STATE OF NORTH DAKOTA

BISMARCK, NORTH DAKOTA

REPORT OF EXAMINATION

OF

NORTH DAKOTA INSURANCE RESERVE FUND
BISMARCK, NORTH DAKOTA

AS OF
DECEMBER 31, 2023

STATE OF NORTH DAKOTA

INSURANCE DEPARTMENT

I, the undersigned, Commissioner of Insurance of the State of North Dakota do hereby certify that I have compared the annexed copy of the Report of Examination of the

North Dakota Insurance Reserve Fund

Bismarck, North Dakota

as of December 31, 2023, with the original on file in this Department and that the same is a correct transcript therefrom and of the whole of said original.

COMMISSIONER OF INSURANCE SEAL STATE OF NORTH DAKOTA

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at my office in the City of Bismarck, this 18th day of March, 2025.

Jon Godfread
Insurance Commissioner

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Bismarck, North Dakota
February 14, 2025

Honorable Jon Godfread
Insurance Commissioner
North Dakota Insurance Department
600 East Boulevard Avenue
Bismarck, ND 58505-0320

Dear Commissioner:

Pursuant to your instructions and statutory requirements, an examination has been made of the books, records and financial condition of

North Dakota Insurance Reserve Fund

Bismarck, North Dakota

The North Dakota Insurance Reserve Fund, hereinafter referred to as the "Fund", was last examined as of December 31, 2020, by the North Dakota Insurance Department, hereinafter referred to as the "Department."

SCOPE OF EXAMINATION

This examination was a single-state, risk focused financial condition examination conducted in accordance with North Dakota Century Code ("N.D.C.C.") §26.1-23.1-04(2) and observed guidelines and procedures contained in the NAIC *Financial Condition Examiners Handbook*. The examination was conducted to determine the Fund's financial condition, its compliance with statutes, and to review its corporate affairs and insurance operations. This statutory examination covers the three-year period from January 1, 2021, through December 31, 2023, including any material transactions and/or events occurring subsequent to the examination date and noted during the course of this statutory examination.

The examination was conducted in accordance with examination policies and standards established by the Department and procedures recommended by the NAIC. In accordance with the NAIC *Financial Condition Examiners Handbook*, the examination was planned and performed to evaluate the financial condition, assess corporate governance, identify current and prospective risks of the Fund, and evaluate system controls and procedures used to mitigate those risks. The examination also included identifying and evaluating significant risks that could cause the Fund's surplus to be materially misstated both currently and prospectively.

All accounts and activities of the Fund were considered in accordance with the risk-focused examination process. This may include assessing significant estimates made by management and evaluating management's compliance with N.D.C.C. § 26.1-23.1. The examination does not attest to the fair presentation of the financial statements included herein. If, during the course of the examination an adjustment is identified, the impact of such adjustment will be documented separately following the Fund's financial statements.

There may be other items identified during the examination that, due to their nature, are not included within the examination report but are separately communicated to the Fund.

Work papers provided by the Fund's independent auditor, Eide Bailly, LLC, were reviewed and where deemed appropriate, certain procedures and conclusions documented in those work papers have been relied upon and copied for inclusion into the working papers for this examination.

SUBSEQUENT EVENTS

The Fund purchased a new office building on January 31, 2024, for $2.25 million.

Effective March 1, 2024, the Fund's CEO, Brennan Quintus resigned. Claims Director Keith Pic was named CEO effective July 16, 2024. Quintus served as CEO of the Fund throughout the entire examination period.

HISTORY

General

The Fund is a member-owned nonprofit insurance coverage provider for political subdivisions engaged in the underwriting and insuring of property and casualty risks. The Fund commenced business on January 1, 1986, as the North Dakota Insurance Reserve Fund under a "Pooling Agreement", executed by political subdivisions of the State of North Dakota pursuant to the provisions of N.D.C.C. § 32-12.1-07.

The provisions of the Pooling Agreement were superseded by the Bylaws of the Fund, which were adopted by its Board of Directors on November 24, 1986, and ratified by the general membership of the Fund at its annual meeting on April 20, 1987. Accordingly, the provisions of the Pooling Agreement are no longer operative. On May 4, 1990, the Fund became an authorized government self-insurance pool in which all political subdivisions in the State of North Dakota are eligible to participate in accordance with N.D.C.C. § 26.1-23.1.

The purpose of the Fund is to establish a means for self-insurance of its members against certain types of property and casualty risks to which they are exposed in the ordinary course of their operations. Members include cities, counties, townships, school districts, fire districts, park districts, ambulance associations, soil conservation districts, and water districts within the State of North Dakota.

Effective June 28, 2019, the Fund entered into a contract with the Department to carry out certain administrative functions of the State Fire and Tornado Fund and the State Bonding Fund, including collection of premiums, loss control, underwriting, and claims administration.

MANAGEMENT AND CONTROL

Board of Directors

The Fund's Bylaws provide that the Board of Directors shall consist of nine members. Two of the board members shall be elected from the class of participants consisting of cities, two of the board members shall be elected from the class of participants consisting of counties, one of the board members shall be elected from the class of participants consisting of elementary and secondary schools, and two of the board members shall be elected from the class of participants consisting of all other participants. In addition, the North Dakota League of Cities and the North Dakota Association of Counties may each, in writing, appoint one permanent voting member to the Board of Directors.

The board members shall be elected by vote of the North Dakota participants in the Fund and only elected officers or employees of North Dakota participants are eligible for the Fund's board membership. The Board of Directors is elected at the annual meeting of the Fund which is held on a date during the months of April or May as determined by the Board of Directors.

The minutes show that the annual meetings of the Board were held as required by the Fund's Bylaws. In addition to the annual meetings, the Board held quarterly meetings in each year during the examination period.

Directors serving the Fund at December 31, 2023, were as follows:

Name and Address	**Business Affiliation**
Tyler Jacobson Valley City, North Dakota	Valley City Parks & Recreation
Scott Ouradnik Amidon, North Dakota	Slope County Commissioner
Matt Gardner Bismarck, North Dakota	Executive Director North Dakota League of Cities
Chad Peterson Fargo, North Dakota	Cass County Commissioner
Sonya Larson Steele, North Dakota	Kidder County School District
Aaron Birst Bismarck, North Dakota	North Dakota Association of Counties
Darcie Huwe Wahpeton, North Dakota	City of Wahpeton
Chris West Grafton, North Dakota	Mayor
Burdell Johnson Tuttle, North Dakota	Township Officer

It was noted that the Fund's Board of Directors is composed exclusively of Members (or their delegates). This poses a governance concern as the general public has no direct representation, but third-party claims account for nearly half of the Fund's claims. The 2023 Market Conduct Examination found that the Fund's member-only directorate adopted and supported policies which unfairly favored its members' interests in claim settlement philosophies and practices, which is not appropriate as the Fund is exclusively taxpayer funded.

It was also noted that in 2023, the Fund paid $59,000 in Directors' fees and spent $23,104 on Director professional development meetings and retreats. The Fund also spent $227,474 on seminars, special projects, and advertising with the organizations represented by its Directors.

It is recommended that the Fund restructure its Board composition to more closely align with its claims activity by developing a process for electing/selecting at large non-members.

Officers

According to the Fund's Bylaws, the officers of the Board of Directors shall consist of a Chairperson, a Chairperson-elect, a Secretary, and a Treasurer, each of whom shall be elected by the Board of Directors. The titles of President and Vice-President are not used.

The terms of office of the Chairperson, Chairperson-elect, Secretary and Treasurer are one year commencing at the close of an annual meeting and ending at the close of the next succeeding annual meeting. Officers serving at December 31, 2023, were as follows:

Officer	Title
Chad Peterson	Chairperson of the Board
Tyler Jacobson	Chairperson-Elect
Brennan Quintus	Secretary
Nora Frueh	Treasurer

Committees

The Fund's Bylaws provide that the Board of Directors shall be entitled to establish any number of committees that, in the exercise of its discretion, shall be deemed helpful and appropriate. In addition to these ad-hoc committees, the Board shall establish two standing committees, which include an Executive Committee and a Finance Committee.

The Executive Committee shall consist of the current chairperson and chairperson-elect of the Board and at least three additional Board members to be appointed (including subsequent vacancies) by the current chairperson of the Board.

The Finance Committee shall consist of the chairperson-elect of the Board and at least four additional Board members, to be appointed (including subsequent vacancies) by the current chairperson of the Board.

At December 31, 2023 and throughout the examination period, the Finance Committee performed or documented, only cursory reviews of the Fund's internal and external investment advisors and did not review or affirm compliance with the numerous performance metrics that are listed within the Fund's investment guidelines document.

It is recommended that the Fund update the duties of its Finance Committee to include a regular, formal compliance review of the investment limitations and requirements as laid out within the investment guidelines document.

The committees and their respective members at December 31, 2023, were as follows:

Executive Committee	Finance Committee
Chad Peterson, Chairperson	Tyler Jacobson, Chairperson
Tyler Jacobson	Darcie Huwe
Chris West	Aaron Birst
Burdell Johnson	Scott Ouradnik
Matt Gardner	Sonya Larson

In addition to the aforementioned committees, the Fund also has a Nominating Committee which meets on an as-needed basis. Members serving at December 31, 2023 were as follows:

Burdell Johnson, Chairperson
Matt Gardner
Aaron Birst

CORPORATE RECORDS

Articles of Incorporation and Bylaws

No changes to the Articles of Incorporation were noted during the period under review.

It was noted that the Fund has not amended or updated its Articles of Incorporation since 1989. The Fund's registered agent and registered office address under Article 6 are incorrect.

It is recommended that the Fund update its Articles to reflect its current registered agent and registered office address.

The Fund revised Article III of its Bylaws as follows:

> A sitting board member serving a particular class of participants can seek election as a board member for a separate class of participants, if eligible. A sitting board member can continue to serve a particular class of participants while seeking election to a separate class of participants. However, a sitting board member cannot contemporaneously serve as a board member for more than one class of participants. A sitting board member must immediately resign from the previous class of participants if elected to a separate class of participants (for example, a sitting county board member eligible to serve as a school board member can seek election as a school board member but must immediately resign as a county board member if elected as a school board member).

Board of Directors, Members, and Committee Minutes

The minutes of the Board of Directors, members, and committee meetings for the period under examination were read.

The minutes of the various meetings indicate that full board meetings were well attended and were held in compliance with the Bylaws, Articles of Incorporation, and statutory requirements. The deliberations of the board were adequately documented and supported the Fund's transactions and events.

Conflict of Interest

The Fund has procedures for annually disclosing potential conflicts of interest to its Board of Directors. Any material interest or affiliation on the part of its Directors, Officers, or key members of Management, which is in, or likely to, conflict with the official duties of such person must be disclosed to the Board.

The Fund provided conflict of interest disclosures for the 2023 year, which disclosed that Directors Burdell Johnson and Chris West both acted as agents and received commissions on business placed with the Fund. [redacted]

It is recommended that the Fund develop more robust conflict of interest disclosure processes, including when Directors or Employees with disclosed conflicts need to recuse themselves from decision making.

EMPLOYEE WELFARE AND PENSION PLANS

The Company offers several employee benefits including medical, dental, vision, paid leave, term life, long-term disability, short-term disability, education reimbursement, employee assistance program, medical and dependent care flex spending. The Fund contributes 10% of each employee's gross salary to a 401(a) retirement plan and offers up to a 2.5% match for contributions to employees' 457(b) deferred compensation plans.

	UW	CLAIMS (CL)	CLAIMS (LC)	ADMIN	TOTALS
WAGES	555,992	814,555	386,934	913,473	2,670,954
UNUSED LEAVE	6,551	10,308	4,464	5,569	26,892
PAYROLL TAX	44,803	66,122	30,638	61,448	203,011
GROUP INSURANCE	100,390	83,306	58,324	134,766	376,786
RETIREMENT PLAN	73,864	104,924	53,256	118,378	350,422
PROFESSIONAL DEVELOPMENT	9,470	19,889	4,997	40,670	75,026
DUES AND SUBSCRIPTIONS	7,276	7,448	2,577	14,674	31,975
EMPLOYEE RECOGNITION					11,026
TOTALS	798,349	1,106,552	541,190	1,288,978	3,735,069

At December 31, 2023, the Fund had a full time equivalent ("FTE") employee headcount of 21.45 for an average FTE cost of $174,129.

FIDELITY BOND AND OTHER INSURANCE

The Fund is protected against loss from fraudulent or dishonest acts of its employees by a fidelity bond providing coverage in the amount of $500,000. The amount of the coverage meets the minimum amount recommended in the NAIC's *Financial Examiners Handbook*.

The Fund has other types of liability coverage including Directors and Officers Liability, Commercial Automobile, Commercial Excess Liability, Cyber Breach, and Employment Practices Liability which were reviewed and considered adequate.

TERRITORY AND OPERATIONS

At December 31, 2023, the Fund was licensed to write property and casualty insurance for North Dakota political subdivisions as defined by N.D.C.C. § 32-12.1-02(6). The Fund writes general liability, auto lines, and inland marine coverages. The Fund is not authorized to write property coverages offered by the State Fire and Tornado Fund under the provisions of N.D.C.C. § 26.1-22.

The examination found that the Fund had 2,597 members at December 31, 2023. The Fund stated the total number of political subdivisions in North Dakota is between 2,600 and 2,700 equating to between a 96.2% and a 99.9% market saturation.

During the examination period, the Fund paid the following amounts relating to marketing and sales:

	2023	2022	2021
Agent Commissions	$2,427,000	$2,311,000	$2,261,000
Marketing Expenses	483,000	506,000	406,000
Total	$2,910,000	$2,817,000	$2,667,000

The Fund also incurred various additional costs related to meeting with and training its agency force.

However, according to the current (2012) version of the Association of Governmental Risk Pools ("AGRIP") "Operations Manual for Public Entity Risk Pools", one of the largest benefits of the self-insurance risk pool structure is the cost savings from not having to pay agent commissions.

The Fund listed itself as the agent of record for two policies at December 31, 2023. Per N.D.C.C. § 26.1-26-09(1):

> [n]othing in this chapter may be construed to require an insurer to obtain an insurance producer license.

As such, the Fund does not fall under the definition of "insurance producer" at N.D.C.C. § 26.1-26. Since the Fund is not an insurance producer under the law, the Fund cannot conduct agency related business.

It is recommended that the Fund discontinue the practice of acting as the agent of record for members as it is not a licensed insurance producer.

The Fund uses the "Agent Balances" approach to collecting its premiums where the Member's agent of record collects premiums from the member, withholds its designated commission, and remits the net premium to the Fund. The insurance industry has generally moved away from this approach as it can cause unnecessary delays in premium collection process, opens the Fund up to agent credit risk, and elevates other fraud concerns such as premium kiting.

The risks of this method of premium collection are compounded by the Fund's use of GAAP accounting as it is unclear to what extent the Fund's overdue premium receivables from its Agents are uncollectable and should be nonadmitted.

It is recommended that the Fund implement a direct bill premium solution in order to eliminate its agent credit risk exposure and reduce premium related fraud risks.

The Examination again noted that the Fund did not have a formal Enterprise Risk Management (ERM) framework for identifying, prioritizing, and mitigating potential solvency risks. A recommendation to establish an ERM framework was issued during the 2020 Examination also.

It is again recommended that the Fund develop a formal, written ERM framework for identifying, mitigating, and monitoring enterprise risks (including IT risks).

At December 31, 2023, the Fund did not have a formal or complete Disaster Recovery or Business Continuity plan to use in response to emergencies such as natural disasters, to ensure continuity of the Fund's operations.

It is recommended that the Fund create formal, written disaster recovery and business continuity plans. It is further recommended that the Fund test these plans at least annually to ensure completeness and efficacy.

Throughout the examination period, the Fund completed no formal asset and liability matching analysis to ensure its invested assets aligned with the liquidity and duration needs of its claim reserve liabilities. The Fund did conduct regular actuarial analysis to affirm its overall solvency level, but this analysis absent a review of claim reserve timing and portfolio liquidity could lead to the Fund's investment portfolio being too short tailed where investment yields would suffer, or too long tailed, where illiquidity concerns could arise.

At December 31, 2023, the Fund reported a loss and incurred but not reported loss reserve estimate of $17,808,000. The Fund's 2024 Budget indicated a net operating profit of $1,178,100. According to the Fund's Statement of Investment Objectives:

> The operating and claim payment needs of the NDIRF are to be met by short-term investments, i.e., liquid investments whose maturities match expected cash flow needs.

The Examination identified $5,685,005.25 in Cash, Cash Equivalents, and Short-Term Investments maturing within 12 months, or 12.33% of the Fund's total portfolio, which was a (Board approved) departure from its investment allocation limit of 10% for this asset class. Despite exceeding its cash and short-term allocation limit, the Fund was nearly $11 million short of meeting its "operating and claim payment needs" from this asset class.

