



EASTERN CAPE PROVINCIAL LEGISLATURE

OFFICE OF THE CHAIRPERSON OF THE PORTFOLIO COMMITTEE ON
EDUCATION

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28 October 2010

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NEGOTIATING MANDATE

To : The Chairperson: Select Committee on Education and
Recreation National Council of Provinces

Name of Bill : Higher Education and Training Laws Amendment Bill

Number of Bill : [B26B-2010]


Date of Deliberation : 28 October 2010

Vote of the Legislature

The Province votes in favour of the Bill and mandates the Eastern Cape delegate to the NCOP to negotiate in favour of the Bill within the following parameters:

- (a) The fact that FET educators are 'employed' by two employers, (i) the government, and, (ii) the FET Council is problematic and it is proposed that they must be employed by the government for all intents and purposes. The Bill should place the FET sector fully under the control of the state.
- (b) The Bill should clearly spell out the entry qualifications of both FET and ABET educators; the Bill should also contain prescripts that standardize qualifications.
- (c) The FET and ABET centers should not be autonomous and should be fully under the control of the state.

- (d) The state is clear on the education foundation phase being free. However the placement of ABET under the Higher Education Ministry creates an impression that these adults will be expected to pay for their education. This must therefore be clarified and ABET must still be free.
- (e) ABET is twofold, there is a foundation phase namely ABET level 1-4 and higher education which is NQF level 1, the possibility of splitting these levels of ABET between the two education Ministries should be explored, i.e. placement of the foundation phase under Ministry of Basic Education and the placement of the NQF level under the Ministry of Higher Education.
- (f) On monitoring and evaluation referred to in clause 25G(3), it is proposed that a national monitoring instrument must be developed, which would provide guidelines to be followed when doing monitoring and evaluation.
- (g) On clause 41L(1) it is proposed that the criterion for the appointment of Members of the Council and their qualifications should be stated in the Bill.
- (h) Entry and exit points to the FET and ABET Centers should be provided for in the Bill.
- (i) Clause 20J(3)(a) and (b) of the Bill allows ABET educators to voluntarily retire at 55 years but does not state whether there will be any penalties imposed for taking early retirement.
- (j) There is a need for the Bill to provide for the advancement of ABET and FET students to other learning institutions. This must also involve the reviewal of the curriculum in order to allow such advancement.
- (k) There current legal framework for ABET Centers and FET colleges is problematic and there is therefore a need for it to be reviewed in total. It is therefore proposed that the Department must also review these Acts.


HON MZOLELI MRARA (MPL)
CHAIRPERSON OF THE PORTFOLIO COMMITTEE ON EDUCATION

28/10/2010
DATE



Committee Service

Our reference:
Ons verwysing:
Tshupo ya rona:

**PORTFOLIO COMMITTEE ON EDUCATION, SPORT, ARTS, CULTURE AND
RECREATION
Negotiating Mandate**

TO: Chairperson of the Select Committee on Education and Recreation

**NAME OF BILL: HIGHER EDUCATION AND TRAINING LAWS
AMENDMENT BILL**

NUMBER OF BILL: [B26B - 2010]

DATE OF DELIBERATION: 02 NOVEMBER 2010

VOTE OF THE LEGISLATURE:

The Portfolio Committee on Education, Sport, Arts, Culture and Recreation, as designated by the Free State Legislature:

Votes in favour of the Bill

S. Makae
CHAIRPERSON OF PORTFOLIO COMMITTEE ON EDUCATION, SPORT, ARTS,
CULTURE AND RECREATION
FREE STATE LEGISLATURE

Date 02 November 2010.

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GAUTENG
LEGISLATURE
Your View ~ Our Vision

NEGOTIATING MANDATE

TO: The Chairperson of the Select Committee on Education

Hon. M W Makgate

NAME OF BILL: Higher Education and Training Laws Amendment Bill.

