarily related to professional fees, rent, and supplies.

⁴ Funding is added for Microsoft Office 365 licensing expenses.

REPORT OF STANDING COMMITTEE

HB 1014: Appropriations Committee (Rep. Delzer, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (19 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB 1014 was placed on the Sixth order on the calendar.

Page 1, replace lines 10 through 16 with:

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2021 SENATE APPROPRIATIONS

HB 1014

**Department 360 - Protection and Advocacy Project
House Bill No. 1014**

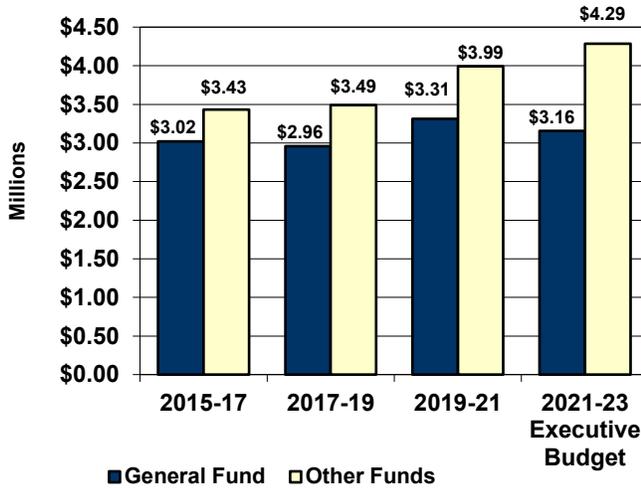
Executive Budget Comparison to Prior Biennium Appropriations

	FTE Positions	General Fund	Other Funds	Total
2021-23 Executive Budget	28.50	\$3,155,580	\$4,285,459	\$7,441,039
2019-21 Legislative Appropriations	28.50	3,312,565	3,994,135	7,306,700
Increase (Decrease)	0.00	(\$156,985)	\$291,324	\$134,339

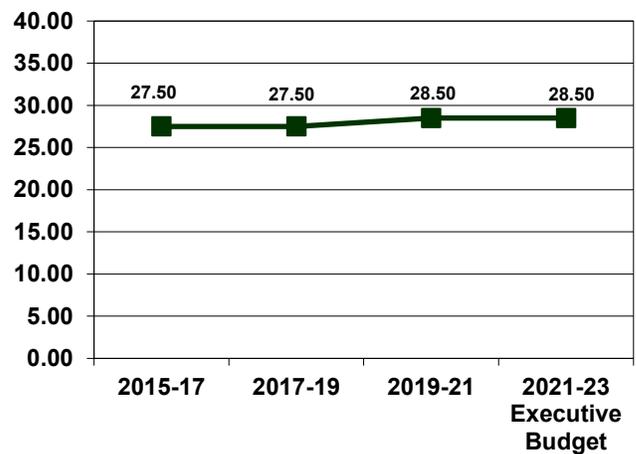
Ongoing and One-Time General Fund Appropriations

	Ongoing General Fund Appropriation	One-Time General Fund Appropriation	Total General Fund Appropriation
2021-23 Executive Budget	\$3,155,580	\$0	\$3,155,580
2019-21 Legislative Appropriations	3,240,015	72,550	3,312,565
Increase (Decrease)	(\$84,435)	(\$72,550)	(\$156,985)

Agency Funding



FTE Positions



Executive Budget Comparison to Base Level

	General Fund	Other Funds	Total
2021-23 Executive Budget	\$3,155,580	\$4,285,459	\$7,441,039
2021-23 Base Level	3,240,015	3,926,135	7,166,150
Increase (Decrease)	(\$84,435)	\$359,324	\$274,889

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 \$140,519 is for salary increases, \$1,414 is for health insurance increases, and \$28,918 is for retirement contribution increases. The House added funding for salary adjustments of 1.5 percent per year with a \$100 minimum and \$250 maximum monthly increase and increases in health insurance premiums from \$1,427 to \$1,429 per month. The House did not add funding for retirement contribution increases.	\$75,986	\$94,865	\$170,851
2. Adjusts funding for operating expenses.	(\$48,070)	\$255,299	\$207,229
3. Increases funding for Microsoft Office 365 licensing.	\$1,581	\$2,054	\$3,635

**Other Sections in House Bill No. 1014
(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

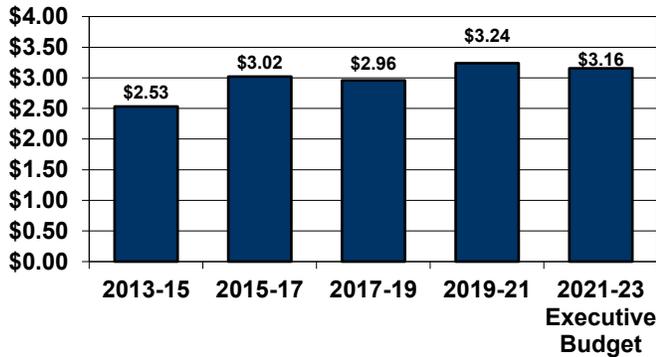
At this time, no major related legislation is under consideration affecting this agency.