It is recommended that the Fund periodically engage a qualified investment actuary to review its investment guidelines, maturities, allocations, duration, and overall portfolio appropriateness to ensure the portfolio adequately matches the Fund's assets and liabilities.

At December 31, 2023, the Fund's Claim Philosophy did not specify the method, level, or range at which the Fund's aggregate reserves were to be set. During the examination period, the Fund annually engaged qualified actuarial specialists to review and opine on its reserve adequacy, but the results of this analysis were not reflected in the Fund's capital management practices (i.e., conferment of benefits, reduction of premiums, etc.) or its investment program (e.g., excess or redundant reserves typically are invested in riskier assets).

It is recommended that the Board approve an aggregate reserving policy (e.g., "reserves must be adjusted to an independent actuary's 95% confidence level") and that the Fund's pricing, capital management, and investment practices reflect the results of these actuarial reviews.

OTHER AGREEMENTS

Effective June 28, 2019, the Fund entered into a contract with the Department to carry out certain administrative functions of the State Fire and Tornado Fund and the State Bonding Fund, including collection of premiums, loss control, underwriting, and claims administration. An in-depth review of the operational components of this contract was not included within the scope of this examination.

In 2023, the Department compensated the Fund $882,000 for these services, net of agent commissions and certain third-party fees engaged and deemed necessary by the Fund to assist in its administration of this contract.

The Examination noted that the Fund does not have a formal or well-defined vendor management program.

It is recommended that the Fund develop and implement a vendor management program or tool that tracks all third-party vendors used by the Fund and assesses each in terms of overall risk and operational criticality. It is further recommended that the fund design its vendor management program to facilitate a centralized contract compliance monitoring function to better track its various obligations to and from its third-party vendors.

REINSURANCE

At December 31, 2023, the Fund had three ceded reinsurance contracts, all placed through the Fund's reinsurance intermediary, Guy Carpenter.

Data Breach Liability

The Fund has a data breach liability and data breach expense reinsurance contract which provides coverage for an aggregate of $5 million excess of $5 million. This contract is placed with Tokio Marine HCC – Cyber & Professional Lines Group.

During the review period, the Fund changed this contract from a quota share reinsurance agreement to the excess of loss agreement with the limits noted above. This had the effect of significantly increasing the Fund's data breach liability and data breach expense loss exposures from $25,000 per member per event, to $1 million per member per event. The Fund was unable to provide exposure modeling to support the appropriateness of this change.

During the Examination period, the Fund did not engage qualified reinsurance experts to perform exposure modeling to ensure the adequacy or appropriateness of any of its reinsurance program coverages or retention levels.

It is recommended that the Fund annually, in conjunction with its reinsurance contract renewals, engage a qualified reinsurance expert to perform an analysis of its exposures and retention levels to ensure that the Fund's reinsurance program is appropriate.

The examination found that the Fund's exposures and claims subject to reinsurance are inherently complex. Throughout the review period, the Fund employed no credentialed reinsurance experts, nor did it use any outside reinsurance expertise.

Additionally, the examination found that while the Fund engaged Guy Carpenter as its Reinsurance Intermediary, its use of their services was limited to brokering the placement of its desired reinsurance coverages, rather than leveraging their expertise for the modeling and accounting functions typically provided by a Reinsurance Intermediary.

It is recommended that the Fund engage and use a qualified, licensed Reinsurance Intermediary to leverage their expertise in ensuring the appropriateness of the reinsurance program, the submission of all eligible claims to the correct reinsurance contracts for recovery, and the overall accuracy of reinsurance accounting and reporting in compliance with Statutory Accounting Procedures.

Property

The property excess of loss reinsurance contract is placed with Great American Insurance Company. Coverage consists of $68,400,000 excess of a $5,000,000 million retention, which is both a higher retention and lower limit than the $70,000,000 excess of $4,800,000 noted during the prior examination. The Fund was unable to provide exposure modeling to support the appropriateness of this change.

Auto and Liability

The auto and liability excess of loss reinsurance contract is placed with Great American Insurance Company. Coverage consists of $8,000,000 excess of a $2,000,000 retention. This coverage was unchanged since the prior review period.

The Fund does not assume any reinsurance.

ACCOUNTS AND RECORDS

The Fund's accounting procedures, internal controls, and transaction cycles were reviewed during the course of the examination and a trial balance as of December 31, 2023, was obtained and traced to the appropriate schedules of the Fund's 2023 Audited Financial Statement. The Fund's ledgers are maintained electronically. Revenues and expenses were test checked to the extent deemed necessary.

The Fund is audited annually by an outside firm of independent certified public accountants, as engaged by the Finance Committee. The work papers of this firm were made available to the Examiners and were used to extent deemed appropriate for this examination.

The Fund operates on a Generally Accepted Accounting Principles (GAAP) accounting basis and its Audit firm completes a Statutory Accounting Principles (STAT) reconciliation within its annual audited financials. Per N.D.C.C. § 26.1-23.1-04:

> The financial statement must be audited by an independent certified public accountant and the financial statement must be in a form prescribed or approved by the commissioner.

The Department determined that the Fund's use and submission of GAAP financials with a STAT financial adjustment does not comply with 26.1-23.1-04 as the core conservative principles of STAT accounting are not present within the Fund's day-to-day operational philosophies or procedures and cannot simply be adjusted by an independent auditor on an annual, aggregated basis.

Based on the financial statement format used by the Fund, the Department was unable to verify significant elements of the Fund's solvency, such as the admissibility of reported assets, reserve development, investment portfolio valuation, character, and creditworthiness, and its reinsurance program details. In 2023, the Fund's 24 page audited financial statement included only 4 pages of STAT information. A comparably sized company's STAT NAIC Annual Statement is around 130 pages. In general, GAAP accounting focuses on an entity's periodic income statement earnings results while STAT accounting is specifically designed and maintained to facilitate a solvency regulator's balance sheet adequacy and solvency surveillance. As the Fund is a regulated risk-bearing, self-insurance pool, the Fund's usage of GAAP accounting is incompatible with its operations and materially interferes with the Department's obligations under N.D.C.C. § 26.1-23.1-04(3):

> The insurance commissioner shall monitor the financial solvency of government self-insurance pools to ensure that a pool's liabilities for claims, present and contingent, and other expenses are at no time greater than the pool's assets. The commissioner may enjoin a self-insured government pool from conducting further business or take other appropriate regulatory action whenever in the commissioner's judgment a pool is insolvent or otherwise financially impaired.

Further, the limits referred to within 26.1-23.1-01(2), 26.1-23.1-05, 26.1-05-19 and 26.1-10-02 all refer to STAT terms such as Admitted Assets, Surplus as Regards Policyholders, and Liabilities (as defined by STAT). An annual STAT reconciliation does not allow for the Fund to operate in a manner which complies with these requirements as the Fund will not know these figures until its independent auditor provides them retrospectively.

It is recommended that the Fund discontinue using GAAP accounting in its operations and financial filings and begin using STAT accounting and file financials based on the NAIC Annual Statement forms, per N.D.C.C. § 26.1-23.1-04.

FINANCIAL STATEMENTS

The financial statements of the Fund are presented on the following pages in the sequence listed below:

Statement of Assets, December 31, 2023
Statement of Liabilities and Surplus, December 31, 2023
Statement of Operations, Year Ended December 31, 2023
Reconciliation of Capital and Surplus, January 1, 2021, through December 31, 2023

These financial statements are based on the statutory reconciliation within the Fund's audited financial statements filed by the Fund with the North Dakota Insurance Department and present the financial condition of the Fund for the period ending December 31, 2023. The accompanying comments on financial statements reflect any examination adjustments to the amounts reported in the annual statement and should be considered and integral part of the financial statements.

North Dakota Insurance Reserve Fund
Statement of Assets
December 31, 2023
In Thousands

	Assets	Nonadmitted Assets	Net Admitted Assets
Bonds*	$39,158		$39,158
Stocks:			
Common Stocks	8,203		8,203
Real Estate:			
Occupied by the Fund	489		489
Cash and Cash Equivalents	6,113		6,113
Certificates of Deposit	1,007		1,007
Interest Receivable	298		298
Agents' Balances or Uncollected Premiums:			
Premiums and Agents' Balances in Course of Collection	593		593
Electronic data processing equipment and software	5		5
Total Assets	$55,866	$0	$55,866

*The reported bond figure represents the Fund's bond portfolio valued at taxable cost, rather than Statutory amortized cost basis, which is not necessarily the same. Examiners were not able to recalculate the reported amortized cost balances or trace to supporting documentation. However, it is unlikely that these valuation differences would pose a material deviation from the presented figures.

North Dakota Insurance Reserve Fund
Statement of Liabilities and Surplus
December 31, 2023
In Thousands

Losses and Loss Adjustment Expenses	$10,370
Incurred But Not Reported Losses	7,438
Unearned Premiums	6,473
Unearned Commission from Fire and Tornado Fund	487
Accounts Payable	91
Accrued Expenses	219
Conferment Payable	35
Total Liabilities	$25,113
Unassigned Funds (Surplus)	$30,753
Total Liabilities, Capital and Surplus	$55,866

North Dakota Insurance Reserve Fund
Statement of Operations
December 31, 2023
In Thousands

Underwriting Income		
Premiums Earned		$18,841
Fire & Tornado Fund Commissions Earned		882
Total Underwriting Income		$19,723
Deductions:		
Losses Incurred	$6,294	
Loss Expenses Incurred	2,404	
Other Underwriting Expenses Incurred	7,268	
Total Underwriting Deductions		15,966
Net Underwriting Gain (Loss)		$3,757
Investment Income		
Net Investment Income Earned	$1,268	
Net Realized Capital Gains (Losses)	1,636	
		$2,904
Net Income		$6,661

North Dakota Insurance Reserve Fund
Reconciliation of Capital and Surplus Accounts
January 1, 2021, Through December 31, 2023
In Thousands

	2023	2022	2021
Capital and Surplus, December 31, Prior Year	$24,639	$23,195	$22,968
Net Income	6,661	3,100	7,020
Net Unrealized Gains or (Losses)	(484)	(1,667)	(1,433)
Change in Non-Admitted Assets	(63)	11	(84)
Conferment Declared	0	0	(5,276)
Net Change in Capital and Surplus for the Year	6,114	1,444	227
Capital and Surplus, December 31, Current Year	$30,753	$24,639	$23,195

CONCLUSION

The financial condition of the Fund, as of December 31, 2023, as determined by this examination is summarized as follows:

Admitted Assets		$55,866,000
Total Liabilities	$25,113,000	
Total Capital and Surplus	30,753,000	
Liabilities, Surplus, and Other Funds		$55,866,000

Since December 31, 2020, the Fund's admitted assets increased $2,917,000, its total liabilities have decreased $4,868,000 and its surplus increased $7,785,000.

Respectfully submitted,

Colton Schulz, CFE, CISA, CRISC, CFE (Fraud)
Supervising Examiner
North Dakota Insurance Department

RECOMMENDATIONS

It is recommended that the Fund restructure its Board composition to more closely align with its claims activity by developing a process for electing/selecting at large non-members.

It is recommended that the Fund update the duties of its Finance Committee to include a regular, formal compliance review of the investment limitations and requirements as laid out within the investment guidelines document.

It is recommended that the Fund update its Articles to reflect its current registered agent and registered office address.

It is recommended that the Fund develop more robust conflict of interest disclosure processes, including when Directors or Employees with disclosed conflicts need to recuse themselves from decision making.

It is recommended that the Fund discontinue the practice of acting as the agent of record for members as it is not a licensed insurance producer.

It is recommended that the Fund implement a direct bill premium solution in order to eliminate its agent credit risk exposure and reduce premium related fraud risks.

It is again recommended that the Fund develop a formal, written ERM framework for identifying, mitigating, and monitoring enterprise risks (including IT risks).

It is recommended that the Fund create formal, written disaster recovery and business continuity plans. It is further recommended that the Fund test these plans at least annually to ensure completeness and efficacy.

It is recommended that the Fund periodically engage a qualified investment actuary to review its investment guidelines, maturities, allocations, duration, and overall portfolio appropriateness to ensure the portfolio adequately matches the Fund's assets and liabilities.

It is recommended that the Board approve an aggregate reserving policy (e.g., "reserves must be adjusted to an independent actuary's 95% confidence level") and that the Fund's pricing, capital management, and investment practices reflect the results of these actuarial reviews.

It is recommended that the Fund develop and implement a vendor management program or tool that tracks all third-party vendors used by the Fund and assesses each in terms of overall risk and operational criticality. It is further recommended that the fund design its vendor management program to facilitate a centralized contract compliance monitoring function to better track its various obligations to and from its third-party vendors.

It is recommended that the Fund annually, in conjunction with its reinsurance contract renewals, engage a qualified reinsurance expert to perform an analysis of its exposures and retention levels to ensure that the Fund's reinsurance program is appropriate.

It is recommended that the Fund engage and use a qualified, licensed Reinsurance Intermediary to leverage their expertise in ensuring the appropriateness of the reinsurance program, the submission of all eligible claims to the correct reinsurance contracts for recovery, and the overall accuracy of reinsurance accounting and reporting in compliance with Statutory Accounting Procedures.

It is recommended that the Fund discontinue using GAAP accounting in its operations and financial filings and begin using STAT accounting and file financials based on the NAIC Annual Statement forms, per N.D.C.C. § 26.1-23.1-04.

APPENDIX A

NORTH DAKOTA
Insurance Department

February 21, 2025

Keith Pic
CEO
North Dakota Insurance Reserve Fund
1320 West Century Ave
PO Box 2258
Bismarck, ND 58502-2258

RE: Report of Examination – North Dakota Insurance Reserve Fund

Dear Keith:

Enclosed is the Report of Examination for the North Dakota Insurance Reserve Fund as filed with the Commissioner by the Insurance Department Examiners. Please mark the appropriate response at the bottom of the letter and return a copy to me via email no later than Friday February 28th.

Please contact me if you have any questions relative to this matter.

Sincerely,

Matthew A. Fischer, CFE
Chief Examiner
Enclosure

_____ Our Company accepts the examination report.

_____ Our Company accepts the examination report except for the items, as outlined in our attached response.

X Our Company does not accept the examination report. Attached is a letter outlining our rebuttal.

Signature

3/14/25
Date

CEO
Title

600 E Boulevard Ave
Bismarck, ND 58505-0500

phone: (701)328-2440 | fax: (701)328-4880
insurance.nd.gov | insurance@nd.gov

Jon Godfread, Commissioner

NORTH DAKOTA
NDIRF
INSURANCE
RESERVE FUND

March 14, 2025

Matt Fischer, CFE
Chief Examiner
North Dakota Insurance Department
600 East Boulevard Avenue
Bismarck, ND 58505-0320

Dear Mr. Fischer:

In response to the examination conducted by the North Dakota Insurance Department (hereinafter referred to as the "Department" or the "Insurance Department"), the North Dakota Insurance Reserve Fund (hereinafter referred to as the "NDIRF" or the "Fund") respectfully submits the following rebuttal.

As noted by the Department, the examination "was conducted to determine the Fund's financial condition, its compliance with statutes, and to review its corporate affairs and insurance operations." Pursuant to N.D.C.C. § 26.1-23.1-04, titled Annual financial statements required, examinations like the one here should focus on the financial condition and financial solvency of government self-insurance pools.

The NDIRF acknowledges the Department's need to follow established guidelines for its examinations and recognizes that the National Association of Insurance Commissioner's ("NAIC") Handbook is used for other examinations. However, these guidelines may not be as directly applicable to NDIRF as they are to traditional insurance companies. It is important to again note that the NDIRF is "not an insurance company or insurer, and the coverages it provides to its members and its administration of the pool do not constitute the transaction of insurance business." *Hagen v. N.D. Ins. Reserve Fund*, 2022 ND 53, ¶ 14, 971 N.W.2d 833, 838. NDIRF frequently utilizes publications and guidance issued by the Association of Governmental Risk Pools, commonly known as AGRIP, which the Department also cites to in its examination report.

As set forth in N.D.C.C. § 26.1-03-19.4, "[a]ll examination reports must be comprised of only facts appearing upon the books, records, or other documents of the company, its agents, or other persons examined, or as ascertained from the testimony of its officers or agents or other persons examined concerning its affairs, and the conclusions and recommendations as the examiners find reasonably warranted from the facts." This means that examination reports must be fact-based, derived from company records or testimony, with conclusions and recommendations directly supported by those facts.

