



# Newfane Central School District Financial Condition

## Report of Examination

Period Covered:

July 1, 2011 – September 17, 2015

2015M-307



Thomas P. DiNapoli

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# State of New York Office of the State Comptroller

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## **Division of Local Government and School Accountability**

March 2016

Dear School District Officials:

A top priority of the Office of the State Comptroller is to help school district officials manage their districts efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support district operations. The Comptroller oversees the fiscal affairs of districts statewide, as well as districts' compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving district operations and Board of Education governance. Audits also can identify strategies to reduce district costs and to strengthen controls intended to safeguard district assets.

Following is a report of our audit of the Newfane Central School District, entitled Financial Condition. This audit was conducted pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law.

This audit's results and recommendations are resources for district officials to use in effectively managing operations and in meeting the expectations of their constituents. If you have questions about this report, please feel free to contact the local regional office for your county, as listed at the end of this report.

Respectfully submitted,

*Office of the State Comptroller  
Division of Local Government  
and School Accountability*

# Introduction

## Background

The Newfane Central School District (District) is located in the Towns of Newfane, Lockport, Cambria and Wilson in Niagara County. The District is governed by the Board of Education (Board), which is composed of seven elected members. The Board is responsible for the general management and control of the District's financial and educational affairs. The Superintendent of Schools is the District's chief executive officer and is responsible, along with other administrative staff, for the District's day-to-day management under the Board's direction. The Business Administrator is responsible for maintaining the District's accounting records, monitoring budgeted amounts versus actual operating results and preparing financial reports.

The District operates four schools with approximately 1,600 students and 200 employees. The District's budgeted appropriations for the 2015-16 fiscal year are \$33.6 million, which are funded primarily with State aid and real property taxes.

## Objective

The objective of our audit was to evaluate the District's financial condition. Our audit addressed the following related question:

- Did the Board and District administrative staff adequately manage the District's financial condition and reserves?

## Scope and Methodology

We examined the District's financial condition and reserves for the period July 1, 2011 through September 17, 2015.

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit are included in Appendix C of this report.

## Comments of District Officials and Corrective Action

The results of our audit and recommendations have been discussed with District officials, and their comments, which appear in Appendix A, have been considered in preparing this report. District officials generally disagreed with our findings but indicated they would address the recommendations. Appendix B includes our comments on issues raised in the District's response letter.

The Board has the responsibility to initiate corrective action. Pursuant to Section 35 of General Municipal Law, Section 2116-a (3)(c) of New York State Education Law and Section 170.12 of the Regulations of the Commissioner of Education, a written corrective

action plan (CAP) that addresses the findings and recommendations in this report must be prepared and provided to our office within 90 days, with a copy forwarded to the Commissioner of Education. To the extent practicable, implementation of the CAP must begin by the end of the next fiscal year. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. The Board should make the CAP available for public review in the District Clerk's office.

## Financial Condition

A school district's financial condition is a determining factor in its ability to provide educational services to students. The responsibility for accurate and effective financial planning rests with Board members and other District officials. Such planning includes the adoption of realistic budgets that are based on historical trends, adjusting for known differences. A district may retain a portion of fund balance, referred to as unrestricted fund balance. However, districts are required to use any unrestricted fund balance above 4 percent of the following year's appropriations to reduce the real property tax levy.

A district can also reserve portions of fund balance to finance future costs for a variety of specified purposes. District officials should ensure that reserve balances do not exceed what is necessary to address long-term obligations or planned expenditures. Once the Board has addressed those issues, any remaining fund balance, exclusive of the amount allowed by law to be retained to address cash flow and unexpected occurrences, should be used to benefit the taxpayers, such as by reducing the tax levy.

The Board and District officials have not properly managed District finances. During fiscal years 2011-12 through 2014-15, the District annually appropriated an average of \$2.8 million (97 percent) more in fund balance than what was actually needed to fund operations. This practice allowed the District to circumvent the 4 percent statutory limit imposed on the level of unrestricted fund balance. During 2014-15, the District appropriated \$1.8 million for the 2015-16 budget; however, we project that it will not be needed. As such, we expect the District's unrestricted fund balance will continue to exceed the statutory limit. Recalculated unrestricted fund balance ranged between 11.4 percent and 12.2 percent of the ensuing year's appropriations from fiscal years 2011-12 through 2014-15. Furthermore, the District overfunded two reserves by as much as \$9.8 million (97 percent) as of June 30, 2015. This amount is 29 percent of the 2015-16 budget.

