

# Excess Funds in Employee Benefit Accrued Liability Reserves

REPORT TO THE NEW YORK STATE LEGISLATURE



**New York State  
Office of the State Comptroller**

**Thomas P. DiNapoli • State Comptroller**

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**Date of Issue: June 2012**

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## Introduction

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### Background

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School districts can establish an Employee Benefit Accrued Liability Reserve (EBALR) under Section 6-p of the General Municipal Law (GML) and use EBALR moneys to make cash payments to employees for accrued leave time due to them upon separation from school district employment. These cash payments are for employees' unused and unpaid sick leave, personal leave, holiday leave, vacation time, time allowances granted in lieu of overtime compensation and any other payments due to them, as authorized by law or collective bargaining agreement (CBA). School districts are not required to fund the liability for compensated absences, but they are required to calculate this liability and to report it in their financial statements. As of June 30, 2010, 518 school districts statewide had established EBALR funds whose balances totaled more than \$980 million.

Office of the State Comptroller (OSC) audits have found that many school districts reserved more EBALR funds than necessary to cover liabilities for compensated absences. Sometimes this overfunding amounted to millions of dollars. However, school districts could not use these excess funds to pay for other costs because the GML does not allow these funds to be used for anything other than the costs of compensated absences. Therefore, the excess funds were "stranded."

To give school districts access to these funds, the New York State Legislature included a provision in the 2011-2012 State Budget that amended the GML, Section 6-p to allow school districts - during the 2011-12 school year only - to withdraw EBALR moneys to use for other purposes in funding their 2011-12 budgets. Each school district that elected to do this could withdraw the lesser of (a) the dollar value of excess funding in the reserve, as determined by OSC, or (b) the amount of the school district's Gap Elimination Adjustment,<sup>1</sup> as calculated by the Commissioner of Education.

The Legislature also amended Section 33 of the GML to make OSC responsible for examining school districts' EBALR funds and for determining any amounts in this reserve in excess of districts' total EBALR liabilities. This amendment also requires OSC to prepare a report on the school districts with excess EBALR funds, and the amount of the excess for each district, by July 1, 2012.

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<sup>1</sup> Chapter 58 of the Laws of 2011 includes a Gap Elimination Adjustment (GEA), which amended New York State Education Law. The GEA refers to the gap between budgeted State expenditures and the revenue available to support those expenditures. By reducing the calculated formula aid amount payable to each district, school districts contribute to the elimination of the State budget gap.

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## Objective

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The objective of our review was to report on our efforts to certify school districts' excess EBALR funds as of June 30, 2010. We classified as excess EBALR funds any amount maintained in an EBALR that exceeded calculated liabilities associated with compensated absences.

Each district was permitted to use the lesser of the certified EBALR excess or the district's GEA<sup>2</sup> to fund part of the district's 2011-12 budget. Many districts indicated their intent to use their EBALR funds in 2011-12. While the change in the GML added a requirement that all districts report relevant information about the withdrawal of EBALR funds to the New York State Education Department (SED), SED has not yet collected this information.

**Because of OSC's certification efforts, ...school districts were given access to \$191 million ...that could be used to fund operations — and help reduce the tax burden on local taxpayers.**

# EBALR

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<sup>2</sup> GEA is determined by the New York State Education Department.

