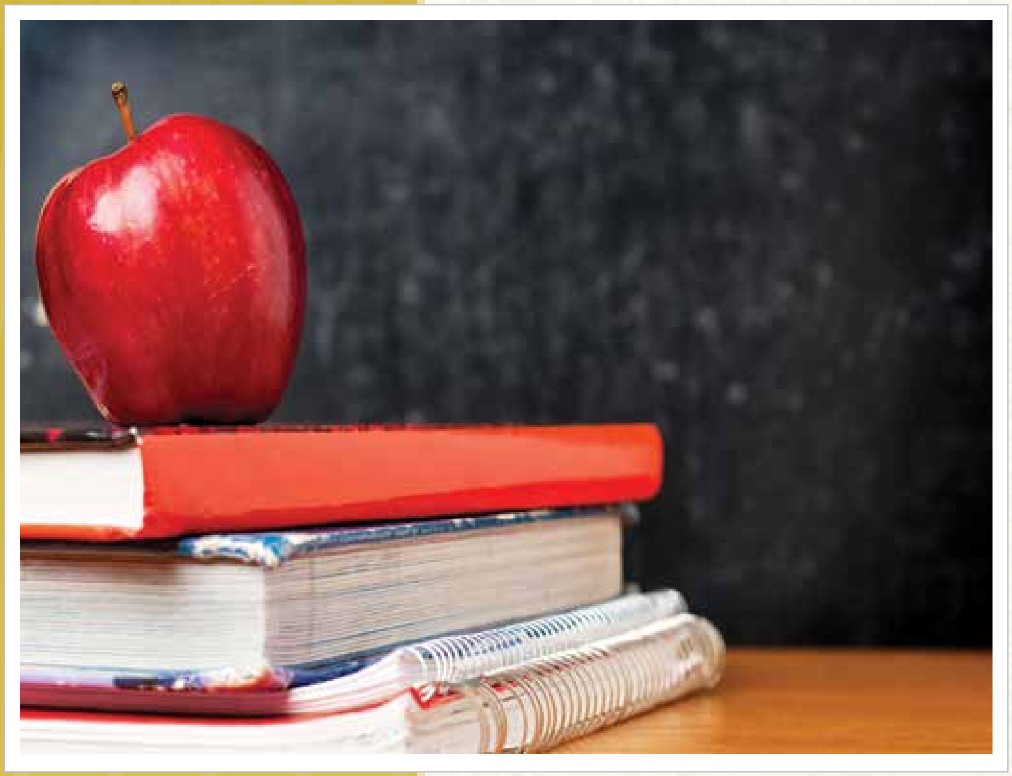
Office of the Auditor General of Ontario

Education Sector Collective Agreements

(September 1, 2012–August 31, 2014)



Special Report

November 2014

Office of the Auditor General of Ontario

To the Honourable Speaker
of the Legislative Assembly

I am pleased to transmit my Special Report on the Education Sector Collective Agreements (September 1, 2012–August 31, 2014), as requested by the Standing Committee on Public Accounts under Section 17 of the *Auditor General Act*.

Bonnie Lysyk
Auditor General

November 2014

Ce document est également disponible en français.

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Special Report

Education Sector Collective Agreements

(September 1, 2012–August 31, 2014)

1.0 Reflections

In past reports, my Office has emphasized the importance of realistic financial projections in publicly communicated statements. Ontarians rightly expect transparency about public finances, especially as the government moves to balance the budget by 2017/18.

Education is one of Ontario's biggest annual expense areas, second only to health care. In announcing its new fiscal plan in 2012, the government projected that it could lower education-sector costs by more than $2 billion over a two-year period, largely by reducing certain benefits for the province's 215,000 school board employees.

Not surprisingly, reaching labour settlements was a months-long struggle that was marked by controversy. Emotions ran high. Parents were frustrated when teachers withdrew from extracurricular duties in protest; education-sector employees were concerned that their right to collective bargaining was being infringed upon.

Amid concerns about the accuracy of the stated cost reductions, the Legislature's Standing Committee on Public Accounts in 2013 asked my Office to audit and analyze the original and revised costs of the collective agreements covering the period September 1, 2012–August 31, 2014.

Our audit found the government's original and revised projected cost reductions ($2.4 billion and $2.1 billion), based on accepted accounting principles, were reasonable given the information available at the time they were made. However, the cost reduction should not be interpreted to mean that the $2 billion in savings resulted in immediate cash savings. The majority of the cost reduction, or $1.3 billion (see Figure 3), is attributable to an appropriate accounting adjustment for the elimination of non-vested sick days and other benefits that no longer have to be recorded as accounting liabilities. This was recorded as an expense reduction in the province's Public Accounts for the year ended March 31, 2013. The actual cash impact in future years as it relates to sick days will depend in part on actual sick leave usage by school board employees under the revised entitlement relative to usage under the previous entitlement.

Making assumptions about future events involves considerable uncertainty, and we caution the reader that actual costs and savings might differ from both our estimates and the government's. Provisions in the current collective agreements discussed in this report could result in additional net savings beyond September 2014 and are not reflected in the above financial projections. Furthermore, the Ontario Teachers' Pension Plan's pension liability was reduced by about $2.25 billion. Half of this reduced liability, or $1.125 billion, would be of benefit to the Ontario government. Several unions have launched a legal challenge that remains to be heard and could also have future financial implications.

Our report goes into considerable detail to explain a complicated process and the context around that process and illustrates how the government's estimates changed to reflect developments as they occurred.

2.0 Background

The Ministry of Education (Ministry) sets policy, administers legislation and allocates funding to Ontario school boards. There are 72 school boards in the province, which represent approximately 4,900 schools and 2 million students. School boards are responsible for operating Ontario schools, managing the funds they receive from the province, and negotiating and signing off on collective agreements with employee labour unions.

School boards employ approximately 215,000 full-time-equivalent staff; about 125,000 of these are classroom teachers. The others include various support workers, such as teacher assistants, psychologists, attendance counsellors, building maintenance and secretarial staff. The majority of school board employees belong to about 20 different labour unions that have over 450 collective agreements with Ontario's 72 school boards.

Over 90% of unionized school board staff are represented by the Canadian Union of Public Employees (CUPE) and four teacher unions: the Elementary Teachers' Federation of Ontario (ETFO), the Ontario Secondary School Teachers' Federation (OSSTF), the Ontario English Catholic Teachers Association (OECTA) and the Association des enseignantes et des enseignants franco-ontariens (AEFO). Some of the teachers' unions also represent a significant number of non-teaching school board staff. **Figure 1** shows the number of members in the major education sector unions.

In its March 2012 budget, the Ontario government reaffirmed its goal of achieving a balanced budget by the 2017/18 fiscal year. It also publicly communicated the need to negotiate labour agreements that supported this objective while protecting education. Most of the collective labour agreements in Ontario's education sector were set to expire on August 31, 2012 (**Appendix 1** shows a timeline of key dates and developments). The government's 2012 budget proposed terms for an agreement with education-sector employees and school boards that included a two-year wage freeze, the elimination of accumulated non-vested sick days and the introduction of a new short-term sick leave plan. Ultimately, these school board/union agreements (September 1, 2012–August 31, 2014) were based on memorandums of understanding (MOUs) negotiated by the Ministry with each of the unions.

Figure 1: Approximate Membership in Major Education Sector Unions

Source of data: Ministry of Education

Union	Membership*
ETFO	76,000
OSSTF	60,000
OECTA	45,000
CUPE	45,000
AEFO	10,000
Other	9,000
Total	**245,000**

* Union members exceed the total number of full-time-equivalent staff employed in the education sector because the number of members in a union includes substitute teachers, part-time staff and union members who are not working for school boards.

On July 5, 2012, the Ministry and OECTA signed an MOU that established a framework for two-year collective agreements. The MOU reflected many of the terms proposed in the March 2012 budget. The Ministry projected that if the OECTA MOU's terms were applied across the entire education sector over the two-year period (September 1, 2012–August 31, 2014) for all collective agreements, the province would reduce its two-year costs by $2.4 billion.[1] This cost reduction would

1 On August 16, 2012, the Ministry announced that it would reduce its cost by $2.2 billion for the period April 1, 2012, to March 31, 2014 (its fiscal years), which excludes the last five months of the collective agreements (April 1–August 31, 2014), in which $0.2 billion of cost reductions apply.

come primarily from the elimination or reduction of a number of employee benefits.