The entirety of the examination report is reproduced herein, with NDIRF's rebuttal to each recommendation set forth below:

SCOPE OF EXAMINATION

This examination was a single-state, risk focused financial condition examination conducted in accordance with North Dakota Century Code ("N.D.C.C.") §26.1-23.1-04(2) and observed guidelines and procedures contained in the NAIC *Financial Condition Examiners Handbook*. The examination was conducted to determine the Fund's financial condition, its compliance with statutes, and to review its corporate affairs and insurance operations. This statutory examination covers the three-year period from January 1, 2021, through December 31, 2023, including any material transactions and/or events occurring subsequent to the examination date and noted during the course of this statutory examination.

The examination was conducted in accordance with examination policies and standards established by the Department and procedures recommended by the NAIC. In accordance with the NAIC *Financial Condition Examiners Handbook*, the examination was planned and performed to evaluate the financial condition, assess corporate governance, identify current and prospective risks of the Fund, and evaluate system controls and procedures used to mitigate those risks. The examination also included identifying and evaluating significant risks that could cause the Fund's surplus to be materially misstated both currently and prospectively.

All accounts and activities of the Fund were considered in accordance with the risk-focused examination process. This may include assessing significant estimates made by management and evaluating management's compliance with N.D.C.C. § 26.1-23.1. The examination does not attest to the fair presentation of the financial statements included herein. If, during the course of the examination an adjustment is identified, the impact of such adjustment will be documented separately following the Fund's financial statements.

There may be other items identified during the examination that, due to their nature, are not included within the examination report but are separately communicated to the Fund. Work papers provided by the Fund's independent auditor, Eide Bailly, LLC, were reviewed and where deemed appropriate, certain procedures and conclusions documented in those work papers have been relied upon and copied for inclusion into the working papers for this examination.

SUBSEQUENT EVENTS

The Fund purchased a new office building on January 31, 2024, for $2.25 million.

Effective March 1, 2024, the Fund's CEO, Brennan Quintus resigned. Claims Director Keith Pic was named CEO effective July 16, 2024. Quintus served as CEO of the Fund throughout the entire examination period.

HISTORY

General

The Fund is a member-owned nonprofit insurance coverage provider for political subdivisions engaged in the underwriting and insuring of property and casualty risks. The Fund commenced business on January 1, 1986, as the North Dakota Insurance Reserve Fund under a "Pooling Agreement", executed by political subdivisions of the State of North Dakota pursuant to the provisions of N.D.C.C. § 32-12.1-07.

The provisions of the Pooling Agreement were superseded by the Bylaws of the Fund, which were adopted by its Board of Directors on November 24, 1986, and ratified by the general membership of the Fund at its annual meeting on April 20, 1987. Accordingly, the provisions of the Pooling Agreement are no longer operative. On May 4, 1990, the Fund became an authorized government self-insurance pool in which all political subdivisions in the State of North Dakota are eligible to participate in accordance with N.D.C.C. § 26.1-23.1.

The purpose of the Fund is to establish a means for self-insurance of its members against certain types of property and casualty risks to which they are exposed in the ordinary course of their operations. Members include cities, counties, townships, school districts, fire districts, park districts, ambulance associations, soil conservation districts, and water districts within the State of North Dakota.

Effective June 28, 2019, the Fund entered into a contract with the Department to carry out certain administrative functions of the State Fire and Tornado Fund and the State Bonding Fund, including collection of premiums, loss control, underwriting, and claims administration.

MANAGEMENT AND CONTROL

Board of Directors

The Fund's Bylaws provide that the Board of Directors shall consist of nine members. Two of the board members shall be elected from the class of participants consisting of cities, two of the board members shall be elected from the class of participants consisting of counties, one of the board members shall be elected from the class of participants consisting of elementary and secondary schools, and two of the board members shall be elected from the class of participants consisting of all other participants. In addition, the North Dakota League of Cities and the North Dakota Association of Counties may each, in writing, appoint one permanent voting member to the Board of Directors.

The board members shall be elected by vote of the North Dakota participants in the Fund and only elected officers or employees of North Dakota participants are eligible for the Fund's board membership. The Board of Directors is elected at the annual meeting of the Fund which is held on a date during the months of April or May as determined by the Board of Directors.

The minutes show that the annual meetings of the Board were held as required by the Fund's Bylaws. In addition to the annual meetings, the Board held quarterly meetings in each year during the examination period.

Directors serving the Fund at December 31, 2023, were as follows:

Name and Address	Business Affiliation
Tyler Jacobson Valley City, North Dakota	Valley City Parks & Recreation
Scott Ouradnik Amidon, North Dakota	Slope County Commissioner

Matt Gardner Bismarck, North Dakota	Executive Director North Dakota League of Cities
Chad Peterson Fargo, North Dakota	Cass County Commissioner
Sonya Larson Steele, North Dakota	Kidder County School District
Aaron Birst Bismarck, North Dakota	North Dakota Association of Counties
Darcie Huwe Wahpeton, North Dakota	City of Wahpeton
Chris West Grafton, North Dakota	Mayor
Burdell Johnson Tuttle, North Dakota	Township Officer

It was noted that the Fund's Board of Directors is composed exclusively of Members (or their delegates). This poses a governance concern as the general public has no direct representation, but third-party claims account for nearly half of the Fund's claims. The 2023 Market Conduct Examination found that the Fund's member-only directorate adopted and supported policies which unfairly favored its members' interests in claim settlement philosophies and practices, which is not appropriate as the Fund is exclusively taxpayer funded.

It was also noted that in 2023, the Fund paid $59,000 in Directors' fees and spent $23,104 on Director professional development meetings and retreats. The Fund also spent $227,474 on seminars, special projects, and advertising with the organizations represented by its Directors.

It is recommended that the Fund restructure its Board composition to more closely align with its claims activity by developing a process for electing/selecting at large non-members.

Response: The NAIC Financial Condition Examiners Handbook states that "As exam reports should only contain findings of fact, the corporate governance assessment(s) is considered subjective and does not lend itself for inclusion in the report." Not only is subjective information included in the report with respect to NDIRF's Board of Directors, but the composition of the Board is also trying to be dictated. This recommendation is inappropriate given the scope of the financial exam and the role of the Department. According to the NAIC Handbook, the Department should be examining the "effectiveness of the board of directors and other corporate governance activities, thus providing an introspective look at the operations and quality of the risk management processes of the insurer."

The Department also tries to justify its recommendation for non-members to serve on the NDIRF Board of Directors because "the Fund is exclusively taxpayer funded." This statement is misleading. Taxpayers of the State of North Dakota are not members of, or are even eligible to be members of, the NDIRF. As the Department is aware, only political subdivisions and public nonprofit corporations are eligible to be members of the NDIRF; not all taxpayers of the State of North Dakota are eligible. So, it is more accurate to state that the NDIRF is exclusively **member** funded. As such, the Board of Directors should be made up of Members, as it is presently composed.

In conducting a survey of other government pools across the country, the NDIRF is not an anomaly. Most government self-insurance pools are typically governed exclusively by a board of directors consisting solely of members. Some states allow non-members to serve on their board of directors, but typically, the non-members are then highly specialized individuals who are voted on by other members of the board of directors.

For example, Alaska Public Entity Insurance ("APEI") is governed by an 11-member Board of Directors. At least eight directors represent APEI members, with the goal of having the APEI board reflect the geographic and population distribution of APEI's members. Two of the board seats may be filled by additional member representatives or may be filled by others who have particular expertise that can benefit the pool.

It also needs to be clarified that board members are afforded the opportunity to attend professional development to have a better understanding of pooling operations. Additionally, the $227,474 spent on seminars, special projects, and advertising is used to increase member awareness of the NDIRF's programs and provide risk management services and education to its members. As Directors represent all classes of membership, the relationships between the NDIRF and partner associations are leveraged to reach as much of the membership as possible.

Officers

According to the Fund's Bylaws, the officers of the Board of Directors shall consist of a Chairperson, a Chairperson-elect, a Secretary, and a Treasurer, each of whom shall be elected by the Board of Directors. The titles of President and Vice-President are not used.

The terms of office of the Chairperson, Chairperson-elect, Secretary and Treasurer are one year commencing at the close of an annual meeting and ending at the close of the next succeeding annual meeting. Officers serving at December 31, 2023, were as follows:

Officer	Title
Chad Peterson	Chairperson of the Board
Tyler Jacobson	Chairperson-Elect
Brennan Quintus	Secretary
Nora Frueh	Treasurer

Committees

The Fund's Bylaws provide that the Board of Directors shall be entitled to establish any number of committees that, in the exercise of its discretion, shall be deemed helpful and appropriate. In addition to these ad-hoc committees, the Board shall establish two standing committees, which include an Executive Committee and a Finance Committee.

The Executive Committee shall consist of the current chairperson and chairperson-elect of the Board and at least three additional Board members to be appointed (including subsequent vacancies) by the current chairperson of the Board.
The Finance Committee shall consist of the chairperson-elect of the Board and at least four additional Board members, to be appointed (including subsequent vacancies) by the current chairperson of the Board.

At December 31, 2023 and throughout the examination period, the Finance Committee performed or documented, only cursory reviews of the Fund's internal and external investment advisors and did not review or affirm compliance with the numerous performance metrics that are listed within the Fund's investment guidelines document.

It is recommended that the Fund update the duties of its Finance Committee to include a regular, formal compliance review of the investment limitations and requirements as laid out within the investment guidelines document.

Response: The NDIRF finance committee meets quarterly and receives a report outlining this recommendation. The Finance Committee will expand the verbiage in the meeting minutes to better reflect the review and discussion of the quarterly investments in relation to the investment policies, in addition to noting that the report was reviewed and accepted. The quarterly reports are readily available for inspection to confirm compliance with the investment guidelines.

The committees and their respective members at December 31, 2023, were as follows:

Executive Committee	**Finance Committee**
Chad Peterson, Chairperson	Tyler Jacobson, Chairperson
Tyler Jacobson	Darcie Huwe
Chris West	Aaron Birst
Burdell Johnson	Scott Ouradnik
Matt Gardner	Sonya Larson

In addition to the aforementioned committees, the Fund also has a Nominating Committee which meets on an as-needed basis. Members serving at December 31, 2023 were as follows:

Burdell Johnson, Chairperson
Matt Gardner
Aaron Birst

CORPORATE RECORDS

Articles of Incorporation and Bylaws

No changes to the Articles of Incorporation were noted during the period under review.

It was noted that the Fund has not amended or updated its Articles of Incorporation since 1989. The Fund's registered agent and registered office address under Article 6 are incorrect.

It is recommended that the Fund update its Articles to reflect its current registered agent and registered office address.

Response: Since 1989, Articles of Amendment have been filed with the North Dakota Secretary of State in September of 1992, May of 2015, and most recently, the registered agent was changed to Keith Pic in August of 2024. The Registered Agent and Registered Office Address are presently correct with the Secretary of State, and the NDIRF is in the process of amending its Articles of Incorporation to reflect these updates, among others.

The Fund revised Article III of its Bylaws as follows:

> A sitting board member serving a particular class of participants can seek election as a board member for a separate class of participants, if eligible. A sitting board member can continue to serve a particular class of participants while seeking election to a separate class of participants. However, a sitting board member cannot contemporaneously serve as a board member for more than one class of participants. A sitting board member must immediately resign from the previous class of participants if elected to a separate class of participants (for example, a sitting county board member eligible to serve as a school board member can seek election as a school board member but must immediately resign as a county board member if elected as a school board member).

Board of Directors, Members, and Committee Minutes

The minutes of the Board of Directors, members, and committee meetings for the period under examination were read.

The minutes of the various meetings indicate that full board meetings were well attended and were held in compliance with the Bylaws, Articles of Incorporation, and statutory requirements. The deliberations of the board were adequately documented and supported the Fund's transactions and events.

Conflict of Interest

The Fund has procedures for annually disclosing potential conflicts of interest to its Board of Directors. Any material interest or affiliation on the part of its Directors, Officers, or key members of Management, which is in, or likely to, conflict with the official duties of such person must be disclosed to the Board.

The Fund provided conflict of interest disclosures for the 2023 year, which disclosed that Directors Burdell Johnson and Chris West both acted as agents and received commissions on business placed with the Fund. [redacted]

It is recommended that the Fund develop more robust conflict of interest disclosure processes, including when Directors or Employees with disclosed conflicts need to recuse themselves from decision making.

Response: The NDIRF's conflict of interest questionnaire for the Board of Directors was revised following the recommendation in the audit completed in 2015 by Insurance Commissioner Adam Hamm. Additionally, as part of the NDIRF's goals of standardization and policy development, the

NDIRF is in the process of implementing many AGRIP recommended policies and procedures included in the Advisory Standards for Recognition ("AGRIP Standards"). As part of the AGRIP Standards, the NDIRF plans to implement staffing policies, which include more detailed conflict of interest policies, and claims conflict procedures.

[redacted]

EMPLOYEE WELFARE AND PENSION PLANS

The Company offers several employee benefits including medical, dental, vision, paid leave, term life, long-term disability, short-term disability, education reimbursement, employee assistance program, medical and dependent care flex spending. The Fund contributes 10% of each employee's gross salary to a 401(a) retirement plan and offers up to a 2.5% match for contributions to employees' 457(b) deferred compensation plans.

	UW	CLAIMS (CL)	CLAIMS (LC)	ADMIN	TOTALS
WAGES	555,992	814,555	386,934	913,473	2,670,954
UNUSED LEAVE	6,551	10,308	4,464	5,569	26,892
PAYROLL TAX	44,803	66,122	30,638	61,448	203,011
GROUP INSURANCE	100,390	83,306	58,324	134,766	376,786
RETIREMENT PLAN	73,864	104,924	53,256	118,378	350,422
PROFESSIONAL DEVELOPMENT	9,470	19,889	4,997	40,670	75,026
DUES AND SUBSCRIPTIONS	7,276	7,448	2,577	14,674	31,975
EMPLOYEE RECOGNITION					11,026
TOTALS	798,349	1,106,552	541,190	1,288,978	3,735,069

At December 31, 2023, the Fund had a full time equivalent ("FTE") employee headcount of 21.45 for an average FTE cost of $174,129.

FIDELITY BOND AND OTHER INSURANCE

The Fund is protected against loss from fraudulent or dishonest acts of its employees by a fidelity bond providing coverage in the amount of $500,000. The amount of the coverage meets the minimum amount recommended in the NAIC's *Financial Examiners Handbook*.

The Fund has other types of liability coverage including Directors and Officers Liability, Commercial Automobile, Commercial Excess Liability, Cyber Breach, and Employment

Practices Liability which were reviewed and considered adequate.

TERRITORY AND OPERATIONS

At December 31, 2023, the Fund was licensed to write property and casualty insurance for North Dakota political subdivisions as defined by N.D.C.C. § 32-12.1-02(6). The Fund writes general liability, auto lines, and inland marine coverages. The Fund is not authorized to write property coverages offered by the State Fire and Tornado Fund under the provisions of N.D.C.C. § 26.1-22.

The examination found that the Fund had 2,597 members at December 31, 2023. The Fund stated the total number of political subdivisions in North Dakota is between 2,600 and 2,700 equating to between a 96.2% and a 99.9% market saturation.

During the examination period, the Fund paid the following amounts relating to marketing and sales:

	2023	2022	2021
Agent Commissions	$2,427,000	$2,311,000	$2,261,000
Marketing Expenses	483,000	506,000	406,000
Total	$2,910,000	$2,817,000	$2,667,000

The Fund also incurred various additional costs related to meeting with and training its agency force.

Note: If there are questions as to any information presented during the examination process, the NAIC Handbook instructs the Examiner to request clarification from the NDIRF or its designees. Even with this guidance, the information provided in the "Territory and Operations" section is mischaracterized, but no clarifying questions were asked of the NDIRF.

The dollar amounts categorized as "Marketing Expenses" in the report also include funds allocated to the NDIRF Member Services for the development and presentation of opportunities that support the NDIRF's commitment to loss control as a means of reducing overall costs. The Member Services budget includes education, such as defensive driving classes, firefighting training, agent workshops, LocalGovU web training (which includes trainings for human resources, law enforcement, schools and education, among others), seminars at member conferences, loss control travel for member issues, brochures and support of North Dakota Peace Officers Association ("NDPOA"), North Dakota League of Cities ("NDLC"), North Dakota Association of Counties ("NDACo"), and North Dakota Local Technical Assistance Program ("NDLTAP") trainings.

As discussed in the AGRIP Operations Manual, "[o]ne of the primary benefits of joining a pool instead of financing risks through other means is that pools generally provide a wide range of services that generally are not available from other sources. These services help public entities manage their risks and maintain better control of their risk financing." *See* AGRIP Operations Manual, at p. 38. AGRIP goes on to say that "[o]ne of the most useful services that pools can provide for their members is training and educational programs," citing a list of potential topics. *See* AGRIP Operations Manual, at p. 39. It is exactly these additional Member Services, especially the training and educational programs, that make the NDIRF unique to its members and help prevent or reduce claims.

