

Financial Statements
and Other Financial Information



Florida Birth Related Neurological Injury Compensation Association

*Years ended June 30, 2023 and 2022
with Report of Independent Auditors*



Florida Birth Related Neurological Injury Compensation Association

Financial Statements
and Other Financial Information

Years ended June 30, 2023 and 2022

Contents

Report of Independent Auditors	1
Management's Discussion and Analysis	5
Financial Statements	
Statements of Net Position	8
Statements of Revenues, Expenses, and Changes in Net Position	9
Statements of Cash Flows	10
Notes to Financial Statements	11
Other Reports	
Report of Independent Auditors on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with <i>Government Auditing Standards</i>	28
Other Financial Information	
Schedule of General and Administrative Expenses	30

Report of Independent Auditors

Board of Directors
Florida Birth Related Neurological Injury Compensation Association

Report on the Audit of the Financial Statements

Opinion

We have audited the financial statements of the Florida Birth Related Neurological Injury Compensation Association (NICA) which comprise the statements of net position as of June 30, 2023 and 2022, the related statements of revenues, expenses, and changes in net position, and cash flows for the years then ended, and the related notes to the financial statements.

In our opinion, the accompanying financial statements referred to above present fairly, in all material respects, the financial position of NICA, as of June 30, 2023 and 2022, and the changes in its financial position and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

Basis for Opinion

We conducted our audit in accordance with auditing standards generally accepted in the United States of America (GAAS) and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States (*Government Auditing Standards*). Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of NICA and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Responsibilities of Management for the Financial Statements

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America, and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about NICA's ability to continue as a going concern within one year after the date that the financial statements are available to be issued.

Auditor's Responsibility for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS and *Government Auditing Standards* will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the consolidated financial statements.

In performing an audit in accordance with GAAS and *Government Auditing Standards*, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of NICA's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about NICA's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control-related matters that we identified during the audit.

Other Matters

Financial Condition

At June 30, 2023 and 2022, NICA has a deficit net position of approximately \$152.9 million and \$30.7 million, respectively. As discussed in Note 9 to the financial statements, additional funding sources as well as monitoring actions are described.

Required Supplementary Information

Accounting principles generally accepted in the United States of America require that the Management's Discussion and Analysis on pages 5 through 7 be presented to supplement the financial statements. Such information is the responsibility of management and, although not a part of the financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the financial statements in an appropriate operational, economic or historical context. We have applied certain limited procedures to the required supplementary information in accordance with GAAS, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the financial statements, and other knowledge we obtained during our audit of the financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Other Information

Management is responsible for the other financial information. The other information comprises the Schedule of General and Administrative Expenses but does not include the financial statements and our auditor's report thereon. Our opinion on the financial statements does not cover the other information, and we do not express an opinion or any form of assurance thereon. In connection with our audits of the financial statements, our responsibility is to read the other information and consider whether a material inconsistency exists between the other information and the financial statements, or the other information otherwise appears to be materially misstated. If, based on the work performed, we conclude that an uncorrected material misstatement of the other information exists, we are required to describe it in our report.

Page Four

Other Reporting Required by *Government Auditing Standards*

In accordance with *Government Auditing Standards*, we have also issued our report dated August 23, 2023 on our consideration of NICA's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is solely to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the effectiveness of NICA's internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering NICA's internal control over financial reporting and compliance.

Thomas Howell Ferguson P.A.

Tallahassee, Florida
August 23, 2023

MANAGEMENT’S DISCUSSION AND ANALYSIS

Our discussion and analysis of the Florida Birth-Related Neurological Injury Compensation Association’s (NICA) financial performance provides an overview of the Association’s financial activities for the fiscal year ended June 30, 2023. Please read it in conjunction with NICA’s basic financial statements, which begin on page 8. NICA was established by 766.315, *Florida Statutes* to administer the Florida Birth-Related Neurological Injury Compensation Plan (the Plan). The Plan was established pursuant to the *Florida Birth-Related Neurological Injury Compensation Act*, Chapter 88-1, Laws of Florida, beginning January 1, 1989, and was created for the purpose of providing limited recovery, irrespective of fault, for certain birth-related neurological injuries. The Association and Plan referenced in the Florida Statutes are collectively known as NICA.

During the fiscal year ending June 30, 2023, NICA entered into a settlement agreement in connection with the federal lawsuit captioned U.S. ex rel. Arven v. The Florida Birth-Related Neurological Injury Compensation Association, et al., No. 0:19-cv-61053 (S.D. Fla.) (“Action”) in which it was alleged that NICA caused the submission of false claims to Medicaid in violation of the FCA by acting as the payor of last resort. The settlement included payments of approximately \$51 million to the United States and \$1.3 million to Relator’s counsel for attorneys’ fees and costs. NICA and its Board believe it acted appropriately and in good faith at all times and consistently held the view for more than three decades that it was not a “third party” under 42 U.S.C. § 1396a(a)(25)(A). Accordingly, NICA did not knowingly cause the submission of false claims.

While NICA steadfastly believes it would have prevailed had this dispute gone to trial, it recognized that litigation is inherently unpredictable. In weighing its options, NICA management and its Board ultimately decided that it was in the best interest of the program to not only avoid future legal expenses, but also to avoid the risk of losing the lawsuit, which could have resulted in billions of dollars in exposure and been a financially devastating outcome.

During the 2021 legislative session, the Florida Legislature passed Senate Bill 1786 (SB 1786) which made substantial changes to the NICA program including explicit changes to certain benefit obligations. The changes in benefits included increases in the parental award, death benefit and housing assistance, expansion of the transportation benefit and the addition of a mental health benefit for family members of NICA participants. The actuarial estimate of the present value of these benefits are included in Claims Reserves.

During the fiscal years ending June 30, 2022 and June 30, 2023, NICA management refined the methodology used to prepare its estimates of accumulated reported claims which included the additional costs associated with SB 1786. In addition, an assumption that NICA would be covering, on a prospective basis, eligible expenses that had previously been covered by Medicaid was included in the estimates.