The Ministry encouraged other unions and bargaining agents to treat the MOU with OECTA as a template. The Ministry subsequently established MOUs with AEFO as well as bargaining agents representing smaller groups of school board employees. However, it was not able to reach agreements with CUPE or the remaining two teachers' unions, ETFO and OSSTF.

In order to prevent certain terms and conditions of the existing collective agreements from triggering costs that the Ministry estimated would be over $470 million, the government introduced Bill 115, the *Putting Students First Act* (Act), in the Legislature on August 27, 2012. It received Royal Assent on September 11, 2012. The Act essentially required school boards to negotiate and sign local collective labour agreements that were consistent with the MOU between OECTA and the Ministry, and a deadline was set to complete the negotiations by December 31, 2012.

On December 31, 2012, the Ministry and CUPE signed an MOU that included several concessions to employees. The Ministry revised its projected cost reductions for the two-year period of the collective agreements, but still expected to reduce costs by more than $2.2 billion ($0.2 billion less than its previous projection).[2]

In January 2013, the Ministry announced that, through Orders in Council, agreements would be imposed on all school boards and unions that had not approved their collective agreements by the December 31, 2012, deadline set under the Act. Although the *Putting Students First Act* was subsequently repealed on January 23, 2013, its terms and conditions for collective agreements remained in force.

Following the Act's repeal, the Ministry continued to negotiate with the unions that still had not signed MOUs, and subsequently came to agreements with ETFO and OSSTF. The Ministry also updated previously signed MOUs to include new concessions included in the MOUs with ETFO and OSSTF. Based on these changes, the Ministry projected that it would reduce education-sector costs by $2.1 billion from September 1, 2012, to August 31, 2014.[3]

On September 11, 2013, amid concerns about the accuracy of the Ministry's stated cost reductions, the Legislature's Standing Committee on Public Accounts passed the following motion.

> The committee requests of the Auditor General to undertake the following audits and analysis. What was the original cost and the "new total" cost of revisions to collective agreements signed with the Elementary Teachers' Federation of Ontario, the Ontario English Catholic Teachers' Association, the Ontario Secondary School Teachers' Federation, and the Association des Enseignantes et des Enseignants Franco-Ontariens that were signed and/or renegotiated after January 2013, and after Bill 115's repeal.

3.0 Audit Objective and Scope

Our objective was to audit and analyze the Ministry's original August 2012 projected cost reduction of $2.4 billion and its revised projected cost reduction of $2.1 billion that incorporated the financial impact of revisions made to school board employee collective agreements negotiated after January 2013 (covering the two-year period from September 1, 2012, to August 31, 2014).

2 On January 3, 2013, the Ministry announced that it would still reduce its costs by almost $1.9 billion from April 1, 2012, to March 31, 2014 (its fiscal years). This time period excludes net cost reductions related to the last five months of the collective agreements (April 1–August 31, 2014).

3 On June 13, 2013, the Ministry announced that it still expected to reduce its costs by $1.8 billion from April 1, 2012, to March 31, 2014 (its fiscal years). This time period excludes cost reductions and savings related to the last five months of the collective agreements (April 1–August 31, 2014).

For the purposes of this report, costs and savings relating to CUPE and the other non-teacher unions have also been included, as they are included in the government's public announcements.

To address the request of the Standing Committee on Public Accounts, we audited and analyzed the original projected cost reductions related to the Act and the revisions to the collective agreements before and after the Act was repealed. We also examined the MOUs between the Ministry and the unions to ensure that all significant costs had been considered. We assessed costs and savings that may continue after the two-year collective agreements expire, reviewed related legal proceedings against the Ministry, and identified the implications that changes to the collective agreements had for the government's obligation to partly fund the teachers' pension plan.

Bill 115, the *Putting Students First Act*, included all education sector unions. Therefore, we have included in our calculations costs and savings associated with all education-sector unions, including CUPE and the smaller unions and bargaining agents. Many of the agreements that concluded earlier in the bargaining process, such as OECTA's memorandum of understanding, included what is known as a "me-too" clause: once an agreement was finalized with one union, its members would receive any additional concessions that were subsequently granted to other unions. As a result, the cost of revisions made to one collective agreement could become sector-wide costs.

The estimates that the Ministry announced to the public were based on its fiscal year, which ends March 31. School boards have an August 31 year-end, which is also the end-date of the collective agreements. Consequently, to assess the full cost of changes to these collective agreements, we reviewed projected costs and savings up to August 31, 2014, an additional five months.

The Ministry originally announced cost reductions associated with Bill 115, the *Putting Students First Act*, and subsequently announced that further revisions made to collective agreements would reduce the amount of the projected cost reduction. Because cost reductions were expected to be realized in the future, several assumptions about future events had to be made in order to estimate both the original cost and the net cost reductions associated with revisions to the collective agreements. Making such assumptions involves considerable uncertainty, and we caution the reader that actual costs and savings might differ from both our estimates and the Ministry's. As well, some estimates are based on actuarial data; data changes and related assumptions made regarding future events could affect these estimates.

We performed a number of procedures to assess the original projected cost reductions and the net cost impact of subsequent revisions made to collective agreements:

- We analyzed the assumptions associated with the Ministry's projected cost reductions by examining supporting documentation, discussing the calculation methodology with appropriate Ministry staff and agreeing data to actuarial reports, audited school board financial statements and the audited financial statements of the province of Ontario (Public Accounts). Many of the Ministry's costs and savings were estimates based on the best information available at the time of the projection.
- We reviewed legislation and related regulations and MOUs to confirm that all clauses with financial implications had been considered.
- We engaged a Fellow of the Canadian Institute of Actuaries to provide advice on Ministry calculations that relied on actuarial estimates. We also spoke to the two actuarial organizations that provided services to about 90% of the 72 school boards.
- We spoke with representatives from CUPE and the major teachers' unions to help us confirm that all costs and savings related to changes in the collective agreements had been considered in the Ministry's net projected cost reductions.
- We also spoke with representatives of the four school board trustee associations that collectively represent all 72 school boards[4] to

4 These included the Ontario Public School Boards' Association (OPSBA), the Ontario Catholic School Trustees Association (OCSTA), the Association des conseils scolaires des écoles publiques de l'Ontario (ACÉPO) and the Association franco-ontarienne des conseils scolaires catholiques (AFOCSC).

confirm that all costs and savings related to changes in the collective agreements had been considered in the Ministry's net projected cost reductions. The associations were involved in a working group that relayed concerns to the Ministry about the financial implications of any changes to the collective agreements.

- We also contacted the Ontario Teachers' Federation (OTF), the organization that represents all teachers in the publicly funded school system. OTF jointly administers the Ontario Teachers' Pension Plan (Plan) with the Ontario government. It is mandatory for all teachers in the public school system to belong to the Plan.

4.0 Summary

In accordance with the September 2013 request from the Standing Committee on Public Accounts, we audited and analyzed the Ministry of Education's (Ministry) original August 2012 projected cost reduction of $2.4 billion and its revised projected cost reduction of $2.1 billion relating to school board employee collective agreements covering the two-year period from September 1, 2012 to August 31, 2014. We found that, overall, the Ministry's original and revised projected cost reductions were reasonable given the information available (see **Figure 2**). Each projection

Figure 2: Estimated Cost Reductions (Savings)/Costs from Changes to Collective Agreements ($ million)
Source of data: Ministry of Education

