

Thursday, 1 December 2022]

No 193—2022] FOURTH SESSION, SIXTH PARLIAMENT

PARLIAMENT

OF THE

REPUBLIC OF SOUTH AFRICA

**ANNOUNCEMENTS,
TABLINGS AND
COMMITTEE REPORTS**

THURSDAY, 1 DECEMBER 2022

TABLE OF CONTENTS

ANNOUNCEMENTS

National Council of Provinces

1. Transmission of Bills for concurrence 2

COMMITTEE REPORTS

National Assembly

1. Agriculture, Land Reform and Rural Development 3
2. Water and Sanitation 25
3. Social Development 39
4. Social Development 40
5. Social Development 44
6. Justice and Correctional Services 46
7. Human Settlements 52

National Council of Provinces

1.	Agriculture, Land Reform and Rural Development	57
2.	Water and Sanitation	67
3.	Finance	106
4.	Finance	122
5.	Finance	147

ANNOUNCEMENTS

National Council of Provinces

The Chairperson

1. Bills passed by Assembly and transmitted to Council for concurrence

- (1) Bill passed by National Assembly and transmitted for concurrence on 1 December 2022:

- (a) **Adjustments Appropriation Bill** [B23-2022] (National Assembly – sec 77).

The Bill has been referred to the **Select Committee on Appropriations** of the National Council of Provinces.

- (2) Bill passed by National Assembly and transmitted for concurrence on 1 December 2022:

- (a) **Special Appropriation Bill** [B24-2022] (National Assembly – sec 77).

The Bill has been referred to the **Select Committee on Appropriations** of the National Council of Provinces.

COMMITTEE REPORTS

National Assembly

1. REPORT OF THE PORTFOLIO COMMITTEE ON AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT ON AN OVERSIGHT VISIT TO SUNDAYS RIVER VALLEY, EASTERN CAPE; DATED 29 NOVEMBER 2022

The Portfolio Committee on Agriculture, Land Reform and Rural Development, having undertaken an oversight visit to the Sundays River Valley on 18 November 2022, reports as follows:

1. Background

This report accounts for an oversight visit conducted by the Portfolio Committee on Agriculture, Land Reform and Rural Development (the Committee) on 18 November 2022 at the Sundays River Valley (SRV). The oversight visit followed a letter written to the Speaker by the South African National Civic Organisation (SANCO) requesting an intervention of Parliament to resolve an impasse between citrus producers and farmworkers/community members with regard to labour relations, land reform and socio-economic challenges confronting communities in the SRV. The challenges have led to strike actions in 2014, 2018 and most recently in April 2022. The strike involved farmworkers and community members in the SRV organised under the banner of SANCO. The Speaker, having considered the letter, referred the matter to the Committee for consideration and reporting.

The oversight visit by the Committee adds to a myriad of interventions to assist in SRV communities to address the challenges that are damaging the citrus industry reputation and the economy at large. Interventions were focused on, amongst others, the role that the State can play to create a conducive environment for commercial farming as well as reciprocal activities and programmes of private sector to ease the tensions between farmers/employers and employees/local communities. Apart from interventions by government departments, an oversight visit by the Portfolio Committee on Rural Development and Agrarian Reform in the Eastern Cape Provincial Legislature (henceforth the Provincial Legislature) was also another attempt to ensure that stability of the area was restored as well as putting in place systems of government intervention and closer monitoring by the Provincial Legislature. This oversight, as the terms of reference below show, seeks to assess progress made by various government departments and to explore additional interventions necessary for bringing about stability in the SRV area.

2. Terms of reference and objectives for the oversight visit

The oversight visit to the SRV can be located in section 55(2) of the Constitution which provides that “The National Assembly must provide for mechanism – “(a) to ensure that all executive organs of the state in the national sphere of government are accountable to it; and (b) to maintain oversight of - (i) the exercise of national executive authority, including the implementation of legislation; and (ii) any organ of state”. As this report will show, the Committee sought to create space for accountability of government departments with regard to what they have been doing to create stability in the SRV and support agricultural development which creates jobs and contribute to economic development of South Africa. The Committee focused on understanding how organs of the State were implementing laws to address the challenges that have resulted in the strike action in the SRV; particularly legislation on labour rights and land redistribution together with policies on post-settlement support.

2.1. Defining the problem

The SRV is now characterised by incidences of violent labour disputes, protest action that takes place every fourth year (2014, 2018 and 2022). There are a range of issues that trigger the unrest in the SRV; amongst those is the alleged bias in favour of employment of foreign nationals when job opportunities open up at, unfair labour practices including non-recognition of workers organisations (trade unions); and payment of what farmworkers deem to be below a living wage. Whilst protest action by itself is a legally protected right for labour, the peculiarity of the protest actions observed in the SRV is that they tend to be violent and destructive. They torch pack houses, equipment, vehicles and general destruction of infrastructure that is necessary for farming operations as well as link to the markets. Ultimately, it makes it impossible for the farmers or producers to continue with production and generate the revenue that pays labour as well as investment in the local economy.

The strike action affects both employers and labour as well as the entire SRV area. The business owners end up spending lots of money in repairing the damage and rebuilding rather than investing in production which in turn creates more job opportunities. In some instances, it has resulted in reputational damage and lack of confidence in the area by producers, investors, and markets. All these are unintended consequences of the strike which has a lasting negative impact in the economy of the SRV; one of which is the inability of the SRV to create as many jobs as required because producers have been financially squeezed by the strike. Whilst the SRV presents opportunities for growing the citrus industry and create jobs for the majority, the challenges for the area immense. One of them is to create a balance between the labour rights of workers, living wages and creating a conducive environment for profitable citrus production.

2.2. The aim and objectives of the oversight visit

The SRV area require a lasting solution to the challenges cited above. An intervention is sought to ensure social cohesion and conducive environment for flourishing agricultural businesses and creation of decent jobs for communities in the area, thus contributing to growth of local economy and of the Country. The oversight visit, therefore, assessed progress with regard to attending to the conditions and factors underpinning local unrest by engaging with various interested parties. The oversight visit entailed the following:

- (a) Analysis of the challenges and assessing progress regarding interventions made by government departments since the oversight visit by the Provincial Legislature;
- (b) Listening to issues/concerns from members of the communities as well as their proposals with regard to the manner in which the challenges can be resolved; and
- (c) Engaging with the stakeholders' responses and their perspectives to the challenges and government responsiveness to date.

3. The delegation, attendance by the Executive, and other stakeholders

The delegation of Members of the Portfolio Committee on Agriculture to the SRV is listed in Table 1 below. The delegation was supported by a team of parliamentary officials supporting the Committee with secretarial, content advisory, research and logistics functions.

Name	Political Party
MP Mandela, Nkosi ZMD: <i>Chairperson and Leader of the delegation</i>	African National Congress (ANC)
MP Tshwete, Ms B	
MP Capa, Mr N	
MP Mbabama, Ms TM	Democratic Alliance (DA)
MP Breedt, Ms T	Freedom Front Plus (FF+)

The national government departments that participated in the stakeholder discussion were: Department of Agriculture, Land Reform and Rural Development (DALRRD); Department of Employment and Labour (DEL), the Commission for Conciliation Mediation and Arbitration (CCMA), and the Department of Home Affairs (DHA). In addition, municipal officials were represented by the Speaker of Sundays River Valley Local Municipality (SRVLM) and a number of Municipal Ward Councillors.

4. Overview of the findings by the Portfolio Committee on Rural Development and Agrarian Reform of the Eastern Cape Provincial Legislature

The oversight visit, as stated above, complements the work initiated by the Eastern Cape Provincial Legislature's Portfolio Committee on Rural Development and Agrarian Reform in its attempt to assist to bring out stability in the SRV. In its oversight processes, the Provincial Legislature reported about the following:

- Allegations of brutalisation by a security company which was hired by Habata Farm.
- Allegations of the Sundays River Valley Citrus Growers Association (SRVCGA) employing undocumented foreign nationals to replace local workers. Further, it noted an unverified figure of 70 percent of workers being foreign nationals and only 30 percent being South Africans. Those that were at the forefront of mobilisation of communities to participate in the strike action were either dismissed, demoted or replaced by foreign nationals.
- Workers were being picked up for work at 6H00 for a shift that starts at 11h00 but they would not be paid for any time spent on the farm before 11am.
- Employers/farmers not allowing workers to join unions and those that have joined were either intimidated or forced to resign from the unions.
- There are farms that are not part of the SRVGA and the SRVCGA could not be held responsible for what happens there, suggesting that most of the challenges were in those farms.
- Farmers were unable to pay the R30.00 (a rate which is above the national minimum wage) demanded by workers because of the economic climate in the country. It also noted that in 2018 and 2019 workers were paid more than the minimum wage.
- Infrastructure on farms was torched and damaged during the unrest.
- There was not data about the operations of the labour brokers in the area.

In its conclusions, the report of the Provincial Legislature affirmed a need for respect and enforcement of the rights of farm workers, particularly Sections 18, 23 and 34 of the constitution relating to freedom of association, labour relations and resolution of labour disputes. Any workplace disciplinary action ought to follow due processes prescribed in law. Dismissal of employees without following legal processes was a violation of workers' rights. It also expressed concerns with regard to the unexplained delays with the Commission for Conciliation Mediation and Arbitration (CCMA) processes to address the challenges.

In addition to project-specific recommendations in Annexure 1 of this report, the Provincial Legislature's Portfolio Committee recommended that –

- Relevant stakeholders should convene to find lasting solutions and normalise the relations between farmworkers and employers/farmers as well as to address all the allegations of victimisation and unfair labour practices.
- Interventions by stakeholders should also attempt to normalise the relations in the SRV communities, including farmers, and foster social cohesion.
- The DEL and HOA should respectively address a range of allegations made against the farmers not recognising, and discouraging participation in, trade unions at work places and employment of undocumented foreign nationals.
- Coordination between the DALRRD and DEL in conducting labour inspections and awareness campaigns on the rights of farm workers.

5. Overview of engagements with Stakeholders, farm workers and community members

In line with the objectives for the oversight visit, the Committee sought to gather information about the unrests, interventions made, and assess progress towards attaining the stability of the area. The oversight visit was also interventionist in the sense that, apart from understanding the root causes of the strikes, it also intended to determine what further action, if any, could be taken by the relevant government departments. It aimed to solicit bottom up solutions to the challenges of the area. The engagements were two fold; firstly, stakeholder meeting attended by DALRRD, DEL, DHA, SRVLM, CCMA, SRVCGA and the Workers Committee; secondly, public meeting where community members, farm workers, land reform beneficiaries, Workers Committees as well as land rights and labour activists could raise concerns and suggestions towards addressing the challenges.

5.1 Stakeholder engagements

Various stakeholders were invited to brief the Committee about their own perspectives regarding the nature of the challenges confronting the SRV (especially the labour unrest witnessed every four years). The Committee also requested the stakeholders present their individual actions since the oversight and recommendations of the Provincial Legislature and well status quo with regard to the unrest and possible further strike actions in the area. They were also requested to present possible solutions to the challenges.

5.1.1 Department of Agriculture, Land Reform and Rural Development

Mr Thozamile Lukholo, representing the Provincial Shared Services Centre (PSSC) or DALRRD, reported that the Provincial Legislature held stakeholder engagement on 20 September 2022 and on the

following day, it visited Willow Tree to assess the impact of the strike on producers. The oversight raised three key issues for the attention of the DALRRD; viz., transfer of leased land to the beneficiaries, stock theft and access roads, and market assistance.

(a) Lease and transfer of farms to the beneficiaries and development support

In the Eastern Cape, there are PLAS farms whose leases have not been renewed. One of those farms (*Willow Tree*), has been allocated to a group of black farmers who were farming successfully to an extent that they were able to purchase another farm (*Siyaphambili*) for themselves. They have been negotiating with the DALRRD for the donation and transfer of the farm to the beneficiaries. However, current policy instruments do not permit transfer of the land except a purchase of the farm at the original purchase price as provided for in the State Land Lease and Disposal Policy. Officials of DALRRD have met with the beneficiaries to explore options available as provided for in the policy. The Executive Committee requested time to consult the other beneficiaries and revert with a way forward.

With regard to development support, the DALRRD brought in the SRVCGA to assist emerging farmers. In October 2022, the PSSC met with the SRVCGA to renew the MOU with SRVCGA concerning the development support. PSSC also participated in the proceedings of the Provincial Legislature which highlighted some of the post-settlement support challenges. For example, Mt Robert farm has challenges with access to water. In response to the question about progress report on its interventions, the DALRRD reported that it was hamstrung by financial constraints. However, for 2022/23, a total of R500 000 has been expended in inputs supply in the SRV area to support the needy emerging farmers. More resources were going to be allocated in the new financial year in order to improve the conditions on the farms, particularly Mt Roberts. Over the last five financial years, DALRRD has delivered a tractor (*Landhini*) in 2017/28 and various equipment to land reform beneficiaries in 2021/22. It has also run skills training programme on maintenance of infrastructure and tractors for selected beneficiaries.

(b) Stock theft and poor access roads

The matters of stock theft and poor access roads negatively impact on agricultural productivity. However, these concerns were not within the scope of the mandate of the DALRRD. They are matters that could be best dealt with by the South African Police Services (SAPS), Department of Public Works and the Department of Transport. However, as a coordinator for rural development, the DALRRD was playing a coordinating role and facilitation role. It also expected that the Municipality would also play an active role in the support of local economic development by ensuring that these matters were addressed.

(c) Marketing assistance

The PSSC in the Eastern Cape does not have capacity to assist land reform beneficiaries with marketing, despite them being part of the Department of Agriculture, Land Reform and Rural Development. The PSSC supported the beneficiaries of land reform in the SRV to be part of the Sundays River Citrus Company (SRCC) whose mandate is to assist farmers with regard to access to market. Therefore, there is greater dependence and reliance on commodity groups in matters relating to marketing. The strike action has also affected emerging farmers because they could not sell their produce in the market.

5.1.2 Department of Home Affairs

It has been alleged that farmers/employers prefer to employ undocumented foreign nationals as opposed to local community members. At the time of the visit, it was estimated to be in the region of 70 percent foreign and 30 percent local. Having been requested to present a report about its own investigations and interventions with regard to the matter, the DHA report is summarised below.

Mr Luyanda Mzolisi (the Director of Immigration) reported that the 2021 operation or investigations by the DHA partly confirmed the challenge as alleged except the figures relating to undocumented foreign nationals. In the investigation of three farms, the DHA found that there were 77 farmworker foreign nationals. Of the 77 workers, 62 were in the country illegally and were undocumented. They were therefore detained and deported. The status of 15 farmworkers was confirmed. In terms of the nationalities, there were 14 Malawians, 21 Zimbabweans, and 27 Lesotho nationals. This a huge challenge confronting the sector and South Africa at large. It only logical to raise a question about the employers that recruit illegal foreign nationals. The DHA reported that one farm owner was charged on the spot there whilst the other was not charged because the DHA, after verification of the documents, found that the permits presented were fraudulent and the employer was not responsible misrepresentation but the workers. Those permits, at face value, looked authentic and DEL concluded that the employer was misled and he had no means to verify the status of the documents. The other farm owner that was charged on the spot was fined R2500.00 at the local magistrate court. DHA also reported that 35 farmers charged in the last 6 months for contravention. (employing illegal foreign nationals). The dilemma confronting the DHA was the Zimbabwe Dispensation or the Zimbabwean Exemption Program (ZEP) as an example.

5.1.3 Department of Employment and Labour

Mr Mike Ngqolowa, Manager of the Gqeberha office of the DEL, reported about the interventions of the DEL in the SRV as well as attempts to avert possible violent and illegal strikes in future.

Interventions follows a strike action by farm workers and community members with the demands listed below; namely –

- An end to the alleged preference of employment of foreign nationals over the locals. (It is alleged that farms employ 95 percent foreign nationals and 5 percent locals who mainly are employed for seasonal jobs whilst foreign nationals are hired on permanent basis);
- Intensification of labour inspection on farms (it is alleged that when labour inspectors visit farms, the employers send foreign nationals away);
- Recognition of trade unions and allowing workers to join trade unions of their choice.
- An end of assigning farmworkers to 1 medical doctors whose note is the only one admissible to farmers in the area;
- A wage rate of R30 per hour whereas the national minimum wage is R23/19 per hour;
- Pending implementation of the 2018 settlement, hence most farm workers do not trust the process because the 2018 was not implemented;
- Transportation and payment of hourly rate should be brought in line with relevant legislation. The complaint related to the fact that farmworkers were fetched from their homes at 6am and only allowed to start working at around 10:00 or 11:00, thus limiting the number of hours of work.

Following the strike action, the DEL attempted to make certain interventions in order to resolve some of the labour disputes that have resulted in the strike. One of such interventions was negotiations, alongside the CCMA, with the parties; viz. employers and workers organisations. On the 4th of May 2022, the process collapsed as there was no agreement. On 23 and 27 May 2022, DEL initiated a multidisciplinary operation involving all the stakeholders together. Unfortunately, as they were planning, they were advised that it was not possible proceed with the operation because the area was volatile.

There have been formal negotiations chaired by a Commissioner of the CCMA as an independent body to try to resolve the issues between the workers and the farmers. However, the representatives of the parties (representatives of employees/farmworkers and employers) could not agree.

DEL met with the SRVCGA separately from the workers to discuss the demands of the workers. They informed DEL that they erred by not allowing workers allowing workers to start their shift at 8am or when they arrive on farms. They undertook to correct that irregularity. On the demand of R30 per hour, the SRVCGA is not responsible for determining the minimum wage which is R23.19 per hour. They further disputed the allegation that farmworkers were underpaid. They informed DEL that they even

pay more to the workers. DEL was yet to receive evidence of payments which are in line with the minimum wage or above. However, due to the differences in opinion, the negotiations collapsed.

The negotiation process was a fair and transparent one. Workers were represented by Adv. Matiwane as an evidence disputing the allegations made that farmers were not allowing them to be represented by the lawyers. There was a long period where DEL left the situation as is in the hope that by the time they returned to the negotiation table it would have improved. The only thing they did was information sessions and inspections.

On 14 August 2022, there was an information session at ADDO where 204 workers attended. Another information session was convened at Valencia on 16 and 8 August 2022 at Moses Mabhida. These information sessions were arranged in order to bring awareness about labour rights. The events were supported by employers who also contributed by transporting workers to the sessions. This information sessions form part of the interventions to assist in resolving the tensions that exist.

With regard to inspections, DEL focused on wholesale and retail, agriculture, hospitality and others. On the evening of the 2nd of September 2022 they had a debriefing which showed that they had 170 inspections all together. For the agricultural sector, they focussed mainly on the Sectoral Determination, Occupational Health and Safety Act (OHSA), Unemployment Insurance Fund (UIF) and the Basic Conditions of Employment Act (BCEA). The outcome was that there were nine employers who were not compliant with BCEA and OHSA. It has become clear that DEL could have done more to avert the strike. In its own analysis, it concluded that a long period of COVID restrictions may have resulted in what appears to be a neglect of the farming area of SRV. There was a renewed effort to ensure that matters at the SRV are attended to and resolved.

According to DEL, there were no trade unions representing farmworkers but SANCO is playing that role (this view is disputed by the SRVCGA). Further, there is no database of labour brokers in the area which is creating a problem of unfair labour practices and ill treatment of workers as well as preference of foreigners. DEL has requested from the SRVGA a list of trade unions operating in the area as well as that of labour brokers.

5.1.4 The Commission on Conciliation Mediation and Arbitration (Gqeberha)

The Commissioner confirmed some of the issues that the DEL official has presented especially as it related to the interventions by the CCMA. She also reported that, between January and October 2022, the CCMA dealt with 38 cases for ADDO and 60 cases for Kirkwood. However, these cases were not only from farms; they dealt with all labour disputes in those areas. The CCMA, as a neutral body, has

engaged with the communities over the years and has established a good reputation and relationships. A project to work with communities went well until the protest after which it collapsed. During the processes to deal with the strike, CCMA discovered that some of the people who were involved in the protest were not employees or farmworkers, thus making it difficult to negotiate with. At the time of the visit of the Provincial Legislature, the negotiations under Section 150 were still in progress and not finalised. But CCMA was in constant communication with the parties. The process was also complicated that there were other farmers who were not part of the SRVCC, thus making it difficult to negotiate as there was no central point of negotiation.

5.1.5 Briefing by Sundays River Valley Citrus Growers

The Citrus Industry in the Eastern Cape, the biggest region in the country, is the second largest GDP contributor in the Province. The Sundays River Valley (SRV) has a capacity to export close to 35 million, 15kg-equivalent cartons, annually. However, its production is threatened by periodical illegal, violent and disruptive protest or strike actions. In 2022, the industry has suffered financial loss of approximately R990 million due to the violent strike that led to burning of properties and infrastructure.

