

Financial Statements  
and Other Financial Information



**Florida Birth Related Neurological Injury Compensation Association**

*Years ended June 30, 2024 and 2023  
with Report of Independent Auditors*



Florida Birth Related Neurological Injury Compensation Association

Financial Statements  
and Other Financial Information

Years ended June 30, 2024 and 2023

**Contents**

<b>Report of Independent Auditors</b> .....	1
<b>Management's Discussion and Analysis</b> .....	5
<b>Financial Statements</b>	
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
<b>Other Reports</b>	
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> .....	30
<b>Other Financial Information</b>	
Schedule of General and Administrative Expenses .....	32

## 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, 2024 and 2023, 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 present fairly, in all material respects, the financial position of NICA, as of June 30, 2024 and 2023, 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 audits 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 audits. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

#### ***Emphasis of Matter***

As discussed in Note 1 to the financial statements, during the year ended June 30, 2024, NICA adopted Governmental Accounting Standards Board (GASB) Statement No. 87, *Leases*. Our opinion is not modified with respect to this matter.

### ***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 Responsibilities 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 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 the NICA's internal control. Accordingly, no such opinion is expressed.

Page Three

- 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 the 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, 2024 and 2023, NICA has a deficit net position of approximately \$216.6 million and \$152.9 million, respectively. As discussed in Note 10 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.

Page Four

***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.

***Other Reporting Required by Government Auditing Standards***

In accordance with *Government Auditing Standards*, we have also issued our report dated September 9, 2024 on our consideration of the 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 the 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  
September 9, 2024

## 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, 2024. Please read it in conjunction with NICA’s basic financial statements, which begin on page 8. NICA was established 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.

In November 2022, 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 false claims act (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.

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.

Subsequently, NICA management refined the methodology used to prepare its estimates of accumulated reported claims which included estimates of the expenses NICA would be covering, on a prospective basis that had previously been covered by Medicaid. These adjustments were reflected in the June 30, 2023 claims reserve.

As of June 30, 2024, NICA’s total assets increased by \$76.1 million (or 5.75%), primarily due to increase in investments (see Table 1). Investments increased by \$74.2 million (or 5.66%) resulting primarily from investment holding gains, investment income earned, and gains realized on proceeds from securities sold which were offset by payment of claims expenses.

Total liabilities of NICA increased by \$139.9 million (or 9.46%) as of June 30, 2024, primarily due to an increase in claims reserve (see Table 1). Claims reserve increased by \$136 million (or 9.24%) primarily due to the actuarial estimates of incurred but not reported (IBNR) claims for the current birth year, revisions to the estimates of accumulated reported claims made by management and new claims reported during the year.

## MANAGEMENT'S DISCUSSION AND ANALYSIS (continued)

### Table 1 – Net Position

	<b>2024</b>	<b>2023</b>
Investments	<b>\$ 1,385,525,417</b>	\$ 1,311,331,990
Receivable for securities sold	<b>2,264,993</b>	2,786,001
Investment income receivable	<b>5,903,043</b>	5,329,972
Property and equipment, net	<b>2,599,628</b>	2,757,134
Right-of-use asset (lease)	<b>2,253,596</b>	-
Other assets	<b>2,835,723</b>	3,005,253
<b>Total assets</b>	<b><u>1,401,382,400</u></b>	<u>1,325,210,350</u>
Claims reserves	<b>1,608,580,000</b>	1,472,500,000
Payable for securities purchased	<b>6,518,680</b>	4,605,602
Lease liability current	<b>160,410</b>	-
Lease liability non current	<b>2,095,399</b>	-
Other liabilities	<b>665,547</b>	1,014,063
<b>Total liabilities</b>	<b><u>1,618,020,036</u></b>	<u>1,478,119,665</u>
Net investment in capital assets	<b>2,599,628</b>	2,757,134
Restricted	<b>(219,237,264)</b>	(156,666,449)
<b>Total net position</b>	<b><u>\$ (216,637,636)</u></b>	<u>\$ (152,909,315)</u>

During the year, operating revenues from assessments increased by \$2.87 million (or 8.18%) primarily due to increases in physician assessments. The increase in physician assessments was due to changes in the licensing renewal process by the Florida Department of Health (DOH). DOH began requiring documentation that physicians have paid or been exempted from the NICA assessment prior to renewing their license.