	Ministry Estimate	Difference	Auditor's Estimate
Cost reductions from eliminating accumulated liabilities related to employee benefits	(1,445)	(13)	(1,458)
Savings from freezing employee retirement benefits	(377)	75	(302)
Savings from delaying employee movement up the pay scale/salary grid	(186)	0	(186)
Savings from three unpaid professional activity days	(180)	0	(180)
Savings from reduced funding for various activities and programming	(96)	0	(96)
Savings from eliminating employee banking of sick days	(85)	36	(49)
Savings from eliminating subsidized post-retirement benefits	(57)	(33)	(90)
Savings from an increase in employee retirements	(16)	0	(16)
Cost of topping up WSIB payments to 100% of recipients' salaries	0	9	9
5.2.1 Original Cost Reductions Projection Based on the OECTA MOU and Bill 115	**(2,442)**	**74**	**(2,368)**
Cost of topping up employees to 100% of salary under the new sick leave plan	67	(43)	24
Cost to pay for substitute teachers due to an anticipated increase in sick days	60	0	60
Cost of changing the eligibility threshold for retirement benefits	35	0	35
Cost of a one-time payment to employees for their loss of the retirement benefit	28	(13)	15
Cost to compensate school boards for expenses related to implementing the MOUs	10	0	10
5.2.2 Revisions to the Collective Agreement Prior to the Repeal of the Act	**200**	**(56)**	**144**
Cost of reducing the number of mandatory unpaid professional activity days	63	(10)	53
Cost of an incentive for employees to take less than six sick days	33	0	33
Cost to increase maternity benefits from six to eight weeks	25	0	25
Cost to increase the payout to employees for their loss of the retirement benefit	19	3	22
Cost to further compensate boards for expenses related to implementing the MOUs	15	0	15
5.2.3 Revisions to the Collective Agreement After the Repeal of the Act	**155**	**(7)**	**148**
Net Cost Reduction	**(2,087)**	**11**	**(2,076)**

depends significantly on the one-time elimination of accumulated long-term liabilities—specifically, employee benefits of $1,445 million for accumulated sick days, subsidized post-retirement benefits and lump-sum retirement benefit payouts. As shown in **Figure 3**, actual expenses for salaries, wages and benefits remained relatively constant from 2011/12 to 2013/14, with a slight increase of $250 million in 2013/14 due to such factors as movement on the salary grid.

Provisions in the current collective agreements discussed in this report could result in additional net savings beyond September 2014 and are not reflected in the above financial projections. As illustrated in **Figure 4**, estimated ongoing annual savings could be $212 million. As well, with changes to the collective agreements, the Ontario Teachers' Pension Plan's (Plan) pension liability was reduced by about $2.25 billion. Because the Plan is jointly sponsored, half of the reduced liability, $1.125 billion, would be of benefit to the Ontario government.

The Elementary Teachers' Federation of Ontario, the Ontario Secondary School Teachers' Federation, the Canadian Union of Public Employees, and two unions that represent smaller numbers of school board employees have launched lawsuits against the Ontario government and the Ministry. The unions are of the opinion that several provisions in the *Putting Students First Act* violate the Canadian Charter of Rights and Freedoms. Since the outcome of this legal dispute is unknown, the financial implications, if any, are uncertain. Hearings on this case are not scheduled to occur until April 2015.

Figure 3: School Board Expenditures and Provincial Transfers to School Boards by School Year ($ million)

Source of data: Public Accounts of Ontario

	2011/12	2012/13	2013/14
Salaries, wages and benefits	18,152	18,158	18,408
One-time savings*	–	(1,296)*	–
Other expense	3,394	3,434	3,641
Total Sector Expense	**21,546**	**20,296**	**22,049**
Cash Transfers from the Province	**22,266**	**22,955**	**22,904**

* The savings are primarily non-cash and relate to the one-time elimination of employee benefits ($1,445 million) less related costs for the sick bank top-up ($67 million), the change in the retirement benefit threshold ($35 million), and the payments for the loss of the retirement benefit ($28 million plus $19 million).

Figure 4: Potential Costs/Savings After the Current Collective Agreements Expire

Source of data: Ministry of Education

Contract Provision (September 1, 2012–August 31, 2014	Cost/(Savings)	Average Cost/(Savings) Per Year
Ongoing savings from freezing the employee retirement-benefit payout	(302)	(151)
Savings from delaying employee movement up the pay scale/salary grid	(186)	(93)
Savings from reduced funding for various activities and programming	(96)	(48)
Ongoing savings from eliminating subsidized post-retirement benefits	(90)	(45)
Ongoing savings from eliminating employee banking of sick days	(49)	(25)
Cost of topping up employees to 100% of salary under the new sick leave plan	24	12
Cost to increase maternity benefits from six to eight weeks	25*	25
5.3.1 Subtotal		**(325)**
5.3.2 Estimated Annual Cost to Eliminate the EFTO Salary Differential		**113**
Potential Costs and Savings After the Current Collective Agreements Expire		**(212)**

* This cost is for one year only.

OVERALL MINISTRY RESPONSE

The Ministry is pleased that the Auditor General's report has confirmed that the Ministry's original (August 2012) and revised (January 2013 and later) estimates of cost reductions were reasonable, based on the information available at the time those estimates were made.

In the spring of 2012, the Ontario government communicated a set of financial parameters to guide collective bargaining in the education sector. As that process progressed, the government was clear that it was open to alternative suggestions and proposals, so long as these would result in education sector collective agreements that met the province's fiscal parameters. The final outcome was a result of the collaboration, hard work and creativity of all parties to the negotiations. The Auditor's report and findings in effect summarize and validate the hard work that underpins these discussions.

Where the report finds differences between the Ministry's estimated savings and those estimated by the Auditor General, the Ministry accepts the Auditor's adjustments, which are primarily explained by the availability of updated employee and financial data—information that became available only after the net savings were announced.

Ontarians expect their government to invest wisely in schools and students and to promote stability in our education system. The *School Boards Collective Bargaining Act, 2014*, has now established a clear process for addressing key issues and defined the roles and responsibilities of all parties for future labour negotiations in the province's education sector.

5.0 Detailed Audit Observations

5.1 Collective Bargaining In Ontario's Education Sector

Before 2004, the negotiation of education-sector collective agreements occurred only at the local level, between employee unions and individual district school boards. However, beginning in 2004, when local school board collective agreements were set to expire and the government believed it was going to be difficult for parties to reach agreements, it decided to participate in voluntary labour negotiations to stabilize labour contracts in schools. To that end, the government facilitated voluntary negotiations between unions and school board trustee associations that represent school boards.

In 2004 and again in 2008, the government agreed to provide additional funding if local bargaining produced four-year collective agreements that incorporated government terms. Government terms in 2004 and 2008 included annual salary increases of 2–3%, funding for new positions at the elementary and secondary levels, and funding for professional development.

In 2012, the government again moved to facilitate agreements between the unions that represent school board employees and the school board trustee associations that represent school boards. The agreements were intended to establish parameters under which local collective agreements would be settled. When the Ontario Catholic Schools Trustees Association withdrew from the negotiations because of, among other things, concerns over a provision relating to the hiring of occasional teachers, the Ministry reached memorandums of understanding (MOUs) with the unions in their place.

In April 2014, the *School Boards Collective Bargaining Act*, 2014 received Royal Assent. It established a formal framework for two-tiered bargaining for collective agreements between school boards and their employees and set out a framework for central and local bargaining. Under this Act, central bargaining is mandatory if what is called "a central table" is established. Central table participants include the government, the applicable school board trustee associations and the unions. The matters to be included in central bargaining are to be determined by the parties at each central table. Central agreements must be ratified by all parties at the central table. Local bargaining would continue between school boards and employee unions for all other issues.

5.1.1 Outline of the Ministry's Original Bargaining Position in 2012

In February 2012, the Ministry invited representatives from the unions and the school board trustee associations to discuss the government's financial outlook in advance of the August 31, 2012, expiry of most of the education sector's collective agreements. The Ministry outlined the government's terms for new collective agreements, which were as follows:

- **Period of new agreements**—Two school years (September 1, 2012–August 31, 2014).
- **Salary increases**—0% for these two school years.
- **Salaries**—Freeze current teacher and staff salaries that are based on position on a salary grid (based on experience and qualifications) for two years (September 1, 2012–August 31, 2014), with no future adjustments to recognize missed steps on the grid.
- **Retirement benefits and sick leave**—Freeze retirement benefits earned as of August 31, 2012, based on the salary, years of service and accumulated sick days as at that date. The terms also outlined the introduction of a new short-term sick plan as follows:
  - Eliminate the ability to accumulate sick days (these days were used in the calculation of the benefit to be paid out at retirement that could be up to 50% of an employee's annual salary);
  - Eliminate all accumulated sick days; and
  - Introduce a short-term sick leave plan similar to the one for Ontario public service employees that would annually offer six sick days paid at 100% salary and up to 24 weeks at 66.7% salary.
- **Pensions**—Resume negotiations with the Ontario Teachers' Federation to ensure solvency of the Ontario Teachers' Pension Plan without increasing the cost of Ministry contributions. This would require negotiating reductions in employee pension plan benefits.

The government's March 27, 2012, Economic Outlook and Fiscal Plan confirmed these negotiating terms for collective agreements between education-sector employees and school boards.