Department 360 - Protection and Advocacy Project

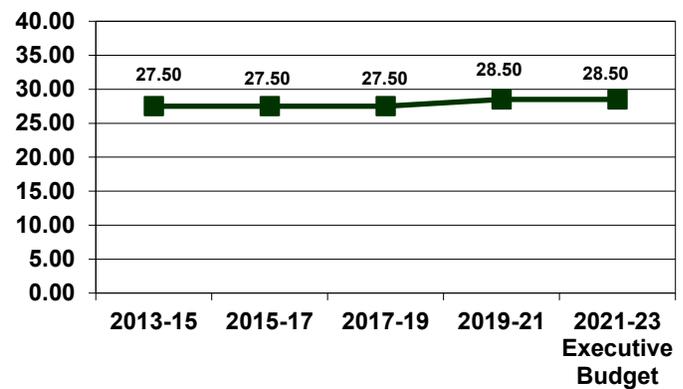
Historical Appropriations Information

Ongoing General Fund Appropriations Since 2013-15

Ongoing General Fund Appropriations (in Millions)



FTE Positions



Ongoing General Fund Appropriations					
	2013-15	2015-17	2017-19	2019-21	2021-23 Executive Budget
Ongoing general fund appropriations	\$2,531,562	\$3,020,926	\$2,958,999	\$3,240,015	\$3,155,580
Increase (decrease) from previous biennium	N/A	\$489,364	(\$61,927)	\$281,016	(\$84,435)
Percentage increase (decrease) from previous biennium	N/A	19.3%	(2.0%)	9.5%	(2.6%)
Cumulative percentage increase (decrease) from 2013-15 biennium	N/A	19.3%	16.9%	28.0%	24.6%

Major Increases (Decreases) in Ongoing General Fund Appropriations

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

1. Added funding for 1 FTE Olmstead Commission position \$164,314
2. Added funding for operating expenses, primarily related to professional service fees and travel expenses \$190,103

2021-23 Biennium (Executive Budget Recommendation)

1. Adjusts funding for operating expenses, resulting in a decrease from the general fund and an increase from federal funds. (\$48,070)

**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, 2021 and ending June 30, 2023, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Protection and Advocacy Operations	\$7,166,150	\$274,889	\$7,441,039
Total All Funds	\$7,166,150	\$274,889	\$7,441,039
Less Estimated Income	<u>3,926,135</u>	<u>359,324</u>	<u>4,285,459</u>
Total General Fund	\$3,240,015	(\$84,435)	\$3,155,580
Full-time Equivalent Positions	28.50	0.00	28.50

SECTION 2. ONE-TIME FUNDING. The following amounts reflect the one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium.

<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
Accrued Leave Payments	\$132,550	\$ 0
Polycom Machine	<u>8,000</u>	<u>0</u>
Total All Funds	\$140,550	\$ 0
Less Estimated Income	<u>68,000</u>	<u>0</u>
Total General Fund	\$ 72,550	\$ 0

2021 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee
Roughrider Room, State Capitol

HB 1014
3/3/2021
Senate Appropriations Committee

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

Senator Holmberg opened the hearing at 11:00 a.m.

Senators present: **Holmberg, Krebsbach, Wanzek, Bekkedahl, Poolman, Erbele, Dever, Oehlke, Rust, Davison, Sorvaag, Mathern, and Heckaman.** **Senator Hogue** was absent.

Discussion Topics:

- Services Offered
- Cases
- Staffing

Teresa Larsen, Executive Director, Protection & Advocacy Project, testified in favor and submitted testimony #7261

Kristen Dvorak, Executive Director, The Arc of North Dakota, testified in favor and submitted testimony #7155

Angela Dinius, Workplace Development Director, North Dakota Association of Community Providers, testified in favor and submitted testimony #7158

Matthew McCleary, Deputy Director, North Dakota Federation of Families for Children's Mental Health, testified in favor and submitted testimony #7152

Chairman Holmberg appoints **Vice-Chair Kresbach, Senator Davison, Senator Mathern** to the sub-committee.

Additional written testimony: #7205

Senator Holmberg closed the hearing at 11:38 a.m.

Skyler Strand, Committee Clerk

HB 1014
Protection & Advocacy Project (P&A)
Senate Appropriations
Testimony of Teresa Larsen, Executive Director
March 3, 2021

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. The overall purpose of the P&A is to protect, and advocate for, individuals of all ages with all types of disabilities.

In ND, P&A is statutorily authorized under NDCC § 25-01.3 with sections for definitions, the governing board, reporting of alleged abuse & neglect, P&A authority, access, investigations, and confidential information. Accompanying rules are in NDAC Title 65.5 specific to organization of the governing board, relevant definitions, access to records, authority of P&A, grievance procedures, and public inquiries. There are also federal laws and regulations that apply to each of the federal grants.