<u>Response</u>: The NDIRF provides training to its agents to help ensure that political subdivisions are covered for the exposures they face. Agency and member training is and will continue to be an ongoing goal for the NDIRF to the benefit of North Dakota and is part of the NDIRF's strategic plan.

However, according to the current (2012) version of the Association of Governmental Risk Pools ("AGRIP") "Operations Manual for Public Entity Risk Pools", one of the largest benefits of the self-insurance risk pool structure is the cost savings from not having to pay agent commissions. The Fund listed itself as the agent of record for two policies at December 31, 2023. Per N.D.C.C. § 26.1-26-09(1):

> [n]othing in this chapter may be construed to require an insurer to obtain an insurance producer license.

As such, the Fund does not fall under the definition of "insurance producer" at N.D.C.C. §26.1-26. Since the Fund is not an insurance producer under the law, the Fund cannot conduct agency related business.

It is recommended that the Fund discontinue the practice of acting as the agent of record for members as it is not a licensed insurance producer.

<u>Response</u>: According to the AGRIP Operations Manual, there are many advantages of joining a pool, including: "Improved availability of coverages; Broader terms, conditions and limits; Services tailored to needs; More equitable rating bases; and Stability of rates and contributions." *See* <u>AGRIP Operations Manual</u>, at p. 5. An area of **potential** savings noted by AGRIP is the possibility of no commission. *See* <u>AGRIP Operations Manual</u>, at p. 5. There is one single mention of this potential for cost savings in the introduction of the manual, but there is no further attention given to it in the rest of the publication, so stating that one of the largest benefits of the self-insurance risk pool structure is not having to pay agent commissions is very misleading.

Further, the Operations Manual states:

> For pool trustees, administrators and staff, the first step to ensuring effective operations is to review the mission of the pools and how pools operate. Pooling is an alternative to purchasing commercial insurance individually. A group of public entities make payments, called contributions, to pay losses above the individual deductible up to the pool's maximum retention. Pools generally purchase excess or reinsurance to protect against catastrophic losses. Members receive safety, loss control, claims handling, legal, actuarial and other services the pool may provide in-house or may purchase from third party providers.

See <u>AGRIP Operations Manual</u>, at pp. 5-6. The NDIRF operationally decided to partner with independent insurance agents in North Dakota to distribute its coverage in exchange for commission. This approach also enables independent insurance agents to assist political subdivisions with any additional coverage needs that the NDIRF may not currently provide.

The success of the NDIRF and overall cost savings it provides to its members can be attributed in part to its use of agent services. These agents help political subdivisions identify appropriate areas of coverage while staying informed about developments in their local communities. The NDIRF's network of agents provide a significant service to the political subdivisions in North Dakota, at commission rates below industry standards because of the recognition it is a service to their local communities.

The Insurance Department has praised the NDIRF's agent relationships, highlighting the collaborative efforts between the agents and the NDIRF in significantly improving the North Dakota Fire and Tornado Fund. This work led to the discovery of nearly $9 billion in unaccounted-for insured public building value.

The NDIRF will ensure that all members are represented by an agent and discontinue the practice of acting as the agent of record.

The Fund uses the "Agent Balances" approach to collecting its premiums where the Member's agent of record collects premiums from the member, withholds its designated commission, and remits the net premium to the Fund. The insurance industry has generally moved away from this approach as it can cause unnecessary delays in premium collection process, opens the Fund up to agent credit risk, and elevates other fraud concerns such as premium kiting.

The risks of this method of premium collection are compounded by the Fund's use of GAAP accounting as it is unclear to what extent the Fund's overdue premium receivables from its Agents are uncollectable and should be nonadmitted.

It is recommended that the Fund implement a direct bill premium solution in order to eliminate its agent credit risk exposure and reduce premium related fraud risks.

Response: "One of the most important activities of any organization is financial management and reporting. This is especially important for pools, whose success and very survival depend on adequate collection of contributions and reserves." *See* AGRIP Operations Manual, at p. 51. The NDIRF has always kept collectability in mind when determining appropriate operations. The switch to a direct bill premium solution would have the completely opposite effect as the Department intends.

Implementing the direct bill recommendation would significantly increase the NDIRF's time, expenses, and risk. Instead of collecting from approximately 160 agencies, the NDIRF would need to collect from approximately 2,600 members individually, greatly increasing the risk of uncollected balances. Most members work with local agents who have strong community connections, making collections more efficient. Also, the added costs of processing and mailing commission checks to these agents would further increase costs to the members.

Although not explicitly documented, risks, such as collection and fraud risks, are continuously evaluated as part of normal operations. These assessments occur during accounts receivable reconciliations, management meetings, and monthly financial reviews. As with any business, the NDIRF consistently monitors and evaluates potential risks to ensure awareness and effective risk management.

Additionally, the use of GAAP does not prevent the identification of uncollectible accounts, as the NDIRF would be required to show this balance as a contra asset account (allowance for uncollectible accounts). Regardless of whether using statutory accounting or GAAP, uncollectible accounts ultimately would reduce total assets.

The reason the NDIRF's financials do not include a contra account for uncollectible balances is because due to the membership, we consider all balances as collectible and rarely have to write off any accounts. In fact, only one account has been written off in the last 6 years. Notably, the NDIRF's processes enabled us to identify an agent engaged in premium kiting, which we reported to the State. That balance was written off to avoid punishing the member for a policy they had already paid.

To provide numerical context as to why we consider all accounts collectible and why agent billing presents a lower risk than direct billing, the single write-off in question amounted to $4,744. During the timeframe from 2019 to 2024, the NDIRF collected $94,864,282 in premium payments, less commission, making the write-off rate just **0.00005001.**

Further, based on the Agents Receivable balance at the end of the exam period (December 31, 2023), there was an outstanding balance of $590,095. By the end of January 2024, 86.1% of the balance had been collected; by the end of February, 99.5% was collected; by the end of March, 99.9% was collected; and the remaining $508 was collected shortly after. This demonstrates that uncollectible accounts are extremely rare under the current billing method.

The Examination again noted that the Fund did not have a formal Enterprise Risk Management (ERM) framework for identifying, prioritizing, and mitigating potential solvency risks. A recommendation to establish an ERM framework was issued during the 2020 Examination also.

It is again recommended that the Fund develop a formal, written ERM framework for identifying, mitigating, and monitoring enterprise risks (including IT risks).

Response: The NDIRF is in the process of developing an ERM framework, which will include risks regarding solvency and IT.

Note: The 2020 examination was completed in November of 2022, 13 months prior to the end of the current examination period. The NDIRF has been in a state of formal audit by the Insurance Department for 25 of the last 39 months.

Year	# Months in Audit
2022	11
2023	0*
2024	11*
2025	3

*Does not include the four (4) months following the North Dakota Insurance Department's October 6, 2023, letter requesting numerous documents from the NDIRF. If included, the total amount of time the NDIRF has been providing documents and responding to additional information requests to the Insurance Department has been 29 of the last 39 months, which has been extremely burdensome to operations. However, the NDIRF will continue to provide transparency into its operations as requested.

At December 31, 2023, the Fund did not have a formal or complete Disaster Recovery or Business Continuity plan to use in response to emergencies such as natural disasters, to ensure continuity of the Fund's operations.

It is recommended that the Fund create formal, written disaster recovery and business continuity plans. It is further recommended that the Fund test these plans at least annually to ensure completeness and efficacy.

Response: The NDIRF has a Disaster Recovery Document in place, which was previously made available to the Department. The Disaster Recovery Document is again being provided herewith. The NDIRF is also in the process of implementing a Business Continuity Plan and expanding the Disaster Recovery Document, in line with the AGRIP Standards for an Emergency Response Plan.

Throughout the examination period, the Fund completed no formal asset and liability matching analysis to ensure its invested assets aligned with the liquidity and duration needs of its claim reserve liabilities. The Fund did conduct regular actuarial analysis to affirm its overall solvency level, but this analysis absent a review of claim reserve timing and portfolio liquidity could lead to the Fund's investment portfolio being too short tailed where investment yields would suffer, or too long tailed, where illiquidity concerns could arise.

At December 31, 2023, the Fund reported a loss and incurred but not reported loss reserve estimate of $17,808,000. The Fund's 2024 Budget indicated a net operating profit of $1,178,100. According to the Fund's Statement of Investment Objectives:

> The operating and claim payment needs of the NDIRF are to be met by short-term investments, i.e., liquid investments whose maturities match expected cash flow needs.

The Examination identified $5,685,005.25 in Cash, Cash Equivalents, and Short-Term Investments maturing within 12 months, or 12.33% of the Fund's total portfolio, which was a (Board approved) departure from its investment allocation limit of 10% for this asset class. Despite exceeding its cash and short-term allocation limit, the Fund was nearly $11 million short of meeting its "operating and claim payment needs" from this asset class.

It is recommended that the Fund periodically engage a qualified investment actuary to review its investment guidelines, maturities, allocations, duration, and overall portfolio appropriateness to ensure the portfolio adequately matches the Fund's assets and liabilities.

Response: The NDIRF engaged Strategic Asset Alliance ("SAA") in 2020 to review our policies and portfolios, and changes were made at that time based on SAA's recommendations. SAA was recommended by AGRIP as they work with many pools from around the country. It is the NDIRF's intention to engage SAA or another firm periodically to ensure the NDIRF's investment strategy remains aligned with our financial goals. Accordingly, this recommendation is already in place.

Regarding the assertion that the NDIRF's cash flow is insufficient to meet operating and claims payment needs, this is an inaccurate statement. While we do hold investments in bonds and government securities with maturity dates of greater than one year, none of these are classified as "held to maturity" investments, meaning they can be liquidated quickly without penalty if needed for claims or expenses. In addition, our equity portfolio provides another readily available source of funds. These investments are categorized as long-term because our intent is to hold them for more than a year. However, if cash flow needs change, they could be liquidated within days with no penalties. As of December 31, 2023, the NDIRF's readily available financial assets - including investments - totaled over $46 million.

From a fiscal responsibility perspective, it would be imprudent for the NDIRF to maintain excessive funds in low earning cash accounts when higher returns can be achieved for our members through fixed-income and equity securities that remain highly liquid. However, as noted above, the NDIRF will continue working with investment firms periodically to make sure our investment policies and strategies align with our risk and cash flow needs.

Additionally, the use of GAAP instead of statutory accounting principles provides a clearer financial picture. GAAP requires that all investments be shown at fair market value, as is standard for most businesses and governments, ensuring our financial statements reflect the actual cash value available upon liquidation. In contrast, statutory accounting requires bonds to be reported at amortized cost. For example, as of December 31, 2023, the NDIRF's financial statements reflected a fixed-income investment portfolio valued at $37.855M under GAAP. If reported under a statutory basis, it would appear as $39.158M, which is potentially misleading for our members by overstating the amount that could be realized in the market if liquidation were necessary, although unlikely.

At December 31, 2023, the Fund's Claim Philosophy did not specify the method, level, or range at which the Fund's aggregate reserves were to be set. During the examination period, the Fund annually engaged qualified actuarial specialists to review and opine on its reserve adequacy, but the results of this analysis were not reflected in the Fund's capital management practices (i.e., conferment of benefits, reduction of premiums, etc.) or its investment program (e.g., excess or redundant reserves typically are invested in riskier assets).

It is recommended that the Board approve an aggregate reserving policy (e.g., "reserves must be adjusted to an independent actuary's 95% confidence level") and that the Fund's pricing, capital management, and investment practices reflect the results of these actuarial reviews.

Response: As noted above, the NDIRF annually engages a qualified actuarial firm to assess our financial position. As they are experts in the field, we rely on their primary recommendations when determining our needs. The NDIRF takes the actuarial firm's report to determine what level of surplus we would need to get to the 95% confidence level, a standard the NDIRF has continually met.

It is not a required practice to report the estimated liability at the 95% confidence level on our financial statements; therefore, we follow the actuary's main calculation. During the Board's actuarial report analysis, we review our 10-year claim development summary to ensure that our reserve levels remain appropriate. This information is also included in our audited financial statements. As of December 31, 2023, our records show that, for all but one year in the exam period, actual losses were lower than the originally booked reserves. Increasing liabilities beyond this level could risk overinflating them, which in turn would reduce the surplus available to return to members or develop coverage for the evolving risks that political subdivisions face in North Dakota.

By maintaining the surplus at a level that meets the 95% threshold without unnecessary inflation, we strike a balance between financial security and member benefits. This ongoing analysis of liabilities and surplus also enables the Board to make informed decisions regarding investment strategies and pricing to ensure long-term financial stability.

OTHER AGREEMENTS

Effective June 28, 2019, the Fund entered into a contract with the Department to carry out certain administrative functions of the State Fire and Tornado Fund and the State Bonding Fund, including collection of premiums, loss control, underwriting, and claims administration. An in-depth review of the operational components of this contract was not included within the scope of this examination.

In 2023, the Department compensated the Fund $882,000 for these services, net of agent commissions and certain third-party fees engaged and deemed necessary by the Fund to assist in its administration of this contract.

The Examination noted that the Fund does not have a formal or well-defined vendor management program.

It is recommended that the Fund develop and implement a vendor management program or tool that tracks all third-party vendors used by the Fund and assesses each in terms of overall risk and operational criticality. It is further recommended that the fund design its vendor management program to facilitate a centralized contract compliance monitoring function to better track its various obligations to and from its third-party vendors.

Response: The NDIRF has very few third-party vendors which it directly contracts. However, as the Department is aware, the NDIRF has recently hired Staff Legal Counsel, and one of the roles of this position will be to review and monitor vendor contracts. The NDIRF is in the process of vetting solutions for vendor management systems, including already available systems such as SharePoint, given the low number of contracts that need consistent monitoring.

REINSURANCE

At December 31, 2023, the Fund had three ceded reinsurance contracts, all placed through the Fund's reinsurance intermediary, Guy Carpenter.

Data Breach Liability

The Fund has a data breach liability and data breach expense reinsurance contract which provides coverage for an aggregate of $5 million excess of $5 million. This contract is placed with Tokio Marine HCC – Cyber & Professional Lines Group.

During the review period, the Fund changed this contract from a quota share reinsurance agreement to the excess of loss agreement with the limits noted above. This had the effect of significantly increasing the Fund's data breach liability and data breach expense loss exposures from $25,000 per member per event, to $1 million per member per event. The Fund was unable to provide exposure modeling to support the appropriateness of this change.

During the Examination period, the Fund did not engage qualified reinsurance experts to perform exposure modeling to ensure the adequacy or appropriateness of any of its reinsurance program coverages or retention levels.

It is recommended that the Fund annually, in conjunction with its reinsurance contract renewals, engage a qualified reinsurance expert to perform an analysis of its exposures and retention levels to ensure that the Fund's reinsurance program is appropriate.

Response: The NDIRF will complete exposure modeling to ensure the adequacy and appropriateness of its reinsurance program and retention levels.

The examination found that the Fund's exposures and claims subject to reinsurance are inherently complex. Throughout the review period, the Fund employed no credentialed reinsurance experts, nor did it use any outside reinsurance expertise.

Additionally, the examination found that while the Fund engaged Guy Carpenter as its Reinsurance Intermediary, its use of their services was limited to brokering the placement of its desired reinsurance coverages, rather than leveraging their expertise for the modeling and accounting functions typically provided by a Reinsurance Intermediary.

It is recommended that the Fund engage and use a qualified, licensed Reinsurance Intermediary to leverage their expertise in ensuring the appropriateness of the reinsurance program, the submission of all eligible claims to the correct reinsurance contracts for recovery, and the overall accuracy of reinsurance accounting and reporting in compliance with Statutory Accounting Procedures.

Response: The NDIRF requests clarification on what the Insurance Department finds to be "inherently complex" regarding the exposures and claims it reviewed. As noted by the Insurance Department below, there has not been a substantial change in the reinsurance structure from the prior audit period beyond different retention and limits.

The NDIRF utilizes the reinsurance expertise of the data breach liability reinsurer to handle its data breach liability claims. This is outlined in the reinsurance contract Exhibit A - "Cyber Liability CLAIMS-HANDLING PROTOCOL."

The current reinsurance intermediary provides claims reporting expertise and the NDIRF management meets regularly with them for ongoing discussions of placement and services.

As noted in the prior recommendation response, the NDIRF will utilize more of the reinsurance intermediary's services.

Property

The property excess of loss reinsurance contract is placed with Great American Insurance Company. Coverage consists of $68,400,000 excess of a $5,000,000 million retention, which is both a higher retention and lower limit than the $70,000,000 excess of $4,800,000 noted during the prior examination. The Fund was unable to provide exposure modeling to support the appropriateness of this change.