5.1.2 Memorandum of Understanding with the Ontario English Catholic Teachers Association (OECTA)

On July 5, 2012, the Ministry and the Ontario English Catholic Teachers Association (OECTA) reached a memorandum of understanding (MOU) for a two-year agreement for the period from September 1, 2012, to August 31, 2014. The original intent was for the school board trustee association to negotiate with the union, but the Ontario Catholic School Trustees' Association withdrew from negotiations on July 4, 2012, because of concerns it had over some of the MOU's proposed terms. Ministry staff continued negotiations and reached an agreement with the OECTA that included the following:

- 0% salary increases for two years;
- the elimination of accumulated sick days effective September 1, 2012; and the initiation of a new short-term sick leave plan that would provide up to 10 sick days per year at 100% salary and 120 days at either 66.7% or 90% of salary based on the severity and length of the

illness and subject to third-party adjudication, with no carry-forward provision;
- a requirement for all teachers, principals and vice-principals to take three unpaid days on three scheduled professional activity days in the 2013/14 school year;
- a delay in salary grid movement until the 97th day of the 194-day school year;
- freezing retirement-benefit payouts as of August 31, 2012; and
- eliminating school board–subsidized post-retirement benefits, such as health benefits, dental benefits and life insurance, for those retiring after August 31, 2013.

The Ministry encouraged other unions and bargaining agents to view its MOU with OECTA as a roadmap or template agreement for the rest of the education sector. In July and August of 2012, the Ministry was able to reach similar agreements with the Association des enseignantes et des enseignants franco-ontariens (AEFO) and a number of the smaller unions that represent school board employees.

5.1.3 Bargaining Conditions Imposed by Bill 115, the *Putting Students First Act*

The vast majority of collective agreements in the education sector were due to expire on August 31, 2012. Under the *Labour Relations Act*, this would trigger a statutory freeze (i.e., the terms and conditions of the collective agreements that were set to expire on August 31, 2012, would remain in force). Without new collective agreements in place, a statutory freeze would go into effect on September 1, 2012 that would trigger costs such as employee movement up the salary grid and the accumulation of additional bankable sick days. The Ministry estimated that these costs would have been approximately $470 million for its 2012/13 fiscal year.

On August 16, 2012, the Ministry announced that the government would introduce legislation requiring school boards and local bargaining units to accept agreements consistent with the MOU between OECTA and the Ministry, to cover the period from September 1, 2012, to August 31, 2014.

On August 27, 2012, Bill 115, the *Putting Students First Act* (Act), was introduced in the Legislature and it received Royal Assent on September 11, 2012. The Act essentially required school boards to negotiate local collective agreements consistent with the OECTA MOU. The deadline to ratify local agreements was set as December 31, 2012.

5.1.4 Memorandum of Understanding with CUPE (Revisions to the Collective Agreements Before the *Putting Students First Act* was Repealed)

After the Act was passed, the Ministry continued to work toward reaching agreements with the remaining unions. On December 31, 2012, it entered into an MOU with the Canadian Union of Public Employees (CUPE), which gave CUPE until January 14, 2013, to ratify local collective agreements. In order to reach an agreement, the Ministry made several concessions to CUPE employees, including concessions that were agreed to with OSSTF. These concessions related to the terms in the OECTA MOU and other MOUs signed before the new legislation was passed. These included the following:
- increasing the number of sick days paid at 100% of salary from 10 to 11 days;
- introducing a top-up to the new short-term sick leave plan whereby employees could carry over unused sick days to the next year to top up their salary to 100% if they took more than their 11 full-pay sick days;
- introducing a wind-up retirement benefit payout for employees with accumulated sick days that had not been vested (a substantially guaranteed future obligation) as of August 31, 2012; and
- reducing the vesting period for retirement benefits to 10 years for employees covered whose collective agreement required a period of more than 10 years.

After its MOU with CUPE was signed, the Ministry announced that these concessions would be extended across the education sector, and regulatory changes to that effect were made. The Ministry estimated that the extension of the concessions across the education sector would cost it $200 million (see 5.2.2 in **Figure 2**) over the course of the two-year period of the collective agreements (September 1, 2012–August 31, 2014).

In January 2013, the Ministry announced that, through Orders in Council, contracts would be imposed on all school boards and unions that had not delivered ratified collective agreements by the deadline of December 31, 2012. The Ministry also announced that the *Putting Students First Act* had achieved its goals, and would therefore be repealed by the end of the month. Although the Act was repealed on January 23, 2013, the terms and conditions of the collective agreements remained in force.

5.1.5 Memorandums of Understanding with OSSTF and ETFO (Revisions to the Collective Agreements After the *Putting Students First Act* was Repealed)

After the Act was repealed, the Ministry continued to negotiate with the unions that had not yet signed an MOU. It secured MOUs with the OSSTF on April 9, 2013, and with the Elementary Teachers' Federation of Ontario (ETFO) on June 12, 2013. By fall 2013, the Ministry had either signed MOUs or updated existing MOUs with all of the major unions that represent school board employees.

Negotiations after the Act's repeal introduced further concessions that the Ministry determined would carry additional costs. The employment terms (concessions) negotiated in these MOUs included the following:

- increasing maternity benefits from six to eight weeks for most school board employees (an employment insurance top up to full salary for the first eight weeks an employee is on maternity leave);
- reducing the number of unpaid professional activity days required to be taken by teachers from three to either one or two depending on the board and unions finding offsetting savings, such as through a voluntary leave of absence;
- providing a one-time attendance incentive whereby teachers who take fewer than six full sick days in the 2013/14 school year would receive a payment equivalent to one day's pay; and
- increasing the wind-up retirement benefit payout previously agreed to in the CUPE MOU (a factor used in the calculation of the benefit was increased from 10% to 25%).

As well, the Ministry committed to providing a total of $15 million to the province's 72 school boards to support implementation costs related to employee benefit plan reforms.

The Ministry estimated that these revisions extended across the education sector would cost it $155 million (see 5.2.3 in **Figure 2**) over the course of the two-year collective agreement period (September 1, 2012–August 31, 2014).

5.2 Ministry's Overall Projected Net Cost Reductions

Using its MOUs with the unions, the *Putting Students First Act* (Act), and related regulations as its basis, the Ministry projected significant savings would result from changes to education-sector collective agreements. The Ministry's original savings projections were based on its MOU with OECTA and on the Act. Afterwards, the Ministry made revisions based on updated school board information and based on the results of its negotiations with CUPE (before the repeal of the Act), and with OSSTF and ETFO (after the repeal of the Act), that would have financial implications once negotiated results were applied across the education sector.

We audited and analyzed the Ministry's estimated savings and the cost of revisions and, although there were differences in some savings/costs, we found that the Ministry's overall projected net cost reduction was reasonable, as shown in **Figure 2**.

We reviewed the Ministry's MOUs with the unions and identified some employment terms that may result in additional costs or savings that the Ministry had not included in its overall estimate. We concurred that the amounts were expected to be insignificant or outside the two-year time frame of the collective agreements.

Representatives from the four school board trustee associations informed us that the Ministry had addressed their main financial concerns relating to the various changes to the collective agreements and had also provided funding totalling $25 million for the administration costs of implementing these changes. Nevertheless, school boards had incurred additional costs, such as third-party adjudication, arbitration and legal costs, which the associations had estimated to be about $2 million. Some of this cost was due to a significant increase in the number of grievances filed by union members in the 2012/13 school year.

In the following sections, we present our detailed analysis of the Ministry's original projected cost reductions related to the OECTA MOU and the Act (section 5.2.1), followed by an analysis of the revisions related to the MOU with CUPE (section 5.2.2), and then subsequent revisions derived primarily from the MOUs signed with OSSTF and ETFO (section 5.2.3). We conclude with a discussion of other financial matters that may have an impact on the Ministry's projected net cost reductions, including potential costs and savings beyond August 31, 2014 (sections 5.3 to 5.5).

5.2.1 Original Savings Projections Based on the OECTA MOU and the *Putting Students First Act* ($2,442 million)

One-time Cost Reductions from Eliminating Accumulated Liabilities Related to Employee Benefits ($1,445 million)

The Ministry's projected one-time cost reduction of $1,445 million for the 2011/12 school year was to come from the reduction or elimination of long-term liabilities related to the following three employee benefits:

- the elimination of accumulated banked sick days ($981 million);
- the elimination of school board–subsidized post-retirement benefits ($290 million); and
- the freeze and eventual elimination of retirement benefit payouts ($174 million).