As of June 30, 2023, NICA’s total assets decreased by \$19.7 million (or -1.5%), primarily due to decreases in investments (see Table 1). Investments decreased by \$18.5 million (or -1.4%) resulting primarily from payment of the settlement discussed above and payment of claims expenses which were offset by investment income. Receivable for securities sold decreased by \$1.4 million (or -33%) due to timing differences that occur when securities are traded by investment managers but are not scheduled to settle until after the end of the fiscal year.

MANAGEMENT'S DISCUSSION AND ANALYSIS (continued)

Total liabilities of NICA increased by \$102.5 million (or 7.5%) as of June 30, 2023, primarily due to an increase in claims reserve (see Table 1). Claims reserve increased by \$103 million (or 7.5%) primarily due to increases in the Medicaid reimbursement rates for Personal Care Services and Private Duty Nursing which were incorporated into the estimates of accumulated reported claims made by management and the actuarial estimates of incurred but not reported (IBNR) claims.

Table 1 – Net Position

	June 30,	
	2023	2022
Investments	\$1,311,331,990	\$1,329,834,689
Receivable for securities sold	2,786,001	4,140,980
Other assets	11,092,359	10,942,244
Total assets	<u>1,325,210,350</u>	<u>1,344,917,913</u>
Claims reserves	1,472,500,000	1,369,500,000
Payable for securities purchased	4,605,602	5,067,455
Other liabilities	1,014,063	1,081,195
Total liabilities	<u>1,478,119,665</u>	<u>1,375,648,650</u>
Net investment in capital assets	2,757,134	2,589,514
Restricted	<u>(156,666,449)</u>	<u>(33,320,251)</u>
Total net position	<u>\$ (152,909,315)</u>	<u>\$ (30,730,737)</u>

During the year, operating revenues from assessments decreased slightly by \$.753 million (or -2%) due to decreases in physician and hospital assessments.

Operating expenses decreased by \$42.4 million (or -16%) primarily due to a decrease in claims expenses which was offset by the Medicaid settlement noted above (see Table 2). Compared to the prior fiscal year, claims expenses decreased by \$94.8 million (or -36%). The prior fiscal year claims expenses included significant increases for the assumption that NICA would be covering, on a prospective basis, eligible expenses that had previously been covered by Medicaid. As compared to the current year, that change in the prior resulted in higher increases in the revisions of the estimated of accumulated reported claim made by management as well as increases in the actuarial estimates of incurred but not reported (IBNR) claims for the current and prior birth years.

NICA recorded net investment income of \$67.9 million for the year ended June 30, 2023 (see Table 2). NICA's net investment income was primarily comprised of unrealized gains of approximately \$71.1 million and interest and dividend income of approximately \$22 million which were offset by realized losses of \$22 million and investment management fees of approximately \$3.2 million.

MANAGEMENT'S DISCUSSION AND ANALYSIS (continued)

The net effect of the decrease in operating revenues and expenses and the recognition of investment income was a decrease in net position of \$ 122 million (see Tables 1 and 2).

Table 2 – Changes in Net Position

	Years ended June 30,	
	2023	2022
Hospital assessments	\$ 3,103,009	\$ 3,249,950
Physician assessments	31,973,987	32,580,533
Total operating revenues	<u>35,076,996</u>	<u>35,830,483</u>
Claims incurred	167,517,563	262,330,736
Medicaid settlement	52,669,106	-
Other operating expenses	4,919,455	5,164,189
Total operating expenses	<u>225,106,124</u>	<u>267,494,925</u>
Operating income (loss)	<u>(190,029,128)</u>	<u>(231,664,442)</u>
Investment income and other income	71,057,945	(305,000,709)
Investment fees	(3,207,395)	(3,858,061)
Total Nonoperating revenues and expenses	<u>67,850,550</u>	<u>(308,858,770)</u>
Change in net position	<u><u>\$(122,178,578)</u></u>	<u><u>\$(540,523,212)</u></u>

Florida Birth Related Neurological Injury Compensation Association

Statements of Net Position

	June 30,	
	2023	2022
Assets		
Current assets:		
Cash and cash equivalents	\$ 165,102	\$ 915,265
Prepaid expenses and other current assets	96,651	44,891
Assets held-for-sale	495,247	-
Total current assets	757,000	960,156
Receivables for securities sold	2,786,001	4,140,980
Investment income receivable	5,329,972	4,865,824
Assessments receivable	2,743,500	2,526,750
Investments	1,311,331,990	1,329,834,689
Property and equipment, net	2,261,887	2,589,514
Total assets	\$ 1,325,210,350	\$ 1,344,917,913
Liabilities and net position		
Current liabilities:		
Accounts payable and accrued expenses	\$ 317,967	\$ 503,795
Accrued investment fees	696,096	577,400
Total current liabilities	1,014,063	1,081,195
Payable for securities purchased	4,605,602	5,067,455
Claims reserves	1,472,500,000	1,369,500,000
Total liabilities	1,478,119,665	1,375,648,650
Net position:		
Net investment in capital assets	2,757,134	2,589,514
Restricted	(155,666,449)	(33,320,251)
Total net position	(152,909,315)	(30,730,737)
Total liabilities and net position	\$ 1,325,210,350	\$ 1,344,917,913

See accompanying notes.

Florida Birth Related Neurological Injury Compensation Association

Statements of Revenues, Expenses, and Changes in Net Position

	<u>Years ended</u> <u>2023</u>	<u>June 30,</u> <u>2022</u>
Changes in net position		
Operating revenues:		
Hospital assessments	\$ 3,103,009	\$ 3,249,950
Physicians assessments	<u>31,973,987</u>	<u>32,580,533</u>
Total operating revenues	<u>35,076,996</u>	35,830,483
Operating expenses:		
Claims incurred	167,517,563	262,330,736
Medicaid settlement expense	52,669,106	-
General and administrative expenses	3,975,969	4,213,096
Depreciation and amortization	<u>943,486</u>	<u>951,093</u>
Total operating expenses	<u>225,106,124</u>	<u>267,494,925</u>
Operating loss	(190,029,128)	(231,664,442)
Nonoperating revenues (expenses):		
Investment income (loss)	71,057,945	(305,000,709)
Investment fees	<u>(3,207,395)</u>	<u>(3,858,061)</u>
Total nonoperating revenues (expenses)	<u>67,850,550</u>	<u>(308,858,770)</u>
Change in net position	(122,178,578)	(540,523,212)
Net position at beginning of year	<u>(30,730,737)</u>	<u>509,792,475</u>
Net position at end of year	<u>\$ (152,909,315)</u>	<u>\$ (30,730,737)</u>

See accompanying notes.