Response: Property reinsurance was initiated in response to the 2014 Insurance Department Examination, finalized in 2015 under Commissioner Adam Hamm to comply with N.D.C.C. § 26.1-

23.1-01(2). A cost-benefit analysis is conducted and based on the location of covered autos and public assets, the chance of a single occurrence causing $5,000,000 in covered damage to covered autos and public assets is extremely low. For context, the largest single occurrence property loss the NDIRF has sustained was a fire in a maintenance shop that resulted in $1,345,756 in losses. The second largest loss was a significant hailstorm in the northwest corner of the state impacting 14 members and resulting in $1,031,273 in damages.

However, the NDIRF will provide exposure modeling to guide future decisions on the appropriateness of retention and limits.

Auto and Liability
The auto and liability excess of loss reinsurance contract is placed with Great American Insurance Company. Coverage consists of $8,000,000 excess of a $2,000,000 retention. This coverage was unchanged since the prior review period.

The Fund does not assume any reinsurance.

ACCOUNTS AND RECORDS

The Fund's accounting procedures, internal controls, and transaction cycles were reviewed during the course of the examination and a trial balance as of December 31, 2023, was obtained and traced to the appropriate schedules of the Fund's 2023 Audited Financial Statement. The Fund's ledgers are maintained electronically. Revenues and expenses were test checked to the extent deemed necessary.

The Fund is audited annually by an outside firm of independent certified public accountants, as engaged by the Finance Committee. The work papers of this firm were made available to the Examiners and were used to extent deemed appropriate for this examination.

[redacted]

[redacted]

[redacted]

[redacted]

This rebuttal information was redacted because the commissioner removed the corresponding finding, recommendation and information from the final exam report

This rebuttal information was redacted because the commissioner removed the corresponding finding, recommendation and information from the final exam report

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

The Fund operates on a Generally Accepted Accounting Principles (GAAP) accounting basis and its Audit firm completes a Statutory Accounting Principles (STAT) reconciliation within its annual audited financials. Per N.D.C.C. Chapter 26.1-23.1-04:

> The financial statement must be audited by an independent certified public accountant and the financial statement must be in a form prescribed or approved by the commissioner.

The Department determined that the Fund's use and submission of GAAP financials with a STAT financial adjustment does not comply with 26.1-23.1-04 as the core conservative principles of STAT accounting are not present within the Fund's day-to-day operational philosophies or procedures and cannot simply be adjusted by an independent auditor on an annual, aggregated basis.

Based on the financial statement format used by the Fund, the Department was unable to verify significant elements of the Fund's solvency, such as the admissibility of reported assets, reserve development, investment portfolio valuation, character, and creditworthiness, and its reinsurance program details. In 2023, the Fund's 24 page audited financial statement included only 4 pages of STAT information. A comparably sized company's STAT NAIC Annual Statement is around 130 pages. In general, GAAP accounting focuses on an entity's periodic income statement earnings results while STAT accounting is specifically designed and maintained to facilitate a solvency regulator's balance sheet adequacy and solvency surveillance. As the Fund is a regulated risk-bearing, self-insurance pool, the Fund's usage of GAAP accounting is incompatible with its operations and materially interferes with the Department's obligations under N.D.C.C. Chapter 26.1-23.1-04(3):

> The insurance commissioner shall monitor the financial solvency of government self-insurance pools to ensure that a pool's liabilities for claims, present and contingent, and other expenses are at no time greater than the pool's assets. The commissioner may enjoin a self-insured government pool from conducting further business or take other appropriate regulatory action whenever in the commissioner's judgment a pool is insolvent or otherwise financially impaired.

Further, the limits referred to within 26.1-23.1-01(2) and 26.1-23.1-05 (26.1-05-19 and 26.1-10-02) all refer to STAT terms such as Admitted Assets, Surplus as Regards Policyholders, and Liabilities (as defined by STAT). An annual STAT reconciliation does not allow for the Fund to operate in a manner which complies with these requirements as the Fund will not know these figures until its independent auditor provides them retrospectively.

It is recommended that the Fund discontinue using GAAP accounting in its operations and financial filings and begin using STAT accounting and file financials based on the NAIC Annual Statement forms, per N.D.C.C. § 26.1-23.1-04.

Response: As previously noted, the NDIRF is not an insurance company, so it would not be standard for the NDIRF to utilize the STAT accounting principles. The AGRIP Operations Manual states that adherence to Governmental Accounting Standards Board pronouncements, which is the organization that determines and updates the GAAP principles for government entities, is the common practice used by most government entity risk pools.

The Insurance Department had previously approved the current reporting structure and as noted in the highlighted portion of the email below made assurances it would be approved going forward following the 68th Legislative Session. For the Insurance Department to state they were unable to verify significant elements of the NDIRF's solvency is a substantial deviation from previous financial audits.

Additionally, the NDIRF annually prepares IRIS ratios, which are submitted to our auditors. IRIS ratios, designed to measure solvency and liquidity, are typically calculated by a traditional insurer using their annual statements that are filed with the NAIC. Given that the NDIRF already compiles this information to confirm solvency and liquidity at the auditors' request, the NDIRF could also provide the IRIS ratios to the Department on an annual basis, with a mutually agreed-upon submission date.

Keith Pic

From: Palsgraaf, Johnny N. <jpalsgraaf@nd.gov>
Sent: Friday, July 14, 2023 1:49 PM
To: Brennan Quintus
Subject: RE: Regulatory Memos

Hi Brennan!

I wanted to send you an update on these three issues. Regarding your question about statutory financial accounting and GAAP. Because NDIRF's Eide Bailly audited statement of financial condition and business also provides a statutory adjustment to meet the Department's SSAP needs, the Department has always deemed the statement sufficient. The Department has no intention of requiring NDIRF to switch to statutory financial accounting as long as the statutory adjustment is provided.

While I was looking into the financial filing requirements, I did notice that N.D.C.C. § 26.1-23.1-04(1) already provides the insurance commissioner authority to require self-insurance pools to file the financial statement "in a form prescribed or approved by the commissioner." Given that the commissioner already had the authority to require a specific form or approval of the reporting form, I don't see SB2010(2023) having much of an impact on the form of reporting. Let me know if you have any further questions about financial statements.

I did touch base with Mike Andring the other day about NDIRF's current rate filing. Mike sent Jeff an "objection" on 7/3 that contained a schedule rating percentage that he could approve based on his judgment as an actuary. As I previously mentioned, I met with Jon and John about the Department's position on NDIRF's rate filings. The Department does not intend to reject NDIRF's rate filings. After Mike has received sufficient support and reasoning for NDIRF's rate filing, the plan is to present the filing to Jon/John for approval. I would like to wait on writing up anything more formal on the rate filing expectations until after the current filing is approved.

I haven't had a chance to meet with Janelle about the Department's producer licensing expectations, but I'll try and meet with her sometime next week.

Have a good weekend.
Johnny

Johannes (Johnny) Palsgraaf
General Counsel, Legal Div. Director

North Dakota Insurance Department
600 E Boulevard Ave.
Bismarck, ND 58505
P: (701)328-2577
E: jpalsgraaf@nd.gov
W: insurance.nd.gov

FINANCIAL STATEMENTS

The financial statements of the Fund are presented on the following pages in the sequence listed below:

Statement of Assets, December 31, 2023
Statement of Liabilities and Surplus, December 31, 2023
Statement of Operations, Year Ended December 31, 2023
Reconciliation of Capital and Surplus, January 1, 2021, through December 31, 2023

These financial statements are based on the statutory reconciliation within the Fund's audited financial statements filed by the Fund with the North Dakota Insurance Department and present the financial condition of the Fund for the period ending December 31, 2023. The accompanying comments on financial statements reflect any examination adjustments to the amounts reported in the annual statement and should be considered and integral part of the financial statements.

North Dakota Insurance Reserve Fund
Statement of Assets
December 31, 2023
In Thousands

	Assets	Nonadmitted Assets	Net Admitted Assets
Bonds*	$39,158		$39,158
Stocks:			
Common Stocks	8,203		8,203
Real Estate:			
Occupied by the Fund	489		489
Cash and Cash Equivalents	6,113		6,113
Certificates of Deposit	1,007		1,007
Interest Receivable	298		298
Agents' Balances or Uncollected Premiums:			
Premiums and Agents' Balances in Course of Collection	593		593
Electronic data processing equipment and software	5		5
Total Assets	$55,866	$0	$55,866

*The reported bond figure represents the Fund's bond portfolio valued at taxable cost, rather than Statutory amortized cost basis, which is not necessarily the same. Examiners were not able to recalculate the reported amortized cost balances or trace to supporting documentation. However, it is unlikely that these valuation differences would pose a material deviation from the presented figures.

North Dakota Insurance Reserve Fund
Statement of Liabilities and Surplus
December 31, 2023
In Thousands

Losses and Loss Adjustment Expenses	$10,370
Incurred But Not Reported Losses	7,438
Unearned Premiums	6,473
Unearned Commission from Fire and Tornado Fund	487
Accounts Payable	91
Accrued Expenses	219
Conferment Payable	35
Total Liabilities	$25,113
Unassigned Funds (Surplus)	$30,753
Total Liabilities, Capital and Surplus	$55,866

North Dakota Insurance Reserve Fund
Statement of Operations
December 31, 2023
In Thousands

Underwriting Income		
Premiums Earned		$18,841
Fire & Tornado Fund Commissions Earned		882
Total Underwriting Income		$19,723
Deductions:		
Losses Incurred	$6,294	
Loss Expenses Incurred	2,404	
Other Underwriting Expenses Incurred	7,268	
Total Underwriting Deductions		15,966
Net Underwriting Gain (Loss)		$3,757
Investment Income		
Net Investment Income Earned	$1,268	
Net Realized Capital Gains (Losses)	1,636	
		$2,904
Net Income		$6,661

North Dakota Insurance Reserve Fund
Reconciliation of Capital and Surplus Accounts
January 1, 2021, Through December 31, 2023
In Thousands

	2023	2022	2021
Capital and Surplus, December 31, Prior Year	$24,639	$23,195	$22,968
Net Income	6,661	3,100	7,020
Net Unrealized Gains or (Losses)	(484)	(1,667)	(1,433)
Change in Non-Admitted Assets	(63)	11	(84)
Conferment Declared	0	0	(5,276)
Net Change in Capital and Surplus for the Year	6,114	1,444	227
Capital and Surplus, December 31, Current Year	$30,753	$24,639	$23,195

CONCLUSION

The financial condition of the Fund, as of December 31, 2023, as determined by this examination is summarized as follows:

Admitted Assets		$51,641,000
Total Liabilities	$28,446,000	
Total Capital and Surplus	23,195,000	
Liabilities, Surplus, and Other Funds		$51,641,000

Since December 31, 2020, the Fund's admitted assets increased $1,308,000, its total liabilities have decreased $1,535,000 and its surplus increased $227,000.

Respectfully submitted,

Colton Schulz, CFE, CISA, CRISC, CFE (Fraud)
Supervising Examiner
North Dakota Insurance Department

RECOMMENDATIONS

Response: Each of the individual recommendations and the NDIRF's responses are outlined in the text of the examination report.

It is recommended that the Fund restructure its Board composition to more closely align with its claims activity by developing a process for electing/selecting at large non-members.

It is recommended that the Fund update the duties of its Finance Committee to include a regular, formal compliance review of the investment limitations and requirements as laid out within the investment guidelines document.

It is recommended that the Fund update its Articles to reflect its current registered agent and registered office address.

It is recommended that the Fund develop more robust conflict of interest disclosure processes, including when Directors or Employees with disclosed conflicts need to recuse themselves from decision making.

It is recommended that the Fund discontinue the practice of acting as the agent of record for members as it is not a licensed insurance producer.

It is recommended that the Fund implement a direct bill premium solution in order to eliminate its agent credit risk exposure and reduce premium related fraud risks.

It is again recommended that the Fund develop a formal, written ERM framework for identifying, mitigating, and monitoring enterprise risks (including IT risks).

It is recommended that the Fund create formal, written disaster recovery and business continuity plans. It is further recommended that the Fund test these plans at least annually to ensure completeness and efficacy.

It is recommended that the Fund periodically engage a qualified investment actuary to review its investment guidelines, maturities, allocations, duration, and overall portfolio appropriateness to ensure the portfolio adequately matches the Fund's assets and liabilities.

It is recommended that the Board approve an aggregate reserving policy (e.g., "reserves must be adjusted to an independent actuary's 95% confidence level") and that the Fund's pricing, capital management, and investment practices reflect the results of these actuarial reviews.

It is recommended that the Fund develop and implement a vendor management program or tool that tracks all third-party vendors used by the Fund and assesses each in terms of overall risk and operational criticality. It is further recommended that the fund design its vendor management program to facilitate a centralized contract compliance monitoring function to better track its various obligations to and from its third-party vendors.

It is recommended that the Fund annually, in conjunction with its reinsurance contract renewals, engage a qualified reinsurance expert to perform an analysis of its exposures and retention levels to ensure that the Fund's reinsurance program is appropriate.

It is recommended that the Fund engage and use a qualified, licensed Reinsurance Intermediary to leverage their expertise in ensuring the appropriateness of the reinsurance program, the submission

This rebuttal information was redacted because the commissioner removed the corresponding finding, recommendation and information from the final exam report

of all eligible claims to the correct reinsurance contracts for recovery, and the overall accuracy of reinsurance accounting and reporting in compliance with Statutory Accounting Procedures.

[redacted]

It is recommended that the Fund discontinue using GAAP accounting in its operations and financial filings and begin using STAT accounting and file financials based on the NAIC Annual Statement forms, per N.D.C.C. § 26.1-23.1-04.

For the reasons set forth above, the Noth Dakota Insurance Reserve Fund does not accept the examination report.

Sincerely,

Keith Pic
Chief Executive Officer
North Dakota Insurance Reserve Fund

NDIRF

Disaster Recovery Document

Personal Computers:

- PC's purchased local retailer. Operational within a few hours of delivery.
- Printers purchased from local retailer installed immediately.
- Network Contact:
    - Connecting Point (701-258-6689)
        - Rick McConnachie
        - Dan Durkee

Backups

- Backups on the NDIRF server occur twice daily. Cloud backup thru DATTO, Inc.

Disaster Recovery Plan

- Test: Open claims, issue a policy, write checks
- Accounting software: Quickbooks online (Cloud based).
- Office365 (email, word, excel, powerpoint, access, teams) Cloud based
- NDIRF Server is used as a print server and document storage
    - Windows Server 2019 Standard

Phone System: forward phones to cell phones
Restore of data tested annually.

Updated: 11-22-24

EXHIBIT A

Cyber Liability CLAIMS-HANDLING PROTOCOL

This Claims-Handling Protocol ("Protocol") details the claims management procedures Tokio Marine HCC – Cyber & Professional Lines Group ("TMHCC") and North Dakota Insurance Reserve Fund ("NDIRF") (together, referred to herein as the "Parties") will follow in the administration of Cyber Liability claims. The Protocol may be clarified, amended or modified by mutual consent of the Parties.

I. Initial Processing of Claims

A. Claim report

Policyholders will report all claims to NDIRF. When a policyholder notifies NDIRF of a claim, NDIRF will forward the claim report to TMHCC within two (2) business days. All claims reports should be sent to:

Claims Department
Tokio Marine HCC – Cyber & Professional Lines Group
16501 Ventura Blvd., Suite 200
Encino, CA 91436

Tel: (888) 627-8995 (Includes access to after-hours hotline)
Fax: (818) 382-2040
E-mail: **cpl.claims@tmhcc.com**

Note: given the time sensitive nature of many matters, we recommend fax or e-mail rather than the regular U.S. Mail service for reporting claims to TMHCC.

B. Information to be included in the claim report

The claim report to TMHCC should include the following information:

1. Contact information for any policyholder representative with authorization to discuss the claim;
2. All documents/correspondence submitted by the policyholder in support of the claim;
3. A complete copy of the general liability Declarations Page and Memorandum of Coverage;
4. A complete copy of the Cyber Liability Endorsement issued by NDIRF.