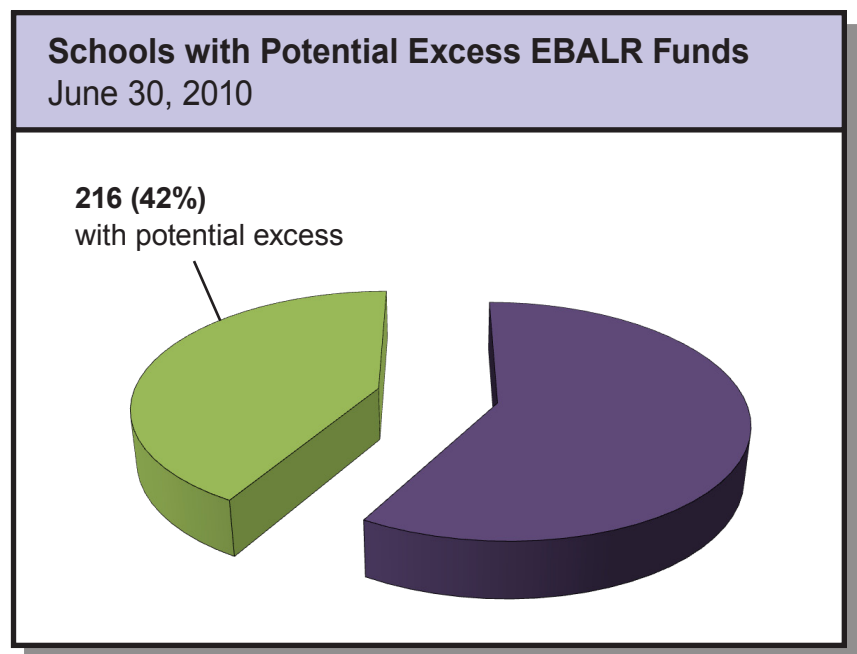
## Certification Process and Results

OSC certified the excess EBALR funds that school districts had reserved, but could not legally use, so district officials could put these moneys to productive use to pay for operating costs. This was especially critical in a year when the continued effects of the economic downturn that forced State aid cuts to almost all school districts statewide.<sup>3</sup> Because of OSC's certification efforts, involving on-site visits to more than 100 school districts, officials at these school districts were given access to \$191 million in previously unavailable resources that could be used to fund operations – and help reduce the tax burden on local taxpayers.

### Certification Process

Of the 697 school districts in New York State outside New York City, we determined that 216 school districts (31 percent) reported excess EBALR funds that they could potentially use to help fund 2011-12 budgets. We obtained this information by reviewing school districts' submission of annual financial information to OSC (ST-3 data) and by sending surveys to school districts.<sup>4</sup>

Any school districts that intended to take the opportunity to use excess EBALR moneys to pay for operating expenditures had to have the excess amount certified by OSC. District officials from 108 school districts indicated that they wanted to use their excess EBALR funds, thus requiring certification.

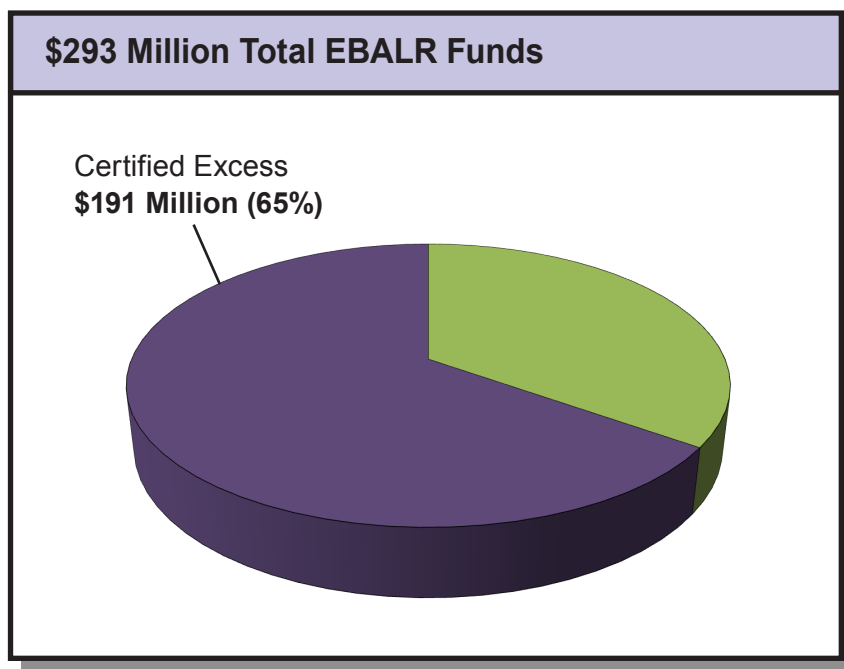


<sup>3</sup> Approximately 16 school districts did not experience a net cut in State aid.

<sup>4</sup> We also sent correspondence to all other districts that: (1) indicated through the survey that they did not have an excess in their EBALR; and/or (2) did not appear to have excess EBALR, according to our review of ST-3 data.