Operating expenses decreased by \$30.8 million (or -13.68%) primarily due to the Medicaid settlement noted above being recognized in the prior fiscal year (see Table 2). Compared to the prior fiscal year, claims expenses increased by \$22.2 million (or 13.26%) primarily due to increases in the actuarial estimates of incurred but not reported (IBNR) claims for the current and prior birth year which were offset by lower revisions in the current year of the estimates of accumulated reported claims made by management.

NICA recorded net investment income of \$92.6 million for the year ended June 30, 2024 (see Table 2). NICA's net investment income was primarily comprised of unrealized gains of approximately \$63.5 million, interest and dividend income of approximately \$25.7 million and realized gains of \$6.6 million which were offset by investment management fees of approximately \$3.2 million.

The net effect of the operating revenues and expenses and the recognition of investment income was a decrease in net position of \$ 63.7 million (see Tables 1 and 2).



MANAGEMENT'S DISCUSSION AND ANALYSIS (continued)

**Table 2 – Changes in Net Position**

	<b>2024</b>	<b>2023</b>
Hospital assessments	\$ 3,536,750	\$ 3,103,009
Physician assessments	34,408,518	31,973,987
Total operating revenues	<u>37,945,268</u>	<u>35,076,996</u>
Claims expenses	189,722,125	167,517,563
Medicaid settlement	-	52,669,106
Other operating expenses	4,583,107	4,919,455
Total operating expenses	<u>194,305,232</u>	<u>225,106,124</u>
Operating income (loss)	<u>(156,359,964)</u>	<u>(190,029,128)</u>
Investment income and other income	95,867,048	71,057,945
Investment fees	(3,235,405)	(3,207,395)
Total nonoperating revenues and expenses	<u>92,631,643</u>	<u>67,850,550</u>
Change in net position	<u><u>\$(63,728,321)</u></u>	<u><u>\$(122,178,578)</u></u>

# Florida Birth Related Neurological Injury Compensation Association

## Statements of Net Position

	<b>June 30,</b>	
	<b>2024</b>	<b>2023</b>
<b>Assets</b>		
Current assets:		
Cash and cash equivalents	\$ 1,166,658	\$ 165,102
Prepaid expenses and other current assets	132,315	96,651
Assets held-for-sale	-	495,247
Total current assets	1,298,973	757,000
Receivables for securities sold	2,264,993	2,786,001
Operating lease, right-of-use assets	2,253,596	-
Investment income receivable	5,903,043	5,329,972
Assessments receivable	1,536,750	2,743,500
Investments	1,385,525,417	1,311,331,990
Property and equipment, net	2,599,628	2,261,887
Total assets	\$ 1,401,382,400	\$ 1,325,210,350
<b>Liabilities and net position</b>		
Current liabilities:		
Accounts payable and accrued expenses	\$ 289,146	\$ 317,967
Accrued investment fees	376,401	696,096
Operating lease liabilities	160,410	-
Total current liabilities	825,957	1,014,063
Payable for securities purchased	6,518,680	4,605,602
Operating lease liabilities, net of current portion	2,095,399	-
Claims reserves	1,608,580,000	1,472,500,000
Total liabilities	1,618,020,036	1,478,119,665
Net position:		
Net investment in capital assets	2,599,628	2,757,134
Restricted	(219,237,264)	(155,666,449)
Total net position	(216,637,636)	(152,909,315)
Total liabilities and net position	\$ 1,401,382,400	\$ 1,325,210,350