Overall, school board sector salaries, wages and benefits for the 2012/13 fiscal year were reduced by $1,296 million, stemming mainly from the reversal of three long-term liabilities: accumulated sick days, post-retirement benefits and retirement benefit payouts (which were frozen). This reversal did not significantly affect teacher salaries or government cash transfers payments to school boards, as illustrated in **Figure 3**, because it primarily represented liabilities recorded in prior years for amounts that would be paid out or used as benefits in future years.

Elimination of Accumulated Sick Days ($981 million)

Bill 115, the *Putting Students First Act* (Act) eliminated banked sick days that employees had accumulated up to August 31, 2012, and ended their ability to bank any future unused sick days. The boards' previous sick leave plans had allotted a number of annual sick days to employees (usually about 20 days). Unused days could be carried forward and "banked" to be used in subsequent years if necessary.

Banked unused sick days were recorded in school boards' financial statements as a liability. Each year, the liability would increase as additional unused sick days were banked, and an annual expense would also be recorded in the annual financial statements. As a result of the elimination of this benefit, school boards reversed their liability on their financial statements and therefore reduced their benefit expense for the year ending August 31, 2012 in total by $981 million. Because school boards' financial statements are consolidated into the province's Public Accounts financial statements, the province's annual and accumulated deficit was reduced by this same amount.

Elimination of Subsidized Post-retirement Benefits ($290 million)

The Act also eliminated the subsidization of post-retirement benefits for employees retiring after August 31, 2013. These included health benefits, dental benefits and life insurance. Employees who retired before that date would continue to have their benefit coverage premiums subsidized until age 65. This change reduced school boards' post-retirement benefit liabilities and benefit expenses by $290 million.

Freeze and Eventual Elimination of the Lump-sum Retirement-benefit Payout ($174 million)

The Act also froze employee retirement benefits as of August 31, 2012. Although the amounts varied depending on the collective agreement, eligible board employees could have received upon retirement a benefit worth up to one-half of their annual salary. For example, each year an employee could earn a percentage credit based on the number of unused sick days he or she had left at the end of a year. The accumulated percentage was multiplied by his or her highest annual salary over the five years prior to retirement. The resulting amount, up to 50% of the employee's annual salary, would be paid out as a lump-sum retirement benefit.

After the freeze, future calculations of this benefit would be based on an employee's salary, years of service and unused sick days as of August 31, 2012. The Ministry calculated that freezing the payout to 2012 levels (instead of the date of the employee's retirement) would save the school boards $174 million. If the freeze is carried forward, this benefit will be phased out eventually. In other words, once the employees who have earned a retirement benefit as of August 31, 2012, retire, no employees will receive a lump-sum retirement gratuity in the future.

Overall Assessment of the Ministry's Projected Cost Reductions From Eliminating the Three Accumulated Liabilities

The Ministry based its calculation on the results reported in the audited financial statements of each of the 72 Ontario school boards as of August 31, 2012. The school boards reported that the cost reductions from eliminating these three employee benefits would total $1.445 billion. We examined supporting documentation, including the audited financial statements of each school board and actuarial reports related to these employee benefits for the majority of school boards, and concluded that the Ministry's estimated one-time cost reduction of $1.445 billion as at August 31, 2012, was reasonable.

However, we noted that school boards reported additional costs and savings related to the elimination or reduction of these employee benefits in the 2012/13 school year for a variety of reasons, such as updates to employee data, restated financial statements, and differences between expected and actual retirements. The costs and savings related to these are not reflected in the Ministry's projection of $1.445 billion because this information was not available when the projection was prepared. School boards reported additional cost reductions of $46 million in the 2012/13 school year and an additional cost of $33 million in their restated 2011/12 audited financial statements. Therefore, based on the best available information to date, the total estimated one-time savings related to changes to the three employee benefits should be increased by $13 million ($46 million minus $33 million).

Savings From Freezing Employment Retirement Benefits ($377 million)

The Ministry calculated that there would also be ongoing savings related to the freezing of retirement benefits based on employees' salary, years of service and accumulated sick days as of August 31, 2012. Without the freeze, eligible employees would have earned and eventually been paid out at the levels in effect on the date of their retirement, which would have meant a significant increase in the retirement benefit.

The Ministry calculated the savings would total $377 million based on an estimated reduction in school board expenses ($302 million) and related Ministry funding to the boards ($75 million) covering the period from September 1, 2012, to August 31, 2014. The Ministry arrived at the $302-million amount by using actuarial estimates it obtained for the vast majority of school boards, which compared the projected retirement benefit expenses for the 2012/13 and 2013/14 school years before and after the freeze.

We took a sample of school boards and used individual actuarial reports to recalculate the projected savings from the freezing of retirement benefits, then compared our calculations to the Ministry's projected savings. We discussed our methodology and the Ministry's projected savings related to retirement benefits with the actuarial firms that represent approximately 90% of Ontario's school boards and concluded that the Ministry's $302 million estimate is reasonable.

While we agree that the savings related to retirement benefits should be included in the province's savings, we believe that the reduction in related funding to school boards should not. Although the Ministry indicated that savings of $75 million would be recognized by the province as a result of the funding reduction and the requirement for school boards to address their unfunded liability, these policy changes were not a requirement of the MOUs. Therefore, these savings are not directly attributable to education sector collective agreements, and for this reason this amount was excluded from the Ministry's estimated savings.

Savings From Delaying Employee Movement on Salary Grid ($186 million)

The MOU between the Ministry and OECTA included a provision that delayed any teacher from moving on the salary grid until the 97th day of the school year (halfway through the work year). The Ministry provides funding to school boards based on the boards' placement of their teachers on a provincially determined "salary grid." As their years of experience and level of qualifications increase, employees move along the grid and their salaries increase. (**Appendix 2** illustrates the Ministry's standard teacher salary grid.)

Although the MOU between the Ministry and OECTA originally applied only to OECTA members, these terms were subsequently applied across the education sector. The Ministry projected that this would result in a cost savings of $186 million over the two-year period (September 1, 2012–August 31, 2014).

School boards were not required to report to the Ministry the savings from delaying teacher salary grid movement. However, our discussion with representatives of the four trustee associations that represent the school boards corroborated that the $186 million reduction in funding was a good estimate of the reduction to board expenses that would come from delaying salary grid movement.

We reviewed the Ministry's estimate and calculated the savings using the teacher salary grids submitted by school boards for the 2012/13 and 2013/14 school years and determined that the Ministry's recorded savings of $186 million represented a reasonable estimate of the overall reduction in teacher salaries.

Although the delay in salary grid movement applied across the education sector, we noted that the Ministry had not estimated savings for school-board employees other than teachers, such as maintenance and clerical staff. The Ministry indicated that it does not have the information it would need to do so because it does not fund these employees based on a salary grid even though many of these employees are paid by the boards based on their positions on a salary grid.

Although the four school board trustee associations had not attempted to calculate the impact of a delay in grid movement for non-teachers, they also did not expect that such a delay would result in a substantial cost savings. Nevertheless, the Ministry did not estimate nor recognize the impact of these savings because it decided not to reduce its funding to school boards to account for the delay in grid movement for non-teaching employees. As such, because no savings accrued to the Ministry, we did not include any potential savings in **Figure 2**.

Savings From Three Mandatory Unpaid Professional Activity Days ($180 million)

The MOU between the Ministry and OECTA included a provision that required all teachers, vice-principals and principals to take three unpaid leave days on three scheduled professional activity days during the 2013/14 school year. Although the MOU applied only to OECTA members, these terms were applied to teachers, principals and vice-principals across the sector.

The Ministry projected that the funding it provides to school boards per day for teachers, principals and vice-principals is $60 million, of which almost $57 million is for teachers. Therefore, three unpaid professional activity days to be taken in the school year reduced the amount of Ministry funding provided to school boards in 2013/14 by $180 million. We assessed the Ministry's calculations on a sample basis, reviewed total teacher salary expenses reported by school boards in the 2012-13 school year, and discussed with representatives from the four school board trustee associations whether the reduction to school board funding was a fair representation of the reduction to school board expenses. Based on our work, we concluded that the Ministry's estimated cost reduction of $180 million was reasonable.