I. PROGRAM OVERVIEW – FUNDING

P&A continues to receive eight grants from the federal government. These grants come through the:

- U.S. Department of Health & Human Services: Developmental Disabilities (DD), Mental Health (MH), Assistive Technology (AT), Help America Vote Act (HAVA), Traumatic Brain Injury (TBI);
- U.S. Department of Education: Individual Rights (PAIR);
- Social Security Administration: Beneficiaries of Social Security (PABSS), Strengthening Protections for Social Security Beneficiaries (Rep Payee).

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.

NINE YEAR HISTORY OF FEDERAL GRANT FUNDING									
	2012	2013	2014	2015	2016	2017	2018	2019	2020
DD	384,693	362,881	362,881	362,881	384,693	390,405	404,556	404,556	405,053
MH	429,100	406,700	428,000	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	171,598
AT	50,000	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	100,000
TBI	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000
HAVA	70,000	70,000	70,000	70,000	70,000	70,000	98,209	98,209	105,261
REP PAYEE							60,000	62,137	62,667
TOTAL	1,259,425	1,205,713	1,232,479	1,232,479	1,254,291	1,260,003	1,362,363	1,364,500	1,372,579

NOTE: Federal grants are based on the fiscal year running from October – September with the exception of the 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/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 service agreement for the upcoming biennium is budgeted at \$263,834.

P&A was audited by the Office of the State Auditor in 2019 for the two-year period ending June 30, 2018. There were no findings. P&A is currently undergoing an audit for the two-year period ending June 30, 2020.

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 1,970 clients (1,100 in FY 2019 and 870

in FY 2020). The previous two years totaled 2,321. While there was a decrease in cases due to the pandemic, information and referral services totaled 5,652 for these same fiscal years, an increase of 961 from the previous two years. 3,355 individuals participated in education & training activities in these two years as compared with 5,773 for the previous two years. Again, the pandemic had an impact as education & training activities had generally been provided in-person and were “shut down” when the pandemic started. P&A has been able to begin using TEAMS or ZOOM to successfully execute these activities.

Each federal fiscal year, as required by federal grantors, P&A develops or revises its priorities after receiving public input. For federal fiscal years 2019 & 2020, service requests/reports were specific to the following priorities:

	<u>FY 2019</u>	<u>FY 2020</u>
Protective Services (a/n/e)	64.8%	64.4%
Education	20.6%	19.8%
Employment	2.0%	1.4%
Community Inclusion	10.0%	11.3%
Healthcare	1.4%	1.3%
Criminal Justice	0.6%	1.6%
Other, including accessibility	0.6%	0.2%

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 situations, P&A’s role is to conduct objective investigations or to review investigations completed by providers. P&A addresses identified problems such as a change in guardianship.

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 is focused on exercising the rights of its clients and is dedicated to working with its clients until their issues are resolved. Of the closed service requests in FY 2019 and FY 2020, over 90% were fully or partially resolved in the clients' favor. In July 2020, 478 clients (or their parents/guardians) were sent surveys and asked about their satisfaction with services provided by P&A. 118 (26.22%) responded with 92 answering the relevant question. Of those, 87 (94%) checked that they were satisfied with the help they received from P&A.

P&A is working with developmental disabilities providers, along with the DHS/DD Division, to identify ways to make the quality assurance system less onerous on everyone. This includes responses to reports of alleged abuse, neglect, or exploitation. We all believe there are areas for improvement. P&A also collaborates with the DD Division to systemically implement training and monitoring activities for service providers.

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.

P&A is staffed with 28.5 FTE's. This includes seventeen advocates, two program directors, a director of policy & operations, three attorneys, a half-time legal assistant, a fiscal manager, an executive director, and two full-time administrative assistants. This model works well for our geographically large state, allowing staff to engage personally with clients, families, and other stakeholders. Last Session, the Legislature added an additional attorney position to staff the Olmstead Commission. The newly hired Director of Policy

& Operations is not attorney while the individual who retired was one. P&A has been employing a temporary staff person to provide work under the Help America Vote Act (HAVA) grant. An organizational chart is attached.

III. **2019 – 2021 BIENNIUM**

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 \$210,000. As federally required, these monies are matched 100% with State General Funds.

For the current biennium, P&A has spent approximately 66% of its total appropriated budget through December 31, 2020. All projected unspent federal funds from the 2019 – 2021 biennium are budgeted for the 2021 – 2023 biennium.

P&A is experiencing retirements of a significant number of long-term employees in the current biennium. Last Session P&A requested, and received, authorization to include one-time retirement pay-outs in its budget for the 19-21 biennium. With a total of \$132,550, this includes \$68,000 in Federal Funds and \$64,550 in General Funds. Operationally, this makes a significant difference in allowing the agency to fill vacant positions in a timely way vs. holding vacancies open to allow for a roll-up of funds. Approximately 1/3 third of these funds have been spent to-date. It appears P&A will spend the balance of these funds on planned retirements yet this biennium.

The other one-time item included in the current biennium budget is \$8,000 in General Funds for a replacement Polycom system. ND Information Technology (NDIT) was able to use federal monies for purchase of this equipment. The \$8,000 will be returned to the State.