### Fund Balance and Budgeting

The Board and District management are responsible for ensuring that the annual budget includes accurate estimates of expected revenues, appropriations and the use of fund balance. Accurate budget estimates help ensure that the levy of real property taxes is not greater than necessary.

We reviewed the District's actual results of operations for 2011-12 through 2014-15 and found that the Board and District officials consistently overestimated appropriations in the adopted budgets. During this time, total appropriations were overestimated by \$20 million (16.1 percent of total appropriations not spent). For example, from 2011-12 through

2014-15, budgeted employee benefit costs were overestimated by \$8 million (26 percent of this appropriation was not spent), and budgeted costs for programs for children with handicapping conditions were overestimated by \$3.5 million (21 percent of this appropriation was not spent). The District had information, including employee contracts and collective bargaining agreements, which it could have used to more accurately estimate employee benefit costs.

During 2011-12 through 2014-15, the District also annually appropriated an average of \$2.8 million in fund balance to finance operations, which made it appear that the District was in compliance with the 4 percent statutory limit on unrestricted fund balance for those fiscal years, as indicated in Figure 1. However, because of positive budget variances resulting from overestimated appropriations, the District did not use an average of \$2.7 million (98 percent) of appropriated fund balance per year. Further, in fiscal year 2014-15, the District exceeded the 4 percent statutory limit on unrestricted fund balance even after appropriating \$1.8 million to fund the ensuing year's operations.

<b>Figure 1: Unrestricted Fund Balance at Year End</b>				
	<b>2011-12</b>	<b>2012-13</b>	<b>2013-14</b>	<b>2014-15</b>
Beginning Fund Balance	\$15,866,257	\$15,513,166	\$15,258,232	\$15,450,665
Add: Operating Surplus/(Deficit)	(\$353,091)	(\$254,934)	\$192,433	\$1,090,709
Ending Fund Balance	\$15,513,166	\$15,258,232	\$15,450,665	\$16,541,374
Less: Restricted Funds	\$9,558,456	\$9,575,582	\$9,836,533	\$10,769,602
Less: Encumbrances	\$1,938,026	\$1,590,108	\$1,647,405	\$1,683,644
Less: Appropriated Fund Balance for the Ensuing Year	\$3,556,475	\$3,206,668	\$2,610,006	\$1,818,564
Unrestricted Fund Balance at Year End	\$460,209	\$885,874	\$1,356,721	\$2,269,564
Ensuing Year's Budgeted Appropriations	\$32,939,926	\$33,699,877	\$33,918,036	\$33,616,363
Unrestricted Fund Balance as a Percentage of Ensuing Year's Budget	1.4%	2.6%	4.0%	6.7%

The Board's practice of overestimating appropriations and appropriating fund balance that would not actually be used allowed the District to circumvent the 4 percent statutory limit on unrestricted fund balance. When adding back unused appropriated fund balance, the District's recalculated unrestricted fund balance ranged between 11.4 percent and 12.2 percent of the ensuing year's appropriations, exceeding the statutory limit every year, as indicated in Figure 2.

<b>Figure 2: Unused Fund Balance</b>				
	<b>2011-12</b>	<b>2012-13</b>	<b>2013-14</b>	<b>2014-15</b>
Unrestricted Fund Balance at Year End	\$460,209	\$885,874	\$1,356,721	\$2,269,564
Add: Appropriated Fund Balance Not Used to Fund Ensuing Year's Budget	\$3,301,541	\$3,206,668	\$2,610,006	\$1,818,564
Recalculated Unrestricted Fund Balance	\$3,761,750	\$4,092,542	\$3,966,727	\$4,088,128
Recalculated Unrestricted Fund Balance as a Percentage of Ensuing Year's Budget	11.4%	12.1%	11.7%	12.2%

The District's practice of consistently appropriating fund balance that is not needed to finance operations is, in effect, a reservation of fund balance that is not provided for by statute and a circumvention of the statutory limit imposed on the level of unrestricted fund balance. The District also increased the tax levy each year by an average of 1.5 percent during this time. If the budget had been prepared accurately and the amount of fund balance appropriated had actually been used, taxes could have been reduced significantly.