The citrus industry is seasonal in nature and is estimated that it employs 15 000 permanent workers and during harvesting and processing season it can employ up to 25000 workers. A large percentage of the seasonal workers migrate from within South Africa, especially the Western Cape, as well as from neighbouring countries like Lesotho and Zimbabwe. There are also a large number of employment opportunities created through the service industries, especially Agrochemical and Export companies. It therefore goes without saying that if there were no unnecessary disruptions, the industry could potentially create jobs which are truly needed in South Africa.

(i) Labour organisations and unions in the SRV

There is an appreciation of the role that the labour organisations and trade unions play at work places. However, in the SRV trade unions are not organised in any meaningful way. The weak organisation can be attributed to the seasonal and migratory nature of employment. In contrast to what DEL reported, the SRVCGA reported that labour unions represented a minority of employees in the SRV and they have recognition agreements at various work places (FAWU, SACTWU, NULAW, AFADWU, SATAWU, DETAWU, SHOWUSA, NUMSA, SACCAWU and SOLIDARITY). The weak organisation of the trade unions have resulted in SANCO taking up space that should have been occupied by work place organisations. In 2014, a group of people under the banner of SANCO led a protest action which resulted destruction of municipal properties. In 2018 SANCO demanded that

producers pay above the statutory minimum wage determined for agricultural employees, a demand which was accompanied by a protest action which resulted in violence and destruction of property. Producers were forced to ultimately concede to the demand.

In order to deal with the challenges of the area, the Sundays River Valley Citrus Producers Forum (SRVCPF), the Sundays River Valley Cooperative (SRVC) and the SRV Collaborative were established.

(ii) Sundays River Valley Citrus Producers Forum

The SRVCPF is a voluntary organisation representing more than 95 percent of the producers and pack houses in the SRV. Members of the forum pay a levy per export carton and the funds are used to provide and maintain basic services to all communities in the SRV. The organisation together with other various stakeholders spent more than R30 million in providing and maintaining services such as running water; electricity; sewerage system; school facilities and learning activities; computer facilities; transport of kids to schools and activities. The SRVC was established in 2018 to develop and empower people on various skills. The majority of the founders were SANCO members.

All the disruptions and damage to properties was blamed to SANCO. The referral of the dispute to the CCMA for mediation aimed at ending the strike as well as improving the conditions did not yield desired outcomes because negotiators were not from among farm workers themselves but SANCO members. It was reported that there are ongoing civil and criminal litigation against the individuals who, it would appear, are abusing the SANCO banner for their own nefarious purposes.

(iii) SRV Collaborative

The SRV collaborative was established because of the unacceptable situation at SRV to avoid future incidents. Its activities are funded by the SRVCPF. The collaborative makes a massive contribution to the community, the latest contribution being the establishment of a Victim Support Centre in ADDO.

The SRVGA, having presented the state of affairs at SRV and demonstrated the severe loss resulting from the violent protest seen at SRV, summarised the consequences as follows:

- It took about three weeks for everyone to get enough pickers again and a lot of the migrating labour left as soon as they could.

- Four to six weeks of the best paying market weeks were missed followed by an enormous, accented peak. Missed sales were never recovered and sales in the peaks happened at reduced values.
- The cold, often wet, weather led to reduced picking hours. For the first time in decades, fruit was literally dumped off.
- Producers would only be able to calculate losses after all sales were finalised.
- The image of this region as a reliable supplier of citrus fruit was severely dented as the market is critically aware of the sequence of strikes over the past years.

(iv) The way forward

There are a number of issues that government and social partners must address in order to remedy the situation (a repeat of the unrest) and build the economy of the area as well as that of the country. The events described above, coupled with an unprecedented escalation in costs - especially fuel and shipping costs, left producers in the SRV economically crippled. Producers are a billion Rand short in money to prepare the crop which in turn could possibly result in reduction of crop and employment opportunities.

Despite the challenges outlined in this report, the SRVGA reported that there are opportunities to grow the industry in the SRV over the medium-term. It could unlock employment opportunities from the current 40 000 employees in peak season to an estimated 65 000 employees by 2028/30. Increase in job opportunities will result in great spinoffs because an increase in 25000 could benefit 100 000 people. There are a number of important steps to take in order to realise these ideals and gain producer and investor confidence and the capacity to further invest in the industry. The proposals of the SRVGA could be summarised as follows:

- Set an Independent Panel that should hear all the grievances and evidence of all allegations made be provided.
- Provision of financial support to producers as many cannot meet their financial obligations due to the strike that crippled them economically as stated above.
- The SRV Municipality, supported by National and Provincial Departments, will have to consider investment and expansion of infrastructure required for the citrus industry and communities in the SRV. The SRVCPF will not waiver in its commitment towards all communities. Equally, the support of the national and provincial government is vitally important in providing the infrastructure (roads, rail or harbours).

- SANCO to consider how it can play its role as a constructive Civic Organization and to completely withdraw from labour disputes. The SRV Collaborative or a similar forum can play a role in bringing people in communities closer to another.
- Labour disputes, where ever that occur, must be allowed to follow legislated labour dispute resolutions process such as the CCMA processes. The latter organisation must intensify its presence in the Valley. Labour disputes should be treated on a case by case not be generalised as if it occurs on all farms.
- The SRVCPF and the various Foundations must continue their community upliftment initiatives.
- Producers should seek the cooperation of the DEL to ensure that sufficient employment is deployed to pick the crop and that migrant workers are legally processed to deploy them as pickers.
- Producers confirmed their commitment in employing South Africans only in pack houses as was the case always.
- SAPS ought to ensure law and order in the Sundays River Valley and focus on drugs, illicit trade, and the large scale of copper theft which is crippling farming operation.
- All role players would have to commit themselves to work harmoniously to unlock the potential in the Sundays River Valley to the benefit of all communities.

5.2 Public meeting of farmworkers and community members

AS stated above, one of the key activities for the oversight was community public meeting. Given that the Provincial Legislature held public meeting in Kirkwood, the delegation held its public meeting in Addo. In attendance was the delegation from Parliament, Speaker of the SRVLM with local councillors, SANCO, community leaders and individual community members. A total of 109 people attended the meeting and 17 participated by making oral submissions for consideration by the Committee.

Inputs of community members and their organisations can be summarised as follows:

- The 2018 strike action was due to underpayment of workers by farmers. Since 2019 to 2021, there has not been salary increases resulting in another strike in 2022. Whilst there were people who informed the Committee that there were no Trade Unions, workers and community members reported that there are active trade unions operating on farms but are not recognized by farmers just like they undermine Workers Committees. Some workers also alleged that employers/farmers did not allow legal representation of workers at the CCMA processes, making it a very difficult process.

- There is a need to harmonise the situation at SRV. Employers demeanour contributed to the unrest through unfair labour practices such as dismissal of employees who speak out against unfair labour practices or violation of human rights.
- One of the unfair practice relates to employers/farmers refusal to pay farmworkers for the hours spent at workplace (farm). For example, it was alleged that employers pick farmworkers from their homes at around 05:00am to 06:00am in the morning only to sign in for work at 11:00, excluding the hours of their arrival at workplace.
- Some farmworkers allege that some employers practice what is referred to as dummy promotions; meaning one would be given 20 or more staff to supervise but as a supervisor he or she are liable for the wrongdoing of all the staff under him/her.
- Some people raised concerns with regard to equity schemes, empowerment farms as well as ‘the collaborative’. To cite an example, an employee of a certain farm was made to sign documents but she later found out that she was signing for water (either water rights in her name or a municipal account for the farm was in her name). She further reported that she was owing municipality a huge sums of amount for water consumption rates.
- Beneficiaries of the partnerships in the empowerment schemes of all types reported that once they die, the membership lapses and no other member of their families is legible to become a member. Some also accused schemes of not paying out dividends to members.
- Some workers expressed concerns with regard to the shareholder agreement they signed with the help of the DALRRD (or its predecessor DRDLR) insofar as it stipulates that shareholding cannot be inherited after the death of a member. What is more concerning being that in some schemes it is stated that farm workers receive shares in the enterprise when they reach five years of service on a particular farm? However, some farmers have found ways of working around the clause by dismissing farmworkers who are close to reaching five years.
- Members of the public reported that it was for the first time to hear that the SRV Forum has donated about R30 million to the SRV municipality. They wanted to know what the fund was used for.
- Some people accused the SRVGA that it undermined the Workers Committee elected to be part of the negotiation on behalf of the workers. Its role was not recognised.
- The employers/farmers were making relations worse because, after the strike, those that were at the forefront of mobilising for the protest action were dismissed after the strike was called off despite an agreement that no one would be dismissed or suspended. One of those dismissed is Ray Wessels, the Chairperson of the Workers Committee, and other shop stewards including Sibulela Nodoti.
- Employment of undocumented foreign nationals overlooking unemployed people in the SRV valley was one of the major problems. As already stated, they have asked that at least 70 percent

of employees at the SRV should be local people and 30 percent be migrants and documented foreign nationals. They allege that foreign nationals were preferred because they were being exploited, they were underpaid and do not complain because they are not documented. Actions should be taken against farmers who employed undocumented foreign workers.

- Communities reported that inspection reports of the DEL would not demonstrate the extent of the challenge of employment of undocumented foreign national because some farmers lock the gates to prevent labour inspectors from conducting inspections. It is so because the DEL is by law expected to notify the employer of the date and time of inspection.
- The role of SANCO also came into question. Some among the members of the public expressed unhappiness with the manner in which SANCO operated in the area. There was a perception that it was an instigator of violence and protest rather than negotiating settlement of labour disputes. However, some on the other hand supported SANCO because it was a civic organisation operating within communities and it gets involved in community struggles such as a fight for employment within the area where they live. Violation of labour rights and other human rights is also something that they will also get involved in.
- Young people should be given opportunity to study agriculture and this means they will be empowered and have job opportunities in the agricultural sector broadly.
- There is a perception of bias against farmworkers. Members of communities raised a concern that one of the commissioners of the CCMA that negotiated the ending of the strike, Mr Marius Kotze, was later contracted to by the SRVGA investigate the issues raised by workers. Farmworkers have lost trust in the process led by the CCMA. This perception was worsened when the CCMA ruled in favour of farmers in of the cases around the strike.
- There is almost absent monitoring of, and oversight over, equity and empowerment schemes. A concern was raised that government spend millions of Rands to buy land but there is no follow-up whether the money has been used for what it was meant for; as a result, beneficiaries are losing out.

6. Key conclusions

The Committee, having engaged with the oral submissions of stakeholders, farmworkers and community members, deliberated on key observations as presented in this report. In view of the observations, the following conclusions can be made:

- 6.1. *Protracted and violent strikes do not only impact the business owners/employers/farmers only, it also impacts negatively on employees/farmworkers.* Employees and communities in the vicinity are also impacted by the strike because when income revenue is affected, the local economy does

not grow to create more job opportunities. As a result of strike, businesses that cannot cope and may close shop, or layoff excess labour. Infrastructure damage means that municipalities and private sector might have to divert funds meant of other important services to repairing the damage. In the end, taxpayers end up paying for damaged roads, clinics and schools.

- 6.2. *Unresolved disputes regarding wages and salaries are some of the central factors causing workers to embark on strikes. The Committee was not presented with evidence to support that farmworkers in the SRV were paid in terms of the Sectoral Determination for Agricultural Workers. DEL could also not present data to dispel the allegations. However, the demand of payment of R30.00 per hour was above the National Minimum Wage of R23.19 and it is a matter that relevant policy makers must deal with. Whilst some members of the SRVCGA reported that some packers were paid R30 per hour (above the minimum wage), it could not be generalised as much as caution should be taken to avoid generalisation about farmers not paying NMW and violating farmworkers' labour rights.*
- 6.3. *Picking up farmworkers from home and not allow them to start working the moment they arrive at a workplace can be seen as an abuse of workers. An irregularity regarding pick up time of farmworkers at 5am and arriving at work between 6am and 7am, to later start their shift at 11am means that farmworkers have about four hours spent at workplace which they are not being paid for. This state of affairs, if not addressed, has a potential to result in further disquiet among workers and could spark protest action. A report presented by the DEL with regard to a finding and consensus about resolving this matter was welcome by the Committee and it is likely contribute to improvement of the relations on commercial farms in the SRV.*
- 6.4. *Trade unions and other worker organisations can play a useful role in bringing about workplace stability provided that they are recognised and members can participate freely. The SRVCGA has reaffirmed its appreciation of the role of Trade Unions at workplace, and that there are 11 Trade Unions. However, their weak organisation and mobilisation might have opened up avenues for other civic organisations such as SANCO to enter into workplace to deal with labour issues which should, under normal circumstances would be the domain of Trade Unions. Trade Union activities might also have been weakened by the alleged non-recognition – a matter that SRVGA disputes and confirming to the Committee that all the 11 Trade Unions have recognition agreements.*
- 6.5. *Farming enterprises preferring employment of migrants and undocumented foreign nationals over the local communities are likely to face disruption and violent protest from local communities. Most of the farms have been built on the back of hard work of local communities,*

either losing land or the forefathers providing cheap labour on those farms. Morally, some of these large-scale farming enterprises, as this report shows about the SRV Forum, should be involved in community development initiatives. Even more important, is to create jobs for the local communities, especially youth. At the current rate, high levels of unemployment are a threat to sustainability of farming enterprises that overlook local communities when there are job opportunities. The allegation of 70:30 percentages of undocumented foreign nationals to local workers might not be unrealistic given the high number of undocumented foreign nationals that DEL and DHA have found on some of the farms. More investigations are required to fully understand the state of affairs.

- 6.6. *Low levels of prosecution of employers/farmers who employ undocumented foreign nationals, or low fines, do not deter those who are involved in this act of illegality.* Whilst undocumented foreign nationals employed on farms were detained and deported. As stated above, of the three farms where undocumented foreign nationals were employed, only one was arrested and paid a fine of R2500.00 on the basis of calculations made by the Department of Justice and Constitutional Development (DOJ&CD). The Committee expressed concerned over a skewed approach when dealing with employer's criminality. Employers are treated leniently hence repeat of these transgressions.
- 6.7. *Lack of visibility of inspectors from DEL on farms, as well as lack of plan for regular inspections will ultimately result the types of protest action seen in the SRV.* Whilst there are allegations that inspectors were being denied access to farms for inspections, Committee was of the view that inspectors have a statutory duty and were empowered in law to ensure that they have access. The Committee noted that DEL has presented list of inspections conducted and has not articulated areas where they were prevented, apart from explaining the limitations arising from the fact that they were required to inform the owner prior to visit in which case dishonest employer could stage everything.
- 6.8. *Poor lease management of PLAS farms could result tenure insecurity for farmers and lack of investment on the property by the lessees:* Whilst acquisition of strategically located land in the SRV was welcome, a number of cases where beneficiaries where waiting for title deeds or their lease agreements were not renewed was a worrying factor that could pose a threat to agricultural productivity, and may result in land disputes when access is disputed either by government or any concerned party for whatever reason they may advance. It might also result in uncertainty and the uneasiness from emerging farmers to invest on the farm to improve production. As heard during the public meeting, already communities are alleging that that those who were supposed to benefit from the farms were not because DALRRD was bringing new beneficiaries.

- 6.9. *Share Equity Schemes in which membership, especially former farmworkers or workers have no sense of ownership are unlikely to be sustainable as concerned groups might emerge from within to challenge the status quo.* A major concern related to clauses of the Shareholders agreement which stipulates that shareholding were not transferable even after the death of a member, his/her children could not inherit the shareholding.

7. Recommendations

In view of the observations and key conclusions of this recommendations, the Committee recommends the following:

The Presidency should –

- 7.1. Set up an Inter-Ministerial Task Team or Committee to delve into the state of affairs at the Sundays River Valley with a view to develop plans and interventions (short, medium and long-term) to resolve the challenges confronting farming communities in the SRV (both farmers, farm workers and community members). The IMTT, giving due consideration to all the recommendations of this report, should through the Presidency report about its plans and interventions at SRV to Parliament within six months after adoption of this report by the National Assembly.

The Minister of Agriculture, Land Reform and Rural Development should -

- 7.2. Submit a comprehensive list of farms that have been leased out to farmers in the SRV, indicating the cost of acquisition, the number of beneficiaries, the number of years it has been leased for, whether the lease agreement has been renewed, if not why and the current status of the farm.
- 7.3. Reviewing of all share equity schemes, strategic partnerships, joint ventures or any other forms of empowerment schemes or private sector collaboration in the SRV in order to, amongst others, determine if shareholder agreements are transformative and empowering tools for land reform beneficiaries. The review should also consider assessing the financial status of the enterprises since the inception, profit and loss sharing (PLS), and declaration of dividends. Further, assess the socio-economic impact of these schemes on the lives of land reform beneficiaries, looking at all aspects of the relations of production, power and property.

- 7.4. Given that South Africa, after Spain, is the World's second largest exporter of fresh citrus fruits, the Minister should consider convening a bilateral with the SRVCGA in order to address the concerns specifically for the SRV with regard to infrastructure damage and financial loss that resulted from the strike as well as mechanisms to strengthen market access and how the citrus industry in the SRV can contribute in the fight against unemployment in the Eastern Cape and South Africa broadly and playing a key role in the economic recovery of South Africa.

The Minister of Employment and Labour should –

- 7.5. Ensure that DEL, in collaboration with the DALRRD as a rural development coordinator and the SRVGA, develop a database of unemployed people (especially youth) in the SRV looking for employment; the SRVGA should use the database to source labour both permanent and seasonal.
- 7.6. Using its inspection reports, put together a report that demonstrate the total number of people employed in the SRV, their nationality, place of residence and the nature of employment in order to determine the veracity of the allegations relating to the 95 percent of farmworkers being undocumented foreign nationals.
- 7.7. Ensure that DEL conduct regular follow-up inspections on farms in the SRV to monitor and assess compliance with legislation as well as unfair labour practices that farmworkers complained about. Some of the key issues are BCEA, Sectoral Determination, working hours, OHSA, UIF and most importantly employment equity.
- 7.8. Support the establishment of 'workplace forums' as platform for engagement between workers and employees. Similarly, foster environment where membership to trade unions is not hampered by employers/farmers.
- 7.9. DEL should facilitate engagements between Trade Unions operating in the SRV and SANCO in order to clearly delineate areas of focus in order to minimise confusion as unions and civic organisation operate in different manners.
- 7.10. The Minister of Employment and Labour and the Minister of Justice and Constitutional Development should consider reviewing penalties imposed during prosecution of employers who employ undocumented foreign nationals and/or contravene labour legislation generally.

The Ministers of Police and Justice and Constitutional Development should –

- 7.11. Ensure that South African Police Services and DOJ&CD, working with the SRVCGA and Workers Committees and the Trade Unions, develop a programme of information campaigns informing residence that damage of public infrastructure and private property as a form of protest is a criminal offence with intension to instil public ownership of public property.
- 7.12. Criminal charges should be laid against the perpetrators of violence during the strike in order to deter people from possible destruction of property in future.

The Minister of Home Affairs should -

- 7.13. Regularly undertake inspections at workplace to verify if all foreign nationals employed on farms have valid documents and permits to work in South Africa. Where there are undocumented foreign nationals, those workers must be detained in order to follow the procedures relating to undocumented people in South Africa. Further, work with the DOJ & CD to ensure that employers that have contravene labour laws are prosecuted and pay high fines or maximum sentence is imposed for the crime so that they are not able to repeat the offence.
- 7.14. With regard to trade unions, the trade unions operating in the Citrus Industry in the area should provide a list of their membership and the farms that they are operating as well as initiatives undertaken or to be taken to increase their visibility in the area. Further, the DEL should do a thorough investigation on the allegations that Trade Unions are denied access by farmers and submit the report to Parliament.

Sundays River Valley Citrus Growers Association should consider –

- 7.15. Developing a network of Traditional Councils and Community Authorities to supply labour for the SRV farms. Further explore avenues for attracting unemployed youth in the province of the Eastern Cape to provide labour in the agricultural sector (both down and upstream industries).

Unless otherwise indicated, responses to the above recommendations should be submitted to the National Assembly by no later than three months after the adoption of this report by the National Assembly.

Report to be considered.