*See accompanying notes.*

Florida Birth Related Neurological Injury Compensation Association

Statements of Revenues, Expenses, and Changes in Net Position

	<u>Years ended</u> <u>2024</u>	<u>June 30,</u> <u>2023</u>
<b>Changes in net position</b>		
Operating revenues:		
Hospital assessments	\$ 3,536,750	\$ 3,103,009
Physicians assessments	<u>34,408,518</u>	<u>31,973,987</u>
Total operating revenues	<u>37,945,268</u>	<u>35,076,996</u>
Operating expenses:		
Claims incurred	189,722,125	167,517,563
Medicaid settlement expense	-	52,669,106
General and administrative expenses	3,685,178	3,975,969
Depreciation and amortization	<u>897,929</u>	<u>943,486</u>
Total operating expenses	<u>194,305,232</u>	<u>225,106,124</u>
Operating loss	(156,359,964)	(190,029,128)
Nonoperating revenues (expenses):		
Investment income	95,867,048	71,057,945
Investment fees	<u>(3,235,405)</u>	<u>(3,207,395)</u>
Total nonoperating revenues	<u>92,631,643</u>	<u>67,850,550</u>
Change in net position	(63,728,321)	(122,178,578)
Net position at beginning of year	<u>(152,909,315)</u>	<u>(30,730,737)</u>
Net position at end of year	<u>\$ (216,637,636)</u>	<u>\$ (152,909,315)</u>

*See accompanying notes.*

# Florida Birth Related Neurological Injury Compensation Association

## Statements of Cash Flows

	<b>Years ended June 30,</b>	
	<b>2024</b>	<b>2023</b>
<b>Cash flows from operating activities</b>		
Cash received from hospitals and physicians	\$ 39,152,018	\$ 34,839,480
Cash payments to claimants and vendors	(53,642,125)	(64,517,563)
Cash payments to service providers and suppliers	(1,930,730)	(2,408,289)
Cash payments to employees for service	(1,236,794)	(1,251,166)
Cash payments to employees for benefits	(579,923)	(533,332)
Cash payment for medicaid settlement	-	(52,669,106)
Net cash used in operating activities	<b>(18,237,554)</b>	<b>(86,539,976)</b>
<b>Cash flows from financing activities</b>		
Purchase of property and equipment	(740,422)	(1,111,106)
Net cash used in capital financing activities	<b>(740,422)</b>	<b>(1,111,106)</b>
<b>Cash flows from investing activities</b>		
Purchase of investments	(912,797,647)	(715,160,136)
Proceeds from sales of investments	909,284,995	782,887,768
Change in receivable from securities sold	521,008	1,354,979
Change in payable for securities purchased	1,913,079	(461,854)
Interest and dividends from investments	24,613,197	21,369,598
Investment management fees	(3,555,100)	(3,089,436)
Net cash provided by investing activities	<b>19,979,532</b>	<b>86,900,919</b>
Net increase (decrease) in cash and cash equivalents	1,001,556	(750,163)
Cash and cash equivalents at beginning of year	165,102	915,265
Cash and cash equivalents at end of year	<b>\$ 1,166,658</b>	<b>\$ 165,102</b>
<b>Reconciliation of operating loss to net cash used in operating activities</b>		
Operating loss	\$ (156,359,964)	\$ (190,029,128)
Adjustments to reconcile operating loss to net cash used in operating activities:		
Depreciation and amortization	897,929	943,486
Changes in operating assets and liabilities:		
Assessments receivable	1,206,750	(216,750)
Prepaid expenses and other current assets	(35,664)	(51,760)
Non cash rent expense adjustment for ASC 842	2,213	-
Accounts payable and accrued expenses	(28,818)	(165,058)
Claims reserves	136,080,000	103,000,000
Assessments refundable	-	(20,766)
Net cash used in operating activities	<b>\$ (18,237,554)</b>	<b>\$ (86,539,976)</b>

*See accompanying notes.*

# Florida Birth Related Neurological Injury Compensation Association

## Notes to Financial Statements

Years ended June 30, 2024 and 2023

### 1. Summary of Significant Accounting Policies

#### Nature of the Business

The Florida Birth-Related Neurological Injury Compensation Association (the Association) was established 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.

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 equals 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)

#### Change in Accounting Principle

During the year ended June 30, 2024, NICA adopted Governmental Accounting Standards Board Statement No. 87, *Leases*. This statement increases the usefulness and understandability of governments' financial statements.