## Results

We reviewed the information available at the 108 school districts and found that, collectively, they had \$293 million in EBALR funds. Although these school districts had reported more than \$150 million in related liabilities, we verified that only \$105 million of this amount related to legitimate liabilities for compensated absences.<sup>5</sup> Therefore, we certified \$191 million of the \$293 million as excess EBALR funds. Details about EBALR liabilities and reserves for all 108 school districts are provided in Appendix A.



In certifying the amount of excess funds in these 108 school districts' EBALRs at June 30, 2010, we determined that school districts generally reported their EBALR balances accurately.<sup>6</sup> However, almost all the school districts reported the liabilities associated with EBALR inaccurately. We recommended adjustments to the reported liabilities of 101 of the 108 school districts (94 percent). More specifically, 67 school districts collectively reported \$55 million more in liabilities for compensated absences than we verified during our on-site review; another 34 school districts reported \$9.6 million less in liabilities than we verified.

Overall, our verification process reduced the \$150 million in these school districts' reported liabilities by a total of \$45 million, or by about 30 percent. That means that these school districts' excess EBALR funds, originally reported as \$143 million (\$293 million in EBALR funds less \$150 million in related liabilities), increased by \$45 million to \$191 million as a result of OSC certification work.<sup>7</sup>

<sup>5</sup> We certified \$105 million in liabilities; however the amount of excess EBALR (\$191 million) is \$102 million less than the total EBALR funds because five districts had certified liabilities that exceeded their EBALR balances.

<sup>6</sup> We verified the cash balance in EBALR funds by comparing that amount to the bank statements, accounting records, and audited financial statements and adjusted the EBALR fund amounts as necessary.

<sup>7</sup> We certified \$105 million in liabilities, which resulted in \$191 million in excess EBALR. The numbers total only \$188 million because five districts had certified liabilities that exceeded their EBALR balances by approximately \$3 million.

We found that the errors school districts made in their reported liabilities associated with EBALR balances were due to a variety of reasons. Section 6-p of the GML restricts the use of EBALR funds payments to separating employees for accrued leave time if such payments are due to them by law or CBA. In reviewing the liability calculations provided by school district officials, we found that many school districts had improperly included costs that are not legally permitted to be paid from an EBALR or amounts not provided for in individual employment contracts or CBAs.

For example, we found that some school districts' EBALR liability calculations improperly included the following:

- Amounts for administrative employees' retirement incentives that cannot legally be paid by EBALR funds
- Amounts intended to fund retirees' health insurance costs that cannot legally be paid by EBALR funds
- Accruals for time that employees had not earned in accordance with employee contracts or CBAs
- Accruals for more leave than the employee was entitled to according to the CBA (e.g., employees can receive a payout for only 260 days of unused sick leave, even if their sick leave balance exceeded this amount upon separation).

The following table provides examples of the errors we identified at specific school districts.

<b>Examples of Inaccuracies in Calculating Liabilities</b>			
<b>School District</b>	<b>Reported Liability</b>	<b>Verified Liability</b>	<b>Explanation of Inaccuracy</b>
<b>Auburn School District</b>	\$655,895	\$281,845	The District included sick leave accrual of \$355,000 even though the CBA does not provide for payment of unused sick leave.
<b>Berne-Knox-Westerlo School District</b>	\$354,220	\$245,927	The District included a carryover of more days than allowed by contract, exceeded maximum contractual payout amounts, and provided for payouts to certain employees who had not met the 10-year service requirement to receive payments.
<b>Gilbertsville-Mount Upton School District</b>	\$1,057,462	\$33,264	The District provided for payouts to CSEA and non-represented employees who had not vested; the District also provided for payments to teachers for unused sick leave, even though this benefit was not included in the CBA.
<b>Kenmore-Town of Tonawanda School District</b>	\$9,873,823	\$1,356,766	The District included the estimated costs for retirement incentives, which cannot be paid by EBALR funds
<b>Newfane School District</b>	\$19,956,986	\$343,321	The District's liability calculation consisted entirely of retiree health insurance costs, which cannot be paid by EBALR funds.