Savings From Reduced Funding for Various Activities and Programming ($96 million)

The MOU between the Ministry and OECTA reduced Ministry funding to school boards for the expansion of secondary school programming and for enhancing professional learning for elementary teachers for the two years covered by the MOU (September 1, 2012–August 31, 2014). The Ministry had previously agreed to increase the number of secondary school teachers to increase course offerings to students and strategically reduce class sizes. At the elementary level, these funds had been allocated to enhance professional learning opportunities for teachers.

The Ministry estimated that reducing this funding for two school years would result in a cost savings of $96 million. The Ministry's projected cost savings reflects a reduction in funding to school boards rather than the actual reduction in expenses at the school board level, because boards were not required to report the reduction to their expenses specifically. We recalculated the expected savings and determined that the Ministry's estimated savings of $96 million was reasonable.

Savings From Eliminating Employee Banking of Sick Days ($85 million)

In addition to the one-time cost reduction related to eliminating the liability for banked sick days described at the beginning of this section, the Ministry identified a two-year cost savings from the elimination of a future expense that resulted from school board employees no longer being able to bank unused sick days. The Ministry projected that the net cost savings would be $75 million over the two-year period (September 1, 2012–August 31, 2014). In addition, with the anticipated adoption of a new short-term sick-leave plan, the Ministry also included an estimated savings of $10 million because it expected that teachers would take fewer sick days and that fewer substitute teachers would be needed.

The estimated $75 million in cost savings from the elimination of banked sick days was based on actuarially determined projections submitted by school boards in 2011 for the 2012/13 and 2013/14 school years. Although actual expenses may have differed had the actuaries recalculated these expenses using updated data and assumptions, this was the best information available at the time. Using this information we selected a sample of boards (representing 66% of the dollar total) and calculated projected savings from no longer accumulating sick days. Based on this updated information, we determined that the original estimate overstated the amount of savings by $26 million.

With regard to the expected reduction in substitute teacher costs, we found that this was not one of the terms agreed to in the OECTA MOU but rather an expected benefit from teachers having fewer full-paid sick days available to them (originally anticipated to be six days at 100% of salary). However, we found that overall substitute teacher costs were essentially unchanged in the 2012/13 school year. Therefore, the $10-million expected reduction in substitute teacher costs should not be included as a cost savings. Consequently, the Ministry's projected amount of ongoing savings relating to the elimination of accumulated sick days should be reduced by $36 million ($26 million plus $10 million). resulting in a two-year savings of $49 million.

Savings From Eliminating Subsidized Post-retirement Benefits ($57 million)

In addition to the one-time cost reduction from the elimination of school board–subsidized post-retirement benefits (health benefits, dental benefits and life insurance) for employees retiring after August 31, 2013, the Ministry projected cost savings of $57 million. The Ministry's projection is based on savings of $103 million—the amount that would have been incurred in the 2012/13 and 2013/14 school years if the post-retirement benefits had continued to be subsidized. This amount is offset by school board payments to fund the benefits that were expected to total $46 million over the same period ($103 million minus $46 million equals $57 million).

Since the $103 million is an expense projection of the cost of subsidized post-retirement benefits had the benefit remained in place, the school board payments to fund the benefits should not offset this projected amount, and the $46 million should be excluded from the amount of estimated savings. The Ministry had reduced the savings by the $46-million payment by the boards because the Ministry indicated that a funding policy change was required to reduce this allocation. The boards could reallocate this funding for other school board priorities. However, these other priorities are not specifically related to changes to the education sector collective agreements and were therefore excluded from the savings attributable to the elimination of subsidized post-retirement benefits.

This $103 million projection was based on actuarially determined projected expenses submitted by school boards in 2011 for the 2012/13 and 2013/14 school years. Although these estimated expenses may have differed had the actuaries recalculated them using updated data and assumptions, this was the best information available at the time. We reviewed the actuarial reports of individual school boards for more than two-thirds of the $103 million in expenses. We found that the boards' expenses for the 2012/13 and 2013/14 school years often included amounts that had been recorded in prior years and therefore were already accounted for in the Ministry's projected amount of one-time savings for the elimination of post-retirement benefits. Accordingly, we determined that the Ministry's projection is overstated by $13 million.

Therefore, in total, the Ministry's amount of estimated savings related to the elimination of subsidized post-retirement benefits should be increased by $33 million ($46 million minus $13 million), for an overall impact estimated at $90 million.

Savings From an Increase in Retiring Employees ($16 million)

The Ministry identified that the number of teachers retiring in the 2011/12 school year was higher than originally forecast. It attributed this difference to the impact of the collective bargaining process and estimated that the increase in retirements would result in a savings of $16 million as more experienced (and therefore higher-paid) teachers would be replaced by new, less experienced (and therefore lower-paid) teachers.

The Ministry could not provide any supporting evidence to show that the increase in retirements was related to the collective bargaining process, although it is possible that this was the case given that employee benefits were being impacted. The teachers' unions we spoke to, the Ontario Teachers' Pension Plan and representatives from the four school board trustee associations also told us they did not have any evidence to support the Ministry's assertion. Although retirements in 2011/12 were up over the previous year, when compared to the previous five years, 2011/12 retirements were not unusually high. Given that the amount is not significant, and a small increase seems reasonable, we attributed $16 million to this savings.

Cost of Topping Up WSIB Payments to 100% of a Recipient's Salary (Not Included in the Ministry's Original Estimate)

We noted an additional cost related to a term that was introduced in the MOU between the Ministry and OECTA and subsequently applied across the education sector. The term required the school boards that were topping up the salaries of employees receiving benefits from the Workplace Safety and Insurance Board (WSIB) to continue to do so.

We brought this term to the Ministry's attention and it provided us with a cost estimate of about $9 million for the collective agreements covering the period from September 1, 2012, to August 31, 2014. We reviewed supporting documentation and actuarial reports for most of the school boards and spoke to school board actuaries, and determined that the Ministry's estimate was reasonable.

5.2.2 Cost of Revisions to Collective Agreements Before the *Putting Students First Act* was Repealed ($200 million)

Cost of Topping Up Employees to 100% of Salary Under the New Sick Leave Plan ($67 million)

The new sick-leave plan that the Ministry introduced in its MOU with OECTA provided employees with up to 10 sick days paid at 100% of their salary rather than the six sick days the Ministry had proposed, and also allowed up to 120 additional sick days at up to 90% of salary. The Ministry's MOU with CUPE increased the number of sick days paid at 100% from 10 days to 11.

The Ministry's MOU with CUPE also introduced a sick leave top-up for employees. For the 2012/13 school year, each employee was allotted two days that could be used to top up his or her sick day salary to 100% if he or she took more than 11 sick days. The provision also allowed employees to carry over unused sick days from the 2012/13 school year to top up their salaries to 100% if they took more than 11 sick days in the 2013/14 school year.

The Ministry estimated the cost of the top-up provision to be $67 million. This estimate was based on preliminary actuarial advice but relied on outdated sick leave information, which was the best information available at the time. The school boards subsequently reported an actuarially determined cost of $16 million in the 2012/13 school year for the top-up and a projected expense of $8 million for it in the 2013/14 school year. Our review of the actuarial reports revealed that the $24 million ($16 million plus $8 million) that school boards reported as the top-up cost was more reasonable than the Ministry's original cost estimate. Therefore, the Ministry's revised cost estimate of $67 million is likely overstated by $43 million ($67 million minus $24 million).

Cost for Substitute Teachers in Anticipation of an Increase in Sick Days ($60 million)

After the Ministry's MOU with CUPE increased the number of sick days paid at 100% of an employee's salary from 10 days to 11, this concession was applied across the education sector through a regulation. Expecting that the provision of an additional sick day would result in increased costs to school boards, the Ministry committed to providing an additional $30 million per year for a total of $60 million over the course of the two-year agreements (September 1, 2012–August 31, 2014) to cover projected increased substitute teacher costs.

We assessed the Ministry's calculations on a sample basis to substantiate the funding increase. The Ministry's projected cost estimate reflects an increase in funding to school boards rather than an increase in expenses at the school board level. Accordingly, we compared the total costs for substitute teachers reported by school boards in the 2012/13 school year, the first year of the new collective agreements, to substitute teacher costs in the 2011/12 school year and noted that these costs were virtually unchanged in total across the province. However, we did note variances at the school board level. Some boards saw substitute teacher costs go up by more than 10% due to increased sick leave. while others saw reductions of more than 10%. This suggests that although some boards experienced an increase in substitute teacher costs, many boards did not and still received additional funding for a cost that did not increase or that even decreased. Boards that did not experience an increase in substitute teacher costs did not, and were not expected to, return this funding to the Ministry.