Annexure 1: Specific Recommendations of the Eastern Cape Provincial Legislature in relation to site visits to land reform farms

Farm name	Background	Finding	Recommendations to the DRDAR
<i>Willow Tree</i>	<ul style="list-style-type: none"> - A PLAS farm (101ha) – partnership with SRCC - SRCC is responsible for day to day farm management, identification, mentorship and training of successful black farm manager; also responsible for the transfer of farming and business skills to the beneficiaries; and also responsible for distribution, marketing and sales. - Business has 12 beneficiaries (11 males & 1 female); employs 16 perm. and 83 casual . 	<ul style="list-style-type: none"> - The farm was negatively affected by the strike; it could not meet market demands. - Gender imbalance in both the number of the beneficiaries and of the employees. - The support provided to the farm by the DRDAR, particularly funding, does not make impact towards self-sustainability. - Challenge of theft in the area. 	<ul style="list-style-type: none"> - Support farm management to provide support to enhance farm production capacity. - Monitor the farm and ensure that the gender imbalance is addressed - Review the funding model for development support - Support farm management to establish theft prevention methods.
<i>Siyaphambili</i>	<ul style="list-style-type: none"> - A farm of 117.199ha with 101.8 ha of water rights owned by 30 beneficiaries (initially 32). - Beneficiaries bought Siyaphambili farm. - Plans to develop 100 ha of citrus orchards 	<ul style="list-style-type: none"> - Beneficiaries required financial support to be able to cultivate the land and establish the orchards. 	<ul style="list-style-type: none"> - The DALRRD must within its limited resources provide the needed support in order for the farming operations to take place.
<i>Mt Roberts Beef Farm</i>	<ul style="list-style-type: none"> - PLAS cattle and goat farm acquired farm in 2018, with three (3) beneficiaries (Sandlana family) - Received 15 heifers of Bonsmara and one bull of Bonsmara (Livestock Improvement Programme). - Has 147 cattle and 68 savana goats; sells weaners to the local market (Paterson and Hobson) - Employs two permanent stock handlers. 	<ul style="list-style-type: none"> - There is a challenge of water in the farm. - The 944 ha of the farm is not divided into grazing camps. - The farm received 15 heifers of Bonsmara and one bull of Bonsmara from the Department Livestock Improvement Programme. 	<ul style="list-style-type: none"> - Provide stock water system as it is highly needed. - Provide the farm with the needed material for camp division. - The Department is commended for its support to the emerging farmers.
<i>Mtongana Livestock Farm</i>	<ul style="list-style-type: none"> - An 849 ha livestock farm situated at Tuku village, also plants fodder in 2021/22. 	<ul style="list-style-type: none"> - Access road is in poor condition; it negatively impacts on timeous delivery of goods. 	<ul style="list-style-type: none"> - Collaborate with the SRVM and the Department of Roads and Transport to

	<ul style="list-style-type: none"> - Received technical advice in terms of extension and advisory services and veterinarian. - It has 203 breeding cows, nine bulls, sheep and goats (mainly a weaner production with few cull cows sold at the end of a production chain). - Sells to local butcheries and auctions. - Has six permanent workers (could employ additional 15 casual workers during fodder production). 	<ul style="list-style-type: none"> - Not received their title deeds and cannot access financial aid from banks. - Livestock Improvement Programme is helping farmers but livestock died just three days after being delivered. - Farmers are in need of an abattoir and the unutilised infrastructure next to Wesley can be converted for the purpose. 	<ul style="list-style-type: none"> improve farm access roads through IGR. - Fast track issuing the Title Deeds to the beneficiaries. - Review the Livestock Distribution Policy to address incidents of death of livestock. - Develop an abattoir in the area.
--	---	---	--

2. OVERSIGHT REPORT OF THE PORTFOLIO COMMITTEE ON WATER AND SANITATION TO THE VHEMBE DISTRICT MUNICIPALITY, LIMPOPO, DATED 29 NOVEMBER 2022

The Portfolio Committee on Water and Sanitation (the Portfolio Committee) undertook an oversight visit from 28 to 29 October 2022 to the Vhembe District Municipality in Limpopo to engage a petition from the Nandoni Complaints Resolution Committee (the Committee), and reports as follows:

Delegation: Mr R Mashego, Ms G Tseke, Ms N Sihlwayi, Ms M Petersen, Ms M Matuba, Advocate Masutha (ANC), and Ms R Mohlala and Ms S Mokgotho (EFF).

Support Staff: Mr V Ramaano (Stand-in Committee Secretary), Ms S Dawood (Content Advisor), Mr T Manungufala (Researcher) and Mr J Mahlangu (Committee Assistant).

The Executive Mayor, Mr D Nenguda, councillors and other officials from the Vhembe District Municipality, together with the officials from the Department of Water and Sanitation were also in attendance during the 2-day oversight visit.

1. Background

Mr Baloyi, the representative, submitted a petition (Annexure 1) to the Speaker of the National Assembly and Chairperson of the National Council of Provinces, Parliament of the Republic of South Africa, on 13 April 2022. His submission highlighted the challenges experienced by communities that were displaced by the construction of the Nandoni Dam by the then Department of Water Affairs and Forestry in 1998.

The petition related to the following issues – the impact of the relocation in respect of compensation, structural damage to houses built by the Department, under-located households, lack of proper toilet facilities, control of safe access to and security around the dam, de-bushing of the area around the dam, replacement of domestic animal enclosure, fencing, provision of water and sanitation infrastructure, relocation of graves, mitigation of negative social and cultural impact, implications and impact of the setting up of a Trust Fund under the auspices

of the traditional council, incorrect measurement of maize fields, irregular payment, and alternative land.

Constitutionally and according to the Rules of Parliament, a referral of a petition by any affected individual or community must be prioritised by the specific committee that the Speaker refers the matter. Section 56 (d) and 69 (d) of the Constitution, read with the Rules of the National Council of Provinces and National Assembly, provides for the National Assembly and the National Council of Provinces to receive petitions, representations or submissions from any interested persons or institutions.

Public participation in Parliament's law-making, oversight and other processes is an important constitutional provision of our democracy. Parliament has developed several ways to promote public involvement in the institution's work. The way in which the public can exercise their right to participate in Parliament is by submitting a petition. Procedures for dealing with petitions are set in the rules of the National Assembly and the National Council of Provinces.

On receiving the petition from the Speaker to the Chairperson of the Portfolio Committee on Water and Sanitation on 13 April 2022, the Portfolio Committee held a preliminary briefing presented by the content advisor on 23 September 2022 on the timeline of events, the recommendations highlighted by the Office of the Public Protector and responses to the requests by the Department of Water and Sanitation.

Members of the Portfolio Committee resolved that an oversight visit be scheduled to first listen to the concerns of the affected communities through its representative, Mr Baloyi, and receive responses from the Department of Water and Sanitation on strategies utilised thus far to address the afore-mentioned challenges identified by the Nandoni Complaints Resolution Committee. In-loco site visits of housing and water and sanitation projects provided an overview of the nature of complaints with insights offered by the Department of Water and Sanitation on mechanisms in place to address and timeframes to finalise all aspects related to the challenges highlighted by the Nandoni Complaints Resolution Committee.

This report serves as a response to the Speaker on how the Portfolio Committee on Water and Sanitation engaged the representative, Mr Baloyi, on behalf of the Nandoni Complaints Resolution Committee in respect of the issues raised in the petition. The methodology used was to provide a forum on 28 October 2022 for Mr Baloyi and other affected community

members to offer insights and their interpretation of the challenges encountered in resolving this long-outstanding matter (spanning 1998 to date). The Department of Water and Sanitation on 28 October 2022 was thereafter afforded time to respond to each issue raised in the petition. The formal briefings were held at the Vhembe District Municipality Council Chambers in Thohoyandou, and one site visit to Giyani to assess progress on water infrastructure development to fast-track reticulation networks to surrounding communities.

One of the major challenges encountered by the Portfolio Committee on Water and Sanitation on this oversight related to the following:

- Lack of interpretation services which resulted in the meeting being delayed.

2. Submissions by the petitioner and other affected community members with concomitant responses by the Department of Water and Sanitation in attempts to resolve the highlighted challenges

In summary, the construction of the Nandoni Dam in 1998 in the Vhembe District Municipality affected 33 villages that had to be relocated to alternative land. The loss of communal land use resulted in villagers losing crops and fruit orchards. Four hundred and five (405) homesteads had to be relocated. The current position of the Department of Water and Sanitation is that an agreement had been reached between the affected community members, traditional authorities and the then Department of Water Affairs and Forestry on compensation for loss of crops and future economic activities, provision of alternative land and housing, relocation of graves, provision of infrastructure, transfer of funds to the Trust Fund administered by the traditional council, and installation of water pipes and taps in residential sites.

Members of the community maintained that although agreements were in place, not all conditions of the agreement were entirely fulfilled. The matter was referred to the Office of the Public Protector in 2005 and 2009. According to the Department of Water and Sanitation, compliance with the remedial measures on the Public Protector's recommendation was accepted, and provisions were made to address all matters. The Department, however, conceded that certain aspects required further clarity at this stage of finalising the matter ten years later. The sections below provide the challenges encountered by the affected communities and, thereafter, submissions by the department on provisions for remedial actions of the earlier agreement and the systematic approach undertaken by the Department of Water

and Sanitation in the last five (5) years to remedy and provide the rationale for the subsequent decisions taken.

2.1 Compensation for loss of the use of communal land (incorrect measurement of maize fields) and loss of crops and future economic activities

2.1.1 Input by petitioners

The leader of the petitioners reiterated the issues raised in the petition of the inherent anomalies in compensation for loss of income from crops and general farming activities. The basis of the arguments made by community members was that although certain community members were paid and others not paid, there were no agreements in place between the beneficiary and the Department which provided the conditions of payment, such as the value of the property, amounts to be paid, date of payment and consequences of non-payment by the Department.

The remedial actions highlighted by the Office of the Public Protector, through the then Public Protector, Mr Mushwana, in 2009, still needed to be fully complied with, as is the case on the recommendation provided for settlement of payments to all affected people in six (6) months. Concerned community members stressed the importance of setting a date for finalising compensation for all affected individuals and family members.

Tensions and contestations on the methodology used for verifying and validating outstanding information from affected parties used by the Department of Water and Sanitation posed significant concerns. The petitioners maintained that communication to obtain the outstanding information through Help Desks set at the Traditional Councils, Walk-in Centres, the Chairperson of the Nandoni Relocation Committee and the Thohoyandou District Office, excluded the direct representative, Mr Baloyi of the Nandoni Complaints Resolution Committee who represented the affected communities. The project was regarded as finalised as no further information was forthcoming. However, community members claimed that no departmental official visited or held meetings in the affected areas to address challenges nor to engage recipients on matters affecting compensation. The forums used by the Department to finalise issues are not recognised as speaking on behalf of the recipients or future recipients.

2.1.2 Responses by the Department of Water and Sanitation

During the verification of amounts to be paid to the affected parties, the Department experienced challenges with the outstanding information related to a small number of the affected community members needing to be more forthcoming to assist in verifying the amounts to be paid to the affected parties. Efforts were made to obtain outstanding information through Help Desks set at the Traditional Councils and Walk-in-Centres with the help of Phalaphala FM radio station, the Chairperson of the Nandoni Relocation Committee and the Thohoyandou District Office. None of these attempts proved successful, with the Department forwarding letters to the Traditional Councils and Chairperson of the Nandoni Relocation Committee to inform them of the challenges. Subsequently, the project was regarded as finalised as no further information was forthcoming. The Department, however, is committed to attending to matters of current cases with appropriate verification.

One thousand three hundred sixty-two (1362) affected parties were initially recorded, and it was discovered during verification that out of 1362, 22 were not on the revised valuation done by the Black Dot Consultant service provider. The Black Dot Consultant has been informed and started preparing the required information, which will be verified, and payments to be made to those due to be paid. Refer to table 1 for payment status.

Table 1. Payment Status Report			
Category	Categories	Percentage	Comment
Fully paid from 2001 to 2005 = 91	91	6,68%	No further payment will be made to the affected that were fully paid in 2001/2005. NB: the final verification is currently underway, and amounts will only be paid to those due to receive payments.
Paid in 2019 to 2022 = 1160	1160	85,17%	Payments made to date (1172+94 = 1266).
Rejected payment = 13	13	0,95%	Finance is attending to the matter.
Document submitted for payment = 3	3	0,22%	Payment is still to be made.
Vendor forms and confirmation letters = 18	18	1,32%	Vendor forms and confirmation letters have yet to be received.

Confirmation of ownership = 14	14	1,03%	Affected are not on previous records, while some are not affected. To finalise verification, confirmation of ownership is required before the finalisation of documents and payments thereof.
Mentally ill = 1	1	0,07%	No family members could be traced to source a letter of authority.
Repeating names = 4	4	0,29%	If names on forms are repeated, a letter is sent only to the affected to confirm ownership and finalise verification.
Cannot be traced = 28	28	2,06%	In these cases, the affected could not be located even after the Help Desk, and Roadshows were undertaken. The Traditional Councils are assisting the Department in locating the affected.
Not affected = 8	8	0,59%	No payment will be made.
Not on the revised report, but currently being addressed by PSP = 22.	22	1,62%	Request forwarded to the Valuer-General to confirm if they are affected or not.
Total	1362		(amount excluding the 2001/2005 payments)
Note: It should be noted that during the finalisation of verification, it was found that 21 were not in the revised valuation report.			

2.2 Payments to the Traditional Trust Funds

The Department paid the compensation due to the relevant Traditional Authorities for the loss of land from 2001 to 2005 into the Trust Accounts of the Traditional Authorities. The loss of land refers to communal land. In 2017, the then Director-General wrote letters to the Traditional Councils requesting them to provide the Department with Audited Financial Statements in relation to the Trust Accounts. The records show that only Mphaphuli Traditional Council responded to the letter sent by the then Director-General. The payments made to the Trust accounts for the relevant Traditional Councils are indicated in Table 2.

Table 2. Payments to the Traditional Tribal Councils

Tribal Council	Amount paid
Mulenzhe TC	R3 986 180.05
Mphaphuli TC	R2 378 113.53
Tshivase TC	R89 044.45
Mudabula development	R23 181,47

The Traditional Councils indicated that they disagreed with the compensation offered for the Communal land. The Department referred the matter to the Office of the Valuer-General (OVG) to confirm if the values paid to the Traditional Councils in 2004 were indeed market-related. The Department received quotations and vendor master forms from OVG, and the Purchase Order has been issued. The OVG will now start with the valuation process.

2.3 Refurbishment of houses

Refurbishment of the houses is underway. Refurbishment of houses in two of the five villages, Manini and Tshilongoma, has been completed, with the rest set to be completed by December 2022 due to delays caused by rain. Table 3 indicates the progress made thus far in the different villages. Some of the badly damaged houses were replaced by a new house. However, this process is ongoing.

Table 3. Refurbishment Progress Report		
Villages	Progress	Date of completion
Manini (2)	100% complete (2)	Completed in June 2022
Tshilongoma (46)	100% complete (46)	Completed in July 2022
Dididi (7)	86% complete (6)	To be completed by November 2022
Mulenzhe (233)	31% complete (73)	To be completed by December 2022
Budeli (99)	61% complete (60)	To be completed by November 2022

2.4 Water reticulation to the households

The Vhembe District Municipality is constructing the bulk infrastructure for water reticulation to the villages. (Tshitomboni, Tambaulate, Dididi, Mulenzhe & Jimmy Jones). The Vhembe District will be responsible for 85% of the project, and DWS Construction North will construct the remaining 15%. The scope of works for Construction North entails yard connections and extending reticulation within the villages. Completion of the project for yard connections depends on the reticulation that the Vhembe District Municipality is implementing.

2.5 Construction of bridges

The construction works for the road and bridge resumed after it was stopped since the Government could not issue tenders. Once Treasury resolved this matter, construction commenced and will be completed as follows: The road construction works will be completed by 23 February 2023. The only activity remaining will be the wearing course which awaits the award of the national tender for paving. The bridge construction will be completed by 30 April 2023, dependent on the award of a national tender for precast beams.

2.6 Relocation of graves, fencing and un-relocated houses

The Department conducted an investigation regarding the homesteads that were not relocated. The outcome of the investigation indicates that the remaining homesteads are located outside the borders of the Nandoni Government Waterworks. These homesteads will not be relocated as they fall outside the dam boundary line of the Nandoni Government Waterworks and, thus not be affected by the water project. Regarding installing the fence around the dam, it is no longer the department's policy to fence off dams as per Schedule 1 of the National Water Act and resource management plans.

The DWS has made an allowance for 12 graves in the Bill of Quantities. The unit has requested the positions of the graves through the Project Steering Committee (PSC) before embarking on the process. The PSC promised to show the locations within November 2022. Once the graves are located, the unit will require three months to relocate them.

3. Oversight Visit to Giyani Water Supply Project

The committee assessed the status of the Nandoni-Nsami Bulk Pipeline Project. It was satisfied with the progress, although there were delays and damages to the pipeline in Giyani during testing. This project was initiated to address water services challenges in Giyani by transferring water from Nandoni to augment Nsami & Middle Letaba systems. The overall progress stood at 60.80 %. The remaining excavation is about 300m; Pipe laying remaining to lay-2.5km of laying and tie-ins; Acceleration Critical Connection (1) at Mavambe, and (2) Temporal at Luvhuvu, for the end of November 2022. Final confirmation expected 20 November 2022. LNW and DWS sent a joint letter to RAL for approval of emergency wayleave for a temporal acceleration connection at Luvhuvu River.

3.1 Refurbishment of Giyani Water Treatment Works

The business plan for the refurbishment of 30Ml/d WTW was approved by the Department-Phase 1. The reconstruction of non-functional 6Ml/d WTW will be done in Phase 2. Business plans and technical reports for Phase 1 of the reticulation of 24 of 55 villages approved by DWS. DWS has appointed Mopani District Municipality as the Implementing Agent for both reticulation and Giyani Water Treatment Works refurbishment. To implement the project, the Department has availed a budget through the Water Services Infrastructure Grant (WSIG). Mopani District Municipality advertised and is to appoint contractors to start with the construction of Phase 1 reticulation to 24 villages and refurbishing of existing 30Ml/d Giyani WTW.

4. Concluding Observations

Members of the Portfolio Committee, in engaging the oral submissions of the affected communities, and written submissions by the Department of Water and Sanitation, offered substantive input on the following:

- The most contentious and acrimonious issue of compensation during the two-day visit was the criteria used by the then Department of Water Affairs and Forestry and the current Department of Water and Sanitation to accord payments to beneficiaries. The approach used for payments of compensation with departmental officials directly approaching individuals and offering them funding was deemed unacceptable, as representatives, such as Mr Baloyi, that understood the complexities of the situation, were not consulted.

Community members maintained there was a reason for appointing Mr Baloyi to represent them as the trust built and negotiations would be to the benefit of affected recipients.

- The mechanisms and criteria used to establish a Trust Fund for the use of land through transferred compensation from the Department of Water and Sanitation to the Traditional Authorities and Councils require further interrogation. Furthermore, financial statements should be submitted for audit purposes on how monies in the Trust Fund were used and whether any empowerment and social initiatives for the benefit of the communities were provided.
- The many institutional changes, over time, to finalise compensation for loss of use of agricultural land and animal enclosures, housing, water and sanitation, and verification and validation of recipients from the then Department of Water Affairs and Forestry to the current Department of Water and Sanitation, the appointment of the Black Dot Service Provider, traditional councils and the Vhembe District Municipality, charged with similar functions for the duration of the process, obscured the importance of managing documentation in a centralised location for easy reference and reconciliation.
- More background information is needed on the appointment of Black Dot Consulting Services to assist the Department in verifying lawful beneficiaries. The information in the Black Dot verification report should be accessible to the coordinators and affected parties. The Department needs to provide a list of all people compensated, the criteria used in compensating them and avail the list of people who have not been compensated and those who were paid irregularly.
- It should be noted that compensation was paid to the affected beneficiaries to replace trees lost with the dam's construction and other agricultural aspects mentioned in the Office of the Public Protector's report. This includes the loss of food production at the time of construction. The Nandoni Relocation Action Plan was developed with the input and assistance of various departments and Traditional Councils. One thousand one hundred and sixty (1 160) affected were paid with 673 amended letters delivered to the Traditional Council. If the affected parties already compensated can prove with documentation the incorrect amounts paid, the Department of Water and Sanitation should review these cases.

- Anger by community members is justified, as there is no direct communication outlining the complexities of the matter. All affected people must be given information to understand the situation. The petitioner, Mr Baloyi, must also take up his leadership position and follow up on issues.
- The Portfolio Committee should be provided with the agreement, according to the submission by the petitioners, that provides for annual or monthly compensation. Communication on criteria used for compensation depends on several variables, such as the losses incurred in crop production, the volume of crop production or the number of animals within the household at the time of the relocation. Although compensation is not equal, nor is leased land lost as all land is under the custodianship of traditional leaders. However, incorrect or miscommunication in the processes of verification by the Department, Black Dot, and Vhembe District Municipality culminated in distrust and discord, exponentially exploding over time.
- The lengthy period, spanning over ten (10) years, to finalise the process and offer sound remedial actions, as highlighted by the Office of the Public Protector, was, as the petitioners maintained, misinterpreted by all affected parties. No final write-up by the Office of the Public Protector exacerbated the situation as there was no monitoring and evaluation of the efficacy of remedial actions and undertakings by respective stakeholders.
- The failure of beneficiaries to use relocated land productively can be attributed to the failure of the Department of Water and Sanitation to coordinate various units/branches to provide needed support on relocated land – as well as the inability to coordinate an intergovernmental collaboration for maximum support to communities. The lack of support services by national and local spheres of government to households on relocated land in terms of social, economic (creation of sustainable jobs) and agricultural development to ensure sustainable livelihoods for current and future generations.
- Relocation of communities to land without complementary programmes and much-needed water and sanitation provision for developmental support to improve their livelihoods limit the ability of the affected communities to take advantage of the benefits that the construction of the Nandoni Dam, with associated activities, promised to deliver.