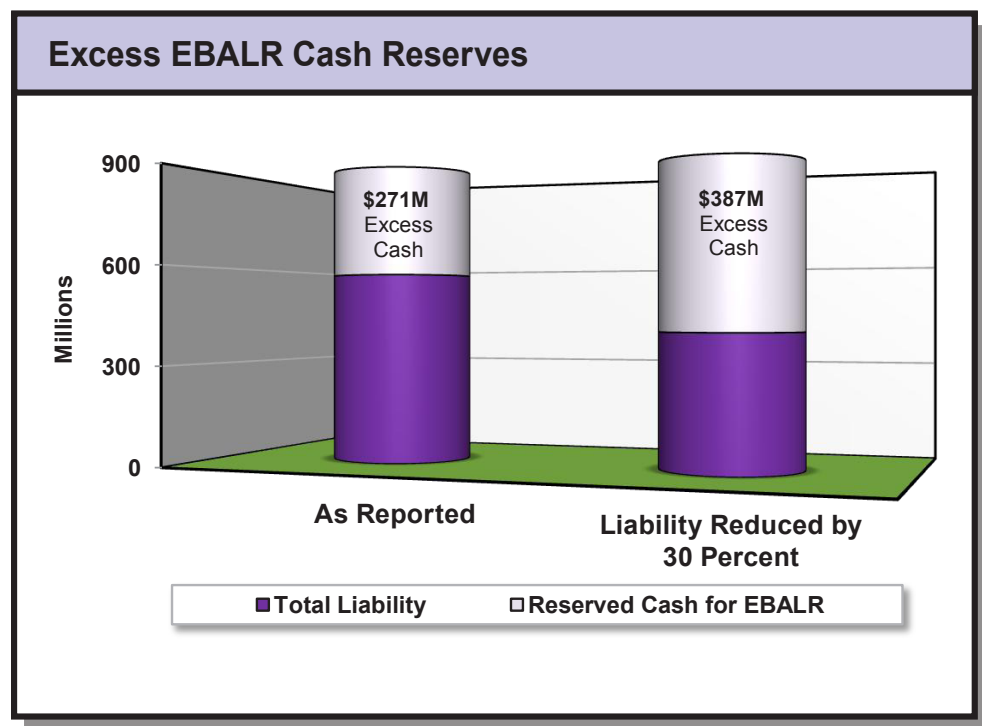


In some cases, school districts overstated EBALR liabilities because school district employees and officials did not fully understand the GML restrictions on the use of EBALR funds, or because school district boards of education did not adequately monitor the establishment and funding of this reserve. In other cases, it appeared that school district officials had improperly reserved additional fund balance in an EBALR. Regardless of the reasons for school districts' overstated EBALR liabilities, the result is always the same: excess funds that are stranded and sitting idle in a reserve. As a result of the Legislature's action to allow school districts a "one-time pass" to access their excess EBALR funds, and OSC's certification efforts, 103 school districts were given the opportunity to use \$191 million in excess EBALR productively.

### Estimated EBALR Resources in 2011-12

To estimate the potential excess EBALR cash reserves, beyond the 108 school districts analyzed in detail, we reviewed the annual ST-3 data submitted to OSC by all 697 school districts for the year ended June 30, 2011, and found that 619 school districts reported a total of \$1.2 billion in liabilities for compensated

absences. In addition, 542 school districts reported \$964 million in EBALR funds at that date.<sup>8</sup> We subtracted each district's total liabilities from its EBALR funds, as reported, and found that 238 school districts reported excess EBALR funds that totaled \$271 million.



<sup>8</sup> Reported liabilities exceed EBALR funds because: (a) some school districts do not establish an EBALR, but instead pay for reported liabilities from operating funds; (b) and some school districts reported liabilities for compensated absences but had a zero or deficit balance in reserved cash in an EBALR.

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However, excess EBALR funds at June 30, 2011 were likely much higher than reported to OSC. During our certification process, we found that liabilities were often reported inaccurately, and were reduced by 30 percent overall as a result of this certification work. Therefore, to better estimate the potential excess EBALR funds statewide at June 30, 2011, we reduced each school district's reported liabilities by 30 percent. Reducing school districts' liabilities by the error rate derived from our certification work produced a result in which many more school districts - 389 rather than 238 - had potential excess funds; reducing reported liabilities also showed, as illustrated on the previous page, that significantly more excess funds - \$387 million rather than \$271 million - were potentially idle in school districts' EBALRs at June 30, 2011.