(Section 76)

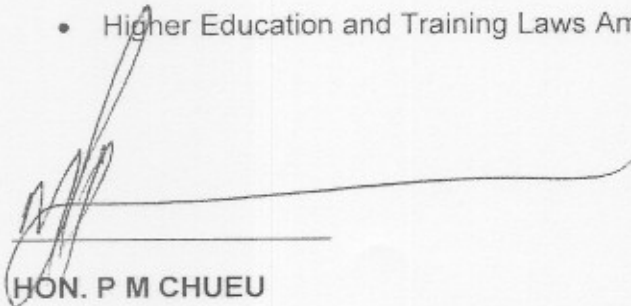
NUMBER OF BILL: [B26B-2010]

DATE OF DELIBERATION: 02 November 2010

VOTE OF THE LEGISLATURE:

The Gauteng Provincial Legislature supports the principle and the detail of the bill and therefore votes in favour of-

- Higher Education and Training Laws Amendment Bill.



HON. P M CHUEU

Chairperson of Education Committee

GAUTENG PROVINCIAL LEGISLATURE

Date: 02/11/2010



GAUTENG
LEGISLATURE

EDUCATION COMMITTEE

**NEGOTIATING MANDATE ON THE HIGHER EDUCATION AND TRAINING
LAWS AMENDMENT BILL [B26B-2010]- SECTION 76**

02 November 2010

1. INTRODUCTION

The Chairperson of the Education Committee, Hon. P Chueu, tables the Committee's Negotiating Mandate on the Higher Education and Training Laws Amendment Bill [B26B-2010], a Section 76 Bill as follows:

2. PROCESS FOLLOWED

The Speaker formally referred the Higher Education and Training Laws Amendment Bill [B26B-2010] a Section 76 Bill to the Education Portfolio Committee for considering and report in terms of Rule 232 (1) (a) read with 235 (4), (6) and (7) on Friday, 01 October 2010.

On Wednesday, 20 October 2010, the Portfolio Committee on Education was briefed by Adv. Boshoff from the National Department of Higher Education and Training on the intentions of the Bill. The Committee further received a presentation on the Bill from Mr Albert Chanee, a representative from the Gauteng Department of Education.

On the 26 October 2010 the Committee received a research analysis from Ms S Nenweli and legal opinion from the NCOP and Legal Services Unit, Legal Advisor Ms F Njobe on the Higher Education and Training Laws Amendment Bill [B26B-2010].

On Friday, 29 October 2010, the Portfolio Committee in line with the Gauteng Provincial Legislature's constitutional mandate of promoting public participation during the law making process. The Committee conducted Public Hearings at the Turffontein Racecourse, on the Higher Education and Training Laws Amendment Bill [B26B-2010], a Section 76 Bill.

On Tuesday, 02 November 2010, the Committee deliberated on the technical and substantive amendments and subsequently adopted the Negotiating Mandate on the Higher Education and Training Laws Amendment Bill [B26B-2010].

3. PRINCIPAL AND DETAIL OF THE BILL

Higher Education and Training Laws Amendment Bill [B26B-2010] seeks to:

- Amend the Adult Basic Education and Training Act, 2000;
- Amend the Further Education and Training Colleges Act 2006.

The aim of the amendments is to align the existing laws with the new education dispensation that came about when the former Department of Education was split into the Department of Basic Education and the Department of Higher Education and Training.

4. OVERVIEW OF PUBLIC HEARING AND SUBMISSIONS

As part of its functions and obligation, the Committee held a public hearing on the Higher Education and Training Laws Amendment Bill [B26B-2010] on Friday, 29 October 2010. The Committee had received both verbal and written submissions from the various individuals and organisations that are listed hereunder:-