- Observations about the state of houses or dwellings provided by the Department of Water and Sanitation, lack of provision of water and sanitation services and electricity reflected in some instances, shoddy work, which the Department hoped to resolve by refurbishing or repairing or rebuilding affected houses. A mechanism must be in place to monitor and evaluate the structural build of housing since inception, with an audit investigation on costs, incurred fruitless and wasteful expenditure, contractors used and related expenditure of the initial project and subsequent rebuild or refurbishment.
- The relocation of graves is a sensitive matter in African culture and should be handled with the required sensitivity.
- The Department committed that the bridge's completion would be at the end of April 2023. Members of the Portfolio Committee and the respective departments must oversee the process to ensure the deadline is met.
- Both Mr Baloyi and Mr Netshivhambe are leaders of the community. They must engage with municipalities, respective departments, and traditional councils to evaluate the action plans and whether they align with the community's mandate and trust. Of importance, though, is that the leaders of the community have to provide information to all households on engagements with respective stakeholders.

5. Recommendations

After due deliberations on submissions by various stakeholders, the Portfolio Committee recommends that the Speaker of the National Assembly consider the proposed recommendations as a way forward:

- 5.1 Ensure the obligations of the Office of the Public Protector are timeously conducted to oversee the implementation of previous and current remedial actions on all matters raised in the petition, and provide a handover report to affected parties.
- 5.2 Strengthen trust and accountability by incorporating decision-making and solution-driven outcomes between the national, local and affected communities.

- 5.3 Restructuring or revisiting the current structure of the technical committee, to include the two representatives, Mr Baloyi and Mr Netshivambe, who serve the affected communities around the Nandoni Dam, traditional councils and officials of the Vhembe District Municipality, and Department of Water and Sanitation to ensure that decisions taken are effectively communicated to all affected parties.
- 5.4 The Portfolio Committee resolved that the money budgeted for the project at inception, and currently, must be audited to ascertain whether there was any fruitless and wasteful expenditure, and, if so, whether consequence management of any evidenced transgression would be investigated.
- 5.5 The newly established technical steering committee should provide a report on progress made on further remedial actions and whether these were adequately addressed, which will be relayed by the Department of Water and Sanitation by August 2023.

Annexure 1: Petition from Mr Baloyi

Sent: Wednesday, 13 April 2022, 16:22

To: Llewellynn Claassen <lclaassen@parliament.gov.za>

Subject: Nandoni Complaints Resolution Committee

Dear speaker of the National Assembly and chairperson of the National Council of Provinces

This serve as a petition from the communities that who were displaced by Nandoni Dam construction project. The purpose of the Nandoni dam was to construct a dam, which would provide water supplies to a number of communities in the Vhembe district. This project commenced in 1998. The main principle when the dam was constructed was that individual and communities should not be disadvantage or be worse off as the result of the development of the Dam. Communities were promised compensation which did not materialize. Policy and procedures and agreements are there. These policies and agreements were never fulfilled. We are requesting an urgent intervention from parliament. Parliament represents the people's rights. It must listen to us.

Our petition relates to the following issue and we will be happy to provide further details orally and an appropriate time. All we need now is to present our petition and get a resolution to our issue as listed below:

2.1 Compensation

2.2 Houses

2.3 Underlocated homestead

2.4 Toilet

2.5 Control of safe access to and security around the Dam.

2.6 Debushing and related matters

2.7 Installation of water pipes and taps in residential site

2.8 Replacement of domestic animals' closure

2.9 fence

2.10 Provision of infrastructure

2.11 relocation of graves

2.12 mitigation of negative social and cultural impact

2.13 Trust funds

2.14 incorrect measurement of maize fields

2.15 irregular payment

2.16 and other more documents

2.17 inspection Loco DWS support these recommendations

2.18 Alternative land

We are requesting the **portfolio committee of human settlement and water and sanitation** and the portfolio committee of COGTA to the urgently intervene to the problem of Nandoni.

Your sincerely

Chairperson S Baloyi

3. Report of the Portfolio Committee on Social Development on the Children's Amendment Bill [B18D – 2020], dated 30 November 2022

The Portfolio Committee on Social Development, having considered the proposed amendments by the National Council of Provinces (NCOP) to the *Children's Amendment Bill [B18D – 2020]* (*National Assembly – Sec 76*), referred to it on 22 November 2022 (see ATC, 22 November 2022), reports that it agrees to the amendments.

Expression of minority views

Rule 288 (3) (f) of the National Assembly states in its report the Committee must, if it is not a unanimous report—

- (i) specify in which respects and why there was no consensus, and
- (ii) in addition to the views representative of the majority in the committee, convey any views of a minority in the committee in order to facilitate debate when the report comes before the House.

Members of the minority parties objected to the adoption of the Children's Amendment Bill [B18D – 2020] and the Committee report on it based on the minority views reported on, in the Committee Report on the Children's Amendment Bill [B18B – 2020], which it adopted on 06 July 2022. It was tabled in the Announcement, Tablings and Committee Reports (ATC) dated 08 July 2022 (No. 102 – 2022).

Recommendation

The Portfolio Committee on Social Development recommends that the House adopts this report and approves the second reading of the Children's Amendment Bill [B18D - 2020].

Report to be considered.

4. Report of the Portfolio Committee on Social Development on a petition from the residents of Tembisa, Gauteng province, calling on the National Assembly to investigate the provision of proper and safe offices for the South African Social Security Agency (SASSA) in their area, dated 30 November 2022

1. Introduction

The Portfolio Committee received a petition referred to it from the Office of the Speaker on 11 October 2021 (ATC No. 136–2021; 11 October 2021). The petition was submitted to Parliament by Ms B Masango, a Member of the PC on Social Development on behalf of the petitioners.

The Constitution in Section 56 (d) and 69 (d) provides for petitions to be brought to Parliament. It provides for the National Assembly (NA) and the National Council of Provinces (NCOP) to receive petitions, representations or submissions from any interested persons or institutions.

Chapter 14 of the Rules of the National Assembly (9th edition), Rule 337 (d) makes provision for the Speaker to table written instruments including special petitions and other petitions of a general nature.

Similarly, Rule 347 (1) of the Rules of the National Assembly states that a petition must be lodged by a member with the Secretary for approval and tabling by the Speaker, and must be signed at the beginning thereof by the member. Rule 347 (2) further states that a member may not lodge a petition on his or her own behalf, but such a petition may be lodged by another member.

On 14 September 2022, the Committee received a presentation on the petition from a representative of the petitioners. In addition, the Department of Social Development and the South African Social Security Agency (SASSA) were invited to respond to the petition after which Members of the Committee engaged on the contents of the petition.

2. Presentation of the petition

Ms B Masango (DA), the petition's sponsor, informed the Committee that the Tembisa community invited her to visit SASSA offices in the area. The community expressed their concerns on the state of the buildings following which a petition was signed by over 2 000 people. She then submitted to Parliament on their behalf.

Ms Nombulelo Dubula, the petitioners' representative and a resident of Tembisa, reported that Parliament was petitioned because of the poor condition of SASSA offices in Tembisa. Buildings were not conducive for rendering of services to such large areas, as Tembisa, as this could lead to the spread of the Covid-19 virus. There was overcrowding in a cramped space and lack of adherence to social distancing. She further reported that the building was due for

an upgrade, but six years later no upgrade had happened. She had previously noted that when Democratic Alliance members raised questions in Gauteng Legislature regarding the buildings, they were informed that they were a national competency. The residents of Tembisa needed functional SASSA offices.

4. Presentation by South African Social Security Agency in response to the petition

Ms Memela-Khambule, Chief Executive Officer (CEO), informed the Committee that the procurement of SASSA offices was guided by SASSA's Immovable Properties Management Policy which stated that procurement of property could only be of state-owned property and, if privately owned, then through the Department of Public Works and Infrastructure (DPWI). SASSA experienced high irregular expenditure due to expired leases and lengthy DPWI procurement processes.

The Gauteng region has a total number of 42 leases, 27 out of 42 are direct leases between SASSA and private landlords and 15 out of 42 are leases entered into through DPWI. SASSA had recently awarded six (6) lease agreements for office accommodation which it advertised as part of intervention to curb irregular expenditure. These offices included Benoni, Springs, Alexandra, Lenasia, Fochville and Vereeniging.

Mr Themba Matlou, Gauteng Regional Manager, SASSA, reported that the Tembisa office was housed in a very small building and therefore not adequate for Tembisa residents, especially the elderly and the disabled. The location of the facility is accessible to citizens but the challenge is that this was the only office serving the community of Tembisa. The office space was not adequate and beneficiaries had to wait for a longer period before they could receive service, due to the inadequate size of the building.

He further reported that it was difficult to keep the building clean which compromises the safety of both the beneficiaries and the SASSA officials due to overcrowding.

Complaints had been lodged on the service provided and SASSA had started searching for alternative space but none was available at that time. In consultation with the municipality, SASSA had built a waiting area and additional toilets, and other renovations were completed. Additional office accommodation was found within five kilometres of the Rabasotho office in 2018.

In 2014 SASSA had requested DPWI to procure new offices for Kempton Park and a tender was advertised. But this tender had lapsed and SASSA had submitted a revised project execution plan to DPWI. Progress update meetings were held with DPWI in Johannesburg and Pretoria and SASSA had received paperwork from DPWI indicating that the procurement process was now underway.

Ms Memela-Khambule, reported that while DPWI was searching for suitable properties, SASSA itself was also searching for suitable properties in Gauteng, Rabasotho and Kempton Park in particular, and SASSA was providing feedback to the community on the progress made.

5. Committee deliberations and findings

The Committee noted with concern that SASSA seems to depend on the Department of Public Works and Infrastructure when it comes to office accommodation and this has proven to be problematic. It therefore, requested the Minister to engage with the Minister of Public Works and Infrastructure to urgently provide space for the Tembisa office. It wanted to know if it was possible for SASSA to use mobile trucks in the meantime?

It also noted that the challenge of office space is country wide as was seen in Khayelitsha where the office had to be closed down. It wanted to know how often does SASSA conduct a cost comparison in the market because SASSA spends a lot of money on leasing of office space.

The Committee also sought clarity on how often does SASSA conduct cost analysis and ensure that office spaces are conducive.

The Committee commended the people of Tembisa for bringing the issue of office space to the attention of the Committee. It also appreciated the response from SASSA that acknowledged and confirmed the issues raised by the petitioners.

The Committee advised the petitioner that people of Tembisa could make suggestions to SASSA if they know of any possible buildings that SASSA can use.

It also cautioned SASSA to make sure that the office spaces that DPWI makes available are in good condition.

6. Responses by SASSA and the Department

It was reported that SASSA had engagements with DPWI on execution of their plans. DPWI had committed that by November there would be progress on the supply of office space. On using mobile trucks as offices, Ms Memela-Khambule reported that SASSA uses the trucks when it visits communities. It had stopped because of Covid 19 but would consider the suggestion of using them again.

On SASSA getting its own properties in the rural areas, SASSA did have that opportunity and it built and owned eleven properties on the land it was given by provincial governments. For instance, in the Northern Cape it had built two properties. A challenge had been that it had received buildings from DPWI that did not serve the people very well.

Ms Lindiwe Zulu, Minister, noted that the CEO had been striving to find a suitable office space, which would be conducive to both beneficiaries and SASSA officials. SASSA had made attempts to meet with the Minister of DPWI.

On the question of petitioners looking for suitable building, she cautioned that due processes of government procurement regulations had to be followed. She called for the processes of

acquiring suitable office space to be expedited as the poor conditions beneficiaries and officials continue to be subjected to is a matter of serious concern.

7. Recommendations

- The Minister should engage with the Minister of Public Works and Infrastructure to find an intervention to the challenge of office accommodation for SASSA offices. The Minister should also ensure that SASSA develops a strategy or a plan to address the challenge of office accommodation by building or procuring its own office spaces and involve communities.
- The Minister should ensure that the Department of Public Works and Infrastructure and SASSA prioritise interventions for the short, medium and long-term, or alternatively, SASSA should look at using its own office spaces.
- The Minister should ensure that SASSA considers the possibility of using a mobile truck as an interim measure while looking for office space. SASSA should indicate to the Committee the timelines for seeking office space.
- The Minister and SASSA should ensure that the office accommodation allocated by the Department of Public Works and Infrastructure is of good quality.
- The Minister and SASSA should also engage with traditional leaders in rural areas to find suitable land for SASSA office spaces.

Report to be considered.

5. Report of the Portfolio Committee on Social Development (hereinafter referred to as the Committee) on the list of recommended candidates to serve on the Independent Tribunal for Social Assistance Appeals, dated 30 November 2022.

Having considered the referral by the Speaker of the National Assembly, of the letter and the list of recommended candidates to fill vacancies in the Independent Tribunal for Social Assistance Appeals, in terms of the Social Assistance Act (No 13 of 2004), dated 04 November 2022, the Portfolio Committee on Social Development, reports as follows:

The Department of Social Development briefed the Committee on the recommended candidates to serve on the Independent Tribunal for Social Assistance Appeals. This is in accordance to Section 18 of the Social Assistance Act, 2004 (as amended) which states:

“The Minister must, after consultation with Parliament, appoints an Independent Tribunal comprised of appropriately qualified persons, as may be prescribed, to serve as members of the Independent Tribunal, to consider appeals against decisions of the Agency.”

The Portfolio Committee on Social Development, having deliberated on and considered the subject of the list of recommended candidates to serve on the Independent Tribunal for Social Assistance Appeals, reports that it agrees to the recommended list of candidates to serve on the Independent Tribunal for Social Assistance Appeals as follows:

LEGAL PRACTITIONERS:

- 1 Bahlmann, Tracey J
- 2 Cawe, Nomagcisa
- 3 De Bruyn, Wilhelm M
- 4 Mabaso, Abner
- 5 Maharaj, Nalini
- 6 Mahlase, Ramokopu H
- 7 Makopo, Nokulunga

- 8 Mathekga, Stenley S
- 9 Masilela, Tibinki Lm
- 10 Maubane, Itumeleng Mm
- 11 Mnyovu, Bulelwa F
- 12 Moifo (Neé Mohala), Virginia M
- 13 Selesho, Mamiki V
- 14 Viviers, Anthonie M
- 15 Mafuya, Qabane N
- 16 Shweni, Asanda
- 17 Dibete, Mmaeshibe P
- 18 Raheman, Naheem
- 19 Mohlahlo, Thema J
- 20 Block, Derick J

Medical Practitioners:

- 1 Dr Joubert, Martha S
- 2 Dr Mabasa, Jacob J
- 3 Dr Maneli, Lumka
- 4 Dr Mashaba, Busisiwe G
- 5 Dr Mahomed, Shenaaz I
- 6 Dr Masondo (Neé Khaole), Obakeng
- 7 Dr Mkumbuzi, Phumla
- 8 Dr Nkhi, Elizabeth S
- 9 Dr Ntlokwana, Nwabisa
- 10 Dr Olivier, Jan H
- 11 Dr Pebane, Mpho Mm
- 12 Dr Ntsepe, Lebeko T
- 13 Dr Mbovane, Christian Z
- 14 Dr Omar, Khadija

Report to be considered.

6. Interim report of the Portfolio Committee on Justice and Correctional Services on the Cannabis for Private Purposes Bill [B 19 - 2020] (National Assembly – sec 75), dated 30 November 2022

The Portfolio Committee on Justice and Correctional Services (the Committee), having considered the Cannabis for Private Purposes Bill [B 19 - 2020], referred to it and classified by the Joint Tagging Mechanism (JTM) as a section 75 Bill, reports in the interim as follows:

1. In *Minister for Justice and Constitutional Development and Others v Prince* 2018 (6) SA 393 (CC), the Constitutional Court declared the following legislative provisions unconstitutional, as they amount to an impermissible limitation of the right to privacy:
 - Section 4(b) (possession) and section 5(b) (dealing on the basis of cultivation) of the Drugs and Drugs Trafficking Act 140 of 1992 (the Drugs Act), read with Part III of Schedule 2 of that Act; and
 - Section 22A(9)(a)(i) of the Medicines and Related Substances Control Act, read with Schedule 7 of Government Notice No. R 509 of 2003.
2. The Court suspended the order of invalidity for 24 months for Parliament to correct the constitutional defects. Although the 24 months has been exceeded, there is no gap in the law as the Court provided a reading-in provision that ensures that an adult person will not be guilty of a criminal offence if they use, possess or cultivate cannabis for their personal consumption in private.
3. On 1 September 2020, the Cannabis for Private Purposes Bill [B19-2020] was introduced and referred to the Committee for consideration and report.
4. The Committee was briefed on the contents of the Bill on 4 September 2020 and the Bill was then published for public comment.
5. The Committee was also briefed by the Department of Agriculture, Land Reform and Rural Development and the Department of Trade and Industry and Competition on 25

August 2020 on the draft Cannabis Master Plan, which contains a strategy to industrialise and commercialise cannabis.

6. The Bill, as introduced, broadly proposed to:
 - Respect the right to privacy of an adult person to possess cannabis plant cultivation material; to cultivate a prescribed quantity of cannabis plants; to possess a prescribed quantity of cannabis; and to consume cannabis;
 - Regulate the possession of cannabis plant cultivation material; the cultivation of cannabis plants; the possession of cannabis; and the consumption of cannabis by an adult person;
 - Protect adults and children against the harms of cannabis;
 - Provide for the expungement of criminal records of persons convicted of possession or use of cannabis;
 - Delete and amend provisions of certain laws; and
 - Provide for related matters.

7. Flowing from the public submissions and its pursuant deliberations, the Committee identified certain subjects that the introduced Bill does not address and, therefore, in terms of Rule 286(4)(b) of the National Assembly Rules sought and received the Assembly's permission to extend the subject of the Bill to, in addition:
 - Provide for commercial activities in respect of recreational cannabis;
 - Provide for the cultivation, possession and supply of cannabis plants and cannabis by organisations for religious and cultural purposes on behalf of their members; and
 - Respect the right to privacy of an adult person to use cannabis for palliation or medication.

8. Following the granting of such permission by the National Assembly, the Committee published the Bill containing the proposed new clauses for public comment with a closing date of 13 May 2022.

9. The Committee held further public hearings on the virtual platform Zoom on 24 May 2022.

10. The Committee also, through communication with the Joint Tagging Mechanism, received comments from the National House of Traditional and Khoi-San Leaders on the development of the content of the Bill.
11. Flowing from the public submissions on the new proposed clauses and its pursuant deliberations, the Committee is of the opinion that, as hemp and cannabis plants are of the same species, there is sufficient overlap in the subject matter that requires due consideration of the possible interaction of hemp and cannabis within the purposive scope of the Bill.
12. The Committee, accordingly, seeks the further permission of the National Assembly, in terms of Rule 286(4)(b) of the National Assembly Rules, to broaden the scope of the Bill to take into consideration the extension of its provisions to cover hemp in so far as to make the Bill optimally implementable.

Report to be considered.

7. Report of the Portfolio Committee on Human Settlements on the Housing Consumer Protection Bill [B 10 - 2021], dated 30 November 2022

The Portfolio Committee on Human Settlements (the Committee), having considered the Housing Consumer Protection Bill [B10 - 2021] (National Assembly – section 76), referred to it and classified by the Joint Tagging Mechanism (JTM) as a section 76 Bill, reports the Bill with amendments [B 10A – 2021] as follows:

1. The Housing Consumer Protection Bill (HCPB) [B 10 - 2021] was tabled in Parliament and referred to the Committee on 18 May 2021.
2. The Housing Consumer Protection Bill seeks to provide for the protection of housing consumers; to provide for the continuance of the National Home Builders Registration Council as the National Home Building Regulatory Council; to provide for the registration of homebuilders; to provide for the enrolment of homes in order to be covered by the home warranty fund; to provide for the regulation of the conduct of homebuilders; to provide for the continuance of the home warranty fund; to provide for claims against the fund; to provide for the funds of the Council and for the management of those funds; to provide for procurement and contractual matters in relation to the building of a home; to provide for the enforcement of this Act; to repeal the Housing Consumers Protection Measures Act, 1998; and to provide for matters connected therewith.
3. The Committee received its first briefing on the Housing Consumer Protection Bill from the Department of Human Settlements on 01 June 2021.