We reviewed the District's 2015-16 budget. The District budgeted similarly to previous years and most likely will not use the \$1.8 million it appropriated in fund balance. Therefore, the District's recalculated fund balance will likely continue to exceed the statutory limit. However, the District did not increase the tax levy for the 2015-16 fiscal year.

## Reserves

Reserves may be established by the Board in accordance with applicable laws. Money set aside in reserves must be used only in compliance with statutory provisions which determine how reserves are established, funded, expended and discontinued. Generally, school districts are not limited as to how much money can be held in reserves; however, reserve balances must be reasonable. Funding reserves at greater than reasonable levels contributes to real property tax levies that are higher than necessary because the excessive reserve balances are not being used to fund operations.

As of June 30, 2015, the District had three reserve funds with balances totaling \$10.8 million. We analyzed these reserves for reasonableness and adherence to statutory requirements and found the balance of the retirement contribution reserve appeared to be reasonable. However, the balances of two reserves, the employee benefit accrued liability reserve and the unemployment insurance reserve, totaling approximately \$10.1 million, were higher than necessary to fund costs that may be legally paid from these reserves by as much as \$9.8 million (97 percent).

Employee Benefit Accrued Liability Reserve (EBALR) – General Municipal Law (GML) authorizes the establishment of this type of reserve to fund the cash payment of accrued and unused sick, vacation and other leave time due employees upon separation from service. The reported balance of this reserve as of June 30, 2015 was approximately \$9.8 million. The District's estimate of the monetary value of accrued and unused sick, vacation and other leave time due to employees upon separation from service was approximately \$1 million. The District included the cost of health insurance for retirees in its calculation. The District provides group health, vision and dental insurance benefits to retired employees in accordance with

provisions of various employment contracts. The District is using the EBALR to set aside amounts related to these benefits. However, these costs cannot be funded by the EBALR. We estimate that the monetary value of unused leave payable at separation from service was only \$308,000. Therefore, this reserve is overfunded by \$9.5 million (97 percent).

GML allows school districts to reduce excess funding in the EBALR. Accordingly, at the District's request, we certified the amount of excess funds in the EBALR in May 2013. Subsequently, the District realized operating surpluses in both 2013-14 and 2014-15 and, as such, did not use any funds from the EBALR. The District could have lowered the tax levy by millions of dollars by using the excess in this reserve.

Unemployment Insurance Reserve – GML authorizes the establishment of this type of reserve to reimburse the New York State Unemployment Insurance Fund for payments made to claimants. This reserve had a reported balance of \$345,062 as of June 30, 2015. While the District incurred unemployment costs averaging \$31,800 annually from 2011-12 through 2014-15, these expenditures were consistently budgeted for and paid out of the general fund as routine operating costs. The reserve balance has remained unchanged since it was established in 2010. We question the reasonableness of the amount held in this reserve, as the balance is more than 10 times the annual average costs.

Further, the Board has not adopted a policy governing the establishment, accumulation and use of reserve funds. In such a policy, the Board should balance the intent of accumulating money for future identified needs with the obligation to ensure that taxpayers are not overburdened. Reserve funds should not be used merely as a means to store excess fund balance.

## **Recommendations**

The Board and District officials should:

1. Ensure that budgeted appropriations are reasonable so that only taxes actually needed to fund operations will be levied.
2. Lower tax levies to ensure that estimates in the annual budget for the planned use of fund balance are accurate and reasonable.
3. Ensure that reserve fund balances are maintained at reasonable levels and take appropriate action, in accordance with statute, to remedy reserves with excess funds.
4. Develop and adopt a reserve fund policy.

## **APPENDIX A**

### **RESPONSE FROM DISTRICT OFFICIALS**

The District officials' response to this audit can be found on the following pages.



