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PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

6th
DEMOCRATIC
PARLIAMENT

SELECT
COMMITTEE ON
APPROPRIATIONS
(NCOP)



Theme:
Accountability in
Public Expenditure
through effective
Parliamentary
Fiscal Oversight.



Select Committee on
Appropriations National Council of
Provinces

4/29/2021

1. INTRODUCTION

- After the first democratic elections in 1994, the South African Parliament needed to create legislative landscape in line with the values and principles enshrined in the Constitution;
- In order to achieve this much effort was placed on scrapping apartheid laws such as Exchequer Act and enacting new laws such as PFMA, MFMA etc. for the Constitutional democracy.
- This presentation provides some insightful information on how the Select Committee on Appropriations conduct its budget and fiscal oversight over the provincial and municipal expenditure, particularly on conditional grant allocations (direct and indirect);
- It also provides some Constitutional imperatives as part of the tools for parliamentarians to effectively effect their powers over the actions of the executive, key support instruments and stakeholders as part of the tools to enhance budget and fiscal oversight; then provide some observations and recommendations;

2. Constitutional Imperatives as Broader Oversight Tools for Parliamentarians

- In the South African context, oversight and accountability are constitutionally mandated functions of legislatures to scrutinise the executive actions;
- The Chapter 4 of the Constitution, Section 55 (2) requires that Parliament and provincial legislatures establish mechanisms for oversight and accountability for the Executive actions.
- The literature defines oversight as a formal and informal, watchful, strategic and structured scrutiny exercised by legislatures, including Parliament, in respect of the implementation of laws, the application of the budget, and the strict observance of statutes and the Constitution;

Constitutional Imperatives as Broader Oversight Tools for Parliamentarians..cont.

- This oversight process does not preclude the safeguarding the usage of state resources.
- Parliament and provincial legislatures have a responsibility to ensure that government departments comply with the legal prescripts in pursuit of ensuring expenditure is always on track.
- Black, Calitz, Steenkamp (2008) points out that the implementation of Constitutional rights are subject to budget constraints and limited state resources.
- This means that although expenditure on public goods can be a constitutional entitlement but the government has a responsibility to exercise expenditure controls to ensure the effective use of state resources.

3. Some Budget Context and the struggle for the Power to the “Purse”

- The national Budget, traditionally tabled in the last week of February with three main components that must be approved or amended by Parliament namely: the fiscal framework, the Division of Revenue Bill (DoRB) and the Appropriations Bill.
- The appropriation committees are responsible for the Division of Revenue Bill and Appropriations Bill.
- The Division of Revenue Bill (DoRB) is the key piece of national budget legislation for provinces, as it determines – in accordance with s214 of the Constitution – the distribution of total government expenditure across the three spheres.
- Money Bills Act directs that the DoRB cannot be considered before the fiscal framework is approved.

3.1 Division of Revenue Bill Process (S76 Bill): Appropriations Committees

- The Bill provides a link between provincial, local and national public finances and associated legislative fiscal oversight.
- The division of revenue across the spheres of government must satisfy a number of criteria, outlined in s214(2) of the Constitution.
- Equitable share formula has been developed in order to meet some of these constitutional criterias.
- In determining this formula, National Treasury consults provincial governments, the Financial and Fiscal Commission (FFC) and organised local government (SALGA).

Division of Revenue Bill Process (S76 Bill): Appropriations Committees cont..

- After, the national Executive tabled the Division of Revenue Bill in Parliament, this Bill is considered and adopted by the committee on appropriations from the National Assembly in accordance with the timelines set by the Money Bills Act.
- After, which it is referred to the NCOP appropriation committee to also consider and report to the House.
- However, as per the Mandating Procedures of Provinces Act, the Select Committee on Appropriations must in its deliberations on the Bill consider the negotiating mandates submitted by provincial legislatures, which makes the process different from the NA one.
- This presents an opportunity for the provincial legislatures to raise issues and National Treasury to provide answers.