4. In facilitating effective public participation on the Housing Consumer Protection⁵Bill, the Committee conducted nationwide, in person public hearings in three districts per province in all nine provinces, from 22 April to 6 November 2022. The public hearings were attended by 5 659 members of the public and various stakeholders across 27 district municipalities. A total of 894 oral submissions were heard by the Committee during these hearings.
5. Additionally, the Committee conducted virtual public hearings on 9 November 2022. The Committee received oral submissions from the Master Builders South Africa (MBSA) and Development Action Group (DAG).
6. The Committee received responses from the Department of Human Settlements on the issues raised regarding the Bill during the public hearings on the 11 November 2022.
7. The Committee during its deliberations on the Bill agreed to the rejection of clause 39 in its entirety. The rationale for the deletion of this clause was that this section was not mandatory. In addition, the Committee was of the view, that if the need arose, the contents of this clause may be better placed in the regulations.
8. The Committee agreed to the following amendments to the Bill:

CLAUSE 1

1. On page 6, after line 13, to insert the following definition:
“ **‘head of department’** means the head of department responsible for human settlements in a province;”.
2. On page 7, after line 25, to insert the following definition:
“ **‘municipal manager’** means a person appointed in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);”.

CLAUSE 2

1. On page 8, from line 17, to omit subsection (5) and to substitute the following subsection:

“(5) Notwithstanding the provisions of this Act, the Minister may, after consultation with the Council, in exceptional circumstances—

- (a) on application in the prescribed manner, exempt a person or home from the provisions of this Act ; or
 - (b) in the public interest, by notice in the *Gazette*, exempt certain persons or homes belonging to a category or class specified in the notice, from the provisions of this Act,
- either generally or subject to such conditions as may be specified.”.

CLAUSE 7

1. On page 9, in line 29, after “office” to insert “, taking into consideration representivity, expertise and previous performance”.
2. On page 9, in line 42, after “expiry”, to insert “, within which period the Minister must appoint the replacement”.

CLAUSE 11

1. On page 11, from line 2, to omit subsection (1) and to substitute the following subsection:
 - “(1) The Board—
 - (a) holds meetings at such times and places as may from time to time be determined by the Board; and
 - (b) must hold a minimum of four meetings annually.”.

CLAUSE 15

1. On page 13, in line 29, after “Council” to insert “as determined in terms of a job evaluation system approved by the Board”.

CLAUSE 16

1. On page 13, in line 34 after “for” to insert “only”.

CLAUSE 32

1. On page 18, from line 2, to omit subsection (1) and to substitute the following subsection:

“(1) A head of department or municipal manager or his or her delegate may not release any funds in relation to any housing project, unless the requirements of this Act have been met in relation to that project.”.
2. On page 18, after line 13, to add the following subsection:

“(4) A MEC or MMC or his or her delegate must ensure, through oversight, compliance with this Act in relation to a subsidy or social housing project.”.

CLAUSE 39

1. Clause rejected.

CLAUSE 40

1. On page 20, in line 29, to omit “enrolment”.

CLAUSE 41

1. On page 20, in line 53, after “must” to insert “, subject to section 40(2),”.

CLAUSE 80

1. On page 33, from line 34, to omit section 80 and to substitute the following section:

“80. If an agent of a person is liable in terms of this Act for anything done or omitted in the course of that agent’s activities on behalf of their principal, that principal is jointly and severally liable with that agent.”.

CLAUSE 88

1. On page 36, from line 52, to omit “; and” and to substitute a semi colon.
2. On page 36, after paragraph (*h*) to insert the following paragraph:

“(i) prescribing the manner of service of notices or any documents required to be served in terms of this Act; and”.
3. On page 36, in line 4, to renumber paragraph (*i*) to be (*j*).

4. On page 36, in line 5, to omit “Council” and to substitute “Board”.
5. On page 36, in line 6, to omit “Council” and to substitute “Board”.
6. On page 36, in line 10, to omit “Council” and to substitute “Board”.
7. On page 36, in line 12, to omit “Council” and to substitute “Board”.

The Democratic Alliance objected to the adoption of the report.

Report to be considered.

National Council of Provinces

[The following report, replaces the Report of the Select Committee on Cooperative Governance and Traditional Affairs, Water, Sanitation and Human Settlements, which was published on page 107 of the Announcements, Tablings and Committee Reports, dated 29 November 2022]

1. REPORT OF THE SELECT COMMITTEE ON COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS, WATER, SANITATION AND HUMAN SETTLEMENT ON PRO-ACTIVE OVERSIGHT VISIT TO MALUTI-A PHOFUNG LOCAL MUNICIPALITY, DATED: 23 NOVEMBER 2022

1. Introduction and Background

1.1 The Select Committee on Co-operative Governance and Traditional Affairs, Water, Sanitation and Human Settlement, having conducted proactive oversight visit on 16th August 2022 to Maluti A- Phofung Local in Free State Province, reports to the National Council of Provinces as follows:

2. Objectives of the Proactive Oversight Visit

2.1. To assess the state of the local municipality in terms of organisational development and transformation; service delivery; financial management, local economic development; good governance and public participation

2.2. To engagement Department of Cooperative Governance and Traditional Affairs, the South African Local Government Association and the Municipal leadership on the state of the municipality and support provided to the local municipality in terms of section 154 of the Constitution

- 2.3. To solicit the opinions of political parties represented within the municipality, representatives of organised labour, business, youth, women forums as well the traditional leaders on the challenges faced by the local municipality in performing its constitutional and implementing the strategic objectives of local government within the community.

3. Delegation of the Select Committee

- 3.1. The delegation of the Select Committee was composed of the following Members of Parliament and officials: Hon B N Ndongeni (ANC); Eastern Cape; Hon E M Mthethwa (ANC), KwaZulu-Natal; Hon N H Hadebe (IFP), KwaZulu-Natal; Hon M Bartlett (ANC) Northern Cape; Hon IM Sileku (DA), Western Cape; Hon K Motsamai (EFF), Gauteng, Hon S Zandamela (EFF), Mpumalanga; Hon A D Maleka (ANC), Mpumalanga; Hon Ms S Shaikh (ANC), Limpopo; Hon TSC Dodovu (ANC); North West; Mr TM Manele (Committee Secretary), Mr N Mfuku(Content Advisor), Mr B Lwazi (Committee Assistant) Mr M Mbebe (Procedural Officer)

4. Overview of Proactive Oversight Visit to Maluti-A Phofung Local Municipality

- 4.1. During the period of the proactive oversight visit, the delegation of the Select Committee interacted with the internal and external stakeholders of the Local Municipality. The Free State Department of Cooperative Governance and Traditional Affairs and the South African Local Government Association briefed the delegation on the status of the municipality including the support provided to the local municipality
- 4.2. The Acting Municipal Manager of the local municipality briefed the delegation on the state of the municipality. The representatives of the DA, EFF, ANC, DPP, IMATU, SAMMU shared their opinions and concerns about the state of the local municipality

5. Briefing by the Department of Cooperative Governance and Traditional Affairs (CogTA)

- 5.1. The Head of Department of CoGTA briefed the delegation of the Select Committee. The presentation focused on support provided to the municipality in terms of section 154 of the constitution in respect of ward committees, public participation, indigent and community work programme and municipal performance.

- 5.2. The Department reported that the municipality was assisted with the development and adoption of guidelines for the establishment of the ward committees; framework for the payment of out of pocket expenses, public participation policies
- 5.3. The Department further supported the local municipality with the implementation of the Indigent Registers in line with National Guidelines on Indigent policies. Additional support also included the capacitation of Councillors through induction on the implementation of the Community Work Programme
- 5.4. The local municipality was on matters related to organizational development and transformation supported with the development of performance management system, process plan on recruitment, selection and appointment of senior managers.

6. Briefing by Maluti-A-Phofung Local Municipality

- 6.1. The Acting-Municipal Manager briefed the delegation of the select committee on the status of the local municipality. The presentation focused on organisational development and transformation, service delivery, financial management, local economic development, good governance and public participation
- 6.2. The 2023/2024 IDP & Budget Process Plan was tabled at the IDP & PMS Portfolio Committee on 03 August 2022 and it will follow all Council processes until adopted by Municipal Council before the end of August 2022. The municipal 's organizational structure is at Local Labour Forum and will be considered by Council after costing during September 2022
- 6.3. The municipality has advertised and interviewed section 56 candidates and competency-based assessments has been conducted. The local municipality has been interdicted for the positions of Directors of Community Services, Public Safety, Transport and Protection Service.
- 6.4. The position of the Director: Human Settlements, Spatial Development Planning and Traditional Affairs is currently vacant and will be advertised on the national newspapers on Sunday, 14 August 2022. The contract of the Municipal Manager will be ending on 30 November 2022 and will also be advertised on the national newspapers on Sunday, 14 August 2022

- 6.5. The consolidated annual operating revenue is projected to be R1.9 billion (R1 899 billion) for the 2022/23 financial year, which represents an increase of 9% from the 2021/22 February Adjustment Budget. This is mainly due to the credit control enforcement efforts made, an average 5.9% on service charges and the implementation of flat rate in 21 rural wards from the 1st of July 2022
- 6.6. The municipality has received the final management letter and audit report for the 2020/21 financial year. The municipality has also developed the audit action plan to address issues raised. The municipality is anticipating to finish the 2021/22 financial statements on 31 September 2022. Financial Recovery Plan developed and submitted to Treasury in June 2022.
- 6.7. The municipality has appointed a service provider to assist the municipality in preparing a complete asset register starting from the financial year 2021/22. Final asset register to be submitted on 31 October 2022. The financial statements for the financial year 2021/22 will be submitted on 31 October 2022. These financial statements will be accompanied by complete asset register
- 6.8. The Municipal Council is fully functional and the meetings are held as per schedule. Oversight and accounting functions are thus being performed Section 79 & 80 Committees have been elected and meeting regularly MAYCO constituted and meeting as per schedule Portfolio Committees are meeting as per their schedules. Performance Audit Committee constituted and functioning. MPAC constituted and meeting.
- 6.9. The local municipality reported that it has made progress in respect of removal and collection of waste, illegal dumping, appointment of a professional service provider, job creation through Expanded Public Works Programme (EPWP), completion of roads master plan, and completion of projects related to upgrading of Charles Mopeli Stadium, upgrading of Intabazwe Taxi facility and indoor sport facility.

7. Briefing by South African Local Government Association (SALGA)

- 7.1. The Senior Official of the SALGA briefed the delegation of the Select Committee on support provided to the Local Municipality.

- 7.2. The presentation focused on service delivery, water and sanitation; audit outcomes; municipal governance; section 56 and 57, support and IGR participation in the active partnering model.
- 7.3. SALGA played a key role in supporting the Administration Team to engage suppliers, National Treasury and Facilitation of the implementation of TASK JOB Evaluation system.
 •Provided capacity building to MPAC, SPLUMA implementation, Training of Councillors after by-elections in 2019. •Supporting the Administrator with recruitment of senior managers and conducting of STRAT PLAN in Feb 2020 to formulate a strategic recovery plan for the institution
- 7.4. SALGA conducted capacity building programme for councillors and senior officials focusing on performance management, unauthorized, irregular, wasteful and fruitless expenditure investigations and reduction strategies and rolling out water and sanitation based portfolio capacity building programme
- 7.5 Members of the Municipal Public Accounts Committee were capacitated on treasury toolkit and guide; municipal reporting cycle, regulations on financial misconduct, annual financial statement, ethics, integrity management; consequence and accountability management

8. Opinions of the Internal and External Stakeholders of the Local Municipality

- 8.1. The representative of the Democratic Alliance (DA) raised concerns about lack of accountability, sharing of information, non-compliance to municipal procedures and non-setting of some of the portfolio committees of the municipality.
- 8.2. The representative of the African National Congress (ANC) raised concerns about lack of leadership, organised labour running the municipality, political instability, leadership failure to provide policy direction, failure of administrators appointed in terms of section 139 (1) (b) of Constitution to improve the municipality, non- setting of some of the section 80 committees.
- 8.3. The representative of the Economic Freedom Fighters (EFF) raised concerns about political battles at the expense of service delivery, problems about the appointment of

municipal directors, special council meeting without tabling of reports, and loss⁵⁹ of community trust as the result of municipal failure to provide services to the community.

- 8.4. The representative of the African Transformation Movement (ATM) raised concerns about problems in the municipal administration and expressed hope that the current acting municipal manager will deal with the challenges facing the local municipality.
- 8.5. The representative of the Dikwankwetla Party of South Africa (DPSA) raised concerns about lack of leadership, political intimidation by organised labour, suspension without reason of senior official, officials stealing of the property of the municipality, non-collection of refuse removal, municipal failure to fight corruption.
- 8.6. The representative of IMATU raised concerns about lack of municipal improvement since 2018, lack of tools of trade, poor working conditions, non –implementations of the resolution of local labour forum, lack of political leadership and non-functioning of the TROIKA.
- 8.7. The representative of the SAMMU raised concern about municipal dysfunctionality, political interference in administration, suspension of officials without following proper procedures, high level of litigations, vacant positions, appointment of junior officials into senior positions without qualifications and lack of responses and leadership from the Mayor. The representative of MAP 16 Civic Movement acknowledged municipal improvements but raised concern about service payments.
- 8.8. A Member of the Portfolio Committee on Cooperative Governance and Traditional Affairs in Free State Provincial Legislature raised concerns about non-functionality of the municipal council, non-submission of financial reports to the committees and council, lack of support staff to Municipal Public Accounts Committee (MPAC), appointment of officials without minimum requirements, unfunded budget, lack of proper billing system, and tabling of service delivery budgetary implementation plan.
- 8.9. The representative of the Traditional Leaders acknowledged the challenges facing the local municipality. The major concerns raised by the representative relate provision of basic service delivery, potholes, municipal instability and functioning of municipal committee.

- 8.10. The representative of Women in Construction raised concerns about lack⁶⁰ of opportunities for women to provide work to the municipal projects, hiring of outside contractors in municipal projects including potholes work. The representative called for municipal consideration of contracting local women construction companies.
- 8.11. The representative of the MAP Black Business Chamber raised concerns about non-recognition of registered business forum, lack of public consultation and participation, absence of offices of Bloemhof in the local municipality, installation of mitre boxes. The representative threatened to stop the operations of Bloemhof and ESKOM in the local municipality
- 8.12. The representative of the Letshabile Business chamber raised concerns about non-submission of financial statement, lack of oversight function by the Department of CoGTA, rampant corruption, political interference in business, unfair of tenders within the local municipality.
- 8.13. A Member of the Local Community raised concerns about the impact of load shading, water spillages, lack of access to electricity, incomplete VIP toilets and potholes. The representative welcomed the arrest of the Municipal Manager and commitment by the municipality to fight corruption.

9. Observations of the Select Committee

- 9.1. The Select Committee has observed that Malut-A Phofung Local Municipality has since 2018 experienced challenges related to organisational development and transformation, financial management and viability, service delivery, local economic development, good governance and public participation
- 9.2. The Select Committee has noted that prior to 2019 Local Government Election, the Local Municipality was placed under section 139 (1) (b) of the Constitution by the Free State Department of Cooperative Governance and Traditional Affairs and that the intervention has since been withdrawn
- 9.3. The Select Committee has further noted the general concerns raised by the internal and external stakeholders on matters related to lack of section 139 intervention impact, poor leadership, political instability, poor service delivery, stealing of municipal property, unfair

tender practices impacting on women, non- tabling of MPAC reports to the council, ⁶¹ non – functioning of some of the section 80 committees poor consultation and public participation of some wards, non–implementation of LLF resolutions, absence of service delivery and budget implementation plan and slow process of filling critical vacant positions

- 9.4. The Select Committee has observed that most of the municipal strategic documents which are relevant for local economic development (e.g. local economic development strategy; tourism sector plan; agricultural sector plan; investment policy; revitalizations of shopping centre, waste collection; agri-village, feedlot, fodder bank; abattoir) are still at conceptual and initial stages
- 9.5. The Select Committee has noted with serious concern that despite the capacity building programme of SALGA to capacity members of MPAC, the latter is failing to table investigation reports to the council for consideration and adoption
- 9.6. The Select Committee has noted that the general concerns raised by the internal and external stakeholders revolve around dysfunctionality of the municipality, poor municipal leadership, criminality on municipal property, non- functionality of some section 80 committees, non- tabling of reports to the council, unfair tender allocation practices, lack of consultation and public participation at ward levels.
- 9.7. The Select Committee has noted and welcomed the executive undertaken by the Deputy Minister of the Department of Cooperative Governance and Traditional Affairs to provide support to the local municipality
- 9.8. The Select Committee further welcomed the partnership that has been established by ESKOM, SALGA, COGTA and Local Municipality to address electricity crisis, debts, revenue generation, technical and financial sustainability and the commitment of the Department of Cooperative Governance and Traditional Affairs to comply with all the Treasury requirements for approval
- 9.9. The Select Committee has further noted that the municipality continues to experience spontaneous disruptive protests as a result of erratic water and electricity supply., debt owed to the Department of water and sanitation amount to half a billion, s non -compliant to green drop water service and Eskom historic debt of R6.6 billion

10. Recommendations of the Select Committee

- 10.1. Having conducted proactive oversight visit and interacted with the internal and external stakeholders of Maluti A Phofung Local Municipality, the Select Committee recommends to the National Council of Provinces that:
- 10.1.1 In line with the Executive Undertaken by the Deputy Minister of the Department of Cooperative Governance and Traditional Affairs, the South African Local Government Association and the Free State Department of Cooperative Governance and Traditional Affairs should jointly provide continue support in terms of section 154 of the Constitution to Local Municipality.
- 10.1.2. The joint support (i.e. Deputy Minister CoGTA, MEC CoGTA & SALGA) should focus but not limited to assisting the local municipality to have capacitated, functional and resourced MPAC, filling of critical vacant positions, implementation of performance management system, development and implementation of financial recovery plan, development and implementation of municipal audit action plan, development and implementation local economic development strategy, development and implementation of service delivery and budget implementation plan,
- 10.1.3 The Local Municipality should fast track the process of engaging Land Reform and Rural Development as well as HDA for land donations or purchase for the Smart City plan. The municipality should also fast track the process of tabling the local economic development strategy to the council for adoption and implementation
- 10.1.4. As part of improving municipal's organisational development and transformation, the Acting-Municipal Manager should implement the resolutions of Local Labour Forum (LLF) in line with approved municipal organisational structure, competency requirements and grading systems and also fast the process of filling critical vacant positions of directors of human settlement, spatial planning and development

- 10.1.5. The Local Municipality should develop time frames and fast track the process of handing out of 300 title deeds in QwaQwa and review of farmlands contracts
- 10.1.6. As part of dealing with electricity crisis and Eskom historic debt of R6.6 Billion, the Free State Department of Cooperative Governance and Traditional Affairs should fast track the process of submitting the proposed ESKOM's Partnership Agreement Model to the National Treasury for consideration.
- 10.1.7. The MEC of the Department of Cooperative Governance and Traditional Affairs should table the notice of intervention in the Local Municipality in terms of section 139 (5) of the Constitution to the National Council of Provinces and the Free State Provincial Legislature so as to ensure constitutional and procedural compliance.
- 10.1.8. The MEC of the Department of Cooperative Governance and Traditional Affairs should investigation allegations of corruption and stealing of municipal properties by the officials and table report of findings to the National Council of Provinces and Provincial Legislatures.
- 10.1.9. The MEC of the Department of Cooperative Governance and Traditional Affairs should notifying the National Council of Provinces and the Free State Provincial Legislature about the invocation of section 139 (5) of the Constitution in the local municipality, provide quarterly reports on the implementation of intervention.
- 10.1.10. The Free State Department of Cooperative Governance and Traditional Affairs should upon adoption of this report by the National Council of Provinces ensure that the local municipality shares the report with the internal and external stakeholders of the local municipality.
- 10.1.11 The Select Committee on CoGTA to coordinate joint follow up oversight visit during the 2023 first term with the Portfolio Committee on CoGTA in Free State Provincial Legislature to assess the progress made in respect of the implementation of the above mentioned recommendations in Maluti-A-Phofung Local Municipality

Report to be considered

2. REPORT OF THE SELECT COMMITTEE ON TRADE AND INDUSTRY, ECONOMIC DEVELOPMENT, SMALL BUSINESS DEVELOPMENT, TOURISM, EMPLOYMENT AND LABOUR, JOINTLY WITH SELECT COMMITTEE ON PUBLIC SERVICE AND ADMINISTRATION AND PUBLIC WORKS AND INFRASTRUCTURE ON OVERSIGHT VISIT TO THE NORTHERN CAPE 16-19 AUGUST 2022, DATED 30 NOVEMBER 2022

The SC on Trade and Industry, Economic Development, Small Business Development, Tourism, Employment and Labour, jointly with Select Committee on Public Service and Administration and Public Works and Infrastructure, having undertaken an oversight visit to the Northern Cape from the 16-19 August 2022, reports as follows:

1. Introduction

The Select Committees (SC) on Trade, Economic Development, Employment and Labour, Small Business and Tourism jointly with the SC on Transport, Public Works and Infrastructure and Public Service and Administration form an integral part of the economic cluster entrusted with overseeing eight (8) Departments in total with their respective entities. The two committees therefore embarked on an oversight trip to the Northern Cape with a particular focus on *John Taolo Gaetsewe District Municipality* and *Francis Baard District Municipality* from 15 to 19 August 2022 to oversee implementation of the funded programmes by the national departments and their entities. This included an assessment of how the three spheres of government work together in implementing national priorities in terms of job creation and spur change of the economic structure, and foster economic transformation in line with the aspirations of the District Development Model (DDM).

