

amount was originally payable.

- (c) Abatement. There shall be no abatement of Assessment payments.

#### 4.4 Assessments

(a) Total Risk Assessments. With respect to each Coverage Year, the Authority shall retain a Consultant to determine and prepare a report by March 1 preceding the beginning of such Coverage Year setting forth the total amount of Risk Assessments payable in the aggregate by all Member Entities for such Coverage Year ("Total Risk Assessment"). The Total Risk Assessment shall be that amount which the Consultant estimates is required to be deposited into the Program Operations Fund at a confidence level of no less than fifty percent (50%), to maintain sufficient Loss Reserves to pay all Settlements and Judgments for all Member Entities, all Administrative Costs incurred during the Coverage Year, costs of other insurance, excess insurance, or reinsurance, and such other reasonable and necessary costs as may be incurred in the operation of the Program as may be determined by the Board of Directors of the Authority. The Total Risk Assessment may be increased by the Authority if, upon advice of the Consultant, the Board of Directors determines that a higher confidence level should be maintained. The Consultant shall utilize such methodology as adopted from time to time by the Authority upon notice to the Member Entities and shall certify that such methodology was used. The Authority shall collect from all Member Entities an amount equal to the Total Risk Assessment determined by the Consultant to maintain the designated confidence level in the Program. The amount collected from all Members may include funds obtained from Assessments, investment income and Unencumbered Reserves, as the Board of Directors may in the exercise of its discretion deem appropriate with respect to each Coverage Year.

(b) Calculation of Individual Member Entity Risk Assessment. The Risk Assessment rates established as provided in Section 4.4(a) shall then be applied to each Member Entity's estimated payroll by rating classification and further adjusted by an experience rating modification which shall be determined by the Board of Directors on the advice of an actuarial consultant utilizing commonly accepted actuarial principles. The amount so allocated to each Member Entity shall be the Risk Assessment due and owing by the Member Entity to the Program for such period.

(c) The aggregate Assessment and the Risk Assessment due and owing by each Member Entity shall be computed and adopted by the Board of Directors on a Coverage Year basis to be effective July 1, provided that the Board of Directors may make such mid-term adjustments to Risk Assessment rates as appropriate and in the best interests of the Program and the Member Entities to accomplish the goals of the Program in accordance with the Workers' Compensation and Occupational Disease Acts of Montana.

#### 4.5. Risk Assessment Adjustment:

##### (a) Risk Assessment Adjustment.

(1) For purposes of the Risk Assessment Adjustment Computation, "Incurred Losses" for each Member Entity shall mean the amount by which Loss Reserves for all Claims of each Member Entity are to be established or increased during each Coverage Year covered by the annual report which is submitted by the Qualified Claims Administrator pursuant to Section 3.5 hereof, exclusive of the most recently completed preceding full Coverage Year, netting out any decrease in Loss Reserves for Claims of each such Member Entity during such period.

(2) Risk Assessment Adjustment Computation. On or before March 31 of each year, the Authority shall compute the Risk Assessment Adjustment for each Member Entity. The Risk Assessment Adjustment, which may be an additional Assessment or a refund of a previous Assessment, shall be the sum of Incurred Losses, loss expenses, and administrative costs less Risk Assessments, inclusive of prior Risk Assessment Adjustments. The methodology and limitations of additional assessment or refund shall be determined by the Authority based on the recommendation of the Consultant.

Notwithstanding the foregoing, the Authority is authorized to compute the Risk Assessment Adjustment more frequently than annually and/or inclusive of the most recently completed preceding full Coverage Year when the Board of Directors with due regard for the financial condition of the Program deems it prudent and necessary to do so.

(3) Overriding Clause. In the event Section 4.5(a) conflicts with any other section, provision, or definition in the ~~Liability~~ Workers' Compensation Coverage Program Agreement, this section shall govern and supersede the same.

(4) Prompt Notice of Risk Assessment Adjustments. The Authority shall give each Member Entity prompt notice of the determination of Risk Assessment Adjustments.

(5) Obligation of Pay Risk Assessment Adjustments. The obligation of Member Entities to pay Risk Assessment Adjustments with respect to Coverage Years in which they were Member Entities determined subsequent to the date of withdrawal shall in no event be discharged by expulsion or withdrawal from the Program.

4.56 Assessments In The Event of Losses and Expenses In Excess of the Program Funds. In the event the Program losses and expenses for the Coverage Year exceed Risk Assessments, Loss Reserves, and interest income for that Coverage Year, the difference shall be charged to the Unencumbered Reserves, if funds are available. If funds are not available, the Board of Directors, in the exercise of its discretion and upon the advice of a qualified actuary may impose a Special Assessment.

Should funds be obtained by the Program from borrowing or from any other appropriate source in lieu of a Special Assessment, then such funds shall be used to pay Claims. In the event of such borrowing of funds by the Program, the Authority shall advise the Employment Relations Division of the Montana Department of Labor and Industry, or its successor responsible for the regulation of the Program.

Any sums expended by the Member Entity in the interim to pay Claims covered by the Program shall be reimbursed, if they would otherwise be covered by the Program.

Provided that nothing in this Section ~~4.65~~ shall be construed to limit the joint and several liability of individual Member Entities.

4.67 Commingling of Funds Prohibited. Assessments, Special Assessments, Loss Reserves, Unencumbered Reserves, investment income, or other income paid to or derived from the Program shall not be commingled with the funds of any other program which is or may be sponsored, operated, or controlled by the Authority. Nothing in this Revised Agreement shall be