#### 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.

# Florida Birth Related Neurological Injury Compensation Association

## Notes to Financial Statements

### 1. Summary of Significant Accounting Policies (continued)

#### Assessments Receivable

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

#### 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](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.

# Florida Birth Related Neurological Injury Compensation Association

## Notes to Financial Statements

### 1. Summary of Significant Accounting Policies (continued)

#### Net Position

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

#### 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 September 9, 2024, the date the financial statements were available to be issued. During the period from June 30, 2024 to September 9, 2024, 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.



# Florida Birth Related Neurological Injury Compensation Association

## Notes to Financial Statements

### 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.

The following table set forth by level, within the fair value hierarchy, NICA's assets at fair value as of June 30, 2024.

<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	\$ -	\$ -	\$ 82,434,086	\$ 82,434,086
Equities	242,987,314	-	-	242,987,314
Fixed income securities	58,155,784	307,556,969	-	365,712,753
Preferred securities	2,070,880	-	-	2,070,880
Annuities	-	-	3,342,598	3,342,598
Futures Contracts	<u>257,252</u>	<u>-</u>	<u>-</u>	<u>257,252</u>
	<b>303,471,230</b>	<b>307,556,969</b>	<b>85,776,684</b>	<b>696,804,883</b>
<b>Other investments:</b>				
Pooled investment in Florida State Treasury	-	-	-	290,285
Pooled investments reported at net asset value	-	-	-	688,122,005
Foreign currency	<u>-</u>	<u>-</u>	<u>-</u>	<u>308,244</u>
Total assets at fair value	<b><u>\$ 303,471,230</u></b>	<b><u>\$ 307,556,969</u></b>	<b><u>\$ 85,776,684</u></b>	<b><u>\$ 1,385,525,417</u></b>

# 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	<u>110,132</u>	<u>-</u>	<u>-</u>	<u>110,132</u>
	<u>336,470,255</u>	<u>300,374,852</u>	<u>21,572,622</u>	<u>658,417,729</u>
<b>Other investments:</b>				
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>

# Florida Birth Related Neurological Injury Compensation Association

## Notes to Financial Statements

### 3. Investments (continued)

As of June 30, 2024, investments of NICA were as follows:

<b>Types of Investments</b>	<b>Fair Value</b>	<b>Effective Duration (in Years)</b>
<b>Classifiable Investments:</b>		
Annuities	\$ 3,342,598	n/a
Asset-backed securities	10,634,634	2.47
Corporate bonds	234,550,325	10.14
Federal Home Loan Mortgage	16,551,051	4.94
Federal National Mortgage Association	21,446,404	5.02
Futures contracts	257,252	n/a
Government National Mortgage Association	2,596,673	3.60
International government bonds	4,372,375	13.10
U.S. government bonds	59,053,396	12.64
Collateralized mortgage obligations	14,807,555	3.24
Municipal bonds	1,700,340	10.39
U.S. debt	401,307,247	n/a
Pooled investment in Florida State Treasury	290,285	3.23
Equity securities	<u>532,181,196</u>	n/a
Total classifiable investments	<u>1,303,091,331</u>	
<b>Non-classifiable investments:</b>		
Cash sweep - short term investment fund	<u>82,434,086</u>	
Total non-classifiable investments	<u>82,434,086</u>	
Total investments	<u>\$1,385,525,417</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:

<b>Types of Investments</b>		<b>Effective</b>
<b>Classifiable Investments:</b>	<b>Fair Value</b>	<b>Duration</b>
		<b>(in Years)</b>
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>	
<b>Non-classifiable investments:</b>		
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>	

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>
Defensive/Rate Sensitive Allocation	42% - 58%
Growth Allocation	24% - 32%
Defensive Growth Allocation	15% - 21%
Inflation Sensitive Allocation	3% - 5%