Florida Birth Related Neurological Injury Compensation Association

Statements of Cash Flows

	Years ended June 30,	
	2022	2021
Cash flows from operating activities		
Cash received from hospitals and physicians	\$ 34,839,480	\$ 35,559,099
Cash payments to claimants and vendors	(64,517,563)	(77,322,889)
Cash payments to service providers and suppliers	(2,408,289)	(2,480,412)
Cash payments to employees for service	(1,251,166)	(1,268,481)
Cash payments to employees for benefits	(533,332)	(463,723)
Cash payment for medicaid settlement	(52,669,106)	-
Net cash used in operating activities	<u>(86,539,976)</u>	<u>(45,976,406)</u>
Cash flows from financing activities		
Purchase of property and equipment	<u>(1,111,106)</u>	<u>(806,468)</u>
Net cash used in capital financing activities	<u>(1,111,106)</u>	<u>(806,468)</u>
Cash flows from investing activities		
Purchase of investments	(715,160,136)	(698,688,146)
Proceeds from sales of investments	782,887,768	728,020,330
Receivable from securities sold	1,354,979	(155,158)
Payable for securities purchased	(461,854)	733,977
Interest and dividends from investments	21,369,598	20,817,045
Investment management fees	<u>(3,089,436)</u>	<u>(3,635,626)</u>
Net cash provided by investing activities	<u>86,900,919</u>	<u>47,092,422</u>
Net (decrease) increase in cash and cash equivalents	(750,163)	309,548
Cash and cash equivalents at beginning of year	<u>915,265</u>	<u>605,717</u>
Cash and cash equivalents at end of year	<u>\$ 165,102</u>	<u>\$ 915,265</u>
Reconciliation of operating loss to net cash used in operating activities		
Operating loss	\$ (190,029,128)	\$ (231,664,442)
Adjustments to reconcile operating loss to net cash used in operating activities:		
Depreciation and amortization	943,486	951,093
Changes in operating assets and liabilities:		
Assessments receivable	(216,750)	(271,384)
Prepaid expenses and other current assets	(51,760)	31,814
Accounts payable and accrued expenses	(165,058)	(23,487)
Claims reserves	103,000,000	185,000,000
Assessments refundable	(20,766)	-
Net cash used in operating activities	<u>\$ (86,539,976)</u>	<u>\$ (45,976,406)</u>

See accompanying notes.

Florida Birth Related Neurological Injury Compensation Association

Notes to Financial Statements

Years ended June 30, 2023 and 2022

1. Summary of Significant Accounting Policies

Nature of the Business

The Florida Birth-Related Neurological Injury Compensation Association (the Association) was established by *Florida Statutes*, Chapter 766.315, in July 1, 1988 to administer the Florida Birth-Related Neurological Injury Compensation Plan (the Plan). The Plan was established by the Florida Birth-Related Neurological Injury Compensation Act (the Act), Chapter 88-1, Laws of Florida for the purpose of providing limited recovery, irrespective of fault, for certain birth-related neurological injuries beginning January 1, 1989. The Association and Plan are collectively known as NICA.

Initial funding for NICA was provided by hospital and physician assessments and a transfer of \$20 million from the Florida Department of Financial Service Insurance Regulatory Trust Fund.

If the hospital and physician assessments and the \$20 million transfer from the Insurance Regulatory Trust Fund are not sufficient to maintain NICA on an actuarially sound basis, an additional \$20 million is to be transferred from the Insurance Regulatory Trust Fund (Note 2). Also, if these funds are still not sufficient to maintain NICA on an actuarially sound basis, the Department of Financial Services, Office of Insurance Regulation may assess entities licensed in Florida to issue casualty insurance based on a rate of no greater than .25% of net direct premiums written.

In the event that management's estimate of the accumulated cost of reported claims (exclusive of family residential or custodial care as defined in Section 766.302, *Florida Statutes*) equals 80% of current funds, plus any additional funds available within 12 months, NICA shall not accept new claims without express authority from the Legislature. However, injuries occurring 18 months or more prior to the effective date of the suspension shall not be precluded.

Reporting Entity

Activities of NICA are reported in the state of Florida financial statements with other discretely presented component units.

Basis of Accounting

NICA follows financial reporting requirements for enterprise funds, which use the accrual basis of accounting. Under this method, revenues are recorded when earned and expenses are recognized when they are incurred.

The financial statements have been prepared in conformity with the pronouncements of the Governmental Accounting Standards Board (GASB), including GASB Statement No. 14, *The Financial Reporting Entity*, which defines NICA as a component unit of the state of Florida.

Florida Birth Related Neurological Injury Compensation Association

Notes to Financial Statements

1. Summary of Significant Accounting Policies (continued)

Assessments

An assessment of \$250 per physician is required by *Florida Statutes* for all licensed physicians in the state of Florida, subject to certain exclusions. In addition, physicians have the option of electing to participate in NICA. Those physicians so electing are required to remit a total assessment of \$5,000. Certified nurse midwives who have paid 50% (or \$2,500) of the participating physician assessment and who are supervised by a participating physician may also participate in NICA. Additionally, each hospital licensed under Chapter 395, *Florida Statutes*, must pay NICA an assessment of \$50 per live infant delivered at the hospital during the prior calendar year, subject to certain exclusions.

Assessments are recognized at the time they are levied (annually) by NICA. The amount of physician and hospital assessments is subject to change based on the actuarial analysis of NICA. Any increase in assessment is recommended by the Board of Directors, but must be approved by the Office of Insurance Regulation.

Cash and Cash Equivalents

For purposes of the statement of cash flows, cash and interest bearing deposits with an original maturity of three months or less are considered cash equivalents. Investment purchases made through the Office of the Treasurer, State of Florida, are considered to be investments.

Cash consists of demand deposits with financial institutions. Deposits with financial institutions are insured by the Federal Deposit Insurance Corporation (FDIC) up to \$250,000 per depositor, per FDIC-insured financial institution. Bank deposits at times may exceed federally insured limits. NICA has not experienced any losses in such accounts.

