MEMORANDUM ON THE OBJECTS OF THE BASIC EDUCATION LAWS AMENDMENT BILL, 2022

1. BACKGROUND AND OBJECTS OF BILL

1.1 In 2013, the Minister of Basic Education (''Minister'') instructed a task team to review the basic education legislation as a strategic priority for the Department of Basic Education (''Department''). The task team identified the South African Schools Act, 1996 (Act No. 84 of 1996) (''SASA''), and the Employment of Educators Act, 1998 (Act No. 76 of 1998) (''EEA''), as needing amendments.

1.2 The Basic Education Laws Amendment Bill (''Bill''), which was published for public comment under Government Notice No. 1101 in *Gazette* No. 41178 on 13 October 2017, proposed to amend the SASA and the EEA so as to align them with developments in the education landscape and to ensure that systems of learning and excellence in education are put in place in a manner which respects, protects, promotes and fulfils the right to basic education enshrined in section 29(1) of the Constitution of the Republic of South Africa, 1996 (''Constitution''). Another aim of the Bill was to bring about certain technical and substantive adjustments in the SASA and the EEA, to clarify certain existing provisions and to insert certain provisions to cover matters which are not provided for in the existing legislation.

1.3 One of the developments in the education landscape came about in 2009, when the then Department of Education was split into two new departments, being the Department and the Department of Higher Education and Training (in terms of Proclamation No. 44 of 2009, signed by the President on 20 June 2009 and published in *Gazette* No. 32367 on 1 July 2009).

1.4 The general public and education stakeholders submitted just under 5 000 comments in respect of the Bill. There were also 144 petitions, containing a total of 195 695 names, objecting to certain clauses of the Bill.

1.5 On 19 February 2018, a task team consisting of representatives from the Department and three of the provincial education departments (namely the education departments of Gauteng, Limpopo and the Western Cape) started with the process of perusing the submissions and amending the Bill by incorporating constructive comments into the Bill. During the period from 19 February 2018 to 14 February 2020, the task team had 31 meetings (57 days altogether) and held extensive discussions with other Department officials in order to clarify issues raised by some of the commentators and, where necessary, sought advice and inputs from persons outside the Department as well.

1.6 Late in January 2020, the Minister met with representatives of school governing body associations, teachers unions, and home education associations to further discuss pertinent matters with them. Further comments submitted by those stakeholders in relation to that meeting were also considered. A series of meetings with the National Economic Development and Labour Council (''Nedlac'') also took place between February 2020 and September 2020, and the inputs made by Nedlac were also taken into consideration.

1.7 The version of the Bill that is currently under consideration is the result of the incorporation of many of the commentators' inputs, many hours of discussions at task team meetings, countless hours of individual work put in by task team members, and inputs from a variety of officials and other persons who were consulted.