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	\$ 5,051,482
Asset-backed	NR	5,603,718
Collateralized mortgage obligation	Aaa	9,390,487
Collateralized mortgage obligation	NR	5,472,513
Corporate bonds	A1	24,877,572
Corporate bonds	A2	20,324,770
Corporate bonds	A3	35,634,057
Corporate bonds	Aa1	205,054
Corporate bonds	Aa2	3,711,369
Corporate bonds	Aa3	11,069,915
Corporate bonds	Aaa	1,827,217
Corporate bonds	Ba1	7,705,682
Corporate bonds	Baa1	37,755,456
Corporate bonds	Baa2	61,151,034
Corporate bonds	Baa3	29,888,386
Corporate bonds	NR	3,145,851
Corporate bonds	WR	608,832
Federal Home Loan Mortgage	Aaa	16,610,180
Federal National Mortgage Association	Aaa	21,523,798
Futures contracts	NR	257,252
Government National Mortgage Association	Aaa	2,606,709
International Government Bonds	A2	2,677,676
International Government Bonds	Baa2	1,762,463
Municipal bonds	A3	1,094,792
Municipal bonds	Aa1	341,565
Municipal bonds	Baa2	287,819
U.S. Debt	NR	401,306,943
U.S. Government Bond	Aaa	59,690,035
		<u>\$ 771,582,627</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 mortgagors, 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, 2024, 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	\$ 902
	Brazil Real	n/a	10,422
	Canadian Dollar	n/a	3,660
	Czech Koruna	n/a	312
	Danish Krone	n/a	16,617
	Euro Currency Unit	n/a	(2,974)
	Hong Kong Dollar	n/a	13,245
	Hungarian Forint	n/a	779
	Indonesian Rupiah	n/a	1,405
	Israeli Shekel	n/a	968
	Japanese Yen	n/a	91,843
	Malaysian Ringgit	n/a	873
	Mexican Peso	n/a	18,972
	New Taiwan Dollar	n/a	43,643
	Norwegian Krone	n/a	5,803
	Philippines Peso	n/a	592
	Polish Zloty	n/a	914
	Pound Sterling	n/a	12,571
	Singapore Dollar	n/a	1,007
	South African Rand	n/a	6
South Korean Won	n/a	85,939	
Swedish Krona	n/a	528	
Swiss Franc	n/a	69	
Turkish Lira	n/a	149	

(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	5,990,432
	Brazil Real	n/a	2,794,697
	Canadian Dollar	n/a	7,059,334
	Chinese Yuan Renminbi	n/a	2,251,333
	Danish Krone	n/a	1,707,150
	Euro Currency Unit	n/a	46,719,384
	Hong Kong Dollar	n/a	13,127,756
	Hungarian Forint	n/a	755,538
	Indonesian Rupiah	n/a	340,703
	Japanese Yen	n/a	32,094,598
	Malaysian Ringgit	n/a	534,857
	Mexican Peso	n/a	2,124,067
	New Taiwan Dollar	n/a	6,794,353
	Norwegian Krone	n/a	2,131,513
	Philippines Peso	n/a	258,243
	Polish Zloty	n/a	1,142,518
	Pound Sterling	n/a	33,725,903
	Singapore Dollar	n/a	5,040,219
	South African Rand	n/a	1,928,009
	South Korean Won	n/a	5,353,868
Swedish Krona	n/a	10,485,491	
Swiss Franc	n/a	8,295,503	
Thailand Baht	n/a	416,414	
U.S. Dollar	n/a	338,730,190	
Preferred securities	Brazil Real	n/a	444,679
	Euro Currency Unit	n/a	1,626,201
			<u>\$ 532,181,198</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, 2024:

	<u>Beginning Balances</u>	<u>Additions</u>	<u>Deletions</u>	<u>Ending Balances</u>
Land	\$ -	\$ -	\$ -	\$ -
Building	-	-	-	-
Building improvements	-	-	-	-
Property and equipment	<b>215,230</b>	<b>99,977</b>	-	<b>315,207</b>
Software	<b>5,714,414</b>	<b>830,211</b>	-	<b>6,544,625</b>
Software in development	<u>277,134</u>	<u>155,372</u>	-	<u>432,506</u>
	<b>6,206,778</b>	<b>1,085,560</b>	-	<b>7,292,338</b>
Less accumulated depreciation and amortization	<u>(3,944,891)</u>	<u>(747,819)</u>	-	<u>(4,692,710)</u>
	<u><b>\$ 2,261,887</b></u>	<u><b>\$ 337,741</b></u>	<u><b>\$ -</b></u>	<u><b>\$ 2,599,628</b></u>