# Newfane Central School District

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Michael J. Baumann  
Superintendent of Schools

February 17, 2016

Mr. Jeffrey D. Mazula  
Chief Examiner of Local Government and School Accountability  
295 Main St, Room 1032  
Buffalo, NY 14203

Dear Mr. Mazula:

On behalf of the Newfane Central School District, I wish to thank your office for the time and effort put forth to assist us in our efforts to efficiently and effectively manage our school district. The following is in response to the report of the auditor.

See  
Note 1  
Page 12

## Fund Balance and Budgeting

The Newfane Central School District acknowledges the examiner's indication that we are currently slightly over-funded in our unrestricted fund balance (2.7% over the statutory cap of 4%). The District is already engaged in discussions and budgetary planning that will help to address that issue. The examiner's report also criticizes the District's use of unrestricted fund balance as a revenue source in the budgeting process. However, their comment regarding the usage ("...the District also annually appropriated an average of \$3.1 million in fund balance to finance operations") fails to consider the reality that is shown in Figure 1: the District has been systematically self-correcting our reliance on unrestricted fund balance over the four year period of the audit, decreasing from \$3.5 million to \$1.8 million for the past two years.

See  
Note 2  
Page 12

The audit also states that the District increased the tax levy each year by an average of 1.9%. However, we feel it is worthwhile to note that the audit does not include 2 preceding years of zero tax increases. The seven year annual average of tax levy increase is actually 1.14%. Please see the following history of tax levy and budget increases:

<u>school year</u>	<u>tax levy increase</u>	<u>budget increase</u>
2009/10	0.0%	4.19%
2010/11	0.0%	-1.31%
2011/12	2.0%	-2.76%
2012/13	2.11%	4.55%
2013/14	2.0%	2.31%
2014/15	1.85%	0.65%
2015/16	<u>0.0%</u>	<u>-0.89%</u>
7 year average	1.14%	0.96%

## Employee Benefit Accrued Liability

The Employee Benefit Accrued Liability Reserve (EBALR) was established so the district could properly provide a fund for long term and costly obligations of retiree health insurance costs guaranteed under collective bargaining agreements. It was a responsible action to fund and report the obligation of these long term costs. Under accounting principles and sound fiscal management it is prudent to recognize these long term committed costs so that future school budgets are not hit with mounting health insurance costs for retirees that were secured years previously. To ignore such accounting recognition and fail to provide funding now will severely impact future education programs resulting in program cuts and also result in potentially very high tax increases in the future.

While we are cognizant of the position expressed by the examiner that the EBALR reserve is (in her opinion) for the *short-term* financial obligations of the District with respect to employee benefits, there is nothing in General Municipal Law section 6-p that supports that level of specificity for the EBALR reserve. It was under the advisement of both our school attorney and our certified public accountant that the District determined that the EBALR reserve was the most appropriate reserve to place funds for our long term liabilities in employee/retiree benefits. Both of those consultants felt that our accounting and handling of those funds under EBALR is proper and within the scope of the law.

See  
Note 1  
Page 12

See  
Note 3  
Page 12

General Municipal Law section 6-p, defines:

*“Employee benefits” shall mean the cash payment of the monetary value of accrued and accumulated but unused and unpaid sick leave, personal leave, holiday leave, vacation time...time allowances granted in lieu of overtime compensation and any other forms of payment for accrued but unliquidated time earned by municipal (school) employees and payable to municipal (school) employees upon termination of service, whether by retirement or otherwise...”*

The Newfane Central School District holds that the health care provided to retirees, which is based upon their “accrued and accumulated unused and unpaid sick leave...” constitutes an “other form of payment for accrued but unliquidated time” and therefore is an employee benefit as defined by this law.