When P&A was asked about the need for COVID-19 money by OMB, P&A responded that it would cover the costs within its existing budget. From March – December, P&A spent approximately \$21,000 for supplies (masks, hand sanitizer), for IT equipment for staff to work at home (headsets, webcams), pandemic-related systemic advocacy work, and COVID-related leave.

IV. 2021 – 2023 BIENNIUM

For the next biennium, P&A submitted its budget to OMB with the 5% decrease in General Funds totaling \$162,001 after one-time funding was removed. P&A is not requesting any new FTE's. Salaries and benefits are somewhat reduced for positions for long-term employees who have, or are, retiring.

In the current biennium, operating monies are included only for the Olmstead Coordinator. Operating funds are added for the next biennium for the Olmstead Commission itself. For example, there is currently no funding in place for Commission members' travel to/from meetings. This in the budget for 21-23.

The operating budget is increased by \$207,229. This includes an increase of \$255,299 in federal funds and a decrease of \$48,070 in General Funds to help meet the 5% reduction. An additional \$3,635 is included for the increased costs for Microsoft Office 365 licensing.

In summary, here is a comparison for the base level budget to the Governor's recommended budget as well as the totals for action by the House:

	General Fund	Federal Funds	TOTAL
2021-23 Executive Budget	3,155,580	4,285,459	7,441,039
Base Level (less one-time \$)	3,240,015	3,926,135	7,166,150
Exec. Increase/Decrease	(84,435)	359,324	274,889
As passed by the House	3,137,570	4,260,582	7,398,152
House Change from Base	(102,445)	334,447	232,002

Grant amounts beyond federal fiscal year 2020 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 2021-2023.

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. Changes made by the House are only those that were put in place for all State agencies/employees.

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

tlarsen@nd.gov
328-2950

Case #1

Joe is ten years old. He lives with his family in rural ND. He has diagnoses which include ADHD, Autism, and an Intellectual Disability. P&A services were requested by the child's parents to provide advocacy for their son as the rural school district was struggling to provide for Joe's needs. Joe was exhibiting behaviors that were impacting himself and others in the school. P&A assisted the school district with bringing in outside specialists that could consult with the Joe's educational team. The school was educated on best practices when working with a student with Joe's needs, including creating an environment that would decrease Joe's anxiety. The specialists also supported Joe's team to develop interventions and effective learning goals so that he would engage and benefit from his education.