1. Council for Adult Education and Training (CATE)
2. Johannesburg Central College for FET

- 4.1 Representatives from CATE indicated their support for the bill, however, suggested the following amendments:
- 4.1.1 The definition of adult education and training (Page3, Line 2) should read:
'adult education and training' means all learning and training programmes for adults on levels 1-4 registered on the national qualifications framework contemplated in the National Qualifications Framework Act, 2009 (Act No. 67 of 2008);
- 4.1.2 There must be consistency in the Bill and the Act because the Act refers to Public Adult Learning centers where as the Bill refers to Adult Education and Training Centre (section 25J of the Bill). The Bill must therefore reflect the appropriate term.
- 4.2 Representatives from the Johannesburg Central College for FET indicated their support for the Bill, however proposed the following recommendations:
- 4.2.1 The Department should embed Adult Education in the Further Education and Training Act to create a single legislative environment with harmonized governance, policy and quality monitoring. This makes Adult Education Centres and FET colleges specialized and unique institutional sites of delivery for Post-School Education and Training that should be positioned to articulate with SETAs and universities in a single coherent and seamless system to achieve the goals of the National Human resource Development Strategy.
- 4.2.2 Adult Education and Training Centres should be attached to public FET colleges to increase curriculum coordination, articulation and career pathing that leads to various levels of the world of work (Level 2 to Level 5 employment competencies). Such institutional arrangements will improve service delivery coherence and a common approach to quality assurance.
- 4.2.3 If the current legislative separation remains, , the recommendation is to co-embed elements of adult education in the Further Education and Training Act, and elements of Further Education and Training in the Adult Education and Training Act, as amended, to

create a single legislative environment with harmonized governance, policy and quality monitoring.

- 4.2.4 With respect to Monitoring and evaluation of Adult and Further Education and Training: Without contradicting provisions in sections 25B and 41B for Adult Education Centres and FET respectively, the Central Johannesburg College for FET recommended the addition of provincial planning to the monitoring and evaluation functions to adjust the headings of the said sections to "Provincial Planning, Monitoring and Evaluation."

Based on provincial priorities for growth and development, the role of regional planning, monitoring and evaluation of Provincial Departments would serve to ensure responsiveness of colleges and adult centres to local, regional and national development priorities.

- 4.2.5 With regards to quality assurance, the recommendation is to co-embed all relevant quality authorities, including the Higher Education Quality Council, into the proposed legislative amendments to enable seamless articulation of quality assurance and management practice across the entire education and training system.

5 FINANCIAL IMPLICATIONS AND SOCIO ECONOMIC IMPACT ASSESSMENT OF THE BILL FOR THE PROVINCE

5.1. FINANCIAL IMPLICATIONS OF THE BILL

The Bill has no additional financial implications for the province.

5.2. SOCIAL IMPACT ASSESSMENT

The Higher Education and Training Laws Amendment Bill [B26B-2010] will contribute to improved service delivery and will create an opportunity for every citizen in the province irrespective of age, gender, disability, and socio-economic background to receive education and training up to a higher level, which will eventually have a positive impact on the economic development of the country.

6. VIEWS OF THE GAUTENG DEPARTMENT OF EDUCATION

The Department reported that they support the Bill; however the following concerns were raises:

- 6.1 FET Act provides that the MEC must from money appropriated by Provincial Legislature fund Public Colleges where as the funds are allocated to Provinces as conditional grants which withdraws the powers of MEC.

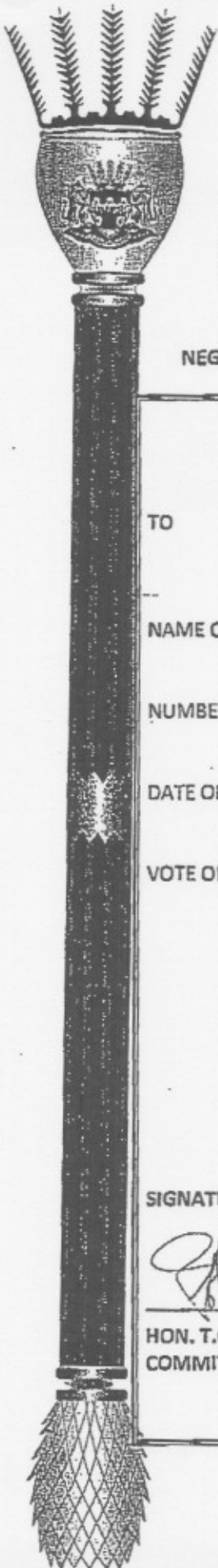
7. COMMITTEE RECOMMENDATIONS

The Committee is of the view that the primary purpose of the Higher Education and Training Laws Amendment Bill [B26B-2010] is to align existing laws with the new education dispensation that came about when the former Department of Education was split into the Department of Basic Education and the Department of Higher Education and Training, furthermore, the amendments are primarily technical and there is no intention to amend existing policy. In light of the above, the Committee accepts the amendments as proposed.