The purpose of this oversight was to oversee the implementation of various policies and legislation aimed at enhancing infrastructure development, industrialisation, and small business development towards employment creation. This is in keeping with the implementation of the economic policies such as National Development Plan, Economic Reconstruction and Recovery Plan, Re-Imagined Industrial Strategy National

Infrastructure Development Plan for the advancement of an inclusive economic growth and development.

2. Purpose of the visit

The purpose of the visit by the joint Select Committees was to receive briefings from national, provincial and local government with respect to assessing the progress made in various sectors of the economy to jumpstart the economic recovery plan in the Northern Cape after the devastating impact of the Covid-19 pandemic. Further to examine progress made in relation to the implementation of the Economic Reconstruction and Recovery Plan (ERRP), and the Re-Imagined Industrial Strategy including the implementation of high impact infrastructure development projects. The Committees visited two district municipalities, namely the *John Taolo Gaetsewe* and the *Frances Baard District Municipalities*.

3. Delegation

The following members form part of the delegation:

Mr MI Rayi (ANC): *Chairperson SC on Trade and Industry, Economic Development, Small Business Development, Tourism, Employment and Labour.*

Mr K Mmoiemang (ANC): *Chairperson SC on Public Service and Administration and Public Works and Infrastructure.*

Ms ML Moshodi (ANC)

Ms ML Mamaregane (ANC)

Mr T Brauteseth (DA)

Ms HS Boshoff (DA)

Ms B Mathevula (EFF)

The delegation was accompanied by the following officials: Ms N Dinizulu; Ms M Solomons and Mr H Mtileni (Committee Secretaries); Mr L Sishuba (Content Advisor); Mr Z Ngxisho, Mr A Ganief and Mr T Makhanye (Committee Researchers); Ms O Siebritz (Committee Assistant).

4. Northern Cape Economy and Investment Opportunities

In 2009, the economy of the Northern Cape and the country recorded a contraction of 2.3 per cent and 1.5 per cent respectively. After the contraction of 2009, the economy of the Northern Cape went on to grow positively for six consecutive years after which the economy contracted by 1.2 per cent in 2016. The economy of the province recovered in 2017 after output grew by 2.8 per cent and grew by a further 0.5 per cent in 2018.

The contribution that the Northern Cape made to national GDP decreased by 0.1 of a percentage point from 2.2 per cent in 2009 to 2.1 per cent in 2018, making it the smallest contributor to national GDP for both years. The contributions made by the Western Cape and KwaZulu-Natal declined by 0.1 and 0.3 of a percentage point respectively, while Gauteng's contribution increased by 0.5 of a percentage point. Mpumalanga's contribution increased by 0.2 of a percentage point, while the Free State's contribution declined by 0.4 of a percentage point. The contributions made by Limpopo and Eastern Cape each increased by 0.1 of a percentage point from 2009 to 2018. Gauteng remained by far the largest contributor to the national economy, accounting for just over a third of national output.

The *Northern Cape Provincial Department of Economic Development and Tourism* (NCDEDAT) reported that the Gross Domestic Product (GDP) of the Northern Cape is R104 billion, which accounts for 2.15 of the country's GDP. The top sectors within the economy are community services and mining (24 per cent); Finance (14 per cent); Transport (11 per cent); Trade (10 per cent); Agriculture (6 per cent); Manufacturing and electricity (4 per cent) and Construction (3 per cent).

The *Frances Baard district* was the largest contributor to the GDP of the province, accounting for more than a third (35.6 per cent) of the total GDP of the Northern Cape. The district with the province's second largest economy was *ZF Mgcawu*, which contributed 25.1 per cent to the economy of the province, followed by *John Taolo*

Gaetsewe (16.9 per cent). *Pixley ka Seme* contributed 11.8 per cent and *Namakwa* 10.7 per cent to the province's economy in 2019.

The Tertiary sector was the largest sector in the Northern Cape, having made a contribution towards the provincial GDP of 53.7 per cent in 2017 and a slightly smaller contribution in 2018 at 53.4 per cent. The Tertiary sector grew by 0.5 per cent in 2017, compared to 8.1 per cent growth for the Primary sector and a 0.4 per cent contraction in the Secondary sector for the same year. In 2018, the Tertiary sector grew by 0.9 per cent, compared to a 0.3 per cent contraction for each of the Primary and Secondary sectors. In 2017, the Agriculture, forestry and fishing industry recorded the highest growth rate at 12.4 per cent but contracted in 2018 at -5.9 per cent. The industry with the highest growth rate in 2018 was General government services, growing at a low 1.3 per cent. Mining and quarrying remained the largest industry in 2018, contributing 20.5 per cent to the provincial economy, with Construction remaining the smallest industry, contributing only 2.7 per cent. In the *Frances Baard district*, Community services accounted for 29.7 per cent of the district's total industries in 2019, making it the largest industry in the district. Community services, representing 31.8 per cent of total industries, was also the largest industry in *Pixley ka Seme*. Mining was the largest contributing industry in the *Namakwa*, *ZF Mgcawu* and *John Taolo Gaetsewe* districts and accounted for 37.6, 23.0 and 64.6 per cent of the districts' total industries respectively.

Manufacturing was one of the small contributors to all districts' economies. According to National Treasury, the national economy is estimated to have contracted by a significant 7.2 per cent in 2020, but was expected to show strong recovery in 2021 with the economy projected to grow by 3.3 per cent. Before the start of the pandemic, South Africa was already in a recession. Gauteng made the largest contribution to the national economy in 2018, while the Northern Cape made the smallest. The provincial economy recorded low economic growth of 0.5 per cent in 2018 after growing at a higher rate in 2017 at 2.8 per cent. Provincially, Mining and quarrying remained the largest contributor to the provincial GDP. The district that made the largest contribution to the economy of the province, was *Frances Baard*. The largest industry in *Frances Baard* and *Pixley ka Seme* was Community services in 2019, while in *Namakwa*, *ZF Mgcawu* and *John Taolo Gaetsewe*, Mining was the largest.

John Taolo District Municipality (District). The John Taolo Gaetsewe District Municipality (previously Kgalagadi) is a Category C municipality located in the north of the Northern Cape Province, bordering Botswana in the west. It comprises the three local municipalities of Gamagara, Ga-Segonyana and Joe Morolong, and 186 towns and settlements, of which the majority (80 per cent) are villages. The boundaries of this district were demarcated in 2006 to include the once north-western part of Joe Morolong and Olifantshoek, along with its surrounds, into the Gamagara Local Municipality. It has an established rail network from Sishen South and between Black Rock and Dibeng. It is characterised by a mixture of land uses, of which agriculture and mining are dominant. The district holds potential as a viable tourist destination and has numerous growth opportunities in the industrial sector.

The committees expressed their observation that the mining companies are generating massive dividends from their businesses in the area, but they do not contribute in the infrastructure development in the same area to attract more investment in the John Taolo Gaetsewe District Municipality. Also, the committees highlighted the negative impact of the increased movement of trucks on the road infrastructure in the area, a situation they said demands meaningful collaboration all stakeholders in the province and outside.

Frances Baard District Municipality, which consists of the Sol Plaatjie, Phokwane, Dikgatlong and Magareng Local Municipalities. In terms of economic sector activity at Dikgatlong local municipality, Agriculture dominates with 22 per cent, Mining (7 per cent) and manufacturing (7 per cent). Sol Plaatjie local municipality is the home of Kimberly (the City of diamonds) and district, provincial government legislative and administrative capital. In terms of economic sectors, community services (33 per cent) contribute the most, with finance (24 per cent) being the second biggest contributor. The Phokwane local municipality has its main contributors as agriculture, community development, retail and private households and informal trading. Magareng local municipality is the smallest of them all (1 546 square km) with a town situated 77 km north of Kimberly on the banks of the Vaal River. The Frances Baard district municipality shares its northern borders with the North West Province and its eastern border with the Free State Province. The municipality is the smallest district in the Northern Cape, making up only 3 per cent of provincial geographic area. The Frances Baard District Municipality was recorded as the most populous region of the Province in 2019. It accounted for a fraction of 438,904, or 32.4 per cent of the total population in the Northern Cape Province.

Over the same period the municipality contributed a total of R 36.5 billion to the provincial Gross Domestic Product (GDP) and thus ranking the highest relative to all the regional economies in the Northern Cape.

It was reported that in 2019, the community services sector was the largest within Frances Baard District Municipality accounting for R 9.98 billion or 31.1 per cent of the total Gross Value Add (GVA) in the district municipality's economy. The sector that contributed the second most to the GVA of the district municipality is the finance sector at 18.3 per cent, followed by the transport sector with 15.7 per cent. In terms of geographic location, the Frances Baard District Municipality is located in Kimberley, which is less than 500 km away from Johannesburg in the North, less than 1000 km away from Cape Town in the South, and less than 800 km away from the port of Durban in the East. To its north east it shares provincial boundaries with the Dr Ruth Segomotsi Mompati of the North West Province. In terms of employment, in 2019, Frances Baard employed 117 000 people which is 33.05 per cent of the total employment in Northern Cape Province (353 000), 0.71 per cent of total employment in South Africa (16.4 million).

Employment within Frances Baard increased annually at an average rate of 2.13 per cent from 2009 to 2019. About 41 per cent of the economically active population was employed, 75 per cent of them were in the formal sector and 12 per cent were in the informal sector. The majority of the employed are in the community and government services sector, followed by trade, finance and households. In 2019, there were a total number of 49 400 people unemployed in Frances Baard, which is an increase of 11 500 from 37 900 in 2009. The total number of unemployed people within Frances Baard constitutes 35.92 per cent of the total number of unemployed people in Northern Cape Province. The unemployment rate in Frances Baard District Municipality (based on the official definition of unemployment) was 30.62 per cent, which is an increase of 0.628 percentage points. The unemployment rate in Frances Baard District Municipality is higher than that of Northern Cape. The highest unemployment rate is in Magareng (53,9 per cent) followed by Phokwane (47,8 per cent), Dikgatlong (44 per cent) and Sol Plaatjie (36,2 per cent).

The Districts municipality indicated that investment opportunities in the district comprises of sunflower seed processing, maize production, wheat production, Lucerne production, ground nut and pecan nut production, vegetable processing, meat processing, dairy production and

diamond cutting and polishing. Members welcomed the investment brochure developed by the district which serves as a guide to potential investors who wishes to invest in the district.

The main economic corridors in the district are the N12, N8 and R31, there are 616 kilometres of unpaved roads within the district and 822 kilometres of paved roads. Unlocking the value of the corridors will play a significant role in accelerating economic growth in the region.

Northern Cape Trade and Investment Opportunities

The Department reported that mining contributes 23.4 per cent to the Northern Cape economy and makes up nearly 7 per cent of SA's total mining value with significant deposits of iron ore, manganese, zinc, copper, lead, titanium, pig iron, zircon and gypsum. The availability of natural resources, labour and infrastructure (including the Sishen-Saldanha railway line), make Sishen the country's most important iron-ore mine, where operations include extraction and four beneficiation plants.

In respect of agro-processing, wine, grapes and raisins, animal hides and abattoirs are among the processing operations along the Orange River in the ZF Mgcawu District Municipality. Other main towns are Groblershoop, Kakamas and Upington, dates, olives, citrus and rooibos tea providing excellent growth potential.

In terms of the ocean economy, notwithstanding growth in the abalone, fishing and lobster industries, economic potential lies in the 313km coastline, encouraged by the national Oceans Economy programme, with Port Nolloth, Boegoebaai and Hondeklip Bay harbours targeted for development. The latter has already received investment in the aquaculture sector. The province has been allocated an increased quota for landing fish (primarily hake) which makes Port Nolloth attractive for investment in fish processing and abalone ranching. The best Kelp in the world is found in the Northern Cape.

In respect of energy, more than R200bn has been committed by the Renewable Energy Independent Power Producer Procurement Programme (REIPPPP) to renewable energy projects across South Africa (target: 13 225MW to the national grid by 2025); 60 per cent of the projects are in the Northern Cape and off base and the largest solar and wind turbines in SADC.

- *As part of the renewable energy initiatives*, NCDEDAT has started a pilot project in the Frances Baard district to provide technical, practical and business development training to SMMEs in the renewable energy sector in order to equip them with the necessary skills for the construction of rooftop solar systems and the maintenance thereof. 19 SMMEs in the Frances Baard district were trained in PV Green Card Training in Frances Baard. The first phase training (theory) took place in Kimberley from the 20th to 24th June 2022. The training took place in Kimberley at the newly established Northern Cape Solar Energy Incubator (NOCSOBI) from the 20th to the 24th of June 2022. The last phase (competency assessment) will take place in Johannesburg from 24th to 25th August 2022.
- Further, the Expression of interest have been send out to the other district to identify SMMEs for the second round of training. Plans are afoot to roll-out the project to the JTG districts during the 2023/2024 financial year.

In terms of logistics and infrastructure, the De Aar Logistics Hub: The Project entails construction of an inland intermodal system comprising: Container Terminal, Vehicle parking Terminal, Warehouse/Cold room Terminal. The province has focused its priorities (in alignment with the National Development Plan Vision 2030) and identified priorities to enhance the quality of life of the community.

Transnet role in enabling South Africa's transport intensive economy and overall economic activity in the Gamagara Development Corridor. In its presentation Transnet explained that as the custodian of ports, rail and pipelines, Transnet's objective is to ensure a globally competitive freight system that enables sustained growth and diversification of the country's economy. The committees were informed that Transnet is currently transitioning from its Market Demand Strategy, characterised by accelerated capital investment, towards the Transnet 4.0 Strategy, which is focused on repositioning Transnet, and the country's freight system, for competitiveness within the fast changing, technology- driven context of the 4th industrial revolution. The strategy's main growth thrusts include; geographic expansion, product and service innovation and diversification and expansion of the scope of Transnet's manufacturing business. The key objectives of Transnet's effort are directed towards increasing the connectivity, density and capacity of the integrated port, rail and pipeline network.

On the work around the Gamagara Development Corridor, Transnet highlighted on the importance of Iron Ore and Manganese Segments which are integral part of the Gamagara Development Corridor. The Gamagara Corridor "comprises the mining belt of the John Taolo

Gaetsewe and Siyanda districts and runs from Lime Acres and Danielskuil to Hotazel in the north. The corridor focuses on the mining of iron and manganese.

Transnet reported on its plan to build a new deep-water port at Boegoebaai and a new 550km railway to connect it to mining and industrial centres. The new port at Boegoebaai would be built on a greenfield site to handle up to 17 million tonnes of dry bulk commodities a year, as well as containers, break-bulk commodities, diesel fuel and hydrogen under plans to develop it as a green hydrogen hub.

The committees welcomed the intention to develop the Boegoebaai deep water port and related rail infrastructure as it will inevitably improve exportation, stimulate economic growth as well as to improve the movement of cargo. The committees are of the view that the huge investment required for these projects really calls for dynamic and concrete collaboration between the government, private sector and other critical role players.

Members expressed concern regarding the state of the R31 road, noting that it was not fit for purpose particularly given high use of the road by the mining industry to transport manganese. Given budgetary constraints, Members note efforts underway reclassify the road as a national road and to transfer the road to the national government following the completion of the assessment with SANRAL and the assessment application.

Further, the Delegation noted that Rural Road Asset Management Systems Programme, meant to assist rural district municipalities in setting up road asset management systems. This programme is a joint initiative of the National and provincial departments of roads, National Treasury and district municipalities. This programme is in alignment with the Road Infrastructure Strategic Framework for South Africa. The mission of the programme is to provide high quality training civil engineering technicians and technologists throughout the country. These graduates will assist municipalities where there is a shortage of skilled personnel, especially in the civil engineering field.

The department is finalising a Memorandum of Understanding with the Department Roads and Public Works to implement a renewable project of greening government building across the province. The project will be piloted in Frances Baard district and if it's yielding success it will be rolled out to all the districts. The project will be implemented with the assistance of the

Northern Cape SMME Trust and SEDA who will incubate the SMMEs that will participate in the project. It is expected that not more than 10 SMMEs in the pilot phase will be incubated.

Informal sector has proven to have the potential of creating job opportunities especially amongst the youth. Research on township economy will be conducted with the aim of identifying interventions that government could embark on to grow this sector.

Other high impact projects for the Northern Cape include the Boegoebaai Harbour and Green Hydrogen; the Namakwa Special Economic Zone; the Upington Industrial Park and the De Aar Logistics Hub.

5. National departments and entities contribution in the province

5.1. Department of Trade, Industry and Competition

The *Department of Trade, Industry and Competition* (Dtic) through its entities, namely, the *National Empowerment Fund* (NEF) and *Industrial Development Corporation* (IDC) provides services to small and larger business enterprises in the Province.

National Empowerment Fund

It was reported that in 2021, NEF and the *Northern Cape Provincial Department of Economic Development and Tourism* (NCDEDAT) set up a *Small Medium and Micro Enterprise Fund* (Fund). In this respect, the NCDEDAT, allocated a total of R57.2 million to be invested in grant funding in *Small Medium and Micro Enterprise* (SMMEs) which qualify from NEF funding. The funds are blended to ratio 60:40 between NEF loan and NCDEDAT grant with a maximum amount of R4 million per transaction. To date, transactions to the total of value of R41 million have been approved by the NEF committing R24 million. It is envisaged that the Fund will be fully invested by March 2023. The Fund is for the exclusive benefit of businesses that are domiciled in the Northern Cape province which meet the following funding criteria, namely:

- Majority ownership by black entrepreneurs;
- An entity of any size turnover, which is 51 per cent or more black owned or black women owned;
- Black women participation;

- Job creation and;
- Commercial sustainability.

To date, the NEF has supported 10 businesses in the Northern Cape with funding to the value of R168.5 million. The supported businesses operate across various sectors in the Northern Cape economy comprising: textile, agro-processing, transport and logistics, property development, tourism and hospitality, energy and fuel as well as waste-management services. Twenty per cent of businesses supported by the NEF to date are located in rural towns such as Richmond and Bathlaros. 60 per cent are located in Sol Plaatjie and Dawid Kruiper District Municipalities. Four or 40 per cent of businesses or transactions are black women owned and managed businesses. Approximately 1053 direct jobs have been facilitated through NEF investment. The following is a list of NEF beneficiaries in the Northern Cape province:

Company Name	Sector	Value of NEF investment
Luxe Boutique Hotel	Tourism and hospitality	R15.1 million
Nare Boutique Hotel	Tourism and hospitality	R14 million
Eden Est (Pty)Ltd	Tourism and hospitality	R15 million
OP Village Bathlaros (Pty)Ltd	Property Development	R26 million
Afri Devo (Pty) Ltd	Property Development	R53.8 million
Desert Oil (Pty) Ltd	Energy and fuel	R51 million
Waste Management and Spill FTT (Pty) Ltd	Waste Management Services	R6 million
Mekwatla Transport Solutions (Pty) Ltd	Transportation and storage	R3.5 million
Richmond Opkomende Boere Cooperative	Agro-processing	R3.9 million
Delswa (Pty) Ltd	Clothing and textile	R52.8 million

The provincial department responsible for economic development, emphasised that there has been slow progress on the implementation of the blended fund partly due to the NEF to the shift of resources as a result of the unrest that happened in some parts of KwaZuu Natal and Gauteng last year. It is expected that funds will pick up in the 2022/23 financial year and while

a commitment of an additional R30 million to be matched with R45 million from the NEF, to become a R150 million fund.

Industrial Development Corporation

Kathu Industrial Park

Anglo American Kumba Iron Ore (Kumba), as part of its *Corporate Social Investment programme*, initiated study into the establishment of an Industrial Park in Kathu, with the objective of creating a positive and sustainable socio-economic-impact to its Host Communities through SMME Development. As a result of the development initiatives, IDC was identified as a strategic partner.

The Industrial Park forms part of the government broad development initiative carried in partnership with the private sector in line with the Government's National Infrastructure Plan-Strategic Integrated Project 5 (SIP5, Saldanha–Northern Cape Development Corridor. The bankability study, project development plan, environmental permitting and investor engagement phase have confirmed potential for an initial phase of development of a 91-hectare property and the participation of Kumba, the IDC, Sishen Iron Ore Company Community Development Trust (SIOC-CDT), ASSMANG and South32 as potential investors.