Additionally, NICA maintains certain demand deposit accounts with qualified public depositories. Qualified public depositories of public funds are required to provide collateral each month pursuant to Chapter 280.04, *Florida Statutes*. The collateral is held by the Florida Division of Treasury or other custodian with full legal rights maintained by the Florida Division of Treasury to transfer ownership. Any loss not covered by the pledged securities and deposit insurance would be assessed by the Florida Division of Treasury and paid by the other public depositories. Therefore, any amount of NICA's demand deposits in excess of FDIC protection would be fully insured or collateralized.

Assessments Receivable

The management of NICA considers assessments receivable to be fully collectible; accordingly, no allowance for doubtful accounts has been recorded.

Florida Birth Related Neurological Injury Compensation Association

Notes to Financial Statements

1. Summary of Significant Accounting Policies (continued)

Investments

Investments in debt and equity securities and futures are stated at fair value. Fair values are based on quoted values in custodian statements and/or quoted market prices. NICA investments made through the Office of the Treasurer, State of Florida, are included in the Florida Treasury Investment Pool (SPIA), which is a pool of investments of which NICA owns a share of the pool, not the underlying securities. Pooled investment shares are reported at fair value. The Auditor General, State of Florida, performs the operational audit of the activities and investments of the Office of the Treasurer. A copy of SPIA's most recent financial statements can be found at http://www.fltreasury.org/fs_01.html. Additionally, NICA invests in structured settlement annuities for selected claimants. These annuities are considered fixed income investments and are reported at fair value based on present value of future annuity payments. *Florida Statutes* and NICA's investment policy permit NICA to enter into securities lending transactions.

The financial instruments exposed to concentrations of credit risk consist primarily of its cash, cash equivalents, and investments. All investment transactions have credit exposure to the extent that a counterparty may default on an obligation of NICA. Credit risk is a consequence of carrying investment positions. To manage credit risk, NICA focuses primarily on higher quality, fixed income securities, limits its exposure in any one investment, and monitors quality.

Property and Equipment

Property and equipment is recorded at cost less accumulated depreciation. Property and equipment is depreciated over its estimated useful lives ranging from three to fifteen years using primarily the straight-line method. The building is depreciated over forty years using the straight-line method. NICA's policy is to capitalize asset acquisitions greater than \$500.

Claims Reserves

The liability for claims reserves is based on an actuarial determination and represents the estimated ultimate net cost of all unpaid reported and unreported claims and claim adjustment expenses. These liabilities are subject to the impact of future changes in claim severity and other factors. The unpaid claims and claim adjustment expense estimates are continually reviewed and, as adjustments become necessary, such adjustments are reflected in current operations. The ultimate settlement of claims and claim adjustment expenses may vary significantly from the actuarial estimates.

Net Position

The net position of NICA is restricted to carry out the public purpose of the program as provided under the Act.

Florida Birth Related Neurological Injury Compensation Association

Notes to Financial Statements

1. Summary of Significant Accounting Policies (continued)

Revenue Recognition

Operating revenues consist of hospital and physicians assessments and are recognized when earned. Nonoperating revenues consist of various forms of investment income.

Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Accordingly, actual results could differ from those estimates.

Subsequent Events

NICA has evaluated subsequent events through August 23, 2023, the date the financial statements were available to be issued. During the period from June 30, 2023 to August 23, 2023, NICA did not have any material recognizable subsequent events.

2. Appropriation - Office of Insurance Regulation

Pursuant to *Florida Statutes*, Section 766.314(5)(b), the sum of \$20 million has been deposited in the Insurance Regulatory Trust Fund. The distribution of "up to \$20 million" to NICA has been authorized in the event that the assessments collected in accordance with *Florida Statutes*, Section 766.314(4), and prior appropriations are not sufficient to maintain NICA on an actuarially sound basis. The entire \$20 million is presently deposited in the Insurance Regulatory Trust Fund and is not reported by NICA.

3. Investments

The framework for measuring fair value provides a fair value hierarchy that prioritizes the inputs to valuation techniques used to measure fair value. The hierarchy gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (Level 1) and the lowest priority to unobservable inputs (Level 3). The three levels of the fair value hierarchy under GASB 72 are described as follows:

- Level 1: Quoted prices (unadjusted) in active markets for identical assets or liabilities that a government can access at the measurement date.
- Level 2: Inputs other than quoted prices included within Level 1 that are observable for an asset or liability, either directly or indirectly.
- Level 3: Unobservable inputs for an asset or liability.

Florida Birth Related Neurological Injury Compensation Association

Notes to Financial Statements

3. Investments (continued)

The following table set forth by level, within the fair value hierarchy, NICA's assets at fair value as of June 30, 2023.

<u>Asset Type</u>	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>	<u>Total</u>
Cash sweep - short term investment fund	\$ -	\$ -	\$ 12,651,112	\$ 12,651,112
Equities	279,269,511	-	-	279,269,511
Fixed income securities	54,533,922	300,374,852	-	354,908,774
Preferred securities	2,556,690	-	-	2,556,690
Annuities	-	-	8,921,510	8,921,510
Futures Contracts	110,132	-	-	110,132
	<u>336,470,255</u>	<u>300,374,852</u>	<u>21,572,622</u>	<u>658,417,729</u>
Other investments:				
Pooled investment in Florida State Treasury	-	-	-	282,300
Pooled investments reported at net asset value	-	-	-	652,342,847
Foreign currency	-	-	-	247,316
Other	-	-	-	41,798
Total assets at fair value	<u>\$ 336,470,255</u>	<u>\$ 300,374,852</u>	<u>\$ 21,572,622</u>	<u>\$ 1,311,331,990</u>

The following table set forth by level, within the fair value hierarchy, NICA's assets at fair value as of June 30, 2022.