Because 2012/13 was the first year of the new sick-leave provisions, both the Ministry and representatives from the school board trustee associations noted that it is possible that province-wide results could differ in the 2013/14 school year. Nevertheless, the Ministry did provide boards with $60 million pursuant to the collective agreements for increased substitute teacher costs even though the boards over the two-years of the agreements may not incur these costs.

Cost of Changing the Eligibility Threshold for Retirement Benefits ($35 million)

The Ministry's MOU with CUPE included a provision that made more school board employees eligible to receive a one-time benefit payout upon retirement. Essentially, this provision reduced the vesting period for retirement benefits to 10 years for those boards where the benefit did not vest (in one case, for example, the benefit did not vest for 17 years). When it was applied across the education sector, it only affected employees at 10 school boards with vesting periods of more than 10 years.

We looked at supporting documentation for the amounts recorded by the Ministry for each of the school boards affected. Eight of the 10 boards had submitted actuarial reports to the Ministry supporting the cost associated with the change to the eligibility threshold. For the other two boards, the cost of the change was too small to warrant an actuarial assessment. We also checked the cost against the actuarial reports that the school boards used in preparing their 2013 audited financial statements, as well as the audited financial statements of the boards. We concluded that the Ministry's reported cost of $35 million is reasonable.

Cost of a One-time Payment to Employees for the Loss of the Retirement Benefit ($28 million)

The Ministry's MOU with CUPE included a one-time payout to employees who were not eligible for a retirement benefit because their accumulated sick days eliminated as of August 31, 2012, had not yet vested. The payout for most qualifying employees was 10% of their salary as of August 31, 2012, multiplied by a formula that considered their years of service and accumulated sick days (up to 200 days).

The Ministry originally estimated that the cost of this provision would be $28 million. However, after the *Putting Students First Act* was repealed, the Ministry agreed to increase the payout from 10% to 25% of the employee's salary as of August 31, 2012. Based on information it received from school boards, the Ministry gave the boards $37 million for this one-time payment and set aside another $10 million pending review of further submissions from the school boards. A total cost of $47 million was recorded in the province's March 31, 2013, financial statements.

The $37 million that was paid to the school boards was arrived at using schedules listing all employees who qualified for the payout that the school boards submitted to the Ministry. The schedules were subject to audit procedures by each board's independent auditor, such as matching a sample of the employee's years of service, annual salary and accumulated sick days to school board records.

We reviewed the schedules and assessed the audit procedures that each board's auditors had performed to check the accuracy of the schedules. We also checked the amounts reported by each board against the related payments made by the Ministry and concluded that the amounts reported were reasonable.

The remaining $10 million had been set aside pending review of any further costs submitted by school boards for the payout. However, the Ministry confirmed that no additional school boards have since submitted a cost for the payout. Accordingly, the Ministry's total cost should exclude this $10 million and be reduced to $37 million.

Of the total of $37 million in costs, we estimate that about $15 million is related to the 10% payout provision established by the MOU with CUPE, and the balance of about $22 million is related to the enhanced 25% payout provided following the repeal of the *Putting Students First Act*.

Cost of Compensating School Boards for Expenses Related to Implementing the MOUs ($10 million)

Although not tied to a specific MOU, in December 2012, the Ministry advised school boards that it would provide them with funding to help with the costs of updating their payroll and human resources systems to reflect the negotiated provisions, and for staff training on new processes.

We confirmed that the Ministry had provided $10 million in funding to the 72 school boards for these purposes. School boards were required to submit a report indicating how the money had been spent. The Ministry aggregated the reported expenses by type and confirmed that the school boards had spent just over $10 million for these purposes.

5.2.3 Cost of Revisions to Collective Agreements After the *Putting Students First Act* was Repealed ($155 million)

Cost of Reducing the Number of Mandatory Unpaid Professional Activity Days ($63 million)

As previously noted, teachers, principals and vice-principals were required to take three unpaid professional activity days off in the 2013/14 school year, which allowed the Ministry to reduce the amount of funding it provided to school boards that year by $180 million ($171 million for teachers; $9 million for principals and vice-principals). However, the MOUs signed between the Ministry and the teachers' unions after the repeal of the *Putting Students First Act* reduced the number of unpaid professional activity days required to be taken. These revisions were applied across the education sector.

For principals and vice-principals, the requirement was reduced from three days to one. Consequently, the Ministry returned $6 million to school boards (the amount of two days of funding for principals and vice-principals).

For teachers, the required number of unpaid days to be taken could also be reduced from three to one, but was contingent upon school boards and unions finding ways of offsetting the cost (for example, early-retirement incentives and voluntary leaves of absence). The Ministry initially provided $9 million in funding to school boards towards this, and committed to providing an additional

$48 million depending on the offsetting savings boards and unions were able to achieve. In order to receive this additional funding, school boards were required to report to the Ministry the offsetting savings they had achieved. All of the school boards reported that they achieved less than the equivalent of two unpaid days in savings, and the majority of boards did not achieve savings equivalent to even one unpaid day. This meant that teachers in most school boards were required to take an additional unpaid day in March 2014.

Using as its basis the school boards' estimated savings from offsetting measures, the Ministry determined that it would provide only $38 million of the $48 million in possible additional funding to school boards. Consequently, the actual cost of this revision was $10 million lower than the Ministry's original estimate of $63 million, and should be adjusted to $53 million ($6 million plus $9 million plus $38 million).

Cost of an Incentive for Employees to Take Fewer than Six Sick Days ($33 million)

MOUs signed after the repeal of the *Putting Students First Act* and a subsequent amendment to a regulation under the *Education Act* included a provision for teachers who took fewer than six full sick days in the 2013/14 school year to receive a payment equivalent to one day's pay.

Based on actuarial data it obtained from a sample of school boards for the 2009/10 to 2011/12 school years, the Ministry estimated that approximately 50% of teachers would use fewer than six sick days in 2013/14, and therefore earn an extra day's pay. The Ministry estimated this would cost $33 million and committed to provide school boards one-time funding of up to $33 million in 2013/14 for the incentive.

We recalculated the number of teachers potentially eligible for this incentive and reviewed the sick leave data that the Ministry used to calculate the percentage of teachers who had taken fewer than six sick days per year. We found that the Ministry's estimated cost of $33 million for this incentive was reasonable.

Cost of Increasing Maternity Benefits to Eight Weeks ($25 million)

MOUs signed after the repeal of the *Putting Students First Act* included a provision that extended the number of weeks of maternity benefits (at full pay for the two-week employment insurance (EI) waiting period and then topping up EI to full pay for the next six weeks) from six to eight weeks. This provision also formally extended benefits to a larger group of employees across the education sector, taking effect on May 1, 2013.

The Ministry does not collect data on maternity leave rates and school boards do not specifically report maternity leave costs to the Ministry. Therefore, the Ministry obtained data from school board representatives on the rate of maternity leave among different employee groups and used it to calculate an estimated cost of $25 million for boards to provide two additional weeks of maternity leave in the 2013/14 school year. The Ministry committed to providing funding to school boards in that amount for the 2013/14 school year.

We reviewed the maternity leave information the school boards provided to the Ministry and used it along with other ministry data to calculate the total cost of providing an additional two weeks of maternity benefits province-wide for nine different employee groups (for example, teachers, principals, support workers, early childhood educators and board administrators). We compared our calculations to the Ministry's and concluded that the $25 million estimate for the 2013/14 school year was reasonable.

Cost of Increasing Payout to Employees for Loss of Retirement Benefit ($19 million)

As we noted earlier, the Ministry's MOU with CUPE included a one-time payout to employees who were not eligible for a retirement benefit because their accumulated sick days had not been vested and were eliminated.

After the *Putting Students First Act* was repealed, the Ministry agreed to increase the payout from 10% to 25% of an employee's salary as of August 31, 2012. Also, as previously noted, the Ministry paid $37 million to school boards, with $22 million related to the increase in the payout from 10% to 25% after the Act was repealed. Consequently, the Ministry's estimated cost of $19 million for this revision was understated by $3 million.