Kathu Industrial Park is to be developed on a well-positioned site close to the Kathu Central Business District. The site is 91ha in extent of which 62ha is developable land (the remaining portion cannot be developed due to environmental factors). It was intended that the first Phase be developed on 28hectares.

The industrial park's original design intended to provide customised warehouses and industrial buildings for established businesses and economic warehouse space for small businesses and start-ups provided on a rental basis. This will be supported by a Centralised Services Hub including administration offices, conferencing facilities, an auditorium, a security office, and restaurant, as well as a Business Incubation Centre and Training Centre.

The aim of the industrial park is to establish a greater than 51 per cent Black-Owned platform for sustainable economic development of all sectors in the Northern Cape, leveraging the mining industry as a foundation and targeting fresh industrialisation opportunity. The project has acquired significant traction in that it is seen as a key enabler for the Northern Cape Shared

Value Initiative, is positioned as a *High Impact Project by the Northern Cape Provincial Government*. It is envisaged that the industrial park will consist of the following facilities and services, via two or three phases of development:

Facilities	Facility Management Services
Manufacturing	Maintenance and repairs
Warehousing	Safety, security and environment
Meeting and conference facilities	Cleaning services
Canteens	Leasing and sales
A training centre	Municipal services
A medical/ first aid centre	Public transport
A logistic distribution and consolidation centre	Retail
An incubation centre	
Workshops and offices	

It was reported that within the next eight months the project will go into design development stage, thereafter documentation, procurement and construction within the next 18 months. It is anticipated that occupation is expected to take place within the next 32 months. The expected capital expenditure for the industrial park is approximately R232.5 million.

NCDEDAT reported that the Kathu Industrial Park is a key priority for the province and was recently also presented at the Sustainable Development Infrastructure Development Symposium hosted by the President and coordinated by Infrastructure South Africa. The project received much interest from potential investors. By unlocking the bulk infrastructure for this development, we will mobilize approximately R580 million in private sector investment and create 450 permanent job opportunities.

The Northern Cape Economic Development Agency is also involved in the development of the Khathu Industrial Park. NCEDA's partners include the Departments of Trade, Industry and Competition, Small Business Development; Home Affairs, Roads and Public Works; Environmental Affairs; Northern Cape Provincial Treasury; South African Revenue Service and Airports Company South Africa to drive key economic development partnerships such as Khathu Industrial Park. The Kathu Industrial Park as already stated is regarded as the key enabler for localised manufacturing initiatives via the Northern Cape Shared Value Initiative

and Impact Catalyst. The concept is modelled on global best practice adapted for South African circumstances providing cluster synergies, outsourcing of logistic processes, shared processes, infrastructure and supply chain benefits. The project will be adopting a phased approach for implementation over a three-year period (2022/23 to 2024/25).

NCDEDAT, further reported that two special programmes have been prioritized for the Northern Cape Province. These are the Rural Roads Programme and the Northern Cape Schools Programme. The rural roads programme will make use of labour intensive methods for the construction and upgrading of roads in the province.

5.2. Department of Small Business Development

The Department of Small Business Development (DSBD) reported that it has embarked on a country wide product and programmes awareness campaign for SMMEs, Co-operatives and Informal Traders. The development and support of small enterprises are critical for economic recovery and job creation. SMMEs and Co-operatives are the key drivers for job creation, therefore unlocking value chains for the benefit of small businesses remains critical in resetting the economy, and creating needed jobs. Covid-19 has ravaged the economy, and damaged business activities and many people lost jobs.

It was highlighted that the DSBD and its agencies led by Minister for Small Business Development, Ms Stella Ndabeni-Abrahams and Deputy Minister Sidumo Dlamini embarked on a journey of conducting roadshows and partnership dialogues in various provinces and districts themed: “unlocking opportunities for SMMEs and Co-operatives for economic growth and job creation”. The roadshows and the Provincial Partnership Dialogue for the Northern Cape took place in three Districts: Namakwa, Pixley ka Seme and Frances Baard, from 15 – 18 March 2022, this also includes the Informal and Micro Enterprise Development Programme (IMEDP) equipment handovers.

The roadshows aimed at showcasing the work of DSBD, its agencies and other strategic government departments (such as Provincial Departments of Economic Development and Tourism) involved in the development of SMMEs and Co-operatives, monitor the support and impact on SMMEs and Co-operatives through the interventions by the government, share challenges and listen to success stories of entrepreneurs in various districts across the country. The aim is to improve government support and to better coordinate support for SMMEs and

Co-operatives through partnerships with the private sector and various departments and agencies. The roadshows were also accompanied by a provincial partnership dialogue which was used as a platform to engage with different stakeholders from different sectors outlined in *National Integrated Small Enterprise Development (NISED) Master Plan*. The NISED Masterplan is a coordinated framework for the development and support of SMMEs and Co-operatives in South Africa. The ministerial roadshows and provincial partnership dialogues played a critical role in driving the mandate of DSBD, through ensuring that there is a seamless engagement across all spheres of government on the direction of the Department and its entities.

Implementation Plan

It was reported that the issues that were raised throughout the three roadshows and provincial partnership dialogue that were held in the Northern Cape had common elements. They included the following amongst others – work in progress:

- The unhappiness of the SMMEs and Co-operative regarding the support or lack of support from their local and district municipalities, as well as the Northern Cape Provincial Government.
- The lack or delayed response of the Small Business Development Portfolio when SMMEs and Co-operatives have submitted their applications for funding.
- Not knowing much about the offerings of the Portfolio.
- Requesting to be trained on compliance matters, development of Business Plans and business development training.
- Requested for an Incubation Centre to assist with creation of jobs within their communities.
- Red tape and rigid criteria that inhibits the SMMEs and Co-operatives to have access to the offerings of the Portfolio, Municipalities and Provincial Government.
- Asking SBD Portfolio to come back to the provinces and not end at the stage of roadshows.
- Having to travel to the main town to submit applications for funding while they lack transport funds. This was mainly raised in Hartswater, Phokwane local municipality.

The Township and Rural Enterprise Programme (TREP) was developed as the response mechanism to support small enterprises in the country to mitigate the challenges posed by COVID-19 and target enterprises in various subsectors in the township like Bakeries, Tshisanyamas, Clothing and textile, Butcheries, etc. This was the entry point for DSBD in the districts to advance the DDM Model. The Northern Cape Small Business Development Portfolio Team is currently working on a cooperation and workshop earmarked for the 22nd of August 2022. This is to ensure that the Portfolio is organized first (strong) to be able to engage with other public and private stakeholders in the province from a coordinated position.

Working relationship with provincial government

The Department reported that good relations have been established with the Premier and MEC for *Economic Development and Tourism* Offices. They have been responsive to the DSBD requests and have actively participated on the recently held national Small Enterprise and Cooperatives Policy Dialogue held in Mpumalanga from 4-5 August through the HOD and Chief Director from Dedat. This partnership was also illustrated by the Provincial Government when the Premier and MEC accompanied the Minister of Small Business Development during Northern Cape Provincial Roadshows.

The Department further reported that still there are pending developments to ensure that there are clear cooperation and coordination systems. There is still parallel planning and delivery of services, which contributes to duplications, multi-dipping and almost wastage or not using resources effectively. The evaluation of the last Small Enterprise Development Strategy, the Integrated Strategy for the Promotion of Entrepreneurship and Small Enterprises (ISPESE), found that part of its implementation failure was that there were no clear implementation guidelines and coordination structures. This still is a current observation from the practice. There are no formal structures where there is joint planning, resourcing, implementation. There is also a small technical issue regarding the Intergovernmental structures (IGR) in terms of small enterprise development matters. There is no Ministers and Members of Executive Council (MinMEC) nor Technical MinMEC focusing on small businesses. The existing one is facilitated through the national Department of Trade, Industry and Competition and has not met for almost for the past year if not more and this contributes to lack of coordination. These structures have to be resuscitated to track policy and programme implementation.

More work need to be done to improve capacity and build capability economic development functional programmes both in the districts to enhance district economic development and

coordination. There is cooperation with Dedat at District level, where there are officials attached to Districts. Department of Public Works in the Northern Cape – relating on Small Enterprise Development initiatives included women and cooperatives empowerment initiatives. It was further reported that the Cluster Development Roadshow led by the DSBD localization Unit will be taking place in the Northern Cape on 13 October.

Working relationship with district and local municipalities

Through the DDM, relations at District level were enhanced as means of advancing service delivery, especially after the devastations caused by COVID-19 on small businesses. There was participation/contribution by the Department and its entities on the development of the One Plan in the various Districts in the Province. The Northern Cape Small Business Development Portfolio Team started attending to the broad areas of concern as raised during the Ministerial Roadshow and also travelled back to the Northern Cape to undertake the following initiatives amongst others:

- *Frances Baard District, Phokwane Local Municipality (12 – 13 April 2022):* Information session on the Portfolio’s offering and assisted SMMEs and Co-operatives to complete the applications without them having to travel to Kimberley as they had complained during the roadshow. This was held in Phokwane Local Municipality.
- CEO of SEFA also committed to look into assisting Hartswater with the necessary technology that will assist the small enterprises to complete and submit their applications without travelling to Kimberley.
- IMEDP Workshop was conducted with the intention to go back and handover the equipment to the informal traders who would have qualified.
- At the request of the *Executive Mayor of ZF Mgcawu District*, the team had a meeting with the Executive Mayor on 21 April 2022, together with his team, to discuss areas of improvement within the District in getting more small businesses supported financially and non-financially. It was agreed at this meeting that the Mayor will convene the team on a quarterly basis to give progress reports and these meetings will be extended to the SMMEs and Co-operatives.
- Namakwa District, Port Nolloth and ZF Mgcawu District, Upington (10 and 12 May 2022):
- Presented on the Small Business Support and Enterprise Development to the SMMEs and Co-operatives that were invited to attend the Local Content Workshop.

A women's Empowerment session hosted in partnership with the Department of Public Works in the Northern Cape on the 30th of August 2022

- Within the John Taolo Gaetsewe District, a Forum inclusive of the District and Local Municipalities (LEDs); Provincial Departments Dedat and Public Works, Mme Re Ka Thusa and recently NYDA was developed focusing on small enterprise development issues, stemming from the economic recovery interventions to support small enterprises, e.g. Township and Rural Enterprise Programme (TREP). This forum has progressed beyond TREP and seek to work towards developing coordination systems in the District for the broader economic issues (LED) and small Enterprise Development (Seda to lead). It is currently about strengthening the public sector level for now and will progress to the wider ecosystem players like the private sector. The vision is also to link with the Technical Forum on Economic Positioning on the District One Plan.

The Department has highlighted the following challenges:

- Capacity to deliver on:
 - The District and Local municipalities always express challenges that they do not have the Human and Financial resources to start and implement projects and interventions related to Small Enterprise Development as they are mostly dependent on donations.
 - The function of LED is loaded with many other things and Small Enterprises are just but a component that in most cases does not even have a strategy nor resources to implement
- Stakeholder coordination to advance service delivery – there are no proper structures (LED) that are functioning to advance coordination amongst the ecosystem players within the District. There are various ecosystem players, including the mining houses with their obligations to serve the community. Lack of coordination structures and systems paves way for resource abuse through multi-dipping by entrepreneurs taking advantage.
- District One Plan Coordination – at the beginning, the role of COGTA to lead and guide was clear towards the development of the District One Plan. With the Plan developed, there lacked follow up and momentum to build coordination (implementing) structures. As it stands it is really not clear who is coordinating what.

- At a District level, District Champions and the Portfolio are also expected to convene meetings (engagements) with the LED Officials of the District and local municipalities to try and develop a coordinating structure from the public sector and later the broader ecosystem. This will advance the coordination element.

NCDEDAT outlined the following development initiatives in relation to the support SMMEs and cooperatives, which include:

- Preferential Mining Procurement: The Department has established a website and support structure to prepare potential mining service providers.
- The Department and NEF blended funding program: A combined fund has been established to the value of R 143 million that local enterprises can access.
- To date, two enterprises (OP Village Pty (Ltd) – JTG and Eden Est - Diggies Lodge - FB) have been funded. The first is in Bathlaros, north of Kuruman (JTG). The company has established a mall situated in a rural area that has created 288 jobs, ~150 of these being permanent. The company is 100 per cent black owned with a 77 per cent women shareholding. The second is in Kimberley (FB) and relates to the acquisition of an existing lodge by youth and female owned entrepreneurs.
 - Competitive small businesses and cooperatives supported covered the following; Three hundred and fifty-four (354) clients assisted with CIPC services.
 - Seventeen (17) clients were referred to SEDA for business plan development.
 - Two POP-UP Mall Activation Programs were held in collaboration with SEDA, SEFA, DSBD, DPW, the Kimberley International Diamond and Jewellery Incubator (KIDJI), NYDA and Mme re Ka Thusa. At these events, held in Kimberley and Kathu, 36 and 31 enterprises respectively exhibited their products and services.
 - Supported the establishment of a recording studio in the Northern Cape through NCEDA

Target Group Interventions in Frances Baard and John Taolo Gaetsewe districts

- A collaboration between the National Youth Development Agency (NYDA), Department of Social Development (DSD) and the Department of Employment and Labour (DEL)

- share information on the support provided to youth; career guidance, job readiness and entrepreneurship and link them with work opportunities through registration with the DEL to schools in JTG and FB DM.
- Ten (10) enterprises trained in accredited garment manufacturing in FBDM.
- Cleaning and Hygiene training was held for 9 enterprises. Eight were women owned businesses and one was a male youth.
- A seminar for 35 women in business held in Kimberley

Persons Living with Disabilities

- Basic business skills training for 18 persons
- A Compliance training for Seven (7) SMMEs, (6 youth and 1 adult male).
- Tender and Supply Chain Training where aspects regarding the CSD, policies and procedures of a tender and how to access the e-tender portal were shared.

Local Economic Development

- A detailed Section 47 LED maturity analysis was conducted in all 31 municipalities.
- Developed and implemented the Red Tape Reduction (RTR) Framework. The benchmarking against the Dawid Kruiper Local Municipality; based on the evaluation done on seven indicators, was implemented in Gamagara and Tsantsabane Local Municipalities.
- The Mega hydroponics proposal in JTG DM was supported through the development of a concept document and stakeholder coordination.
- LED Forum held in the JTG DM and Gamagara LM
- The following projects were implemented and reported in FB DM on the EPWPRS in 2021/22FY:
 - Sol Plaatjie Langley Resort, 60 employment opportunities created,
 - Inner City Revitalisation project where 40 work opportunities were created.

In terms of the Export development, NCDEDAT, in order to grow the export base of the Province it has collaborated with the *Department of Trade, Industry and Competition* to implementing Export Awareness Seminars and the Global Exporter Passport Programme training (GEPP).

The following are some of the Export development initiatives that were undertaken:

- 2021/2022: 20 companies trained on Export Awareness in Frances Baard
- 2022/2023: In the first quarter of the financial year, the unit in collaboration with the national department, hosted export awareness training workshop on 24 June 2022 in Kuruman, where 14 companies participated.
- Export Awareness Training also to be rolled out in Frances Baard in the third quarter of the financial year.
- The Global Exporters Passport Programme (GEPP) provides training to small, medium and large enterprises that wish to expand their export opportunities. This financial year the training will be rolled out in De Aar, Pixley Ka Seme District.
- The Global Exporter Passport Programme to be rolled out next financial year in JTG District, Kuruman

With regard to Franses Baard District, Members noted the district municipality's SMME capacitation programme which is an initiative of the district and its local municipalities. It is a tailor-made management course (business administration, marketing strategy, writing business proposals and business finance) which were offered to 30 local businesses throughout the entire district in the 2021/22 financial year. Further, Members further noted the district's Youth Entrepreneurship Training Programme which is an ongoing programme employing eleven graduates for 24 months and providing training on project management, local economic development and computer literacy.

Within the Franses Baard District, SMME are further supported through exposure through international and local platforms whereby their products and services are exhibited at the South African Trade Exhibition (SAITEX), Small Business Expo and Flamingo markets. The district takes three SMME's annually to the expo's.

Members noted that the district is currently assisting SMME's with machinery and equipment to ensure that their businesses yield higher production output. For the 2020/21 financial year, nine SMME's were assisted. The district reported that it is in the process of acquiring machinery and equipment for an additional 17 SMME's.

5.3. Department of Tourism

The *Department of Tourism* reported that in terms of *Destination Development*, it has funded a number of tourism infrastructure projects in the Northern Cape province which range from developing new facilities, maintenance and upgrading of new facilities. These projects are completed in partnership with various national entities and provincial development agencies. The Destination Development Team is supporting the implementation of the following projects in the Northern Cape province, namely:

- Maintenance of provincial reserves;
- Community owned tourism projects;
- Community museums;
- Projects requiring Tourism Investment Facilitation and Promotion.

Key infrastructure projects include the *Platfontein Lodge and McGregor Museum*. Key Community Based tourism projects include the *Kamiesberg Tourism Development Project*, the *Khomani San Interpretative Centre and Narrative Development Kgalagadi Transfrontier Park*, SANPARKS Infrastructure Maintenance Programme and Square Kilometre Array (SKA) Visitor Interpretation Centre.

Other destination development initiative in the Northern Cape include the following:

Completed projects (2019-21)	2021/22 projects	Current and planned projects (2022/23-onwards)
Carnarvon Tourism Precinct Plan	Maintenance projects	Maintenance projects
Big Hole Precinct	Community Owned Tourism Projects	Community Owned Tourism Projects
Tourism Interpretative Signage at World Heritage Sites: <ul style="list-style-type: none"> • Richtersveld WHS • #Khomani Cultural Landscape in the Kgalagadi Transfrontier Park 	<ul style="list-style-type: none"> • SANParks Infrastructure Maintenance Programme in 5 national parks in the Northern Cape Province • #Khomani San (Twee Rivieren) Interpretative Centre 	<ul style="list-style-type: none"> • SKA Interpretation Centre • #Khomani San (Twee Rivieren) Interpretative Centre (to be completed end fin year 2022/23)
Sutherland to Carnarvon master plan	Implementation of Sutherland to Carnarvon master planning initiatives	Continue implementation of Sutherland to Carnarvon master planning initiatives
Hondeklipbaai to Port Nolloth Master Plan	Implementation of Hondeklipbaai to Port Nolloth master planning initiatives	Continue implementation of Hondeklipbaai to Port Nolloth master planning initiatives

Orange River Mouth to Vioolsdrift master plan	Implementation of Orange River Mouth to Vioolsdrift master planning initiatives	Continue implementation of Orange River Mouth to Vioolsdrift master planning Initiatives
Kleinsee Tourism Precinct Plan	Implementation of Indi-Atlantic Route initiatives	Continue implementation of Indi-Atlantic Route initiatives
Completed projects (2019-21)	2021/22 projects	Current and planned projects (2022/23-onwards)
Orange River Mouth Tourism Concept	Orange River Mouth tourism concept initiatives	Continue Orange River Mouth tourism concept initiatives
Karoo Highlands Concept	Karoo Highlands concept initiatives	Continue Karoo Highlands concept initiatives
Galeshewe Township Tourism Precinct Plan	Galeshewe Township Tourism Precinct Designs	Galeshewe phase 3a tourism precinct methodology
NC Coast Airport Infrastructure Feasibility	NC Coastal Waterpark facility concept	NC Coastal Waterpark facility feasibility
-	-	Karoo Tourism Strategy
-	-	National Tourism Spatial Layer (starting with the Karoo)

In terms of Tourism Sector Support Services, the following key programmes were implemented:

- Capacity Building which include the hospitality programme and training of tourist guides. In terms of the hospitality programme beneficiaries, it reported that: Upington (13); Kimberley (28); Warrenton (23) and Kuruman (23).
- *Domestic Tourism Enterprise Development and Transformation* which include *Tourism Safety Awareness Campaigns*, and Tourism Monitors Programme. In terms of the Tourism Guides – the Department implemented Phase 1 of the mandarin language training programme. Phase 2 is currently underway and a total of four tourist guides from the Northern Cape out of 34 nationally are currently completing a six-week training programme in Gauteng.
- Enterprise Development Programme which include tourism incubators, Women in Tourism Provincial Chapters and Women in Tourism Empowerment Workshops. A Women in Tourism Chapter was established in the Northern Cape in 2018.
- Tourism Incentive Programmes which include the Green Tourism Incentive Programme, Tourism Transformation Fund, Market Access Support Programme and Tourism Grading Support Programme. In respect of Tourism Grading Support – 95

graded establishments in the Northern Cape benefitted from the discount on grading assessment fees during the 2021/22 financial year.

NCDEDAT reported that in terms of tourism and destination, the Northern Cape is an extraordinary destination vastly different from the rest of South Africa. The province boasts two world heritage sites – Richtersveld and Khomani Cultural landscape, six national parks (two are trans-frontier), six provincial nature reserves, 2 largest rivers in South Africa – Orange & Vaal, second largest dam in South Africa – Vanderkloof, three desert-like areas – Kalahari, Richtersveld & Karoo, star-gazing, 250 km stretch of vineyards, Namaqualand flowers, diamond heritage and many different cultural identities. Hunting is a lucrative subsector, contributing to the economic development of rural communities.