<u>Asset Type</u>	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>	<u>Total</u>
Cash sweep - short term investment fund	\$ -	\$ -	\$ 17,457,132	\$ 17,457,132
Equities	246,981,840	-	-	246,981,840
Fixed income securities	62,477,475	316,288,680	-	378,766,155
Preferred securities	2,986,803	-	-	2,986,803
Annuities	-	-	16,254,489	16,254,489
Futures Contracts	(211,773)	-	-	(211,773)
	<u>312,234,345</u>	<u>316,288,680</u>	<u>33,711,621</u>	<u>662,234,646</u>
Other investments:				
Pooled investment in Florida State Treasury	-	-	-	278,008
Pooled investments reported at net asset value	-	-	-	665,367,636
Foreign currency	-	-	-	1,484,082
Other	-	-	-	470,317
Total assets at fair value	<u>\$ 312,234,345</u>	<u>\$ 316,288,680</u>	<u>\$ 33,711,621</u>	<u>\$ 1,329,834,689</u>

Florida Birth Related Neurological Injury Compensation Association

Notes to Financial Statements

3. Investments (continued)

As of June 30, 2023, investments of NICA were as follows:

Types of Investments	Fair Value	Effective Duration (in Years)
Classifiable Investments:		
Annuities	\$ 8,921,510	n/a
Asset-backed securities	9,554,897	1.89
Corporate bonds	234,066,031	10.73
Federal Home Loan Mortgage	15,533,900	5.3
Federal National Mortgage Association	18,119,315	5.18
Futures contracts	110,132	n/a
Government National Mortgage Association	1,598,388	5.39
International government bonds	2,060,172	12.04
U.S. government bonds	55,436,396	11.85
Collateralized mortgage obligations	12,290,777	1.88
Municipal bonds	6,248,898	7.97
U.S. debt	454,096,301	n/a
Pooled investment in Florida State Treasury	282,300	3.02
Equity securities	<u>480,320,063</u>	n/a
Total classifiable investments	<u>1,298,639,080</u>	
Non-classifiable investments:		
Cash sweep - short term investment fund	12,651,112	
Other	<u>41,798</u>	
Total non-classifiable investments	<u>12,692,910</u>	
Total investments	<u>\$1,311,331,990</u>	

Florida Birth Related Neurological Injury Compensation Association

Notes to Financial Statements

3. Investments (continued)

As of June 30, 2022, investments of NICA were as follows:

Types of Investments	Fair Value	Effective Duration (in Years)
Classifiable Investments:		
Annuities	\$ 16,254,489	n/a
Asset-backed securities	13,832,609	1.82
Corporate bonds	241,176,137	10.71
Federal Home Loan Mortgage	12,370,982	5.44
Federal National Mortgage Association	15,171,895	5.86
Futures contracts	(211,773)	n/a
Government National Mortgage Association	974,734	5.08
International government bonds	3,668,545	13.5
U.S. government bonds	62,477,475	13.03
Collateralized mortgage obligations	18,179,623	3.08
Municipal bonds	10,914,155	6.34
U.S. debt	485,019,884	n/a
Pooled investment in Florida State Treasury	278,008	1.04
Equity securities	<u>431,800,477</u>	n/a
Total classifiable investments	<u>1,311,907,240</u>	
Non-classifiable investments:		
Cash sweep - short term investment fund	17,457,132	
Other	<u>470,317</u>	
Total non-classifiable investments	<u>17,927,449</u>	
	<u>\$1,329,834,689</u>	

Investments are diversified to minimize the risk of loss resulting from over compensation of assets in a specific maturity period, a single issuer, or an individual class of securities.

Credit risk is the risk that an issuer or other counterparty to an investment will not fulfill its obligation. To mitigate investment risk, investing is performed in accordance with investment policies adopted by the Board of Directors complying with Section 215.47, *Florida Statutes*. State statutes provide for investment of funds in a range of instruments, including federally guaranteed obligations, other federal agency obligations, certain state bonds, commercial paper, obligations of a Florida political subdivision as permitted by law, common stock, repurchase agreements, and reverse repurchase agreements.

Florida Birth Related Neurological Injury Compensation Association

Notes to Financial Statements

3. Investments (continued)

Custodial credit risk is the risk that, in the event of the failure of the counterparty, NICA will not be able to recover the value of its investments or collateral securities that are in the possession of an outside party. Custody of NICA's investments is currently maintained in NICA's name by Bank of New York Mellon pursuant to a custodial agreement. Additional accounts are maintained in NICA's name under separate agreements with BlackRock Institutional Trust Company, N.A. and the Division of Treasury of the state of Florida. Structured settlement annuities are maintained under agreements with Talcott Resolution Life Insurance Company, which has a Baa3 rating.

Generally, investing activities are performed by investment managers hired by NICA to implement established investment policies.

NICA's asset allocation policy is as follows:

<u>Asset Class</u>	<u>Permissible Range</u>
Fixed Income	58 - 70%
Equity	31 - 37%
Cash	0 - 3%

Credit Quality Rating. Section 215.47, *Florida Statutes*, and NICA's investment policy limits investments based on ratings provided by nationally recognized statistical rating services. Investments limited by ratings are as follows:

1. Commercial paper rated in the highest rating classification by one nationally recognized rating agency.
2. Municipal securities rated in the top four highest rating by two nationally recognized rating services.
3. Registered foreign bonds denominated in U.S. dollars rated in the top four rating classifications by two nationally recognized rating services.
4. Asset-backed securities rated in the highest rating classification by one nationally recognized rating service.

Florida Birth Related Neurological Injury Compensation Association

Notes to Financial Statements

3. Investments (continued)

<u>Debt Security Type</u>	<u>Quality Rating Moody's</u>	<u>Fair Value</u>
Asset-backed	Aaa	\$ 2,796,225
Asset-backed	NR	6,758,672
Collateralized mortgage obligation	Aa2	416,622
Collateralized mortgage obligation	Aaa	10,192,180
Collateralized mortgage obligation	NR	1,681,975
Corporate bonds	A1	26,526,300
Corporate bonds	A2	11,722,527
Corporate bonds	A3	34,367,353
Corporate bonds	Aa1	210,379
Corporate bonds	Aa2	2,910,425
Corporate bonds	Aa3	10,002,384
Corporate bonds	Aaa	1,607,782
Corporate bonds	Ba1	7,308,071
Corporate bonds	Ba3	299,922
Corporate bonds	Baa1	38,759,901
Corporate bonds	Baa2	59,668,705
Corporate bonds	Baa3	37,847,986
Corporate bonds	NR	2,834,296
Federal Home Loan Mortgage	Aaa	15,533,900
Federal National Mortgage Association	Aaa	18,119,315
Futures contracts	NR	110,134
Government National Mortgage Association	Aaa	1,598,388
International Government Bonds	A2	580,449
International Government Bonds	Baa2	1,479,723
Municipal bonds	A1	103,755
Municipal bonds	A3	1,868,492
Municipal bonds	Aa1	962,491
Municipal bonds	Aa2	328,638
Municipal bonds	Aa3	299,484
Municipal bonds	Aaa	1,094,793
Municipal bonds	Baa2	346,998
Municipal bonds	NR	1,244,247
U.S. Debt	NR	454,096,301
U.S. Government Bond	Aaa	55,436,396
		<u>\$ 809,115,209</u>