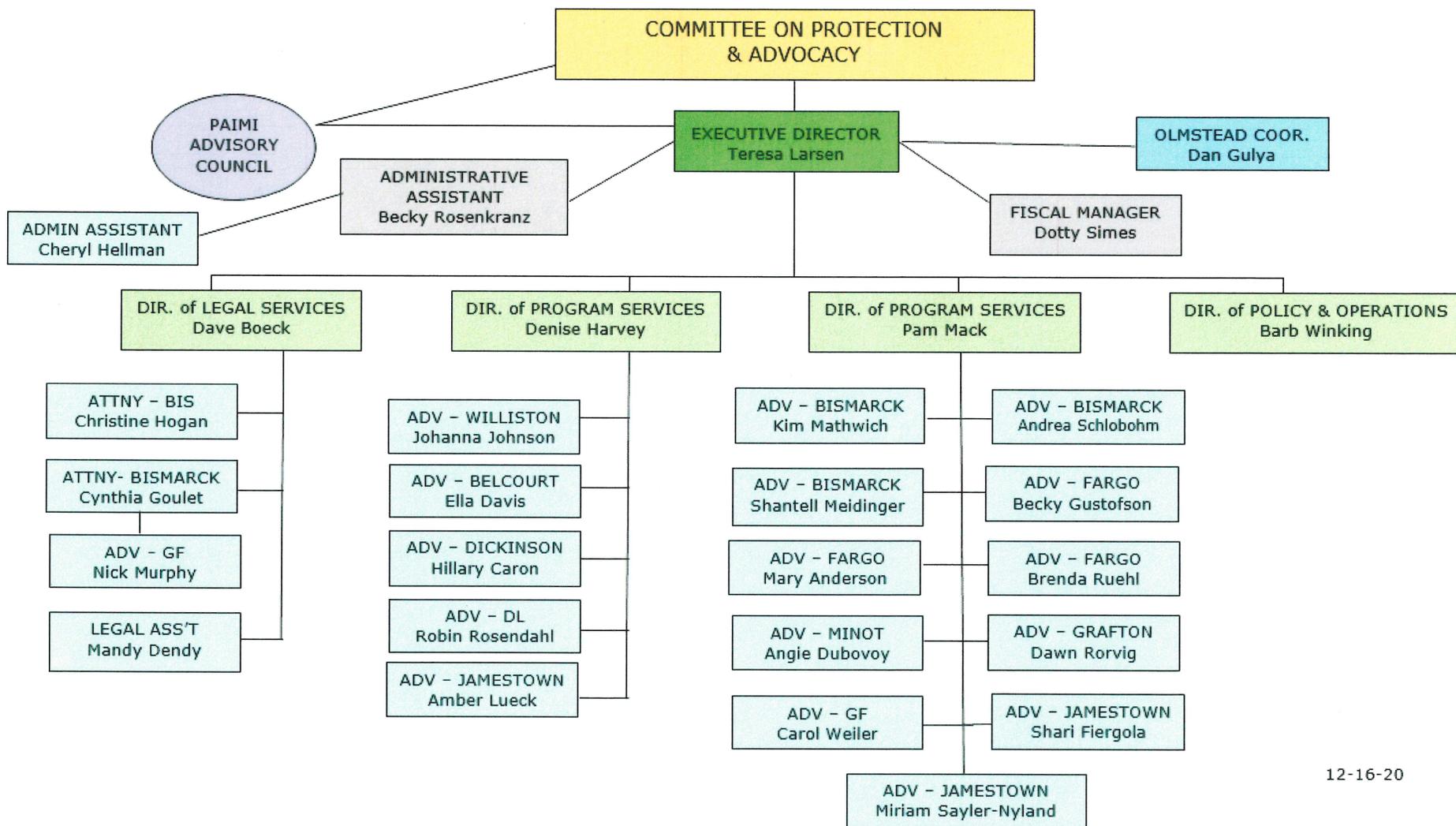
Case #2

Advocacy services were requested by a 47-year-old female's husband, who was her guardian, to address a recent denial of coverage by their private health insurer. Ten years earlier, the woman experienced a stroke that resulted in her requiring total care for all aspects of her life. Her family has been able to provide care for her within their family home with the support of nursing services, which was funded by the family's health insurance provider. Upon request for continued payment, the agency who was providing the nursing services was informed that payment would no longer be provided as the insurance company had determined that it was no longer a covered service. P&A provided legal representation to the client to negotiate an outcome for continued coverage of nursing services within the family home. These efforts were successful and funding for the nursing services was approved. Ultimately, this allowed the woman to remain living in her family home vs. moving to a skilled nursing facility.

Case #3

Fred is a 14-year-old student attending a public middle school. He has diagnoses that include depression, anxiety and a significant learning disorder. Advocacy services were requested by Fred's parents to address the school district's response to their son's behavior, which at times was physical in nature. At the time of referral, the school district was having the School Resource Officer (SRO) respond to the student's behavior, which in turn resulted in Fred's behavior escalating and becoming more physically aggressive. The SRO issued citations which resulted in the juvenile court officer getting involved. Juvenile court staff encouraged the parents to contact P&A as the use of the juvenile justice system to address disability-related behavior within the school was not effective. In addition, it resulted in Fred being removed from the school setting when what he needed were behavioral supports and interventions. P&A provided advocacy services for Fred, working with the school to address the need to develop positive behavioral supports that did not involve the use of law enforcement or the SRO. As a result of these efforts, Fred is doing very well in school and there have been no behavioral concerns for an extensive period of time.

NORTH DAKOTA PROTECTION AND ADVOCACY PROJECT





P.O. Box 2081
Bismarck, ND 58502-2081
Phone: (701)222-1854
Email: k.dvorak@thearcofbismarck.org
Website: www.thearcofbismarck.org

Testimony of Support Senate Bill 1014
Senate Appropriations Committee, Human Resources Division
January 8, 2021

Chairman Holmberg and members of the committee, my name is Kirsten Dvorak. I am the Arc North Dakota executive director, and I represent six Arc chapters within North Dakota, which include: Bismarck, Bowman, Dickinson, Fargo, Grand Forks, and Valley City. Our mission is to improve people's quality of life with intellectual and developmental disabilities and actively support their full inclusion and participation in the community.

The Arc of North Dakota is a strong supporter of the North Dakota Protection and Advocacy Project (P&A). P&A, in its entirety, works towards achieving positive outcomes for people with disabilities in all aspects of life. Acting in the best interest of individuals with disabilities guides their daily activities and is exemplified in their services.

As an agency, The Arc provides referrals to businesses, families, and most importantly, individuals with disabilities. Often, I refer individuals to P&A for further information or consulting on legal and civil rights issues. Regardless of the cases, self-advocates have always given positive feedback about the helpful and professional service they receive when working with P&A. I have on more than one occasion called on P&A to answer questions about services legal issues and have always been greeted with friendly staff that provides quality information. P&A's services are necessary for many individuals with disabilities in our state. P&A gives a voice to a population of individuals that are not always being heard.

Another instance of P&A's quality work is in the organization of the Legislative Working Group. By managing and facilitating these groups, they have allowed people of all abilities around the state to take action when it comes to disability-related issues and encourages people with disabilities to become active citizens. This group is a forum for education, information exchange, and action. I know of many advocates and professionals who have been inspired and encouraged to speak up because of P&A's support. P&A fosters positive change in the lives of people with disabilities.