C. **Coverage Investigation**

Third party Cyber coverage is liability coverage; there is a right and duty to defend. First party Cyber coverage indemnifies the Member for certain covered losses. Claims will be handled as follows:

a. TMHCC will make contact with the policyholder within two (2) business days. If the information provided in NDIRF's claim report is sufficient to approve the claim, TMHCC will proceed as follows:

    i. If action is required on a third party claim, legal counsel will be assigned to defend the Member;
    ii. If action is not required on a third party claim, TMHCC will defer the appointment of legal counsel until action is required;
    iii. For privacy breach incidents, TMHCC will retain legal counsel to advise the Member on the proper handling of the incident;
    iv. TMHCC will consult with NDIRF and the Member concerning choice of counsel;
    v. TMHCC will send a confirmation of coverage letter to the Member (with a copy to NDIRF).

b. If the information provided in NDIRF's claim report is not sufficient to approve the claim, TMHCC will proceed as follows:

    i. Additional information will be requested from the Member via the initial telephone call;
    ii. An acknowledgement letter and claim form will be issued to the Member (with a copy to NDIRF). The acknowledgement letter will include a list of the documentation/information needed to evaluate coverage.
    iii. TMHCC will follow up with the Member on a weekly basis until additional information is received.
    iv. If additional information is not submitted by the Member, TMHCC will advise the Member that coverage will be evaluated based on the available information.
    v. TMHCC will send a coverage determination letter to the Member (with a copy to NDIRF).

c. If a claim is clearly not covered, or if there are coverage issues, TMHCC will proceed as follows:

    i. NDIRF will be consulted prior to communicating a coverage determination to the Member;
    ii. TMHCC will provide a draft declination of coverage letter or reservation of rights letter (whichever applies) for NDIRF's review and consideration.
    iii. Approved letters will be issued by TMHCC to the Member (with copy to NDIRF).
    iv. In certain cases, the appointment of coverage counsel may be necessary. TMHCC will consult with NDIRF prior to retaining

coverage counsel. Costs of coverage counsel will not erode the Member's coverage limits. NDIRF will be provided with coverage counsel's opinion and proposed coverage letter for NDIRF's review and consideration.

v. Any declination of coverage letter or reservation of rights letter will be issued by coverage counsel with NDIRF's approval.

II. Claims management

TMHCC will serve a supervisory function and will monitor the progress of all claims, including requesting and reviewing reports from counsel, until claims are resolved or the limits are paid. TMHCC's responsibilities include:

1. Retaining defense counsel, as appropriate;
2. Retaining coverage counsel, as appropriate;
3. Requesting periodic claim updates, litigation budgets, liability assessments, and settlement recommendations;
4. Liaising with supervising/coverage counsel and/or defense counsel (or vendors) regarding status of claims, with focus on prompt handling and early resolution, if and when possible.
5. Authorizing settlements and the engagement of experts or vendors;
6. Establishing claim reserves;
7. Reviewing, approving, and paying legal, expert and vendor invoices; and
8. Preparing monthly bordereaux and loss run reports for distribution to NDIRF and Reinsurers.

III. Monthly Claims Reports

TMHCC will send monthly bordereaux to the following NDIRF representatives:

a. Keith Pic Keith.Pic@ndirf.com
b. Amelita Andrade Amelita.Andrade@guycarp.com
c. Dawn Day Dawn.Day@guycarp.com

Monthly bordereaux will include:

1. Listing of all claims reported;
2. All amounts paid within the month;
3. The cumulative amount paid to date;
4. Claim reserves;
5. Claim status (open or closed);
6. All other information as agreed to by the Parties

IV. Other insurance

A. Claims covered by other carriers other than NDIRF

The coverage form provides that Cyber Liability is excess over any other valid and collectible policy. If a claim is covered under another carrier's policy, and such other insurance is primary, Cyber Liability will be applied as excess insurance. If a claim is covered under another carrier's policy, and such other insurance also applies as excess, TMHCC will suggest a pro-rata cost-sharing arrangement with the other carrier.

B. Claims covered by NDIRF's general liability coverage

Some claims may trigger NDIRF's general liability coverage and Cyber Liability. It is the intent of the Parties that Cyber Liability applies in excess of any other coverage provided by NDIRF. Any procedures deviating from this Protocol will be agreed in advance by the Parties and included in the Protocol by amendment.

C. Increased limits purchased via TMHCC

If NDIRF provides a platform for providing increased Cyber Liability limits via TMHCC, the Parties agree that the Cyber Liability coverage limits provided by NDIRF will be primary to any policy issued by TMHCC, but only with respect to overlapping coverage. The TMHCC policy will be primary in any instances where the TMHCC policy provides broader coverage than NDIRF's Cyber Liability coverage.

[Signature page to follow]

NDIRF RATIOS

12/31/2023

SUMMARY OF RATIOS:		**2023 FINAL**
1)	Premium to Surplus	65.10%
2)	Change in Writings	6.98%
3)	Two-Year Operating	89.91%
4)	Two-Year Operating (Including Conferments)	89.91%
5)	Investment Yield	8.58%
6)	Change in Surplus	33.48%
7)	Liabilities to Liquid Assets	46.96%
8)	Agents Balances to Surplus	1.93%
9)	Combined Ratio (Trade)	82.99%
10)	Combined Ratio (Statutory)	85.07%

Standards:

Ratio 1: < 300%	**Ratio 6: < -10% to +50%**
Ratio 2:-33% to +33%	**Ratio 7: < 105%**
Ratio 3: < 100%	**Ratio 8: < 40%**
Ratio 4: < 100%	**Ratio 9: < 96%**
Ratio 5: < Market Trend	**Ratio 10: < 96%**

APPENDIX B

Department responses to Respondent's Rebuttal.

The redacted information in the Respondent's Rebuttal was a finding and recommendation that was removed from the examination report based on the information provided by the Respondent. The information provided allowed the Department to determine that the finding and recommendation were properly addressed and no longer considered a concern.

MANAGEMENT AND CONTROL

Board of Directors

The Fund's Bylaws provide that the Board of Directors shall consist of nine members. Two of the board members shall be elected from the class of participants consisting of cities, two of the board members shall be elected from the class of participants consisting of counties, one of the board members shall be elected from the class of participants consisting of elementary and secondary schools, and two of the board members shall be elected from the class of participants consisting of all other participants. In addition, the North Dakota League of Cities and the North Dakota Association of Counties may each, in writing, appoint one permanent voting member to the Board of Directors.

The board members shall be elected by vote of the North Dakota participants in the Fund and only elected officers or employees of North Dakota participants are eligible for the Fund's board membership. The Board of Directors is elected at the annual meeting of the Fund which is held on a date during the months of April or May as determined by the Board of Directors.

The minutes show that the annual meetings of the Board were held as required by the Fund's Bylaws. In addition to the annual meetings, the Board held quarterly meetings in each year during the examination period.

Directors serving the Fund at December 31, 2023, were as follows:

Name and Address	Business Affiliation
Tyler Jacobson Valley City, North Dakota	Valley City Parks & Recreation
Scott Ouradnik Amidon, North Dakota	Slope County Commissioner
Matt Gardner Bismarck, North Dakota	Executive Director North Dakota League of Cities
Chad Peterson Fargo, North Dakota	Cass County Commissioner
Sonya Larson Steele, North Dakota	Kidder County School District
Aaron Birst	North Dakota Association of Counties

Bismarck, North Dakota	
Darcie Huwe Wahpeton, North Dakota	City of Wahpeton
Chris West Grafton, North Dakota	Mayor
Burdell Johnson Tuttle, North Dakota	Township Officer

It was noted that the Fund's Board of Directors is composed exclusively of Members (or their delegates). This poses a governance concern as the general public has no direct representation, but third-party claims account for nearly half of the Fund's claims. The 2023 Market Conduct Examination found that the Fund's member-only directorate adopted and supported policies which unfairly favored its members' interests in claim settlement philosophies and practices, which is not appropriate as the Fund is exclusively taxpayer funded.

It was also noted that in 2023, the Fund paid $59,000 in Directors' fees and spent $23,104 on Director professional development meetings and retreats. The Fund also spent $227,474 on seminars, special projects, and advertising with the organizations represented by its Directors.

It is recommended that the Fund restructure its Board composition to more closely align with its claims activity by developing a process for electing/selecting at large non-members.

Response: The NAIC Financial Condition Examiners Handbook states that "As exam reports should only contain findings of fact, the corporate governance assessment(s) is considered subjective and does not lend itself for inclusion in the report."

The Department notes that the Fund is not an insurance company and therefore, not all guidance delineated within the NAIC's Financial Condition Examiners Handbook ("FCEH") can be applied, verbatim. The Department also notes on page 250 of the 2025 FCEH, Examiners are directed to include in the Examination Report:

> **Summary of recommendations (company improvements in processes, activities and/or controls).**

Relative to the governance recommendation, the Department considered the findings of the Fund's Market Conduct examination and the findings of the current and historical Financial examinations when drafting this recommendation. While the findings of fact supporting all examination recommendations remain objective and strictly fact-based, the Department often finds it appropriate to provide tangible, constructive recommendations for alleviating identified deficiencies expeditiously.

Not only is subjective information included in the report with respect to NDIRF's Board of Directors, but the composition of the Board is also trying to be dictated.

The Fund did not cite or specify what it feels is subjective information with respect to its Board of Directors so the Department cannot provide clarification or feedback for this comment.

This recommendation is inappropriate given the scope of the financial exam and the role of the Department. According to the NAIC Handbook, the Department should be examining the "effectiveness of the board of directors and other corporate governance activities, thus providing an introspective look at the operations and quality of the risk management processes of the insurer."

The Department also tries to justify its recommendation for non-members to serve on the NDIRF Board of Directors because "the Fund is exclusively taxpayer funded." This statement is misleading. Taxpayers of the State of North Dakota are not members of, or are even eligible to be members of, the NDIRF. As the Department is aware, only political subdivisions and public nonprofit corporations are eligible to be members of the NDIRF; not all taxpayers of the State of North Dakota are eligible. So, it is more accurate to state that the NDIRF is exclusively **member** funded. As such, the Board of Directors should be made up of Members, as it is presently composed.

The Fund's assertion that it is not exclusively taxpayer funded is misleading as the Fund is aware, per statute and its Bylaws, its membership is limited to political subdivisions and municipalities. The operating cashflows of these entities are derived exclusively from public funding mechanisms (i.e., property taxes, local sales taxes, grants etc.).

In conducting a survey of other government pools across the country, the NDIRF is not an anomaly. Most government self-insurance pools are typically governed exclusively by a board of directors consisting solely of members. Some states allow non-members to serve on their board of directors, but typically, the non-members are then highly specialized individuals who are voted on by other members of the board of directors.

The Department would find the Fund's addition of a class of "highly specialized individual" non-member Directors to acceptably meet the recommendation.

For example, Alaska Public Entity Insurance ("APEI") is governed by an 11-member Board of Directors. At least eight directors represent APEI members, with the goal of having the APEI board reflect the geographic and population distribution of APEI's members. Two of the board seats may be filled by additional member representatives or may be filled by others who have particular expertise that can benefit the pool.

It also needs to be clarified that board members are afforded the opportunity to attend professional development to have a better understanding of pooling operations. Additionally, the $227,474 spent on seminars, special projects, and advertising is used to increase member awareness of the NDIRF's programs and provide risk management services and education to its members. As Directors represent all classes of membership, the relationships between the NDIRF and partner associations are leveraged to reach as much of the membership as possible.

Officers

According to the Fund's Bylaws, the officers of the Board of Directors shall consist of a Chairperson, a Chairperson-elect, a Secretary, and a Treasurer, each of whom shall be elected by the Board of Directors. The titles of President and Vice-President are not used.

The terms of office of the Chairperson, Chairperson-elect, Secretary and Treasurer are one year commencing at the close of an annual meeting and ending at the close of the next succeeding annual meeting. Officers serving at December 31, 2023, were as follows:

Officer	Title
Chad Peterson	Chairperson of the Board
Tyler Jacobson	Chairperson-Elect
Brennan Quintus	Secretary
Nora Frueh	Treasurer

Committees

The Fund's Bylaws provide that the Board of Directors shall be entitled to establish any number of committees that, in the exercise of its discretion, shall be deemed helpful and appropriate. In addition to these ad-hoc committees, the Board shall establish two standing committees, which include an Executive Committee and a Finance Committee.

The Executive Committee shall consist of the current chairperson and chairperson-elect of the Board and at least three additional Board members to be appointed (including subsequent vacancies) by the current chairperson of the Board.

The Finance Committee shall consist of the chairperson-elect of the Board and at least four additional Board members, to be appointed (including subsequent vacancies) by the current chairperson of the Board.

At December 31, 2023 and throughout the examination period, the Finance Committee performed or documented, only cursory reviews of the Fund's internal and external investment advisors and did not review or affirm compliance with the numerous performance metrics that are listed within the Fund's investment guidelines document.

It is recommended that the Fund update the duties of its Finance Committee to include a regular, formal compliance review of the investment limitations and requirements as laid out within the investment guidelines document.

The committees and their respective members at December 31, 2023, were as follows:

Executive Committee	Finance Committee
Chad Peterson, Chairperson	Tyler Jacobson, Chairperson
Tyler Jacobson	Darcie Huwe
Chris West	Aaron Birst
Burdell Johnson	Scott Ouradnik
Matt Gardner	Sonya Larson

In addition to the aforementioned committees, the Fund also has a Nominating Committee which meets on an as-needed basis. Members serving at December 31, 2023 were as follows:

Burdell Johnson, Chairperson
Matt Gardner
Aaron Birst

CORPORATE RECORDS

Articles of Incorporation and Bylaws

No changes to the Articles of Incorporation were noted during the period under review.

It was noted that the Fund has not amended or updated its Articles of Incorporation since 1989. The Fund's registered agent and registered office address under Article 6 are incorrect.

It is recommended that the Fund update its Articles to reflect its current registered agent and registered office address.

The Fund revised Article III of its Bylaws as follows:

A sitting board member serving a particular class of participants can seek election as a board member for a separate class of participants, if eligible. A sitting board member can continue to serve a particular class of participants while seeking election to a separate class of participants. However, a sitting board member cannot contemporaneously serve as a board member for more than one class of participants. A sitting board member must immediately resign from the previous class of participants if elected to a separate class of participants (for example, a sitting county board member eligible to serve as a school board member can seek election as a school board member but must immediately resign as a county board member if elected as a school board member).

Board of Directors, Members, and Committee Minutes

The minutes of the Board of Directors, members, and committee meetings for the period under examination were read.

The minutes of the various meetings indicate that full board meetings were well attended and were held in compliance with the Bylaws, Articles of Incorporation, and statutory requirements. The deliberations of the board were adequately documented and supported the Fund's transactions and events.

Conflict of Interest

The Fund has procedures for annually disclosing potential conflicts of interest to its Board of Directors. Any material interest or affiliation on the part of its Directors, Officers, or key members of Management, which is in, or likely to, conflict with the official duties of such person must be disclosed to the Board.

The Fund provided conflict of interest disclosures for the 2023 year, which disclosed that Directors Burdell Johnson and Chris West both acted as agents and received commissions on business placed with the Fund. [redacted]

It is recommended that the Fund develop more robust conflict of interest disclosure processes, including when Directors or Employees with disclosed conflicts need to recuse themselves from decision making.

> **Response**: The NDIRF's conflict of interest questionnaire for the Board of Directors was revised following the recommendation in the audit completed in 2015 by Insurance Commissioner Adam Hamm. Additionally, as part of the NDIRF's goals of standardization and policy development, the
>
> NDIRF is in the process of implementing many AGRIP recommended policies and procedures included in the Advisory Standards for Recognition ("AGRIP Standards"). As part of the AGRIP Standards, the NDIRF plans to implement staffing policies, which include more detailed conflict of interest policies, and claims conflict procedures.
>
> [redacted]
>
> [redacted]
>
> [redacted]

[redacted]

[redacted] [redacted]

TERRITORY AND OPERATIONS

At December 31, 2023, the Fund was licensed to write property and casualty insurance for North Dakota political subdivisions as defined by N.D.C.C. §32-12.1(04). The Fund writes general liability, auto lines, and inland marine coverages. The Fund is not authorized to write property coverages offered by the State Fire and Tornado Fund under the provisions of N.D.C.C. § 26.1-22.

The examination found that the Fund had 2,597 members at December 31, 2023. The Fund stated the total number of political subdivisions in North Dakota is between 2,600 and 2,700 equating to between a 96.2% and a 99.9% market saturation.

During the examination period, the Fund paid the following amounts relating to marketing and sales:

	2023	2022	2021
Agent Commissions	$2,427,000	$2,311,000	$2,261,000
Marketing Expenses	483,000	506,000	406,000
Total	$2,910,000	$2,817,000	$2,667,000

The Fund also incurred various additional costs related to meeting with and training its agency force.

Note: If there are questions as to any information presented during the examination process, the NAIC Handbook instructs the Examiner to request clarification from the NDIRF or its designees. Even with this guidance, the information provided in the "Territory and Operations" section is mischaracterized, but no clarifying questions were asked of the NDIRF.

The dollar amounts categorized as "Marketing Expenses" in the report also include funds allocated to the NDIRF Member Services for the development and presentation of opportunities that support the NDIRF's commitment to loss control as a means of reducing overall costs. The Member Services budget includes education, such as defensive driving classes, firefighting training, agent workshops, LocalGovU web training (which includes trainings for human resources, law enforcement, schools and education, among others), seminars at member conferences, loss control travel for member issues, brochures and support of North Dakota Peace Officers Association ("NDPOA"), North Dakota League of Cities ("NDLC"), North Dakota Association of Counties ("NDACo"), and North Dakota Local Technical Assistance Program ("NDLTAP") trainings.