Concentration of Credit Risk is the risk of loss attributed to the magnitude of NICA's investment in a single issuer. NICA assets are expected to be diversified across and within asset classes. However, NICA does not specify a limit on the amount that may be invested in any one issuer.

Florida Birth Related Neurological Injury Compensation Association

Notes to Financial Statements

3. Investments (continued)

Interest Rate Risk is the risk that changes in interest rates will adversely affect the fair value of an investment. Investments that are held for longer periods are subject to increased risk of adverse interest rate changes. For reporting purposes, NICA selects effective duration to disclose the portfolio's exposure to changes in interest rates. Duration is a measure of a fixed income's cash flows using present values, weighted for cash flow as a percentage of the investment's full price. Effective duration makes assumptions regarding the most likely timing and amounts of variable cash flows arising from such investments as callable bonds, prepayments, and variable rate debt.

NICA is invested in collateralized mortgage obligations. These securities and obligations are based on cash flows from payments on underlying mortgages. Therefore, they are sensitive to prepayments by mortgagees, which may result from a decline in interest rates.

Foreign Currency Risk is the risk that changes in the exchange rates will adversely affect the fair value of an investment. NICA's investment policy permits it to invest up to 18 percent of total investments in international equities. At June 30, 2023, NICA's exposure to possible foreign currency risk by monetary unit is as follows:

<u>Investment Type</u>	<u>Currency Type</u>	<u>Maturity</u>	<u>Fair Value</u>
Currency	Australian Dollar	n/a	\$ 899
	Brazil Real	n/a	3
	Canadian Dollar	n/a	5,512
	Czech Koruna	n/a	333
	Danish Krone	n/a	759
	Euro Currency Unit	n/a	26,348
	Hong Kong Dollar	n/a	17,001
	Hungarian Forint	n/a	841
	Indonesian Rupiah	n/a	4,310
	Israeli Shekel	n/a	983
	Japanese Yen	n/a	49,713
	Mexican Peso	n/a	1,100
	New Taiwan Dollar	n/a	51,997
	Polish Zloty	n/a	913
	Pound Sterling	n/a	11
	Singapore Dollar	n/a	1,008
	South African Rand	n/a	6
	South Korean Won	n/a	85,274
	Swedish Krona	n/a	47
	Swiss Franc	n/a	70
	Turkish Lira	n/a	188

(continued)

Florida Birth Related Neurological Injury Compensation Association

Notes to Financial Statements

3. Investments (continued)

<u>Investment Type</u>	<u>Currency Type</u>	<u>Maturity</u>	<u>Fair Value</u>
Common stock	Australian Dollar	n/a	6,903,939
	Brazil Real	n/a	2,929,629
	Canadian Dollar	n/a	8,148,798
	Chinese Yuan Renminbi	n/a	2,115,037
	Czech Koruna	n/a	40,126
	Danish Krone	n/a	2,543,150
	Euro Currency Unit	n/a	48,433,563
	Hong Kong Dollar	n/a	17,239,151
	Hungarian Forint	n/a	292,254
	Indonesian Rupiah	n/a	1,157,216
	Japanese Yen	n/a	40,600,659
	Malaysian Ringgit	n/a	211,915
	Mexican Peso	n/a	2,568,175
	New Taiwan Dollar	n/a	3,408,611
	Norwegian Krone	n/a	1,013,786
	Polish Zloty	n/a	130,749
	Pound Sterling	n/a	30,780,837
	Singapore Dollar	n/a	5,321,035
	South African Rand	n/a	1,596,317
	South Korean Won	n/a	4,054,094
Swedish Krona	n/a	10,357,710	
Swiss Franc	n/a	7,805,433	
Thailand Baht	n/a	716,056	
Preferred securities	Brazil Real	n/a	79,627
	Euro Currency Unit	n/a	2,477,063
			<u>\$ 201,172,246</u>

Pooled investments with the State Treasury and investments measured at net asset value are not subject to fair value hierarchy level classification under GASB Statement No. 72, *Fair Value Measurement and Application*.

Florida Birth Related Neurological Injury Compensation Association

Notes to Financial Statements

4. Property and Equipment

Activity within the property and equipment accounts consists of the following for the year ended June 30, 2023:

	<u>Beginning Balances</u>	<u>Additions</u>	<u>Deletions</u>	<u>Ending Balances</u>
Land	\$ 209,088	\$ -	\$ (209,088)	\$ -
Building	320,585	-	(320,585)	-
Building improvements	88,411	58,892	(147,303)	-
Property and equipment	286,897	5,645	(77,312)	215,230
Software	4,893,038	821,376	-	5,714,414
Software in development	<u>51,941</u>	<u>239,989</u>	<u>(14,796)</u>	<u>277,134</u>
	5,849,960	1,125,902	(769,084)	6,206,778
Less accumulated depreciation and amortization	<u>(3,260,446)</u>	<u>(943,486)</u>	<u>259,041</u>	<u>(3,944,891)</u>
	<u>\$ 2,589,514</u>	<u>\$ 182,416</u>	<u>\$ (510,043)</u>	<u>\$ 2,261,887</u>

Activity within the property and equipment accounts consists of the following for the year ended June 30, 2022:

	<u>Beginning Balances</u>	<u>Additions</u>	<u>Deletions</u>	<u>Ending Balances</u>
Land	\$ 209,088	\$ -	\$ -	\$ 209,088
Building	320,585	-	-	320,585
Building improvements	88,411	-	-	88,411
Property and equipment	258,017	36,283	(7,403)	286,897
Software	4,174,719	718,319	-	4,893,038
Software in development	<u>-</u>	<u>51,941</u>	<u>-</u>	<u>51,941</u>
	5,050,820	806,543	(7,403)	5,849,960
Less accumulated depreciation and amortization	<u>(2,316,681)</u>	<u>(951,093)</u>	<u>7,328</u>	<u>(3,260,446)</u>
	<u>\$ 2,734,139</u>	<u>\$ (144,550)</u>	<u>\$ (75)</u>	<u>\$ 2,589,514</u>

Depreciation and amortization expense was \$943,486 and \$951,093 for the years ended June 30, 2023 and 2022, respectively.