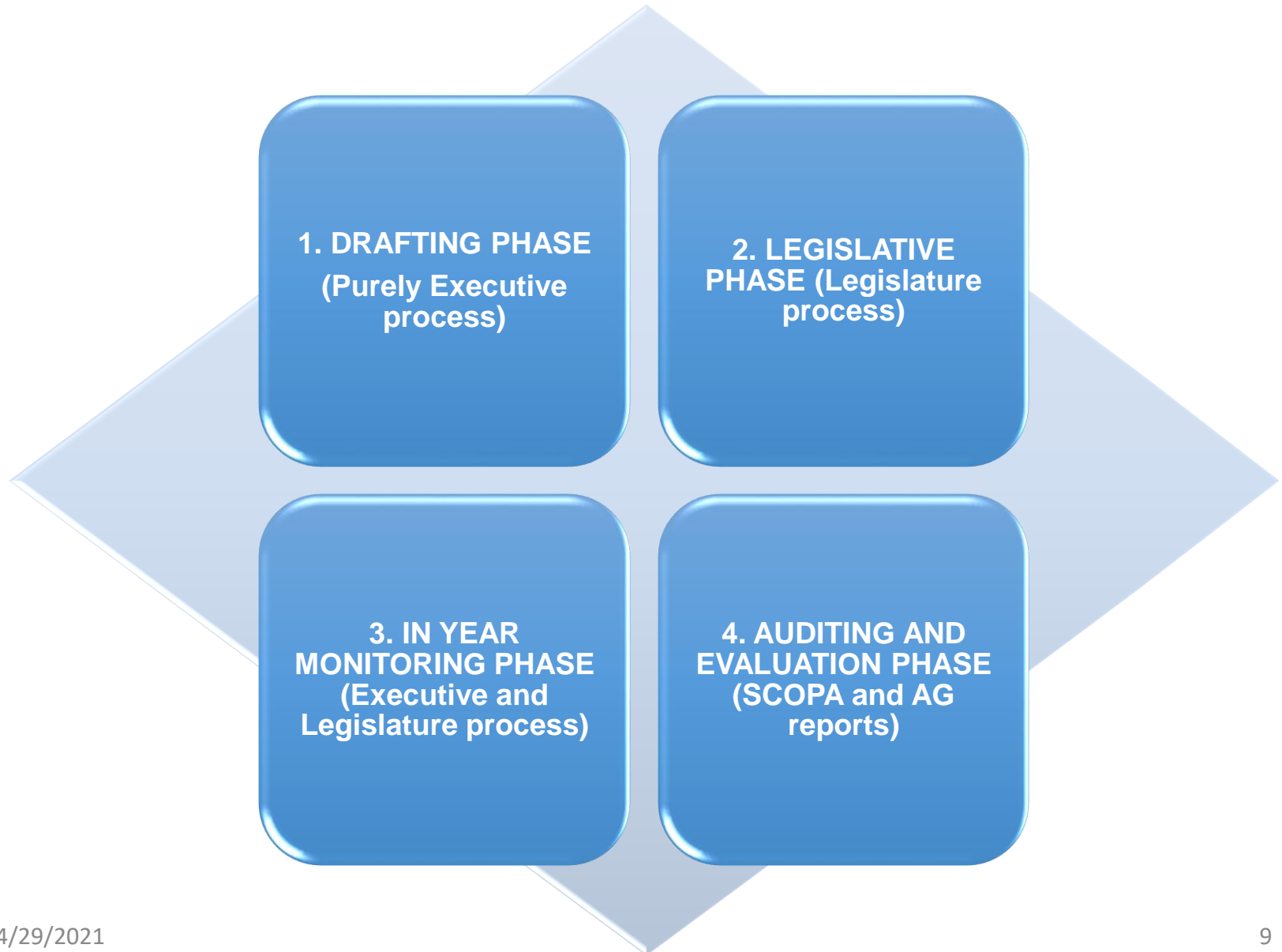
3.2 Appropriation Bill Process (S77 Bill): Appropriation Committees

- Appropriations Bill is the last Bill to be adopted by the appropriations committees to determine the allocation of the national share of government expenditure across national departments;
- The Bill follows almost a similar process as the DoRB, which first get passed by the National Assembly and get referred to the NCOP, however the Bill differs as it is referred to it as section 77 Bill, which appropriates monies from the National Revenue Funds (NRF) for the national government expenditure and does not require negotiated mandates from provincial legislatures.
- Parliament has 4 months to approve or amend this Bill (refer to the narrative for more information).

Appropriation Bill Process (S77 Bill): Appropriation Committees...cont..