As discussed in the AGRIP Operations Manual, "[o]ne of the primary benefits of joining a pool instead of financing risks through other means is that pools generally provide a wide range of services that generally are not available from other sources. These services help public entities manage their risks and maintain better control of their risk financing." *See* AGRIP Operations Manual, at p. 38. AGRIP goes on to say that "[o]ne of the most useful services that pools can provide for their members is training and educational programs," citing a list of potential topics. *See* AGRIP Operations Manual, at p. 39. It is exactly these additional Member Services, especially the training and educational programs, that make the NDIRF unique to its members and help prevent or reduce claims.

The Department has no questions of the Fund within this section. The commissions and marketing expense figures presented in this section were obtained directly from the Fund's audited financials and the market saturation rates within this section were obtained directly from the CEO. If it is the Fund's assertion that these expenses are not "Marketing" expenses, the Department suggests addressing this expense misclassification with its auditor.

Response: The NDIRF provides training to its agents to help ensure that political subdivisions are covered for the exposures they face. Agency and member training is and will continue to be an ongoing goal for the NDIRF to the benefit of North Dakota and is part of the NDIRF's strategic plan.

However, according to the current (2012) version of the Association of Governmental Risk Pools ("AGRIP") "Operations Manual for Public Entity Risk Pools", one of the largest benefits of the self-insurance risk pool structure is the cost savings from not having to pay agent commissions.

The Fund listed itself as the agent of record for two policies at December 31, 2023. Per N.D.C.C. § 26.1-26-09(1):

> [n]othing in this chapter may be construed to require an insurer to obtain an insurance producer license.

As such, the Fund does not fall under the definition of "insurance producer" at N.D.C.C. §26.1-26. Since the Fund is not an insurance producer under the law, the Fund cannot conduct agency related business.

It is recommended that the Fund discontinue the practice of acting as the agent of record for members as it is not a licensed insurance producer.

Response: According to the AGRIP Operations Manual, there are many advantages of joining a pool, including: "Improved availability of coverages; Broader terms, conditions and limits; Services tailored to needs; More equitable rating bases; and Stability of rates and contributions." *See* AGRIP Operations Manual, at p. 5. An area of **potential** savings noted by AGRIP is the possibility of no commission. *See* AGRIP Operations Manual, at p. 5. There is one single mention of this potential for cost savings in the introduction of the manual, but there is no further attention given to it in the rest of the publication, so stating that one of the largest benefits of the self-insurance risk pool structure is not having to pay agent commissions is very misleading.

Further, the Operations Manual states:

> For pool trustees, administrators and staff, the first step to ensuring effective operations is to review the mission of the pools and how pools operate. Pooling is an alternative to purchasing commercial insurance individually. A group of public entities make payments, called contributions, to pay losses above the individual deductible up to the pool's maximum retention. Pools generally purchase excess or reinsurance to protect against catastrophic losses. Members receive safety, loss control, claims handling, legal, actuarial and other services the pool may provide in-house or may purchase from third party providers.

See AGRIP Operations Manual, at pp. 5-6. The NDIRF operationally decided to partner with independent insurance agents in North Dakota to distribute its coverage in exchange for commission. This approach also enables independent insurance agents to assist political subdivisions with any additional coverage needs that the NDIRF may not currently provide.

The success of the NDIRF and overall cost savings it provides to its members can be attributed in part to its use of agent services. These agents help political subdivisions identify appropriate areas of coverage while staying informed about developments in their local communities. The NDIRF's network of agents provide a significant service to the political subdivisions in North Dakota, at commission rates below industry standards because of the recognition it is a service to their local communities.

The Insurance Department has praised the NDIRF's agent relationships, highlighting the collaborative efforts between the agents and the NDIRF in significantly improving the North Dakota Fire and Tornado Fund. This work led to the discovery of nearly $9 billion in unaccounted- for insured public building value.

The Fund's references to the Department's prior comments are taken out of context and are not relevant to this specific finding. The Department's findings are limited to the disclosure of facts

involving the Fund's marketing and commissions expense and the Fund's practice of acting as an agent for its members.

The NDIRF will ensure that all members are represented by an agent and discontinue the practice of acting as the agent of record.

The Fund uses the "Agent Balances" approach to collecting its premiums where the Member's agent of record collects premiums from the member, withholds its designated commission, and remits the net premium to the Fund. The insurance industry has generally moved away from this approach as it can cause unnecessary delays in premium collection process, opens the Fund up to agent credit risk, and elevates other fraud concerns such as premium kiting.

The risks of this method of premium collection are compounded by the Fund's use of GAAP accounting as it is unclear to what extent the Fund's overdue premium receivables from its Agents are uncollectable and should be nonadmitted.

It is recommended that the Fund implement a direct bill premium solution in order to eliminate its agent credit risk exposure and reduce premium related fraud risks.

Response: "One of the most important activities of any organization is financial management and reporting. This is especially important for pools, whose success and very survival depend on adequate collection of contributions and reserves." *See* AGRIP Operations Manual, at p. 51. The NDIRF has always kept collectability in mind when determining appropriate operations. The switch to a direct bill premium solution would have the completely opposite effect as the Department intends.

Implementing the direct bill recommendation would significantly increase the NDIRF's time, expenses, and risk. Instead of collecting from approximately 160 agencies, the NDIRF would need to collect from approximately 2,600 members individually, greatly increasing the risk of uncollected balances. Most members work with local agents who have strong community connections, making collections more efficient. Also, the added costs of processing and mailing commission checks to these agents would further increase costs to the members.

Although not explicitly documented, risks, such as collection and fraud risks, are continuously evaluated as part of normal operations. These assessments occur during accounts receivable reconciliations, management meetings, and monthly financial reviews. As with any business, the NDIRF consistently monitors and evaluates potential risks to ensure awareness and effective risk management.

Additionally, the use of GAAP does not prevent the identification of uncollectible accounts, as the NDIRF would be required to show this balance as a contra asset account (allowance for uncollectible accounts). Regardless of whether using statutory accounting or GAAP, uncollectible accounts ultimately would reduce total assets.

The reason the NDIRF's financials do not include a contra account for uncollectible balances is because due to the membership, we consider all balances as collectible and rarely have to write off any accounts. In fact, only one account has been written off in the last 6 years. Notably, the NDIRF's processes enabled us to identify an agent engaged in premium kiting, which we reported to the State. That balance was written off to avoid punishing the member for a policy they had already paid.

To provide numerical context as to why we consider all accounts collectible and why agent billing presents a lower risk than direct billing, the single write-off in question amounted to $4,744. During the timeframe from 2019 to 2024, the NDIRF collected $94,864,282 in premium payments, less commission, making the write-off rate just **0.00005001.**

Further, based on the Agents Receivable balance at the end of the exam period (December 31, 2023), there was an outstanding balance of $590,095. By the end of January 2024, 86.1% of the balance had been collected; by the end of February, 99.5% was collected; by the end of March, 99.9% was collected; and the remaining $508 was collected shortly after. This demonstrates that uncollectible accounts are extremely rare under the current billing method.

The Department is aware of a trend with risk-bearing entities shifting to direct billing over the last 20 years. While the primary reasons for this shift vary from company to company, they include the reasons listed within the Report.

The Examination again noted that the Fund did not have a formal Enterprise Risk Management (ERM) framework for identifying, prioritizing, and mitigating potential solvency risks. A recommendation to establish an ERM framework was issued during the 2020 Examination also.

It is again recommended that the Fund develop a formal, written ERM framework for identifying, mitigating, and monitoring enterprise risks (including IT risks).

Response: The NDIRF is in the process of developing an ERM framework, which will include risks regarding solvency and IT.

Note: The 2020 examination was completed in November of 2022, 13 months prior to the end of the current examination period. The NDIRF has been in a state of formal audit by the Insurance Department for 25 of the last 39 months.

Year	# Months in Audit
2022	11
2023	0*
2024	11*
2025	3

*Does not include the four (4) months following the North Dakota Insurance Department's October 6, 2023, letter requesting numerous documents from the NDIRF. If included, the total amount of time the NDIRF has been providing documents and responding to additional information requests to the Insurance Department has been 29 of the last 39 months, which has been extremely burdensome to operations. However, the NDIRF will continue to provide transparency into its operations as requested.

The examination conducted in 2022 was delayed, in part, due to the prior CEO's lack of timely and complete responses. The Department's "14-month" examination conducted in 2024 and 2025 included a first-ever Market Conduct Examination which was determined to be necessary based on the findings of the 2020 Financial examination and from complaints received by the Department. The "four-months" of document requests related to formal complaints against the Fund are a standard consumer protection that the Department has been legislatively charged with carrying out. The calendar duration of the financial examination is also product of the Department's limited resources as there was only one examiner allocated to work on the Fund's exam on a part-time basis. Further, the number of calendar months that an exam is open is not a meaningful metric for determining how "burdensome" an examination is. For example, after the initial requests were provided by the Fund, the Examiner contacted the Fund with only 8 formal follow-up requests.

At December 31, 2023, the Fund did not have a formal or complete Disaster Recovery or Business Continuity plan to use in response to emergencies such as natural disasters, to ensure continuity of the Fund's operations.

It is recommended that the Fund create formal, written disaster recovery and business continuity plans. It is further recommended that the Fund test these plans at least annually to ensure completeness and efficacy.

Response: The NDIRF has a Disaster Recovery Document in place, which was previously made available to the Department. The Disaster Recovery Document is again being provided herewith. The

NDIRF is also in the process of implementing a Business Continuity Plan and expanding the Disaster Recovery Document, in line with the AGRIP Standards for an Emergency Response Plan.

The Department notes that this finding states that the Fund did not have a "Formal or Complete" plan in place. The Fund's plan, as provided during the exam, was informal and incomplete.

Throughout the examination period, the Fund completed no formal asset and liability matching analysis to ensure its invested assets aligned with the liquidity and duration needs of its claim reserve liabilities. The Fund did conduct regular actuarial analysis to affirm its overall solvency level, but this analysis absent a review of claim reserve timing and portfolio liquidity could lead to the Fund's investment portfolio being too short tailed where investment yields would suffer, or too long tailed, where illiquidity concerns could arise.

At December 31, 2023, the Fund reported a loss and incurred but not reported loss reserve estimate of $17,808,000. The Fund's 2024 Budget indicated a net operating profit of $1,178,100. According to the Fund's Statement of Investment Objectives:

> The operating and claim payment needs of the NDIRF are to be met by short-term investments, i.e., liquid investments whose maturities match expected cash flow needs.

The Examination identified $5,685,005.25 in Cash, Cash Equivalents, and Short-Term Investments maturing within 12 months, or 12.33% of the Fund's total portfolio, which was a (Board approved) departure from its investment allocation limit of 10% for this asset class. Despite exceeding its cash and short-term allocation limit, the Fund was nearly $11 million short of meeting its "operating and claim payment needs" from this asset class.

It is recommended that the Fund periodically engage a qualified investment actuary to review its investment guidelines, maturities, allocations, duration, and overall portfolio appropriateness to ensure the portfolio adequately matches the Fund's assets and liabilities.

Response: The NDIRF engaged Strategic Asset Alliance ("SAA") in 2020 to review our policies and portfolios, and changes were made at that time based on SAA's recommendations. SAA was recommended by AGRIP as they work with many pools from around the country. It is the NDIRF's intention to engage SAA or another firm periodically to ensure the NDIRF's investment strategy remains aligned with our financial goals. Accordingly, this recommendation is already in place.

The examination noted that SAA did not have access to the Fund's claim liabilities and therefore could not conduct an effective Asset and Liability Matching analysis to ensure investment durations matched expected claim payment needs. Further, SAA recommended investment portfolio changes in 2020 that directly resulted in statute violations (single issuer concentration limitations), indicating that SAA may not be appropriate to provide the Fund investment guidance.

Regarding the assertion that the NDIRF's cash flow is insufficient to meet operating and claims payment needs, this is an inaccurate statement. While we do hold investments in bonds and government securities with maturity dates of greater than one year, none of these are classified as "held to maturity" investments, meaning they can be liquidated quickly without penalty if needed for claims or expenses. In addition, our equity portfolio provides another readily available source of funds. These investments are categorized as long-term because our intent is to hold them for more than a year. However, if cash flow needs change, they could be liquidated within days with no penalties. As of December 31, 2023, the NDIRF's readily available financial assets
- including investments - totaled over $46 million.

The Department's assertion that the Fund's liquid investment balances are insufficient to address cash flow needs are based on the Fund's own investment policy requirements. The Fund's assertion that its assets are adequate is not supported by the appropriate level of Asset and Liability Matching analysis.

From a fiscal responsibility perspective, it would be imprudent for the NDIRF to maintain excessive funds in low earning cash accounts when higher returns can be achieved for our members through fixed-income and equity securities that remain highly liquid. However, as noted above, the NDIRF will continue working with investment firms periodically to make sure our investment policies and strategies align with our risk and cash flow needs.

The Department agrees. Based on comparative "peer" benchmarking data provided by the Fund, the Fund is significantly more conservative (i.e., allocating more excess reserves to bonds than equities) than is necessary. Without a proper asset allocation based on asset liability matching analysis, the Fund risks missing potential market gains and investment portfolio returns.

Additionally, the use of GAAP instead of statutory accounting principles provides a clearer financial picture. GAAP requires that all investments be shown at fair market value, as is standard for most businesses and governments, ensuring our financial statements reflect the actual cash value available upon liquidation. In contrast, statutory accounting requires bonds to be reported at amortized cost. For example, as of December 31, 2023, the NDIRF's financial statements reflected a fixed-income investment portfolio valued at $37.855M under GAAP. If reported under a statutory basis, it would appear as $39.158M, which is potentially misleading for our members by overstating the amount that could be realized in the market if liquidation were necessary, although unlikely.

The Fund's reported amortized cost figure is incorrect as its independent auditor used the cost or tax cost balances from the Fund's broker, rather than calculating amortized cost balances which account for premiums or discounts to par on an individual bond basis. The auditor also did not consider the Fund's individual bond credit ratings which are integral to the calculation of a bond's STAT valuation. Further, the circumstance where STAT valuations exceed GAAP valuations only exists in a prolonged rising rate environment, which has rarely occurred during the Fund's history. During disinflationary environments, which have been historically predominant, GAAP balances can appear significantly higher than STAT balances.

At December 31, 2023, the Fund's Claim Philosophy did not specify the method, level, or range at which the Fund's aggregate reserves were to be set. During the examination period, the Fund annually engaged qualified actuarial specialists to review and opine on its reserve adequacy, but the results of this analysis were not reflected in the Fund's capital management practices (i.e., conferment of benefits, reduction of premiums, etc.) or its investment program (e.g., excess or redundant reserves typically are invested in riskier assets).

It is recommended that the Board approve an aggregate reserving policy (e.g., "reserves must be adjusted to an independent actuary's 95% confidence level") and that the Fund's pricing, capital management, and investment practices reflect the results of these actuarial reviews.

Response: As noted above, the NDIRF annually engages a qualified actuarial firm to assess our financial position. As they are experts in the field, we rely on their primary recommendations when determining our needs. The NDIRF takes the actuarial firm's report to determine what level of surplus we would need to get to the 95% confidence level, a standard the NDIRF has continually met.

It is not a required practice to report the estimated liability at the 95% confidence level on our financial statements; therefore, we follow the actuary's main calculation. During the Board's actuarial report analysis, we review our 10-year claim development summary to ensure that our reserve levels remain appropriate. This information is also included in our audited financial statements. As of December 31, 2023, our records show that, for all but one year in the exam period, actual losses were lower than the originally booked reserves. Increasing liabilities beyond this level could risk overinflating them, which in turn would reduce the surplus available to return to members or develop coverage for the evolving risks that political subdivisions face in North Dakota.

By maintaining the surplus at a level that meets the 95% threshold without unnecessary inflation, we strike a balance between financial security and member benefits. This ongoing analysis of liabilities and surplus also enables the Board to make informed decisions regarding investment strategies and pricing to ensure long-term financial stability.

The Department did not suggest that the Fund set its reserves at the 95% confidence level, it listed 95% as a specific example which the Board could use. Right now, there is no formal, written guidance for setting reserves, (e.g., either a point estimate or a range) which could result in the Fund posting either deficient or excess reserves, in disagreement with its specialist's report. Our recommendation seeks to tie the specialist's recommendation to what actually gets posted in the Fund's financials.

REINSURANCE

At December 31, 2023, the Fund had three ceded reinsurance contracts, all placed through the Fund's reinsurance intermediary, Guy Carpenter.

Data Breach Liability

The Fund has a data breach liability and data breach expense reinsurance contract which provides coverage for an aggregate of $5 million excess of $5 million. This contract is placed with Tokio Marine HCC – Cyber & Professional Lines Group.