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><b>\$ 2,589,514</b></u>	<u><b>\$ 182,416</b></u>	<u><b>\$ (510,043)</b></u>	<u><b>\$ 2,261,887</b></u>

Depreciation and amortization expense was \$897,929 and \$943,486 for the years ended June 30, 2024 and 2023, 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 prior year and was sold on August 23, 2023. 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:

	<b>June 30,</b>	
	<b>2024</b>	<b>2023</b>
Land	\$ -	\$ 209,088
Building	-	320,585
Building Improvements	-	147,303
Property and equipment	-	1,870
	-	678,846
Less accumulated depreciation	-	(183,599)
	<b>\$ -</b>	<b>\$ 495,247</b>

### 6. Leases

For the year ended June 30, 2024, the financial statements include the adoption of GASB Statement No. 87, *Leases*. The primary objective of this statement is to enhance the relevance and consistency of information about governments' leasing activities. This statement establishes a single model for lease accounting based on the principle that leases are financings of the right to use an underlying asset. Under this Statement, a lessee is required to recognize a lease liability and an intangible right-to-use lease asset, and a lessor is required to recognize a lease receivable and a deferred inflow of resources. For additional information, refer to the disclosures below.

NICA has entered into a lease for the use of office space. The term is 120 months beginning on the contract commencement date. As of June 30, 2024, a lease liability of \$2,255,809 was recorded. NICA is required to make monthly payments ranging from \$21,444 to \$26,050 through the term of the lease. The value of the right of use asset as of June 30, 2024, is \$2,253,596.

Total future undiscounted cash flows for each of the next five years and thereafter and a reconciliation to the lease liabilities recognized on the balance sheet as of June 30, 2024:

<b>Years Ending</b>	<b>Operating Leases</b>
2025	\$ 257,776
2026	263,234
2027	268,874
2028	274,618
2029	280,561
Thereafter	1,472,316
	\$ 2,817,379
Less: imputed interest	\$ (561,570)
	<b>\$ 2,255,809</b>

# Florida Birth Related Neurological Injury Compensation Association

## Notes to Financial Statements

### **7. 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, 2024. The reserves utilize adjustment factors for the assumption of the annual investment return and the annual inflation rate.

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.

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. NICA has also adjusted claim reserves to provide for a risk margin in the event future contingent events and actual payments significantly exceed management's best estimate. The risk margin was approximately \$78.6 million as of June 30, 2024.

# Florida Birth Related Neurological Injury Compensation Association

## Notes to Financial Statements

### 7. Claims Reserves (continued)

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

	<b>June 30,</b>	
	<u><b>2024</b></u>	<u><b>2023</b></u>
Balance at beginning of year, including risk margin	<b>\$ 1,472,500,000</b>	\$ 1,369,500,000
Claims incurred related to:		
Current birth year	<b>82,626,000</b>	68,394,000
Prior birth years	<u><b>13,983,747</b></u>	<u>(45,710,396)</u>
Total claims incurred	<u><b>96,609,747</b></u>	<u>22,683,604</u>
Claims adjusted related to prior birth years	<b>76,029,914</b>	121,273,427
Claims paid related to:		
Prior years	<u><b>(53,642,124)</b></u>	<u>(64,517,563)</u>
Total claims paid	<u><b>(53,642,124)</b></u>	<u>(64,517,563)</u>
Change in unallocated loss adjustment expense	<b>2,002,463</b>	1,560,532
Change in contingency margin	<b>3,080,000</b>	-
Change in medicaid estimate	<u><b>12,000,000</b></u>	<u>22,000,000</u>
Balance at end of year	<u><b>\$ 1,608,580,000</b></u>	<u>\$ 1,472,500,000</u>

### 8. 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, 2024 and 2023. The contribution was \$149,729 and \$145,390 for the years ended June 30, 2024 and 2023, respectively.