Cost of Further Compensating School Boards for Expenses Related to Implementing the MOUs ($15 million)

In May 2013, the Ministry committed to providing the province's 72 school boards with another $15 million to support implementation costs related to integrating payroll and benefit systems, increasing the functionality of existing systems to better process changes related to employee benefit plan reforms, training staff, and engaging temporary staff.

Although this funding was not linked to specific provisions in the MOUs the Ministry signed with the unions, the Ministry provided it in response to school boards' concerns about the additional costs involved in implementing the changes to employment provisions that the new agreements had created.

The Ministry again required school boards to submit reports indicating how they had spent the money. The Ministry aggregated the board-reported expenses and identified that the boards had spent slightly less than $15 million. We verified that the Ministry had provided $15 million in funding to the province's 72 school boards for these purposes.

5.3 Potential Costs and Savings After the Current Collective Agreements Expire

5.3.1 Estimated Annual Ongoing Savings From Certain Collective Agreement Changes ($325 million)

Many of the provisions in the current collective agreements discussed in this report could result in financial impacts in future years. We calculated the potential impact based on the 2012/13 and 2013/14 school years for the terms that were not strictly tied to the time frame of the current collective agreements and therefore could be ongoing (barring the renegotiation of the agreements). We calculated that these provisions could result in savings of about $325 million annually, as shown in **Figure 4**. However, these potential annual impacts are outside the time frame of the current collective agreements and are contingent upon being carried forward in future agreements. In addition, we were advised that as the Ministry moves forward, these impacts are incorporated as the baseline for its annual planning, and therefore no longer considered savings. Consequently, these estimated ongoing savings have not been included in the calculation of costs and savings.

5.3.2 Estimated Annual Cost to Eliminate the Salary Differential Between ETFO and Non-ETFO Teachers ($113 million)

In June 2013, after the *Putting Students First Act* was repealed, the Ministry and the Elementary Teachers' Federation of Ontario (ETFO), entered into an MOU. While the MOU generally covered the period of September 1, 2012, to August 31, 2014, it also included a provision whereby, effective September 1, 2014, after the school board collective agreements expire, the government will eliminate the salary differential between ETFO and non-ETFO teachers. ETFO members received a 2% increase in the years 2008/09 and 2009/10 as opposed to a 3%

increase received by the other unions. This created a salary differential with the other unions.

The Ministry estimated that eliminating the salary differential would cost it about $113 million in the 2014/15 school year and that such additional costs would continue in the school years thereafter. We reviewed the Ministry's calculations on a sample basis to assess the degree to which funding would be increased and found that the Ministry's cost estimate for eliminating the ETFO salary differential was reasonable. However, the cost of the ETFO provision is not included in the calculation of potential costs and savings because it does not take effect until after the collective agreements expire.

5.4 Reduced Liability Related to School Board Employee Pension Plans ($1.125 billion)

Pension benefits are a significant component of teachers' compensation. The Ontario Teachers' Pension Plan (Plan) is a defined-benefit pension plan jointly sponsored by the Ontario government (representing employers) and the Ontario Teachers' Federation (representing plan members) as representatives of the Plan's members. These two sponsors are responsible for the Plan's design, its level of benefits and contributions, and for ensuring that the Plan stays viable.

The *Putting Students First Act* and the changes stipulated in the various MOUs between the Ministry and the unions had an impact on the pension liability (the value of amounts expected to be paid upon retirement) for school board employees.

The government obtained an actuarial estimate, which we reviewed, indicating that, due to revisions to the collective agreements, the pension liability would be reduced by about $2.5 billion. However, this amount was partially offset by a subsequent increase to the pension liability of about $250 million that arose from the commitment agreed to in the Ministry's MOU with ETFO that eliminated the salary differential between ETFO teachers and other teachers. Because the pension plan is jointly sponsored, about half of this liability reduction, or $1.125 billion ($2.5 billion minus $250 million equals $2.25 billion), would be attributable to the Ontario Teachers' Federation and its members, and the other half would reduce the liabilities of the Ontario government.

5.5 Union Legal Challenge of the *Putting Students First Act* (Potential Costs Unknown)

The Elementary Teachers' Federation of Ontario (ETFO), the Ontario Secondary School Teachers' Federation (OSSTF), the Canadian Union of Public Employees (CUPE), and two unions that represent smaller numbers of school board employees launched lawsuits against the Ontario government and the Ministry. The unions are of the opinion that several provisions in the *Putting Students First Act* (Act) violate the Canadian Charter of Rights and Freedoms (Charter).

Each union brought its own application before the courts, but it was decided that all would be considered together. The applications ask for a ruling on a number of matters, including the following:

- a declaration that the contested provisions of the Act violate the Charter and thus are invalid and of no force and effect;
- a declaration that the collective agreements imposed through the Act are null and void and of no force and effect;
- compensation and damages for all losses incurred as a result of the infringement and denial of Charter rights and freedoms (although no dollar amount was specified); and
- the award of costs associated with the case.

Hearings on this case with the Ontario Superior Court of Justice are not scheduled to occur until April 2015. Since the outcome of this legal dispute is unknown, the financial implications, if any, are uncertain.

Appendix 1—Key Dates and Developments

Prepared by the Office of the Auditor General of Ontario

Mar. 27, 2012	Ontario budget sets goal of eliminating the deficit by the 2017/18 fiscal year and proposes parameters for an agreement with education employees and school boards, including a wage freeze.
Jul. 5, 2012	Ministry of Education and Ontario English Catholic Teachers Association (OECTA) reach a memorandum of understanding for a two-year agreement, Sept. 1, 2012–Aug. 31, 2014
Aug. 16, 2012	Ministry announces plan to introduce legislation to require school boards and local bargaining units to accept collective agreements consistent with the OECTA MOU. Ministry projects total savings of $2.2 billion.
Aug. 27, 2012	Bill 115, the *Putting Students First Act*, introduced in the Legislature. It gives school boards a mandate to negotiate local collective agreements consistent with the OECTA MOU.
Aug. 31, 2012	Most education-sector collective agreements expire.
Sept. 1, 2012	Two-year period of restraint begins for most education-sector employees.
Sept. 11, 2012	*Putting Students First Act* receives Royal Assent. Negotiations continue.
Dec. 31, 2012	Ministry and CUPE sign an MOU outlining a number of revisions to be made to the collective agreements.
Jan. 2013	Contracts imposed on all school boards and unions that did not approve a collective agreement. Ministry still expects savings of more than $1.8 billion. Ministry announces Act will be repealed by end of the month.
Jan. 23, 2013	*Putting Students First Act* repealed but terms and conditions of collective agreements remain in force. Negotiations continue.
Apr. 9, 2013	Ministry signs MOU with the Ontario Secondary School Teachers' Federation (OSSTF).
Jun. 12, 2013	Ministry signs MOU with the Elementary Teachers' Federation of Ontario (ETFO).
Sept. 11, 2013	Legislative Standing Committee on Public Accounts asks Auditor General to audit original and new total cost of revisions to collective agreements renegotiated after Bill 115's repeal.
Mar. 2014	Ontario Court dates set aside to hear the Bill 115 Charter challenge by a number of unions are postponed from June 2014 to April 2015.
Aug. 31, 2014	End of the two-year collective agreements with most education sector unions.

Appendix 2—Example of the Ministry's Teacher Salary Grid[1]

Source of data: Ministry of Education

Years of Experience	Annual Salary by Pay Rate Category ($[2])				
	D,C,B	A1	A2	A3	A4
0	42,452	45,025	47,211	51,263	54,127
1	45,076	47,787	50,155	54,565	57,560
2	47,823	50,709	53,260	58,012	61,196
3	50,585	53,632	56,328	61,459	64,840
4	53,457	56,642	59,506	64,979	68,637
5	56,299	59,651	62,676	68,492	72,383
6	59,061	62,669	65,846	72,012	76,180
7	61,962	65,686	69,053	75,554	79,970
8	64,921	68,761	72,289	79,117	83,811
9	67,887	71,830	75,473	82,674	87,637
10	74,242	76,071	80,160	88,665	94,612

1. The Ministry funds school boards based on teacher placement on the grid. Teachers are placed in a pay rate category based on their level of education and qualification, ranging from D (teacher certification with no university degree) to A4 (teacher certification with more than a four-year university degree, for example, an additional qualification such as a master's degree).

2. Amounts noted do not include employee benefits or pension contributions.