8. NEGOTIATING POSITION ADOPTED BY COMMITTEE

The Education Portfolio Committee supports the principle and details on the Higher Education and Training Laws Amendment Bill [B26B-2010].

Limpopo Legislature



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0700

NEGOTIATING MANDATE

TO : The Chairperson
Select Committee on Education And Recreation

NAME OF BILL : Higher Education and Training Laws Amendments Bill

NUMBER OF THE BILL : (B26B- 2010)

DATE OF DELIBERATIONS : 22 OCTOBER 2010

VOTE OF LEGISLATURE : The Portfolio Committee on Education hereby confers a negotiating mandate to the Limpopo Provincial Permanent Delegates to negotiate in favour of the Bill

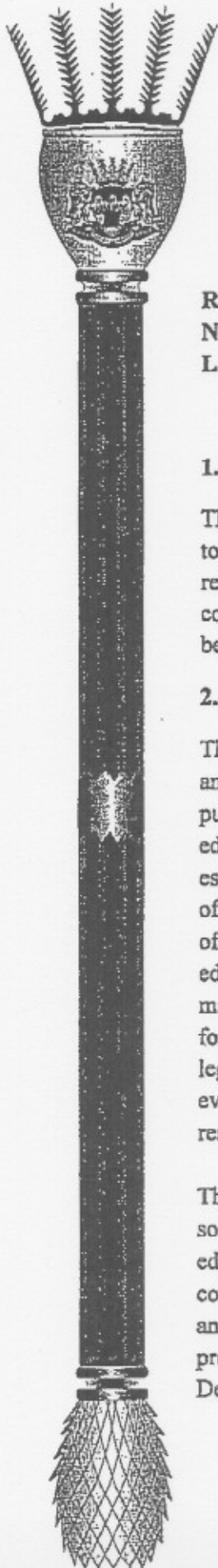
SIGNATURE

DATE

2/11/2010

HON. T.G.G MASHAMBA
COMMITTEE CHAIRPERSON

Limpopo Legislature



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**REPORT OF THE PORTFOLIO COMMITTEE ON EDUCATION ON THE
NEGOTIATING MANDATE ON HIGHER EDUCATION AND TRAINING
LAWS AMENDMENT BILL (B26B-2010)**

1. INTRODUCTION

The Higher Education and Training Laws Amendment Bill (B26B-2010) was referred to the Legislature by the National Council of Provinces and the Legislature in turn referred the Bill to the Portfolio Committee on Education for consideration and to confer a negotiating mandate accordingly. The Committee, having considered the Bill begs to report as follows:

2. PURPOSE OF THE BILL

The Bill seeks to amend the Adult Basic Education and Training Act, 2000, so as to amend certain definitions; to make provision for the employment of educators at public centres by inserting provisions in the said Act with regard to employers of educators, salaries and other conditions of service of educators, the educator establishment, powers of employers, appointments and the filling of posts, the transfer of educators, the secondment of educators, the retirement of educators, the discharge of educators, incapacity and misconduct and the performance of other work by educators; to provide for transitional arrangements with regard to public centres; to make provision for the determination of national education policy for public centres, for directive principles of national education policy, for consultation on policy and legislation, for the publication of national education policy and for the monitoring and evaluation of adult education and training; and to provide for quality assurance in respect of the qualifications offered by public and private centres;

The Bill also seeks to amend the Further Education and Training Colleges Act, 2006, so as to amend certain definitions; to make provision for the determination of national education policy for colleges, for directive principles of national education policy, for consultation on policy and legislation, for the publication of national education policy and for the monitoring and evaluation of further education and training; to make provision for the Council of Education Ministers and the Heads of Education Departments Committee and for their administrative functions;

to provide for transitional arrangements with regard to colleges; and to provide for quality assurance in respect of the qualifications offered by colleges; and to provide for matters connected therewith.

3. BRIEFING BY THE NCOP DELEGATE

The Permanent Delegate from the National Council of Provinces and Officials from national Department of Education briefed Members of the Portfolio Committee on Education on the Bill.