During the preparation of this report, we also sought information about how school districts used their EBALR funds during the 2011-12 fiscal year. However, as of the date of this report, SED could not provide us with information regarding the number of school districts with certified excess EBALR funds that actually used those funds to help pay for budgeted costs during the 2011-12 fiscal year.

## APPENDIX A: Certified Excess EBALR Funds at June 30, 2010

School District	EBALR Balance 6/30/2010	Reported Liability	Verified Liability	Certified Excess
Alden Central School District	\$1,668,213	\$2,030,312	\$1,700,810	\$0
Amityville Union Free School District	\$1,646,695	\$918,973	\$853,667	\$793,028
Andes Central School District	\$373,439	\$237,422	\$136,001	\$237,438
Andover Central School District	\$523,260	\$158,091	\$157,685	\$365,575
Argyle Central School District	\$839,306	\$373,028	\$397,339	\$441,967
Attica Central School District	\$1,430,328	\$392,810	\$601,936	\$828,392
Auburn City School District	\$1,588,447	\$655,895	\$281,845	\$1,306,602
Baldwin Union Free School District	\$10,445,874	\$2,521,638	\$2,269,167	\$8,176,707
Batavia City School District	\$7,830,175	\$11,119,008	\$9,087,744	\$0
Bay Shore Union Free School District	\$18,550,715	\$8,212,298	\$7,026,535	\$11,524,180
Belfast Central School District	\$347,179	\$315,272	\$279,122	\$68,057
Berne-Knox Westerlo Central School District	\$494,224	\$354,220	\$245,927	\$248,297
Brockport Central School District	\$2,165,000	\$177,120	\$66,499	\$2,098,501
Brushton-Moira Central School District	\$1,016,721	\$805,199	\$630,199	\$386,522
Camden Central School District	\$3,831,335	\$1,328,429	\$1,004,947	\$2,826,388
Campbell-Savona School District	\$377,269	\$223,561	\$266,194	\$111,075
Canajoharie Central School District	\$134,833	\$75,269	\$96,269	\$38,564
Canastota Central School District	\$1,114,918	\$230,782	\$228,582	\$886,336
Cassadaga Valley Central School District	\$1,576,225	\$361,843	\$973,311	\$602,914
Charlotte Valley Central School District	\$379,488	\$247,488	\$247,488	\$132,000
Cherry Valley-Springfield Central School District	\$977,312	\$977,312	\$57,918	\$919,393
Connetquot Union Free School District	\$9,270,116	\$7,260,495	\$6,490,940	\$2,779,176
Copiadue Union Free School District	\$6,376,310	\$3,498,350	\$3,249,745	\$3,126,565
Cuba-Rushford Central School District	\$3,053,775	\$719,759	\$761,879	\$2,291,896
Downsville Central School District	\$1,135,331	\$414,850	\$289,450	\$845,881
Dunkirk City School District	\$1,752,867	\$333,046	\$333,046	\$1,419,821
East Bloomfield School District	\$340,000	\$83,735	\$19,975	\$320,025
East Quogue School District	\$519,266	\$237,576	\$233,870	\$285,396
East Syracuse-Minoa School District	\$5,475,435	\$201,300	\$208,560	\$5,266,875
Ellicottville School District	\$500,750	\$209,378	\$439,613	\$61,137
Elmira Heights School District	\$679,073	\$243,750	\$198,026	\$481,047
Evans-Brant School District	\$3,129,696	\$1,060,304	\$1,291,546	\$1,838,150
Farmingdale School District	\$12,017,046	\$6,425,611	\$5,200,950	\$6,816,096
Fort Ann School District	\$789,810	\$299,687	\$288,402	\$501,408
Franklinville School District	\$1,985,422	\$14,000	\$13,716	\$1,971,706
Georgetown-South Otselic School District	\$372,541	\$180,288	\$199,446	\$173,095
Gilbertsville-Mount Upton School District	\$1,754,428	\$1,057,462	\$33,264	\$1,721,164
Gorham-Middlesex Central School District	\$2,010,999	\$1,444,095	\$1,708,364	\$302,635
Greene School District	\$2,172,854	\$1,246,057	\$1,018,512	\$1,154,342