### 9. 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.

# Florida Birth Related Neurological Injury Compensation Association

## Notes to Financial Statements

### 10. Financial Condition

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.

In November 2022, 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.

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.

Subsequently, NICA management refined the methodology used to prepare its estimates of accumulated reported claims which included the additional costs associated with SB 1786 as well as estimates of the expenses NICA would be covering, on a prospective basis that had previously been covered by Medicaid. In order to allow NICA families to continue to use their current delivery system, NICA and the Agency for Healthcare Administration agreed on a reimbursement process for payments made by Medicaid. Details of the reconciliation process related to that plan are still in progress. An estimate of reimbursements due to AHCA for the period August 31, 2021, through June 30, 2024, is included in claims reserve.

The cumulative effect of these changes, plus inflation, led to an increase in the average claim size for an open active claim from \$3.68 million at June 30, 2020, to \$5.24 million at June 30, 2024, as well as increases in the total annual claims payments from \$19.8 million to \$53.6 million. The overall claims reserve liability has increased by \$569 million during this time period due to the changes noted as well as an increase in the average number of open claims 225 to 254. At the same time, annual revenues from assessments only increased by \$10.1 million from \$27.8 million to \$37.9 million.

# Florida Birth Related Neurological Injury Compensation Association

## Notes to Financial Statements

### 10. Financial Condition (continued)

During the 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. These losses have been partially offset in the current and prior fiscal years by investment income of \$166.9 million.

The combined effects of the increases in claims reserve liabilities and investment losses resulted in a deficit net position at June 30, 2024 of \$(216.6) million.

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

Recognizing the challenges faced by NICA, in 2024, the Florida Legislature passed House Bill 989 which requires NICA to submit a report on September 1, 2024, with the following elements:

- Recommendations for defining actuarial soundness for the association, including options for phase-in, if appropriate.
- Recommendations for timing of reporting actuarial soundness and to whom it should be reported.
- Recommendations for ensuring a revenue level to maintain actuarial soundness, including options for phase-in, if appropriate.

Additional mitigating factors:

- 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.

# Florida Birth Related Neurological Injury Compensation Association

## Notes to Financial Statements

### 10. Financial Condition (continued)

- Section 766.314(9)(c), *Florida Statutes*, outlines a minimum funding level that NICA must meet to continue accepting claims. This threshold calculation compares funds on hand and funds that are expected to become available within the next 12 months to the present value of all filed claims. At June 30, 2024, NICA exceeded this minimum funding level by approximately \$175.2 million.
- 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 \$78.6 million and \$75.5 million at June 30, 2024 and 2023, respectively.
- 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, 2024, 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 September 9, 2024.

**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  
September 9, 2024

## Other Financial Information

Florida Birth-Related Neurological Injury Compensation Association

Schedule of General and Administrative Expenses  
Budget to Actual

Year ended June 30, 2024

	<b>Budget</b>	<b>Actual</b>	<b>Variance - Positive (Negative)</b>
Accounting services	\$ 86,000	\$ 85,118	\$ 882
Bank charges	4,100	4,109	(9)
Dues and subscriptions	4,470	4,272	198
Insurance	400,000	380,060	19,940
Legal - general attorney fees and expenses	300,000	276,436	23,564
Legal - other expenses	20,000	1,396	18,604
Miscellaneous	800	170	630
Office supplies	8,850	5,585	3,265
Outreach	12,950	-	12,950
Payroll taxes	107,992	95,727	12,265
Postage	71,000	86,979	(15,979)
Printing services	46,025	55,525	(9,500)
Professional fees	1,050,000	1,021,261	28,739
Repairs and maintenance	135,000	108,955	26,045
Rent	225,000	142,180	82,820
Retirement	161,378	149,729	11,649
Salaries	1,398,604	1,236,973	161,631
Taxes and licenses	1,604	409	1,195
Telephone	21,700	17,188	4,512
Training and education	3,000	224	2,776
Travel	6,000	1,835	4,165
Utilities	14,500	11,047	3,453
	<u>\$ 4,078,973</u>	<u>\$ 3,685,178</u>	<u>\$ 393,795</u>

*See report of independent auditors.*