Florida Birth Related Neurological Injury Compensation Association

Notes to Financial Statements

5. Assets Held-for-Sale

The previous corporate headquarters of the Association was placed for sale during the current fiscal year. The net book value of the property was used to value the assets held-for-sale which approximates fair value. Capital assets held-for-sale are as follows:

	June 30,	
	<u>2023</u>	<u>2022</u>
Land	\$ 209,088	\$ -
Building	320,585	-
Building Improvements	147,303	-
Property and equipment	<u>1,870</u>	<u>-</u>
	678,846	-
Less accumulated depreciation	<u>(183,599)</u>	<u>-</u>
	<u>\$ 495,247</u>	<u>\$ -</u>

6. Claims Reserves

Claims reserves are provided in amounts estimated to cover the custodial and rehabilitative costs resulting from certain birth-related neurological injuries of claimants of participating physicians and include an estimate of accumulated reported claims and claims incurred but not reported. The claim reserve is actuarially determined for birth years 1989 through June 30, 2023. The reserves utilize adjustment factors for the assumption of the annual investment return and the annual inflation rate.

A class action settlement agreement was entered into in September 2012, which was approved pursuant to a November 26, 2012 Final Judgment and Order by the Florida Circuit Court. The settlement terms may impact benefits payable to all parents or guardians of a child born with a “birth-related neurological injury” in the state of Florida during the time period of January 1, 1989 through June 6, 2002, who obtained a final order which imposed on NICA the “continuing obligation under provisions of Section 766.31, *Florida Statutes*, to pay future expenses as incurred.” The settlement agreement had both retrospective and prospective components.

Medical liability claims are volatile by nature. Although management of NICA believes that the estimate of the liability for losses and loss adjustment expenses is reasonable in the circumstances, uncertainty exists as to the ultimate amount that will be required for the payment of losses and claims. Due to the timeframe associated with the emergence of claims, the most recent two years' estimates have greater uncertainty. Accordingly, the ultimate closure of losses and the related loss adjustment expenses may vary significantly from the estimated amounts included in the accompanying financial statements.

Florida Birth Related Neurological Injury Compensation Association

Notes to Financial Statements

6. Claims Reserves (continued)

In prior years, NICA maintained a reinsurance program which addressed both the frequency and severity of claims. Excess insurance coverage for NICA expired effective December 31, 2003. During 2007, NICA invested in structured settlement annuities for selected claimants to fund a portion of its future obligations. The purpose of the annuities is to protect NICA against the financial effects of super longevity and to reduce the mortality risk on certain claims, which is statutorily borne by NICA. NICA has also adjusted claim reserves to provide for a risk margin in the event claims incurred but not yet reported significantly exceed management's best estimate. The risk margin was approximately \$75.5 million as of June 30, 2023.

Activity in the liability for unpaid claims and claim adjustment expenses is summarized as follows:

	June 30,	
	2023	2022
Balance at beginning of year, including risk margin	\$ 1,369,500,000	\$ 1,184,500,000
Claims incurred related to:		
Current birth year	68,394,000	70,538,496
Prior birth years	<u>(45,710,396)</u>	<u>3,865,461</u>
Total claims incurred	<u>22,683,604</u>	<u>74,403,957</u>
Claims adjusted related to prior birth years	121,273,427	182,636,459
Claims paid related to:		
Prior years	<u>(64,517,563)</u>	<u>(77,330,735)</u>
Total claims paid	<u>(64,517,563)</u>	<u>(77,330,735)</u>
Change in unallocated loss adjustment expense	1,560,532	5,290,319
Change in medicaid estimate	<u>22,000,000</u>	<u>-</u>
Balance at end of year	<u>\$ 1,472,500,000</u>	<u>\$ 1,369,500,000</u>

7. Retirement Plan

Effective July 1, 2003, NICA established a defined contribution retirement plan, in the form of a 401(k) plan, which covers substantially all full time employees with at least one year of service. Contributions are accrued and funded on a current basis. NICA contributed 15% of the participating employees' salaries for the fiscal years ended June 30, 2023 and 2022. The contribution was \$145,390 and \$147,653 for the years ended June 30, 2023 and 2022, respectively.

Florida Birth Related Neurological Injury Compensation Association

Notes to Financial Statements

8. Commitments and Contingencies

During the ordinary course of business, NICA is involved in various litigation. The ultimate outcome of this litigation is not known. Management believes the outcome of this litigation will not have a material impact on the results of operations or net position of NICA.

9. Financial Condition

During the prior fiscal year ending June 30, 2022, inflation and abrupt tightening of fiscal policy, along with disruption of energy and food supplies, led to both stock and bond market declines. As a result, NICA reported losses on investments of \$305 million which were comprised of unrealized losses of approximately \$349.2 million which were offset by realized gains of \$23.4 million, and interest and dividend income of approximately \$20.8 million. These losses were partially offset in the current fiscal year by investment income of \$71.1 million.

During the 2021 legislative session, the Florida Legislature passed Senate Bill 1786 (SB 1786) which made substantial changes to the NICA program including explicit changes to certain benefit obligations. In addition to the explicit benefit modifications, SB 1786 included a requirement for review by the Agency for Health Care Administration (AHCA) of the interaction between NICA and Medicaid. Additionally, separate litigation, which has since been settled, alleged that NICA should pay for expenses historically covered by Medicaid. During the fiscal year ending June 30, 2022, NICA revised its estimates of accumulated reported claims to include the assumption that NICA would be covering, on a prospective basis, eligible expenses that had previously been covered by Medicaid. This change resulted in significant increases in NICA's claims reserve liability (approximately \$150 million). NICA continues to work with AHCA to address the issues raised during the last legislative session regarding NICA's relationship with Medicaid.