## APPENDIX A: Certified Excess EBALR Funds at June 30, 2010

School District	EBALR Balance 6/30/2010	Reported Liability	Verified Liability	Certified Excess
Hammond School District	\$1,139,089	\$403,249	\$169,556	\$969,533
Hancock Central School District	\$520,242	\$485,256	\$415,835	\$104,407
Harpursville School District	\$3,654,830	\$60,198	\$211,268	\$3,443,562
Haverstraw-Stony Point School District	\$9,990,634	\$5,122,054	\$4,944,809	\$5,045,825
Herkimer School District	\$386,271	\$144,525	\$123,637	\$262,634
Hermon-De Kalb School District	\$1,124,449	\$188,854	\$283,196	\$841,253
Homer School District	\$2,937,402	\$209,690	\$1,842,061	\$1,095,341
Honeoye School District	\$879,294	\$455,159	\$475,186	\$404,108
Horseheads School District	\$11,952,459	\$1,528,939	\$2,129,370	\$9,823,089
Hudson Falls School District	\$3,620,672	\$784,973	\$-	\$3,620,672
Islip Union Free School District	\$1,878,664	\$1,042,464	\$1,014,314	\$864,350
Jamestown School District	\$600,000	\$346,663	\$1,067,657	\$0
Jefferson School District	\$371,879	\$70,763	\$88,197	\$283,682
Jordan-Elbridge School District	\$846,796	\$133,770	\$126,204	\$720,592
Kenmore-Town/Tonawanda School District	\$7,990,048	\$9,873,823	\$1,356,766	\$6,633,282
Letchworth School District	\$818,410	\$478,910	\$391,117	\$427,293
Levittown School District	\$10,674,699	\$-	\$-	\$10,674,699
Lyncourt School District	\$1,026,498	\$857,572	\$83,214	\$943,284
Madison School District	\$952,855	\$227,546	\$184,727	\$768,128
Madrid-Waddington School District	\$254,171	\$205,918	\$303,840	\$0
Marathon School District	\$2,996,551	\$286,333	\$417,983	\$2,578,568
Massena School District	\$11,072,087	\$2,645,945	\$2,042,653	\$9,029,434
Mexico School District	\$5,017,308	\$4,425,167	\$4,374,114	\$643,194
Miller Place School District	\$5,843,427	\$3,827,984	\$3,827,984	\$2,015,443
Moravia School District	\$943,102	\$794,935	\$700,414	\$242,688
Morris School District	\$509,710	\$140,584	\$144,452	\$365,258
Morrisville-Eaton School District	\$365,452	\$355,887	\$349,900	\$15,552
Naples School District	\$1,795,912	\$893,361	\$2,896,514	\$0
Newfane Central School District	\$8,493,360	\$19,956,986	\$343,321	\$8,150,039
Newfield School District	\$803,792	\$803,792	\$536,181	\$267,611
North Collins School District	\$1,736,666	\$204,198	\$60,888	\$1,675,778
North Shore Central School District	\$812,794	\$161,749	\$157,381	\$655,413
Norwich School District	\$1,717,519	\$425,912	\$763,341	\$954,178
Olean School District	\$67,897	\$24,535	\$37,990	\$29,907
Oneida School District	\$1,918,316	\$695,460	\$695,460	\$1,222,856
Oxford School District	\$487,509	\$387,927	\$363,157	\$124,352
Pembroke School District	\$4,541,355	\$877,712	\$679,708	\$3,861,647
Phelps-Clifton Springs School District	\$2,309,479	\$389,127	\$1,698,819	\$610,660
Plainedge School District	\$2,950,196	\$2,918,151	\$2,781,454	\$168,742