Finally, The Arc has had the privilege of collaborating with P&A on an infinite number of projects. These have included community education workshops and events with mental health, employment, and self-advocacy. The Arc of North Dakota believes that P&A is a vital agency and serves a definite need in North Dakota. P&A's work completed by the staff at P&A is always professional, directed, and friendly aligns with what P&A is doing on a national level.

In closing, I believe P&A's efforts have limited instances of abuse, neglect, and exploitation in our state, all while creating opportunities for people with disabilities. I urge the committee to support 1014. Thank you for your time and attention.

House Bill 1014
Senate Appropriations Committee
Honorable Ray Holmberg, Chairman

Testimony of the North Dakota Association of Community Providers
March 3, 2021

The North Dakota Association of Community Providers (NDACP) is the membership organization of thirty agencies licensed to provide home and community based services to North Dakotans with developmental disabilities. The North Dakota Protection and Advocacy Project (P&A) has jurisdiction to ensure the legal rights of the people we serve.

We appreciate the collaborative attitude of P&A during the COVID-19 emergency and their commitment to helping us protect both the safety and individual rights of the people we serve. A collaborative approach conserved valuable resources and enhanced the well being and safety of the people we serve.

NDACP commends the partnership and commitment to quality services demonstrated by P&A and the DD Division in streamlining the investigation of allegations of abuse, neglect and exploitation (ANE). P&A demonstrated leadership to focus their resources on cases most in need of outside assistance and support, while allowing the majority of allegations to be investigated and handled proactively by providers. Pilots of these new procedures are underway. While rules and policies may need to be adjusted, we wish to report initial success in this collaboration. Best of all, the ANE process will focus on improving the quality of future services.

I would be happy to answer any questions today or in the future. I have inserted my contact information below, along with that of Bruce Murry, our Executive Director.

Angela Dinius
Workforce Development Director
North Dakota Association of Community Providers
1500 E Capitol Ave, Suite 205
Bismarck, ND 58501
Cell phone: 701.226.4493
E-mail: workforce@ndacp.org

Bruce Murry
Executive Director
North Dakota Association of Community Providers
1500 E Capitol Ave, Suite 205
Bismarck, ND 58501
cell: 701.220.4933
email: brucemurry@ndacp.org
website: ndacp.org

HB 1014 Testimony
Senate Appropriations Committee
Senator Ray Holmberg, Chairman
March 3, 2021

Chairman Holmberg and Members of the Committee, 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 which is a consumer-run organization whose mission is to promote mental health through education, advocacy, understanding, and access to quality care for all individuals.

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

Last session, Protection and Advocacy became 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. Since the Olmstead Commission redesign, Protection and Advocacy answers questions from individuals and providers. If inquiries from individuals and providers are determined to be outside the purview of the Olmstead Commission, they give those individuals referrals to more appropriate entities. Protection and Advocacy also provides education and communications regarding commission requirements for businesses and community groups.

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

523 North 4th St
Bismarck, ND 58501

(701) 222-3310
cmccleary@ndffcmh.com



HB 1014
Senate Appropriations
Wednesday, March 3, 2021
Senator Ray Holmberg, Chairperson

Chairman Holmberg and Members of the Senate Appropriations Committee:

My name is Roxane Romanick and I'm representing Designer Genes of ND, Inc., as their Executive Director. Designer Genes' membership represents 260 individuals with Down syndrome that either live in our state or are represented by family members in North Dakota. Designer Genes' mission is to strengthen opportunities for individuals with Down syndrome and those who support them to earn, learn, and belong.

I am submitting testimony asking you for a "do pass" on HB 1014, North Dakota Protection and Advocacy's budget. North Dakota Protection and Advocacy is invaluable to our organization and to those that live with Down syndrome in our state. They provide both case specific advocacy to individuals whose rights have been violated and are in need of advocacy, but also programmatic and system advocacy that help to ensure quality lives in the community.

I have had the opportunity to work with many of the staff at North Dakota Protection and Advocacy on both case-specific situations and systems improvement work. Both have been so important in making sure that individuals with disabilities' rights have been protected. Their work on making sure the disability community is aware of legislative action, opportunities for public comment, and rights in the area of voting would be sorely missed if ND did not adequately fund North Dakota Protection and Advocacy.

Thank you.

Roxane Romanick
Executive Director
Designer Genes of North Dakota, Inc.
701-391-7421 info@designergenesnd.com

2021 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee
Roughrider Room, State Capitol

HB 1014
3/18/2021
Protection and Advocacy sub-committee

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

Senator Krebsbach opened the hearing at 3:57 p.m.

Senators present: **Krebsbach, Davison and Mathern.**

Discussion Topics:

- Proposed Changes

Teresa Larsen, Director, Protection and Advocacy Project, answered questions from the sub-committee.

Additional written testimony: #10082

Senator Krebsbach closed the hearing at 4:01 p.m.