Indeed, the position of the auditor and this interpretation of the law would appear to be inconsistent with statements made by Comptroller Thomas DiNapoli in his April 13, 2015 news release about the financial obligations faced by government entities for retiree benefits ([DiNapoli Proposes Option to Help State & Local Governments Pay for Retiree Health Care](#)): “New York is behind the eight ball on this issue....The numbers are daunting, but there is a real cost to doing nothing and leaving the bill for future generations of taxpayers to cover.” New York State's unfunded liability is estimated at \$136.5 billion. In this news release the Comptroller also references that the Governmental Accounting Standards Board (GASB) is finalizing the financial reporting requirements for retiree health insurance liability. GASB 75 (issued June 2015) requires school districts to recognize this liability by June 30, 2018. The Newfane Central School District's retiree health insurance liability is \$26.7 million. The Newfane Central School District has, within the limited options available to us and with great transparency, taken steps to ensure that “future generations of taxpayers” in our community are not left with an enormous financial obligation that would have to be met at the expense of programs for our future generations of students. Additionally, by establishing and funding this reserve, the Newfane Central School District has positioned itself to maintain financially sound bond ratings and avoid increased borrowing costs (a threat outlined in the final paragraph of the previously mentioned news release issued by Comptroller DiNapoli).

While we certainly recognize the short-term accuracy of the examiner’s statement, “The District could have lowered the tax levy by millions of dollars using the excess in this reserve”, to do so would leave

the school district severely underfunded in the long term and subsequently not prepared or able to fund future obligations for retiree health insurance without major tax increases in the future, which are all but prohibited by the tax cap legislation.

Obviously, the District would never choose such an irresponsible path to ensure our ability to meet future financial obligations; however, we would welcome a recommendation from the comptroller's office that identifies a more appropriate reserve in which to hold that money, or would allow us to establish a new reserve specific to those funds.

See  
Note 4  
Page 12

The Newfane Central School District has a long history of responsibly controlling costs and spending to save for the future; providing a minimal annual tax levy increase; and long term planning that maintains our strong financial position. This has allowed the district to offer strong educational programs to the community during difficult financial times, and lays the groundwork for continuing these offerings into the future.

While we may not be in agreement with all aspects of the examiner's report, the Newfane Central School District appreciates the opportunity to work with an outside resource to critically examine our financial practices and identify those areas in need of attention. We look forward to addressing your recommendations in the near future, and we appreciate that you have taken our responses into consideration in preparation of the final document.

Sincerely,



Michael Baumann  
Superintendent of Schools

Cc: Newfane Board of Education

## APPENDIX B

### OSC COMMENTS ON THE DISTRICT'S RESPONSE

#### Note 1

The report represents the collective view of the Office of the State Comptroller and not the view of an individual examiner.

#### Note 2

Our report shows that recalculated unrestricted fund balance as of June 30, 2015 is 12.2 percent of the ensuing year's budgeted appropriations (or 8.2 percentage points over the 4 percent statutory limit), as we project that the District will likely not need the fund balance appropriated for 2015-16.

#### Note 3

While we recognize that it is prudent to plan for future obligations, the District must adhere to the provisions of General Municipal Law. We note that the collective bargaining agreement for teachers states that the number of days of sick leave accumulated by an employee at retirement will be used to determine the percentage of the retiree's health insurance costs that will be paid by the District. However, this is not the same as a cash payment of the monetary value of the unused leave due and payable upon retirement. Therefore, these benefits cannot be funded by the EBALR.

#### Note 4

The Office of the State Comptroller recognizes the financial burden facing government entities as it relates to other post-employment benefits and has proposed legislation to the State Legislature to address this issue ([http://osc.state.ny.us/legislation/2015-16/oscb\\_opeb\\_201516.htm](http://osc.state.ny.us/legislation/2015-16/oscb_opeb_201516.htm)).

## APPENDIX C

### AUDIT METHODOLOGY AND STANDARDS

The objective of our audit was to review the District's financial condition and reserves for the period July 1, 2011 through September 17, 2015. To achieve our audit objective and obtain valid evidence, we performed the following procedures:

- We interviewed District officials to obtain an understanding of the District's financial condition, budgeting practices and use of reserve funds.
- We compared budgets with actual operating results for fiscal years 2011-12 through 2014-15.
- We reviewed Board minutes, accounting records, audited financial statements and reserve activity to determine if reserves were properly established, funded and used.
- We evaluated the level of unrestricted fund balance remaining at fiscal year-end in the general fund to determine whether the District complied with applicable statute.
- We reviewed the last five years of financial information submitted to the Office of the State Comptroller.

We conducted this performance audit in accordance with GAGAS. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

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