On the basis of this briefing, the Portfolio Committee felt that since the proposed amendments were necessitated by the creation of the new Ministry, and the fact that it was not published in the Gazette there is no need for a public hearing.

4. NEGOTIATING MANDATE

The Committee having considered and supported the Bill hereby confers a negotiating mandate to our NCOP Delegates to support the Bill as amended by the National Assembly Portfolio Committee on Higher Education and Training.



.....
T.G.G. MASHAMBA

COMMITTEE CHAIRPERSON



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OFFICE OF THE SPEAKER

Enquiries: Ms MB Tabane
Tel. No.: (013) 766 1038

NEGOTIATING MANDATE

To: The Chairperson: Select Committee on
Education and Recreation

Name of the Bill: Higher Education and Training Laws
Amendment Bill

Number of the Bill: [B26B-2010]

Date of Deliberation: 26 October 2010

Vote of the Legislature: The permanent delegation representing the Province of Mpumalanga in the National Council of Provinces is conferred with authority and a mandate to negotiate in favour of the Bill.

**HON. NS MTSWENI
CHAIRPERSON: THE PORTFOLIO
COMMITTEE ON EDUCATION,
CULTURE, SPORTS AND RECREATION**

26/10/2010

DATE

PUBLIC HEARINGS REPORT OF THE PORTFOLIO COMMITTEE ON EDUCATION, CULTURE, SPORT AND RECREATION ON HIGHER EDUCATION LAWS AMENDMENT BILL [B26B-2010]

1. INTRODUCTION

The Portfolio Committee on Education, Culture, Sport and Recreation (the Committee), received the Higher Education and Training Laws Amendment Bill [B26B-2010] (the Bill), which is a section 76 Bill and then, as part of its oversight function, decided to conduct public hearings to solicit inputs and/or comments from the general public and stakeholders.

1.1 Purpose

The Bill seeks to amend-

- the Adult Basic Education and Training Act, 2000, so as to amend certain definitions; to make provision for the employment of educators at public centres by inserting provisions in the said Act with regard to employers of educators, salaries and other conditions of service of educators, the educator establishment, powers of employers, appointments and the filling of posts, the transfer of educators, the secondment of educators, the retirement of educators, the discharge of educators, incapacity and misconduct and the performance of other work by educators; to provide for transitional arrangements with regard to public centres; to make provision for the determination of national education policy for public centres, for directive

principles of national education policy, for consultation on policy and legislation, for the publication of national education policy and for the monitoring and evaluation of adult education and training; and to provide for quality assurance in respect of the qualifications offered by public and private centres; and

- the Further Education and Training Colleges Act, 2006, so as to amend certain definitions; to make provision for the determination of national education policy for colleges, for directive principles of national education policy, for consultation on policy and legislation, for the publication of national education policy and for the monitoring and evaluation of further education and training; to make provision for the Council of Education Ministers and the Heads of Education Departments Committee and for their administrative functions; to provide for transitional arrangements with regard to colleges; and to provide for quality assurance in respect of the qualifications offered by colleges; and to provide for matters connected therewith.

1.2 METHOD OF WORK

The Committee met on 21 October 2010 to be briefed by officials from the Department of Education, Adv M Erasmus from the National Department of Higher Education and Dr H Van Zyl and Mr SJ Mkhwanazi from the Mpumalanga Provincial Department of Education on the Higher Education and Training Laws Amendment Bill (B26B- 2010).

On receipt of the Bill, the Portfolio Committee agreed to conduct public hearings at Witbank City Hall in eMalahleni Municipality and Wesselton Community Hall at Msukalikwa Municipality, simultaneously, in order to obtain inputs or comments from the public. Members of the Committee were split proportionally to conduct the public hearings in all the mentioned areas. The following were findings of the hearings:

2. DELIBERATIONS

2.1 Inputs and Comments

The public supports the amendments proposed on the Bill. However; there were concerns and clarity seeking questions raised on some clauses regarding the Bill, which the Committee managed to respond to. The following are some of the concerns/comments made during the public hearings:

- It is essential that Laws should not overlap between two ministers heading two distinct Departments;
- The Bill does not come up with significant changes but makes clear indications in terms of Adult Basic Education and Training (ABET) and Adult Education and Training (AET);
- ABET centres should be well resourced and regularly monitored;
- Government should make a proclamation on the improvement of ABET/AET Educators so that their working conditions could be reasonable;
- ABET/AET and the centres should be made accessible to all adults;
- As a result of the above statement more ABET/AET educators should be trained and recruited accordingly;
- Government should ensure that these ABET/AET educators are also employed permanently.
- The curriculum of ABET/AET learners must be designed in such a way that it meets the standards expected by private companies.