- This means that for up to four (4) months of the year national government departments are operating without a finally-approved Budget.
- However, this is addressed in section 29 of the PFMA, which allows spending of up to 45 per cent of the previous year's Budget in the first four (4) months of the new financial year.
- Through effective budgetary and fiscal oversight, Parliaments can eliminate poverty, inequality & unemployment and ensure adequate implementation of the National Development Plan (NDP).

3.2 What are the Budget Phases in the South Africa context?



4. Tools and Procedures for effective budget and financial oversight by the Appropriation Committees

The Money Bills Amendment Procedure and Related Matters Act No. 09 of 2009, which establishes and sets out the mandates of the appropriation committees as follows;

- *spending issues;*
- *amendments to the Division of Revenue Bill, the Appropriation Bill,*
- *Supplementary Appropriations Bills and the Adjustment Appropriations Bill;*
- *recommendations of the Financial and Fiscal Commission, including those*
- *referred to in the Intergovernmental Fiscal Relations Act, 1997 (Act No. 97 of*
- *1997);*
- *reports on actual expenditure published by the National Treasury; and*
- *any other related matter set out in this Act.*

Tools and Procedures for effective budget and financial oversight by the Appropriation Committees

The Legislative Sector Oversight Model as a Cornerstone for Oversight Function

- The Model serves to reinforce the existing principles of oversight and accountability utilised by the Appropriation Committees.

Public Finance Management Act and Municipal Finance Management Act as instruments for budget oversight - The Committee uses section 32 and 71 report of the Public Finance and Municipal Finance Management Act to track conditional grant expenditure.

Additional materials to improve budget oversight - Despite, Section 32 and 71 reports, which are used as a criterion to identify poor expenditure, Auditor General', PBO, PSC, FFC reports and many other independent research materials are also used as additional material to strengthen Committee oversight;

Tools and Procedures for effective budget and financial oversight by the Appropriation Committees

Committee Recommendation Tracking – The Committee adopted recommendation tracking mechanism, which assist the Committee to be able to track the implementation and get specific responses from the executive regarding its recommendations.

Committee Collaborative Approach – the Committee also use collaborative work with other appropriation and finance committees to enhance oversight impact, however, this is dependent on both Committee programmes being aligned.

Collaborative approach is encourage as it provides some synergic oversight effort and also addresses inconsistency element on information received from the executive.

Tools and Procedures for effective budget and financial oversight by the Appropriation Committees

Parliamentary Budget Office, which is established by the Money Bills Act also provide support to the Committee before and post budget tabling.

Financial and Fiscal Commission, which submit recommendations for the division of revenue for the following financial year is also critical for the Committee.

South African Local Government Association (Salga), presents all the views of the local sphere during the Division of Revenue Bill process;

Public Participation and Submissions by Key Stakeholders-

The Committee ensures public participation and adherence to the six (6) weeks cycle during the budget process to allow provinces to conduct public participation process, although this timeframe has not been adequate for provinces.

5. How Does the Appropriation Committees Implement these Oversight Tools?

- Every beginning of a new term, the Committee adopts a 5-year strategic plan together with an annual performance plan (APP) to guide its mandate and annual programme for the next five years and this can only be reviewed annually through annual performance plans.
- This process is guided by a number of critical documents and these include:
 - *Committee Legacy Report emanating from the term that had just ended;*
 - *Parliament Strategic Plan for the new term;*
 - *Parliament Policy priorities for new term;*
 - *Outcomes of the NCOP Strategic Planning Session;*
 - *State of the Nation Address (SONA); and*
 - *Medium Term Strategic Framework (MTSF) for the new term.*

6. Some Committee Observations and Challenges:

- While it is understood that it is in the nature of the NCOP, which consists of fewer members, the sharing of Committee membership with other portfolios remains a challenge for the Committee to fully implement its programme as it is required to accommodate those other committees to also discharge their responsibilities using the same membership;
- It is a common knowledge and worldwide phenomenon that the executive arm of state always has more capacity and resources at their disposal than legislative arm and that remains a challenge for committees to strengthen and conduct effective oversight, and this also hampers the possibility for budget amendments by the legislatures;

Some Committee Observations and Challenges:

- Lack of responses by the executive on follow correspondences regarding the progress made in implementing Committee recommendations also remains a challenge as the Committee cannot fully assess its oversight impact; a recommendation tracking mechanism was developed and adopted by the Committee and support staff provides the updated report on a timely basis;
- Large volumes of information or presentations being submitted by the executive arm of state on the day of the meeting or even night before the meeting remains a challenge, this impacts on the level of preparation by Committee members and weakens the engagement between the Committee and the department; the Committee has since introduced strict timeframes for submission of presentations by the executive;

Some Committee Observations and Challenges:

- Information asymmetry remains a challenge – the gap often exists between the information submitted by the executive and the information required by the Committee for effective oversight purposes; a research document is provided to Committee members prior the meeting takes place;
- An inability and the difficulty to obtain non-financial or performance information in order to link it to the financial information and fully assess and make sense of the budget spent versus performance targets achieved; the Committee developed and adopted a reporting template with a view to guide the reports being submitted to the Committee;
- Inadequate time for the Committee and provincial finance committees to be able to process the Money Bills within six (6) weeks cycle; the Committee has made recommendations to the executive to improve the timing in which budgets are tabled in order to allow all role players to participate in the process without undue pressure;

Some Committee Observations and Challenges:

- The scheduling of the NCOP Taking Parliament to the People, which coincide with the Medium Term Budget Policy Statement (MTBPS); the Committee normally submits its MTBPS programme to the NCOP way before the Taking Parliament to the People programme is adopted for the NCOP to consider the MTBPS in its planning;
- Whilst there has been good collaborative work achieved amongst the appropriations and finance committees but Collaborating with other sector committees remain a challenge and this can be attributed to the clashing of committee programmes or even House programmes and this calls for a better political and administrative planning by both Houses;

7. Recommended Areas of Oversight going forward:

- Cost escalations on infrastructure projects and ensure projects are implemented according to project scope to eliminate unnecessary deviations, which leads to fruitless and wastage of budgets;
- Ensure that all budget leakages are addressed in the financial management system of government departments, especially given the decline in government revenue collection and poor economic performance;
- **In line with Section 38 (f) of the Public Finance Management Act** – ensure all Payment of suppliers or service providers are made within 30 days of receipt of invoices to ensure uninterrupted growth and development for small and medium enterprises and also to protect jobs created by such businesses;

Recommended Areas of Oversight going forward:

- The lack of expenditure on conditional grants including Municipal Infrastructure Grant (MIG) and many other infrastructure grants at provincial and local government levels needs to be closely monitored at all levels;
- Whether the Audit Improvement Plans are being compiled and implemented as part of corrective measures to improve expenditure and performance by the executive;
- Alignment between strategic management planning and monitoring and evaluation programmes; and ensure that Heads of departments are using M&E reports and results to take corrective actions to improve departmental plans and performance;

Recommended Areas of Oversight going forward:

- Alignment between budget allocation and projected performance targets, and monitor the alignment between resources spent and ultimately achieved performance targets;
- Ensure that the Departmental Strategic Plans and APPs are well scrutinized and will allow for better oversight and also are indeed in line with the SMART principle;
- Ensure the existence of governance and accountability structures and frameworks in the departments – whether the recommendations of such structures are being implemented by the Heads of departments and the check list below can be used to track if these things exist in the departments:

Governance and Accountability Frameworks

GOVERNANCE AND ACCOUNTABILITY FRAMEWORKS

Service Delivery Improvement Plan

Complied/ non compliance

Management Structure

Complied/ non compliance

Audit Committee

Complied/ non compliance

Professional Ethics Policy

Complied/ non compliance

Fraud Prevention Strategy or Framework

Complied/ non compliance

Internal Audit Unit

Complied/ non compliance

Risk Management Strategy or Framework

Complied/ non compliance

Corp gov. ICT systems

Complied/ non compliance

PAJA policies

Complied/ non compliance

Supply Chain and financial management systems

- Ensure adequate supply chain management systems and proper financial management are in place, the check list below can be used as a measure to check whether such systems exist.

FINANCIAL AND SUPPLY CHAIN MANAGEMENT

Demand management plans	Complied/ non compliance
Acquisition management plans	Complied/ non compliance
System for Payment of Suppliers within 30 days	Complied/ non compliance
Unauthorised expenditure (prevention measures)	Complied/ non compliance

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