During the review period, the Fund changed this contract from a quota share reinsurance agreement to the excess of loss agreement with the limits noted above. This had the effect of significantly increasing the Fund's data breach liability and data breach expense loss exposures from $25,000 per member per event, to $1 million per member per event. The Fund was unable to provide exposure modeling to support the appropriateness of this change.

During the Examination period, the Fund did not engage qualified reinsurance experts to perform exposure modeling to ensure the adequacy or appropriateness of any of its reinsurance program coverages or retention levels.

It is recommended that the Fund annually, in conjunction with its reinsurance contract renewals, engage a qualified reinsurance expert to perform an analysis of its exposures and retention levels to ensure that the Fund's reinsurance program is appropriate.

The examination found that the Fund's exposures and claims subject to reinsurance are inherently complex. Throughout the review period, the Fund employed no credentialed reinsurance experts, nor did it use any outside reinsurance expertise.

Additionally, the examination found that while the Fund engaged Guy Carpenter as its Reinsurance Intermediary, its use of their services was limited to brokering the placement of its desired reinsurance coverages, rather than leveraging their expertise for the modeling and accounting functions typically provided by a Reinsurance Intermediary.

It is recommended that the Fund engage and use a qualified, licensed Reinsurance Intermediary to leverage their expertise in ensuring the appropriateness of the reinsurance program, the submission of all eligible claims to the correct reinsurance contracts for recovery, and the overall accuracy of reinsurance accounting and reporting in compliance with Statutory Accounting Procedures.

Response: The NDIRF requests clarification on what the Insurance Department finds to be "inherently complex" regarding the exposures and claims it reviewed. As noted by the Insurance Department below, there has not been a substantial change in the reinsurance structure from the prior audit period beyond different retention and limits.

The Department's statement that the Fund's exposures are inherently complex is based on the Fund's response to a request for individual and aggregate member cyber exposure information, to which the Fund responded that "we do not have separate direct written premium for cyber or data breach coverage" and provided no gross or net exposure quantification.

The Department did note that the Cyber reinsurance structure significantly changed ("the Fund's data breach liability and data breach expense loss exposures from $25,000 per member per event, to $1 million per member per event. The Fund was unable to provide exposure modeling to support the appropriateness of this change.")

The NDIRF utilizes the reinsurance expertise of the data breach liability reinsurer to handle its data breach liability claims. This is outlined in the reinsurance contract Exhibit A - "Cyber Liability CLAIMS-HANDLING PROTOCOL."

The current reinsurance intermediary provides claims reporting expertise and the NDIRF management meets regularly with them for ongoing discussions of placement and services.

As noted in the prior recommendation response, the NDIRF will utilize more of the reinsurance intermediary's services.

Property

The property excess of loss reinsurance contract is placed with Great American Insurance Company. Coverage consists of $68,400,000 excess of a $5,000,000 million retention, which is both a higher retention and lower limit than the $70,000,000 excess of $4,800,000 noted during the prior examination. The Fund was unable to provide exposure modeling to support the appropriateness of this change.

Auto and Liability

The auto and liability excess of loss reinsurance contract is placed with Great American Insurance Company. Coverage consists of $8,000,000 excess of a $2,000,000 retention. This coverage was unchanged since the prior review period.

The Fund does not assume any reinsurance.

ACCOUNTS AND RECORDS

The Fund's accounting procedures, internal controls, and transaction cycles were reviewed during the course of the examination and a trial balance as of December 31, 2023, was obtained and traced to the appropriate schedules of the Fund's 2023 Audited Financial Statement. The Fund's ledgers are maintained electronically. Revenues and expenses were test checked to the extent deemed necessary.

The Fund is audited annually by an outside firm of independent certified public accountants, as engaged by the Finance Committee. The work papers of this firm were made available to the Examiners and were used to extent deemed appropriate for this examination.

The Fund operates on a Generally Accepted Accounting Principles (GAAP) accounting basis and its Audit firm completes a Statutory Accounting Principles (STAT) reconciliation within its annual audited financials. Per N.D.C.C. Chapter 26.1-23.1-04:

> The financial statement must be audited by an independent certified public accountant and the financial statement must be in a form prescribed or approved by the commissioner.

The Department determined that the Fund's use and submission of GAAP financials with a STAT financial adjustment does not comply with 26.1-23.1-04 as the core conservative principles of STAT accounting are not present within the Fund's day-to-day operational philosophies or procedures and cannot simply be adjusted by an independent auditor on an annual, aggregated basis.

Based on the financial statement format used by the Fund, the Department was unable to verify significant elements of the Fund's solvency, such as the admissibility of reported assets, reserve development, investment portfolio valuation, character, and creditworthiness, and its reinsurance program details. In 2023, the Fund's 24 page audited financial statement included only 4 pages of STAT information. A comparably sized company's STAT NAIC Annual Statement is around 130 pages. In general, GAAP accounting focuses on an entity's periodic income statement earnings results while STAT accounting is specifically designed and maintained to facilitate a solvency regulator's balance sheet adequacy and solvency surveillance. As the Fund is a regulated risk-bearing, self-insurance pool, the Fund's usage of GAAP accounting is incompatible with its operations and materially interferes with the Department's obligations under N.D.C.C. Chapter 26.1-23.1-04(3):

> The insurance commissioner shall monitor the financial solvency of government self-insurance pools to ensure that a pool's liabilities for claims, present and contingent, and other expenses are at no time greater than the pool's assets. The commissioner may enjoin a self-insured government pool from conducting further business or take other appropriate regulatory action whenever in the commissioner's judgment a pool is insolvent or otherwise financially impaired.

Further, the limits referred to within 26.1-23.1-01(2) and 26.1-23.1-05 (26.1-05-19 and 26.1-10-02) all refer to STAT terms such as <u>Admitted Assets</u>, <u>Surplus as Regards Policyholders</u>, and <u>Liabilities</u> (as defined by STAT). An annual STAT reconciliation does not allow for the Fund to operate in a manner which complies with these requirements as the Fund will not know these figures until its independent auditor provides them retrospectively.

It is recommended that the Fund discontinue using GAAP accounting in its operations and financial filings and begin using STAT accounting and file financials based on the NAIC Annual Statement forms, per N.D.C.C. § 26.1-23.1-04.

> **Response:** As previously noted, the NDIRF is not an insurance company, so it would not be standard for the NDIRF to utilize the STAT accounting principles. The AGRIP Operations Manual states that adherence to Governmental Accounting Standards Board pronouncements, which is the organization that determines and updates the GAAP principles for government entities, is the common practice used by most government entity risk pools.
>
> **The Fund is a government self-insurance pool, which is a risk bearing activity subject to regulation by the Department, making it more appropriate for STAT accounting. The Department has been legislatively charged with evaluating the Fund's solvency and determining compliance with various statutes, which cannot be accurately completed unless the Fund follows STAT account principles on an ongoing basis.**
>
> The Insurance Department had previously approved the current reporting structure and as noted in the highlighted portion of the email below made assurances it would be approved going forward following the 68th Legislative Session. For the Insurance Department to state they were unable to verify significant elements of the NDIRF's solvency is a substantial deviation from previous financial audits.

The Department no longer believes, based on the results of the Financial and Market conduct examinations, that the STAT reconciliation alone is adequate for determining the Fund's solvency and compliance with statues that the Insurance Department has been charged with carrying out.

NORTH DAKOTA NDIRF INSURANCE RESERVE FUND

APPENDIX C

April 10, 2025

Matt Fischer, CFE
Chief Examiner
North Dakota Insurance Department
600 East Boulevard Avenue
Bismarck, ND 58505-0320

Dear Mr. Fischer:

As we discussed on April 2, 2025, attached are the payment records from the two policies for the "City of Oberon & Oberon Park District." The file names are "City of Oberon BA- shows bill coming in and out, no payment received before new agent," "City of Oberon GL - shows bill coming in and out, no payment received before new agent," and "City of Oberon Screenshot of cancelled policies, no funds received before new agent." While those policies were renewed with the NDIRF named as the broker, they were never invoiced, and no transaction took place while the City was looking for a new agency. Once the new agency was in place, the original policy was cancelled and rewritten.

Regarding the rest of the recommendations and whether they are acceptable, please see below:

> It is recommended that the Fund restructure its Board composition to more closely align with its claims activity by developing a process for electing/selecting at large non-members.
>
> The Board of Directors is in the process of implementing this recommendation in accordance with the Bylaws of the NDIRF.
>
> It is recommended that the Fund update the duties of its Finance Committee to include a regular, formal compliance review of the investment limitations and requirements as laid out within the investment guidelines document.
>
> As noted in the rebuttal, the report to the Finance Committee already includes the information noted in the recommendation. However, going forward, the minutes of the Finance Committee will be more detailed to clearly document the review process.
>
> It is recommended that the Fund update its Articles to reflect its current registered agent and registered office address.
>
> The NDIRF will update its Articles of Incorporation to reflect its current registered agent and new registered office address.

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It is recommended that the Fund develop more robust conflict of interest disclosure processes, including when Directors or Employees with disclosed conflicts need to recuse themselves from decision making.

In working towards AGRiP Advisory Standards of Recognition, the NDIRF is planning to update the conflict-of-interest policies to be more robust. As we have discussed, the premise of this recommendation is disputed.

It is recommended that the Fund discontinue the practice of acting as the agent of record for members as it is not a licensed insurance producer.

The NDIRF will not list itself as the agency on policies.

It is recommended that the Fund implement a direct bill premium solution in order to eliminate its agent credit risk exposure and reduce premium related fraud risks.

To proactively manage potential risks associated with agency billing, the NDIRF is exploring the implementation of an additional financial report to better monitor credit risk exposure. This effort aligns with the broader initiative to develop a formal, written ERM framework.

It is again recommended that the Fund develop a formal, written ERM framework for identifying, mitigating, and monitoring enterprise risks (including IT risks).

The NDIRF will develop a formal, written ERM framework.

It is recommended that the Fund create formal, written disaster recovery and business continuity plans. It is further recommended that the Fund test these plans at least annually to ensure completeness and efficacy.

The NDIRF will document a more formal, written disaster recovery and business continuity plan.

It is recommended that the Fund periodically engage a qualified investment actuary to review its investment guidelines, maturities, allocations, duration, and overall portfolio appropriateness to ensure the portfolio adequately matches the Fund's assets and liabilities.

It is the NDIRF's intention to engage SAA or another firm periodically to ensure the NDIRF's investment strategy remains aligned with its financial goals.

It is recommended that the Board approve an aggregate reserving policy (e.g., "reserves must be adjusted to an independent actuary's 95% confidence level") and that the Fund's pricing, capital management, and investment practices reflect the results of these actuarial reviews.

The NDIRF will take this recommendation and the AGRiP Advisory Standards into consideration and discuss an aggregate reserving policy at a future Board of Directors meeting.

It is recommended that the Fund develop and implement a vendor management program or tool that tracks all third-party vendors used by the Fund and assesses each in terms of overall risk and operational criticality. It is further recommended that the fund design its vendor management program to facilitate a centralized contract compliance monitoring function to better track its various obligations to and from its third-party vendors.

The NDIRF has very few third-party vendors which it directly contracts. However, the NDIRF has recently hired Staff Legal Counsel, and one of the roles of this position is to review and monitor vendor contracts.

It is recommended that the Fund annually, in conjunction with its reinsurance contract renewals, engage a qualified reinsurance expert to perform an analysis of its exposures and retention levels to ensure that the Fund's reinsurance program is appropriate.

The NDIRF will request exposure modeling to ensure the adequacy and appropriateness of its reinsurance program and retention levels.

It is recommended that the Fund engage and use a qualified, licensed Reinsurance Intermediary to leverage their expertise in ensuring the appropriateness of the reinsurance program, the submission of all eligible claims to the correct reinsurance contracts for recovery, and the overall accuracy of reinsurance accounting and reporting in compliance with Statutory Accounting Procedures.

The NDIRF will work with its reinsurance broker to determine the best placement options and services.

It is recommended that the Fund discontinue using GAAP accounting in its operations and financial filings and begin using STAT accounting and file financials based on the NAIC Annual Statement forms, per N.D.C.C. § 26.1-23.1-04.

While the NDIRF disagrees with the recommendation, it acknowledges the Department's authority under N.D.C.C. § 26.1-23.1-04 and will explore how to best implement this recommendation in order to fulfill the required reporting.

If you have any additional questions, please feel free to reach out to me.

Thank you,

Keith Pic
CEO
North Dakota Insurance Reserve Fund

STATE OF NORTH DAKOTA

BEFORE THE INSUNANCE COMMISSIONER

In the Matter of the Financial Examination of the North Dakota Insurance Reserve Fund of Bismarck, North Dakota.	))))	**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

INTRODUCTION

The North Dakota Insurance Department (hereinafter "Department") has conducted an examination of the North Dakota Insurance Reserve Fund (hereinafter "Respondent") in order to determine compliance with North Dakota law. The examination was made of the condition and affairs of Respondent as of December 31, 2023. Respondent was last examined by the Department for the period ended December 31, 2020. The current examination was conducted by Department staff. Pursuant to N.D.C.C. § 26.1-23.1-04(2), the examiners presented to the North Dakota Insurance Commissioner (hereinafter "Commissioner") a written report of examination.

On February 21, 2025, the examination report and an opportunity to review the examination report was transmitted to Respondent via electronic mail.

On March 14, 2025, the Department received the Respondent's written rebuttal. The Respondent's rebuttal is attached as Appendix A[1] to the examination report. The Department's response to the Respondent's rebuttal is attached as Appendix B[2].

[1] The redactions in Appendix A have been made for the purpose of consistency with the final exam report.

[2] The redactions in Appendix B have been made for the purpose of consistency with the final exam report.

By order dated March 18, 2025, (hereinafter "March 18, 2025, Order") the Commissioner adopted the examination report with modifications[3] in consideration of Respondent's rebuttal.

On March 27, 2025, the Respondent requested a meeting with Department staff to discuss one of the examination findings. The meeting was held on April 2, 2025, during which it was agreed the March 18, 2025, Order would be modified subject to the Respondent providing additional documentation and the approval of the Commissioner.

On April 10, 2025, Respondent provided a portion of the requested documentation. Accompanying the documentation was a letter providing Respondent's specific method to satisfy each of examination report recommendations located on pages 18 and 19 of the examination report. The Respondent's letter (hereinafter "April 10, 2025, Letter") is attached as Appendix C. The Respondent provided the remainder of the requested documentation on April 15, 2025. In consideration of the supplemental documentation submitted by the Respondent, the adopted March 18, 2025, examination report was presented to the Commissioner with additional modification.

The Commissioner, having fully considered and reviewed the examiner's report, the Respondent's April 10, 2025, Letter, and supplemental documentation, enters the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

The examination report with modifications was adopted under the March 18, 2025, Order.

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[3] Redactions on pages 37, 38 & 48 were made for the purpose of consistency with the examination report as adopted on March 18, 2025.

After consideration of Respondent's responses and submission of supplemental documentation received by the Department after March 18, 2025, the following modifications were made to the examination report on April 24, 2025:

1. Modification on page 7. Redaction of information based on subsequent documentation provided by the Respondent.
2. Modification on pages 27 & 28. Redaction of information based on subsequent documentation provided by the Respondent.
3. Modification on pages 59 & 60. Redaction of information based on subsequent documentation provided by the Respondent.

The Commissioner specifically adopts as his findings the examination report as modified on April 24, 2025.

A copy of the examination report as modified on April 24, 2025, the Respondent's rebuttal, the Department's responses to the Respondent's rebuttal, and Respondent's April 10, 2025, Letter are attached hereto and by this reference incorporated herein.

CONCLUSIONS OF LAW

Respondent is in compliance with all North Dakota laws relative to its financial condition. However, prospectively, Respondent must conduct its operations under Statutory Accounting Principles ("STAT"). Annual audited statements of Respondent's financial condition prepared under Generally Accepted Accounting Principles ("GAAP") with a STAT reconciliation will no longer be approved as being in compliance with N.D.C.C. § 26.1-23.1-04(1).

ORDER

NOW, THEREFORE, the March 18, 2025, Order adopting the modified examination report is rescinded.

Based on the foregoing Findings of Fact and Conclusions of Law, it is ordered that the examination report as modified on April 24, 2025, is adopted.

The use of this Order for competitive purposes by an insurance agent or agency holding a license in the State of North Dakota, or by any company holding a Certificate of Authority, or by anyone on their behalf, may be deemed unfair competition and be grounds for suspension or revocation of said license or authority.

DATED this 24th day of April, 2025.

Jon Godfread
Insurance Commissioner
N.D. Insurance Department
600 East Boulevard Avenue, Dept. 401
Bismarck, ND 58505
(701) 328-2440