3. RECOMMENDATION

The Portfolio Committee recommends that the Permanent Members of the NCOP should negotiate in favor of the Bill.

4. CONCLUSION

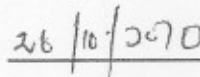
The Chairperson would like to thank the Members of the Portfolio Committee, for their participation during and after the proceedings of the public hearings.

Lastly, on behalf of the Committee, the Chairperson would like to request the House to adopt this Report.



Hon NS Mtsweni

Chairperson: Education, Culture, Sport and Recreation



Date



Northern Cape
Provincial Legislature

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FAX: 086 660 7692

FROM: Khanita Abrahams

DATE: 26 October 2010

SUBJECT: Negotiating Mandates [B26B-2010]

PAGES: 02



Northern Cape
Provincial Legislature

EDUCATION, SPORT, ARTS & CULTURE

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Hon MW Makgate
Chairperson: Select Committee on Education and Recreation

Name of the Bill: Higher Education and Training Amendment Bill

Number of the Bill: B26B - 2010

Vote of the Legislature:

The committee supports the Higher Education and Training
Amendment Bill [B26B-2010]

Signature:
HON B MBINQO

CHAIRPERSON TO THE PC ON EDUCATION, SPORT, ARTS & CULTURE

25-10-2010

Date:

Negotiating Mandate

From: Sisanda Sipamla
To: tmadima@parliament.gov.za
Date: 11/1/2010 03:29 PM
Subject: Sisanda's alternative number

Dear Tenda

Herewith is my alternative number

0725965646

Sisanda Sipamla
Researcher Unit
Select Committee on Petitions and Members' Legislative Proposals
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NEGOTIATING MANDATE

[Section 5]

Hon M W Makgate
The Chairperson of the Select Committee on Education, Sport, Arts and Culture

Name of Bill/question: **Higher Education and Training Laws Amendment Bill**

Number of Bill/question: **B 26B-2010**

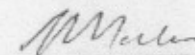
Date of deliberation: **1 November 2010**

Inputs of the participants:

- ↓ Clause 41C(iv); that refers to child, person, student; a concern that let one word Student be used for consistency.
- ↓ Reference used for educators at various FET colleges; other areas they are referred to as lecturers, others tutors; thus a concern that let they be referred to as Educators for uniformity and consistency.
- ↓ A concern of ABET directorate on removal of the word basic; that the education offered at the ABET centers is of basic level.
- ↓ The Bill is silent in terms of allocation of posts for the education sectors; especially in FET colleges
- ↓ A concern that Matriculants be catered and accommodated at the Adult Education Training Programs.
- ↓ A concern on lack of structure for the Bargaining Council at the Provincial Level; it is only at National level.

Vote of legislature: **After deliberation; the Portfolio Committee on Education, Sport, Arts and Culture votes in favour and supports the principles and details underlying the amendment of the Bill. The delegation representing the Province of the North West in the National Council of Provinces [NCOP] is conferred with the authority and mandate to negotiate in favour of the Bill; taking into account the observations of the Committee as contained above.**

Signed by:



Hon P D N Maloyi
Speaker of the North West Provincial Legislature

Wes-Kaapse Provinsiale Parlement
Western Cape Provincial Parliament
IPalamente yePhondo leNtshona Koloni



NEGOTIATING MANDATE

To: Hon. M W Makgate, MP
Chairperson: Education and Recreation

Name of Bill: Higher Education and Training Laws Amendment Bill

Number of Bill: [B26B – 2010]

Date of Deliberation: 26 October 2010

Vote of Legislature: Support the Bill without amendment


Signature

26-10-2010
Date

Hon J Hartnick
Chairperson: Education, Cultural Affairs & Sport

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