The combined effects of the investment losses and increases in claims reserve liabilities resulted in deficit ending equity at June 30, 2022 of (\$30.7) million.

During the fiscal year ending June 30, 2023, NICA entered into a settlement agreement in connection with the federal lawsuit captioned U.S. ex rel. Arven v. The Florida Birth-Related Neurological Injury Compensation Association, et al., No. 0:19-cv-61053 (S.D. Fla.) ("Action") in which it was alleged that NICA caused the submission of false claims to Medicaid in violation of the FCA by acting as the payor of last resort. The settlement included payments of approximately \$51 million to the United States and \$1.3 million to Relator's counsel for attorneys' fees and costs. NICA and its Board acted on advice of counsel, and believe it acted appropriately and in good faith at all times and consistently held the view for more than three decades that it was not a "third party" under 42 U.S.C. § 1396a(a)(25)(A). Accordingly, NICA did not knowingly cause the submission of false claims.

Florida Birth Related Neurological Injury Compensation Association

Notes to Financial Statements

9. Financial Condition (continued)

While NICA steadfastly believes it would have prevailed had this dispute gone to trial, it recognized that litigation is inherently unpredictable. In weighing its options, NICA management and its Board consulted with counsel and ultimately decided that it was in the best interest of the program to not only avoid future legal expenses, but also to avoid the risk of losing the lawsuit, which could have resulted in billions of dollars in exposure and been a financially devastating outcome.

By policy, NICA utilizes Medicaid reimbursement rates for Personal Care Services and Private Duty Nursing. During the current fiscal year, the Medicaid reimbursement rates for those services increased, which resulted in an increase in the claims reserve liability of approximately \$100 million.

The increases in the claims reserve liability and payment of the settlement which were offset by investment income during the current fiscal year resulted in deficit equity at June 30, 2023 of (\$153) million.

The impact of adverse investment activity and increased claims liabilities is mitigated by the following:

- As disclosed in Note 2, *Florida Statutes*, Section 766.314(5)(b) provides for a distribution of “up to \$20 million” from the Insurance Regulatory Trust Fund in order to maintain NICA on an actuarially sound basis.
- The Office of Insurance Regulation may assess certain entities licensed in Florida to issue casualty insurance based on a rate no greater than .25% of net direct premiums written.
- The Office of Insurance Regulation may increase the assessments on hospitals and physicians on a proportional basis as needed.
- NICA’s claims payments are made over many decades into the future.
- Section 766.314(9)(c), *Florida Statutes*, outlines a minimum funding level that NICA must meet to continue accepting claims. This threshold calculation compares eighty percent of the funds on hand and funds that are expected to become available within the next 12 months to the present value of all filed claims (exclusive of family residential or custodial care as defined in Section 766.302, *Florida Statutes*). At June 30, 2023, NICA exceeded this minimum funding level by approximately \$85.4 million.

Florida Birth Related Neurological Injury Compensation Association

Notes to Financial Statements

9. Financial Condition (continued)

- NICA, with the assistance of its outside investment consultants, completes an asset allocation review and study approximately every two years. Revisions to the investment policy are made as necessary to satisfy the primary goal of earning sufficient investment return to ensure payment of all current and future liabilities. Actual investment results are monitored closely by NICA, its outside consultants and the Board of Directors.
- NICA's claims reserve liability includes a risk margin reserve of \$75.5 million at June 30, 2023.
- NICA continues to monitor its actuarial position and investment structure closely.

Other Reports

Report of Independent Auditors on Internal Control Over Financial Reporting and
on Compliance and Other Matters Based on an Audit of Financial Statements
Performed in Accordance with *Government Auditing Standards*

Board of Directors
Florida Birth-Related Neurological Injury Compensation Association

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of Florida Birth-Related Neurological Injury Compensation Association (NICA), which comprise the statement of financial position as of June 30, 2023, and the related statements of revenues, expenses, and changes in net position and cash flows for the year ended, and the related notes to the financial statements, and have issued our report thereon dated August 23, 2023.

Report on Internal Control Over Financial Reporting

In planning and performing our audit of the financial statements, we considered NICA's internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of NICA's internal control. Accordingly, we do not express an opinion on the effectiveness of NICA's internal control.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. *A material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected, on a timely basis. *A significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses or significant deficiencies may exist that were not identified.

Page Two

Report on Compliance and Other Matters

As part of obtaining reasonable assurance about whether NICA's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the financial statements. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

Purpose of This Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

Thomas Howell Ferguson P.A.

Tallahassee, Florida
August 23, 2023

Other Financial Information

Florida Birth-Related Neurological Injury Compensation Association

Schedule of General and Administrative Expenses
Budget to Actual

Year ended June 30, 2023

	Budget	Actual	Variance - Positive (Negative)
Accounting services	\$ 86,000	\$ 81,795	\$ 4,205
Bank charges	4,100	27	4,073
Dues and subscriptions	4,470	4,399	71
Insurance	372,000	360,211	11,789
Legal - general attorney fees and expenses	661,000	432,635	228,365
Legal - other expenses	51,800	61,170	(9,370)
Miscellaneous	800	30	770
Office supplies	8,850	7,227	1,623
Outreach	12,950	3,487	9,463
Payroll taxes	94,000	97,293	(3,293)
Postage	71,000	80,493	(9,493)
Printing services	46,025	43,140	2,885
Professional fees	993,000	1,109,419	(116,419)
Repairs and maintenance	135,000	138,345	(3,345)
Rent	115,359	115,359	-
Retirement	151,000	145,390	5,610
Salaries	1,227,000	1,260,048	(33,048)
Taxes and licenses	1,604	823	781
Telephone	21,700	16,365	5,335
Training and education	3,000	781	2,219
Travel	13,700	5,429	8,271
Utilities	14,500	12,103	2,397
	<u>\$ 4,088,858</u>	<u>\$ 3,975,969</u>	<u>\$ 112,889</u>

See report of independent auditors.