Skyler Strand, Committee Clerk

Protection and Advocacy Project - Budget No. 360
House Bill No. 1014
Base Level Funding Changes

	Executive Budget Recommendation				House Version				House Changes to Executive Budget			
	Increase (Decrease) - Executive Budget				Increase (Decrease) - Executive Budget				Increase (Decrease) - Executive Budget			
	FTE Positions	General Fund	Other Funds	Total	FTE Position	General Fund	Other Funds	Total	FTE Positions	General Fund	Other Funds	Total
2021-23 Biennium Base Level	28.50	\$3,240,015	\$3,926,135	\$7,166,150	28.50	\$3,240,015	\$3,926,135	\$7,166,150	0.00	\$0	\$0	\$0
2021-23 Ongoing Funding Changes												
Base payroll changes		(\$113,932)	\$7,106	(\$106,826)		(\$113,932)	\$7,106	(\$106,826)				\$0
Salary increase		62,496	78,023	140,519		57,347	69,203	126,550		(5,149)	(8,820)	(13,969)
Retirement contribution increase		12,861	16,057	28,918				0		(12,861)	(16,057)	(28,918)
Health insurance increase		629	785	1,414		629	785	1,414				0
Adjusts funding for operating expenses		(48,070)	255,299	207,229		(48,070)	255,299	207,229				0
Increases funding for Microsoft Office 365 licensing		1,581	2,054	3,635		1,581	2,054	3,635				0
Total ongoing funding changes	0.00	(\$84,435)	\$359,324	\$274,889	0.00	(\$102,445)	\$334,447	\$232,002	0.00	(\$18,010)	(\$24,877)	(\$42,887)
One-time funding items												
No one-time funding items				\$0				\$0				\$0
Total one-time funding changes	0.00	\$0	\$0	\$0	0.00	\$0	\$0	\$0	0.00	\$0	\$0	\$0
Total Changes to Base Level Funding	0.00	(\$84,435)	\$359,324	\$274,889	0.00	(\$102,445)	\$334,447	\$232,002	0.00	(\$18,010)	(\$24,877)	(\$42,887)
2021-23 Total Funding	28.50	\$3,155,580	\$4,285,459	\$7,441,039	28.50	\$3,137,570	\$4,260,582	\$7,398,152	0.00	(\$18,010)	(\$24,877)	(\$42,887)
<i>Total ongoing changes as a percentage of base level</i>	0.0%	(2.6%)	9.2%	3.8%	0.0%	(3.2%)	8.5%	3.2%				
<i>Total changes as a percentage of base level</i>	0.0%	(2.6%)	9.2%	3.8%	0.0%	(3.2%)	8.5%	3.2%				

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

Executive Budget Recommendation

House Version

There are no other sections for this agency.

2021 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Roughrider Room, State Capitol

HB 1014
3/22/2021

Senate Appropriations Committee

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

Senator Holmberg opened the committee work at 8:54 AM.

Senators present: **Holmberg, Krebsbach, Wanzek, Bekkedahl, Poolman, Erbele, Dever, Oehlke, Rust, Davison, Hogue, Sorvaag, Mathern, and Heckaman.**

Discussion Topics:

- Salaries and pensions

Senator Krebsbach moved to accept amendment [LC 21.0273.02001] - #10290.
Senator Mathern second.

<i>Senators</i>		<i>Senators</i>	
<i>Senator Holmberg</i>	Y	<i>Senator Hogue</i>	Y
<i>Senator Krebsbach</i>	Y	<i>Senator Oehlke</i>	Y
<i>Senator Wanzek</i>	Y	<i>Senator Poolman</i>	Y
<i>Senator Bekkedahl</i>	Y	<i>Senator Rust</i>	Y
<i>Senator Davison</i>	Y	<i>Senator Sorvaag</i>	Y
<i>Senator Dever</i>	Y	<i>Senator Heckaman</i>	Y
<i>Senator Erbele</i>	Y	<i>Senator Mathern</i>	Y

Roll Call vote 14-0-0. Motion Passed.

Senator Krebsbach moved DO PASS AS AMENDED on HB 1014.
Senator Mathern second.

<i>Senators</i>		<i>Senators</i>	
<i>Senator Holmberg</i>	Y	<i>Senator Hogue</i>	Y
<i>Senator Krebsbach</i>	Y	<i>Senator Oehlke</i>	Y
<i>Senator Wanzek</i>	Y	<i>Senator Poolman</i>	Y
<i>Senator Bekkedahl</i>	Y	<i>Senator Rust</i>	Y
<i>Senator Davison</i>	Y	<i>Senator Sorvaag</i>	Y
<i>Senator Dever</i>	Y	<i>Senator Heckaman</i>	Y
<i>Senator Erbele</i>	Y	<i>Senator Mathern</i>	Y

Roll Call vote 14-0-0. Motion Passed

Senator Mathern will carry the bill.

Senator Holmberg closed the committee work at 8:55 AM.