## APPENDIX A: Certified Excess EBALR Funds at June 30, 2010

School District	EBALR Balance 6/30/2010	Reported Liability	Verified Liability	Certified Excess
Port Byron School District	\$1,598,805	\$40,008	\$33,467	\$1,565,338
Portville School District	\$2,426,267	\$415,000	\$829,349	\$1,596,918
Potsdam School District	\$679,254	\$594,206	\$599,291	\$79,963
Queensbury School District	\$8,081,104	\$-	\$27,779	\$8,053,325
Remsenburg-Speonk School District	\$189,757	\$-	\$-	\$189,757
Richfield Springs School District	\$1,711,814	\$270,430	\$231,141	\$1,480,673
Ripley School District	\$607,878	\$27,140	\$152,613	\$455,265
Roscoe School District	\$244,206	\$71,960	\$101,453	\$142,753
Roslyn School District	\$2,765,438	\$199,368	\$126,432	\$2,639,006
Roxbury School District	\$2,585,609	\$721,313	\$532,391	\$2,053,218
Saint Johnsville School District	\$393,848	\$130,462	\$116,292	\$277,556
Salmon River School District	\$1,236,667	\$714,891	\$675,673	\$560,994
Schenectady School District	\$4,742,732	\$7,370,216	\$1,904,677	\$2,838,055
Schenevus School District	\$407,273	\$158,780	\$152,187	\$255,086
Scio School District	\$761,548	\$512,274	\$237,072	\$524,476
Sidney School District	\$2,370,784	\$793,920	\$330,783	\$2,040,001
Silver Creek School District	\$1,299,182	\$1,185,610	\$147,867	\$1,151,315
Sodus School District	\$1,036,862	\$919,905	\$875,714	\$161,148
Tuckahoe Common School District	\$666,772	\$310,111	\$312,648	\$354,124
Uniondale Union Free School District	\$6,005,028	\$1,000,000	\$1,348,886	\$4,656,142
Valley Stream Thirteen School District	\$4,266,655	\$5,239,483	\$3,129,525	\$1,137,130
Warsaw School District	\$1,952,472	\$503,867	\$498,845	\$1,453,627
Waterford-Halfmoon School District	\$1,660,000	\$727,186	\$708,483	\$951,517
Watertown School District	\$1,246,931	\$519,206	\$599,552	\$647,379
Westbury School District	\$12,526,500	\$4,679,338	\$4,006,971	\$8,519,529
Westfield School District	\$1,760,000	\$2,968,715	\$22,005	\$1,737,995
Westport School District	\$658,533	\$284,542	\$268,536	\$389,997
Whitehall School District	\$978,371	\$435,964	\$435,964	\$542,407
Willsboro School District	\$1,335,079	\$135,736	\$82,080	\$1,252,999
Worcester School District	\$508,836	\$73,022	\$115,367	\$393,469
<b>108 Total School Districts Certified</b>	<b>\$293,352,674</b>	<b>\$150,484,437</b>	<b>\$105,274,202</b>	<b>\$190,986,566</b>

## Appendix B

### Review and Certification Process

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During our review of EBALR fund excess, we used the following procedures:

- We verified that the amount the district provides as the balance in the EBALR agrees with what is reported in its accounting records and audited financial statements. In addition, we reviewed the bank statements for verification of the cash balance of the EBALR.
- We tested the mathematical accuracy of the calculation. We used professional judgment and conducted footing and cross-footing tests to obtain assurance that the calculations were mathematically correct.
- We conducted liability testing to ensure that assumptions in the liability calculations are appropriate. For each bargaining unit, we reviewed the employee contract to verify that employees were indeed entitled to payouts of leave accruals, etc.
- We tested to verify that balances used in the liability calculation were in agreement with balances in accrued leave records. In addition, we ensured that any accrual caps (i.e., employees can earn a maximum of 280 days of sick leave, or employees will only be paid for 260 days of sick leave upon termination of service) were taken into consideration in the calculation.
- We determined the amounts that should not be included in the EBALR liability calculation, such as amounts that are not actually accrued and payable to the employees upon termination and other amounts that are not permitted by GML §6-p to be paid from the EBALR.
- For any amounts included in a district's EBALR liability that were not correct or were not allowable EBALR-payable items, according to the above steps, we deducted the appropriate amounts from the district's liability calculation.

We compared the adjusted liability amount to reserve balance. We then documented the excess.



## Appendix C

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