Rose Laning, Committee Clerk

Handwritten:
OK
1/5/21
3/22

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1014

Page 1, replace lines 12 through 16 with:

"Protection and advocacy operations	<u>\$7,166,150</u>	<u>\$236,790</u>	<u>\$7,402,940</u>
Total all funds	\$7,166,150	\$236,790	\$7,402,940
Less estimated income	<u>3,926,135</u>	<u>337,455</u>	<u>4,263,590</u>
Total general fund	\$3,240,015	(\$100,665)	\$3,139,350
Full-time equivalent positions	28.50	0	28.50"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

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

	Base Budget	House Version	Senate Changes	Senate Version
Protection and advocacy operations	\$7,166,150	\$7,398,152	\$4,788	\$7,402,940
Total all funds	\$7,166,150	\$7,398,152	\$4,788	\$7,402,940
Less estimated income	<u>3,926,135</u>	<u>4,260,582</u>	<u>3,008</u>	<u>4,263,590</u>
General fund	\$3,240,015	\$3,137,570	\$1,780	\$3,139,350
FTE	28.50	28.50	0.00	28.50

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

	Adjusts Funding for Salary Increases ¹	Total Senate Changes
Protection and advocacy operations	\$4,788	\$4,788
Total all funds	\$4,788	\$4,788
Less estimated income	<u>3,008</u>	<u>3,008</u>
General fund	\$1,780	\$1,780
FTE	0.00	0.00

¹ Funding is adjusted to provide for employee salary increases of 1.5 percent on July 1, 2021, with a minimum monthly increase of \$100, and an increase of 2 percent on July 1, 2022. The House provided funding for salary increases of 1.5 percent on July 1, 2021, and July 1, 2022, with a minimum monthly increase of \$100 and a maximum monthly increase of \$250.

REPORT OF STANDING COMMITTEE

HB 1014, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1014 was placed on the Sixth order on the calendar.

Page 1, replace lines 12 through 16 with:

"Protection and advocacy operations	<u>\$7,166,150</u>	<u>\$236,790</u>	<u>\$7,402,940</u>
Total all funds	<u>\$7,166,150</u>	<u>\$236,790</u>	<u>\$7,402,940</u>
Less estimated income	<u>3,926,135</u>	<u>337,455</u>	<u>4,263,590</u>
Total general fund	<u>\$3,240,015</u>	<u>(\$100,665)</u>	<u>\$3,139,350</u>
Full-time equivalent positions	28.50	0	28.50"

ReNUMBER accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

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

	Base Budget	House Version	Senate Changes	Senate Version
Protection and advocacy operations	<u>\$7,166,150</u>	<u>\$7,398,152</u>	<u>\$4,788</u>	<u>\$7,402,940</u>
Total all funds	\$7,166,150	\$7,398,152	\$4,788	\$7,402,940
Less estimated income	<u>3,926,135</u>	<u>4,260,582</u>	<u>3,008</u>	<u>4,263,590</u>
General fund	<u>\$3,240,015</u>	<u>\$3,137,570</u>	<u>\$1,780</u>	<u>\$3,139,350</u>
FTE	28.50	28.50	0.00	28.50

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

	Adjusts Funding for Salary Increases ¹	Total Senate Changes
Protection and advocacy operations	<u>\$4,788</u>	<u>\$4,788</u>
Total all funds	\$4,788	\$4,788
Less estimated income	<u>3,008</u>	<u>3,008</u>
General fund	<u>\$1,780</u>	<u>\$1,780</u>
FTE	0.00	0.00

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21.0273.02001
Title.

Prepared by the Legislative Council staff for
Senator Holmberg
March 19, 2021

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1014

Page 1, replace lines 12 through 16 with:

"Protection and advocacy operations	<u>\$7,166,150</u>	<u>\$236,790</u>	<u>\$7,402,940</u>
Total all funds	\$7,166,150	\$236,790	\$7,402,940
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Total general fund	<u>\$3,240,015</u>	(\$100,665)	\$3,139,350
Full-time equivalent positions	28.50	0	28.50"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

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

	Base Budget	House Version	Senate Changes	Senate Version
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Total all funds	<u>\$7,166,150</u>	<u>\$7,398,152</u>	<u>\$4,788</u>	<u>\$7,402,940</u>
Less estimated income	<u>3,926,135</u>	<u>4,260,582</u>	<u>3,008</u>	<u>4,263,590</u>
General fund	<u>\$3,240,015</u>	<u>\$3,137,570</u>	<u>\$1,780</u>	<u>\$3,139,350</u>
FTE	28.50	28.50	0.00	28.50

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

	Adjusts Funding for Salary Increases ¹	Total Senate Changes
Protection and advocacy operations	\$4,788	\$4,788
Total all funds	<u>\$4,788</u>	<u>\$4,788</u>
Less estimated income	<u>3,008</u>	<u>3,008</u>
General fund	<u>\$1,780</u>	<u>\$1,780</u>
FTE	0.00	0.00

¹ Funding is adjusted to provide for employee salary increases of 1.5 percent on July 1, 2021, with a minimum monthly increase of \$100, and an increase of 2 percent on July 1, 2022. The House provided funding for salary increases of 1.5 percent on July 1, 2021, and July 1, 2022, with a minimum monthly increase of \$100 and a maximum monthly increase of \$250.