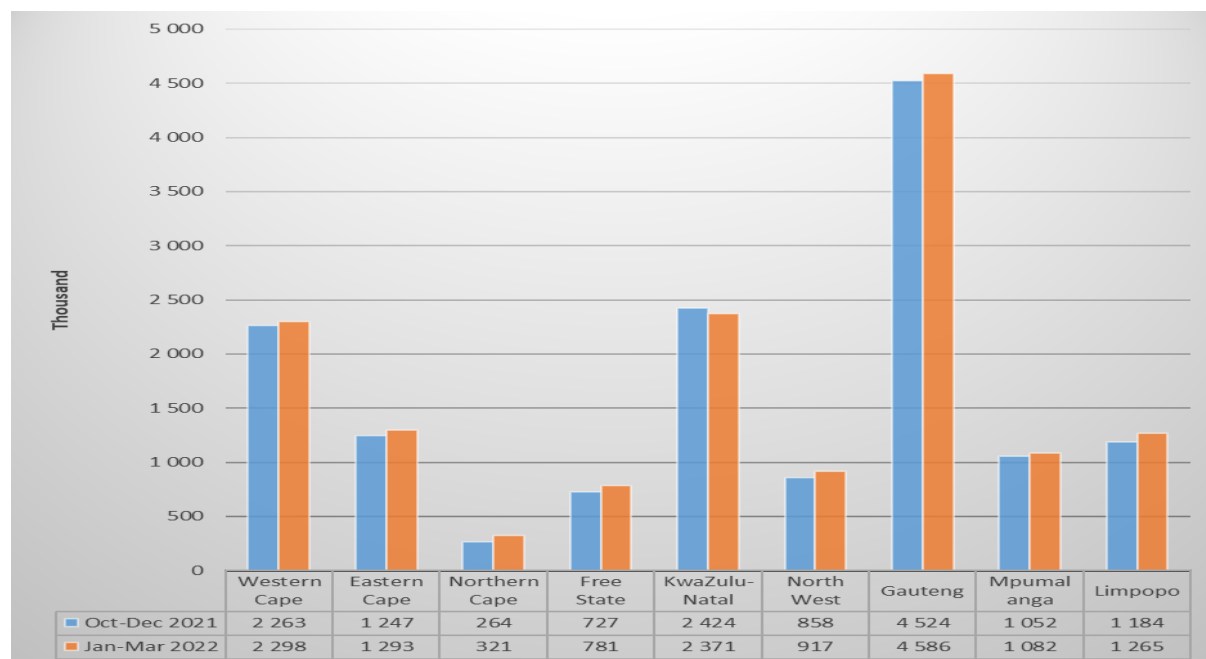
NCDEDAT highlighted that it has also the responsibility to support tourism enterprises so that they can adapt to the new normal of doing business, experience growth and infrastructure development. This will be guided by the provincial tourism recovery plan in partnership with the Northern Cape Tourism authority. The assistance of tourism enterprises will continue in the 2022/23.

Frances Barard District municipality highlighted the Ganspan Wetland Development, which is an initiative between the district and Phokwane Local Municipality which requires both public and private sector investment. The development entails the upgrading of the formerly known Ganspan-Pan Waterfowl Nature Reserve situated in the Phokwane Municipality. The project involves the development and upgrading of infrastructure on the banks close to Ganspan in order to restore the area as a safe, attractive and durable tourism attraction. Members noted that all necessary specialist studies have been conducted and completed and that the Department of Environment and Nature Conservation has issued Environmental Authorisation for development.

5.4. Department of Employment and Labour

The *Department of Employment and Labour* reported that the unemployment rate in South Africa and in the Province remains a challenge. It was indicated that in the first Quarter of 2022, Northern Cape employment numbers were expressed in the following sector and industries: Agriculture, Mining, Manufacturing, Utilities, Construction, Trade, Transport and Finance

According to Statistics South Africa (StatsSA) the key findings in quarter 4 of 2019 (October – December 2019), prior Covid 19, shows an increase of 13 000 in employment that was experienced in the Northern Cape Province, from 322 000 in quarter 3: 2019 to 355 000 in the 4th quarter, 2019. The unemployment rate decreased by 2.9 per cent from 29.4 per cent in the 3rd quarter, 2019 to 26.9 per cent in the 4th quarter, 2019.



Employment statistics equating Q4:2021 and Q1 :2022 by province have been well captured on Figure 2 above. A total number of working individuals increased from 264 000 in Q4:2021 to 321 000 in Q1:2022 and this represents a 21,6 per cent increase of employed persons. It can also be noted that there has been a slight decrease in the unemployment rate in the Northern Cape from 25 per cent to 24.9 per cent in Q1:2022.

The Northern Cape province was not immune to the ravages of the COVID-19 pandemic. In terms of the COVID-TERS funding was disbursed by the *Unemployment Insurance Fund*, the number of employers who applied for funding from 2020 to date was 3201, the number of employees paid was 43169, the number of transactions or payments made to employers was 114802 and the Covid-TERS amount paid to the Northern Cape province from April 2020 to date is R482 518 539.48. These were primarily paid to the following industries: trade; mining; agriculture; personal services; textiles; leather industry; banking; building; fishing; professional services and educational services. The largest proportion of funding was paid to the mining sector R71 million; building R39 million and agriculture R19 million.

Performance in the John Taolo Gaetsewe and Frances Baard Districts

The following is a snapshot of performance in terms of the *Department of Employment and Labour services* in the John Taolo Gaetsewe and Frances Baard *districts* for the 2021/22 financial year:

Public Employment Services

Public Employment Services (PES) plays a major role in employment promotion and employment preservation as well as assist employers and work seekers to adjust to changing labour market conditions. PES is supported by an electronic system called *Employment Services of South Africa* (ESSA) which matches job seekers with available job opportunities for placement purposes. These services include *Work Seeker Services and Employment Counselling; Employer Services*. Within the John Taolo Gaetsewe District, for the 2020/21 financial year, the Department of Employment and Labour reported performance as follows:

2020/21		
	Annual target	Target achieved
Work seekers	3913	4258
Opportunities	679	1170
Employment Counselling	1746	2296
Placement	204	522
2022/23		
	Target Quarter 1	Target achieved Quarter 1
Work seekers	1227	1603
Opportunities	356	446
Employment Counselling	461	927
Placement	187	192

Frances Baard District

2020/21		
	Annual target	Target achieved
Work seekers	8784	10887
Opportunities	1358	2148
Employment Counselling	1826	2877
Placement	679	1089
2022/23		
	Target Quarter 1	Target achieved Quarter 1

Work seekers	2147	2982
Opportunities	357	621
Employment Counselling	461	788
Placement	187	469

Inspections and Enforcement Services

For the 2020/21 financial year, outcomes in the John Taolo Gaetsewe and Frances Baard Districts were as follows:

John Taolo Gaetsewe

Legislation : COID Act (COID PAYROLL AUDITS)			
John Taolo Gaetsewe			
Areas	Number Conducted	Complying	Non-Compliant
Kathu	41	7	34
Kuruman	15	2	13
Hotazel	10	1	9
	66	10	56

Frances Baard

Frances Baard			
Areas	Number Conducted	Complying	Non-Compliant
Barkly West	5	1	4
Hartswater	16	2	14
Jan Kempdorp	5	0	5
Kimberley	84	11	73
Pampierstadt	1	0	1
Warrenton	9	1	8
	120	15	105

Legislation: Unemployment Insurance Acts

John Taolo Gaetsewe

Areas	Number Conducted	Complying	Non-Compliant
Kathu	49	29	20
Kuruman	41	34	7
Olifantshoek	3	1	2
Hotazel	2	1	1
Dibeng	2	1	1

97	66	31
----	----	----

Frances Baard

Areas	Number Conducted	Complying	Non-Compliant
Barkly West	3	2	1
Delportshoop	0	0	0
Hartswater	64	35	29
Jan Kempdorp	1	0	1
Kimberley	104	52	52
Pampierstad	16	10	6
Ritchie	3	1	2
Warrenton	6	3	3
	197	103	94

Legislation: Basic Conditions of Employment Act

AREA: John Taolo Gaetsewe						
Areas	Number Conducted	Complying	Non-Compliant	Compliance per cent	Referred for prosecution	Amounts enforced "R"
Kathu	158	156	2	99 per cent	1	73 000
Kuruman	138	125	13	96 per cent	3	38 040.08
Hotazel	5	5	0	100 per cent	0	0
	301	286	15	95 per cent	4	111 040.08

AREA : Frances Baard						
Areas	Number Conducted	Complying	Non-Compliant	Compliance per cent	Referred for prosecution	Amounts enforced "R"
Barkly West	21	14	7	67 per cent	0	0
Delportshoop	3	3	0	100 per cent	0	0
Hartswater	151	122	29	81 per cent	0	0
Jan Kempdorp	54	46	8	85	0	41 486.88
Kimberley	467	394	73	84	15	17735.2
Pampierstad	7	5	2	71 per cent	0	0
Ritchie	3	3	0	100 per cent	0	0
Warrenton	15	14	1	93 per cent	0	0
Douglas	75	71	4	95 per cent	0	39 286.43
Windsorton	2	2	0	100 per cent	0	0
	798	674	124	85 per cent	15	98 508.51

Legislation: Occupational Health and Safety

Area: John Taolo Gaetsewe			
Areas	Number Conducted	Complying	Non-Compliant
John Taolo Gaetsewe	192	76	116
	192	76	116

Area : Frances Baard			
Areas	Number Conducted	Complying	Non-Compliant
Frances Baard	486	326	160
	486	326	160

6. Site Visits

6.1. Vimo Hometextiles

The Committees conducted a site visit to Vimo Hometextiles Boutique (Pty)Ltd is owned and managed by Vinolia Tokotshane. This business is funded and supported by the Small Enterprise Finance Agency (SEFA) and Small Enterprise Development Agency. The business manufactures and sells curtains, beddings, tablecloths, kitchen bags and chair covers. The client has been operating from home since 2017 in Mapoteng village Kuruman.

Through SEFA, the Vimo Hometextiles received total funding of R 245 600.00 for equipment and working capital. R50 000 was allocated as a grant and the remaining balance of R 195 600 was allocated as term loan. Funds were disbursed in November 2021. Funding assisted the business to operate at full capacity as new equipment was bought. One job was maintained.

Observations:

- Vimo Hometextiles was previously a business which operated from the home of the mother and daughter business owners. As the size of the business grew the manufacturing component was moved to site within Kuruman. Members noted with concern that the site from which the business was operating from was a high crime area.
- The business owners noted that crime was a daily occurrence.
- Members urged the Department of Small Business Development, together with SEFA, SEDA, the Northern Cape Provincial Department of Economic Development and Tourism

and the John Taolo Gaetsewe District Municipality work together to find an alternative site for the business in a safer area, particularly as this was a business run by women.

- Members further urged the John Taolo Gaetsewe District Municipality to work closely with the South African Police Service in setting up a mobile law enforcement caravan in the vicinity to monitor and protect vulnerable business owners.
- Members urged the Northern Cape Provincial Department of Economic Development and Tourism to work together with the Department of Public Works to find an alternative site of municipal or departmental property.
- Members were encouraged by the ambition of the business owners to extend its business to an online store to reach a wider market.

6.2. OP Village Mall

The Committees conducted a site visit to OP Village Mall, which was previously known as OP Supermarket and has been in existence since 1978 in Batlharos village. Batlharos is situated 20km's from Kuruman town and 236km from Kimberley. The previous business comprised of OP Sentra supermarket, OP Liquor store, Clothing store, Post point, and a Hardware store. All of these shops were operated by the late Mr. Ontisitse Peter (OP) Kesiamang, and later Amanda the wife and her daughter Grace. The shopping centre was named after the late Mr. OP Kesiamang. OP Village Batlharos (Pty) Ltd was established in 2015 with the purpose of converting a family supermarket into a shopping centre. OP Village is 100 per cent black owned by Retail Development Trust (90 per cent) and Ba-Ga Motlhwane Community Development Trust (10 per cent). The Retail Development Trust's beneficiaries are Mrs. Mmatshoko Amanda Kesiamang (35 per cent), Ms. Grace Outlwile Kesiamang (35 per cent) and The Batshweneng Trust (30 per cent). The Batshwaneng Trust's beneficiaries are all Kesiamang family members (including Grace and Amanda). The Retail Development Trust nominated Mr. Andrew Kesiamang and Ms. Grace Kesiamang as the directors of OP Village (Pty) Ltd. The Ba-Ga Motlhwane Community Development Trust was formed as a result of Minister's condition for a 30-year lease, that The Retail Business Trust pay the community 10 per cent free rider shares on the OP Village development. The structure is designed to benefit the community from Ba-Ga Motlhwane who will form part of the beneficiaries. In order to mitigate the delays in benefits accruing to community trust that are normally associated with transactions of this nature, OP Village will begin setting aside 20 per cent of its cash flow (free

cash flow after servicing its operations and debt obligation) to a trust for the benefit of the trust beneficiaries. OP Village extended the existing Kesiamang family business (OP Supermarket) into a shopping centre where Shoprite, PEP and KFC are anchor tenants with an initial lease period of 10 and 5 years respectively. Prior to committing to the development, Shoprite performed a feasibility study and concluded that Batlharos and surrounding villages have the right population size and sufficient monthly income to support the shopping centre. It was reported that currently, the shopping complex is 99 per cent occupied with a mix of national and local tenants. The following are the current tenants:

- Shoprite
- Shoprite Liquor
- PEP
- PEP Cell
- Kings Hardware
- Doctors' surgery
- Cell phone store
- Cosmetics store
- Hair Salon
- Water shop
- Fast food and restaurant
- Clothing store
- Printing store

6.3.Kudumane Magistrate's Court

The committees received a short briefing and tour of the facility. Kudumane Magistrate's Court located at 1269 Kgosi Mothibi Road, Mothibistad and Mothibistad is a rural town situated 9 kilometres northeast of Kuruman in the Northern Cape Province of South Africa. Before 1994 it was in the former Bophuthatswana Bantustan and after 1994 until a border change in 2006 it was in North West province. The facility is state-owned and DPWI is the custodian. The SAPS is adjacent and SASSA in close proximity. The scope The upgrading of the facility was necessitated by the poor condition and the constant utility service interruptions which hampered court proceedings. The scope of work is upgrading of all bulk services, i.e. Electrical

supply, sewer mains upgrade, water reticulation upgrade and storm water management of the entire property. The timeframes for the site hand over were on 10 November 2020 which the progress on site was reported to be at 85 per cent and the anticipated practical completion date is anticipated to be on 31 August 2022. The expenditure to date which include contract amount of approximately R10 million and R2 million in consultant fees.

The following were reported challenges:

- Due to the nature of court proceedings, construction work has been stopped on regular occasions (noise disturbance).
- During the State of Disaster, the various Alert Levels affected the number of persons that could enter the facility for social distancing purposes.
- The contractor's work schedule lacked appropriate structure (site management, etc.).
- Removal of old installations such as CCTV, telephone and data cabling by the end-user.

6.4. Northern Cape Division of the High Court

The committees received a short briefing and tour of the facility. The project was to install new air conditioning system at the Northern Cape Division of the High Court of South Africa which is a superior court of law with general jurisdiction over the Northern Cape province of South Africa in Kimberley. The facility is located at 8 Jan Smuts Boulevard in Kimberley. The facility is state-owned and the Department of Public Works and Infrastructure is the custodian. This capital project was registered by the Department of Justice and Constitutional Development for the replacement of the antiquated air-conditioning system. The scope of work for this project were to supply and install new air-conditioning air handling units; supply and install VRF air-conditioning system; remove and replace all single type air-conditioner units with energy efficient type DC inverter units including refrigerant piping and brackets; and repair ceilings when removing old redundant equipment. Repair and paint walls when removing redundant air-conditioner units. The timeframes for the site hand over were on 22 June 2021 which the progress on site was reported to be at 100 per cent and the completion date was on 14 June 2022. The expenditure for the project which include contract amount of approximately R14 million and R 1,4 million of consultant fees.

The following were reported challenges:

- Coordinating works schedule with Court schedules.
- Keeping noise levels to minimum so as not to disrupt court proceedings.

6.5. Kele Mines

The Committees received a briefing and conducted a site visit Kele Mining operations in Kathu. Kele Mining Services (KMS) is a mining services company established in 2008 by Ms. Kifilwe Komo (55 per cent shareholder) and Mr Jomo Komo (45 per cent shareholder). KMS' core services comprise of load and haul and drilling operations which are predominantly undertaken on the iron ore belt of the Northern Cape Province of South Africa. KMS' head office is situated in Kathu being strategically close to their key customer sites. In addition, KMS has an office in Pretoria which was previously housed at the Innovation Hub. These premises hold the benefit of placing KMS close to the mining house offices and allows KMS to broaden its view beyond the Northern Cape province which holds the potential to diversify into other mining activities outside of Iron Ore. In 2016/17 KMS was selected as one of the companies to participate in the Kumba Iron Ore Limited's ("Kumba") supplier development programme which the company successfully completed resulting in KMS being highlighted in Kumba's 2017 sustainability report. As a result of successfully completing the programme KMS secured a long-term relationship with Kumba and has been awarded various contracts at both Kumba's Sishen and Kolomela mines. KMS has benefited from contracts outside of Kumba including ongoing contracts with Assmang (Pty) Ltd ("Assmang") on its Kumani mine and more recently at Kudumane Manganese Resources (Pty) Ltd ("KMR") at its mine near Hotazel (through Kele Drilling Solutions ("KDS") a company established during 2020). KMS has grown to become a noteworthy participant in the Northern Cape mining environment. The business is a winner of the inaugural 2019 CEO Circle National Entrepreneurs Award, which identified it as a medium black-owned business with growth potential. As a result of KMS being awarded new contracts from 2016 onward it became viable for KMS to acquire its own fleet of earth moving Equipment ("yellow metal") as opposed to the historic model of solely relying on rental assets. KMS required funding to acquire various pieces of equipment including Articulated Dump Trucks (ADT's), Drill Rigs, Excavators, and certain other trucks amongst others. In addition, working capital funding was also required to sustain increasing operations. In August 2018 IDC approved a total funding package of R145 million to support KMS' growth. The approved facilities included a suspensive sale facility of ca R85,5m, VAT facility of ca R18m, Subordinated loan of R35m, Working capital facility of R6m and a business support facility of R0,2m. In August 2019 IDC approved a request permitting KMS to encumber certain of the assets funded by IDC's subordinated loan facility as collateral to Reichman's (Investec) who advanced additional funding to KMS to acquire 4 additional ADT's to expand operations on

the Kolomela mine. Additional funding of ca R60m was approved and supported by the registration of Notarial bonds over certain assets which IDC had previously funded. As a result of KMS's growing reputation in the mining sector, particularly the reputation of Mr Jomo Khomo (MD of KMS), KMS was approached to participate in several other opportunities which resulted in the establishment of 3 other business ventures (Kele Drilling Solutions (Pty) Ltd ("KDS"), Kele Logistics Services (Pty) Ltd ("KLS") and Kele Engineering and Construction (Pty) Ltd ("KEC") supported by KMS financially.

6.6. R31 road project

The Northern Cape Provincial Department of Roads and Public Works in its presentation to the select committees provided a background around the bulk of the minerals within the Northern Cape which are transported across the province roads network which include the R31 road from John Taolo Gaetsewe District transported to the coastal provinces. The R31 route is known as the manganese corridor because is used as a shorter passage to for haulage of manganese. The transportation of minerals on the R31 in particular is the major contribution to the poor condition of the road. The Department of Roads and Transport in the Northern Cape reported that approximately R600 million budgeted and spent in the past five years to improve the condition of the road but to the high volume of heavy trucks using the road, the road still remains in a bad condition.

The Department explained to the committees that due to the funding conditions of the Provincial Road Maintenance Grant (PRMG), the only activity the department may do is repair and reseal of the road. This activity is not strengthening the road itself to be able to handle the load it is carrying but rather is a holding measure as the reseal it strengths the surface and not the layers underneath. The road has very high accidents within the province and poses a risk as a department is faced with litigations and this could increase drastically in the future if it is not addressed urgently to the increased heavy load traffic. The road cannot handle the load is carrying currently and the Department cannot afford to upgrade this road at the condition that it can handle the traffic on it.

The road assessment survey highlighted several substandard and dangerous aspects, which include amongst others, severe edge breaks; narrow width of road; no stopping areas for heavy vehicles; high shoulder drop-offs; road pavement failures and cracking; dry and brittle condition of surfacing seal; rutting; prevention of stray animals in road; trucks bumping the

guardrails. The Department embarked on widening and resealing of the sections from Danielskuil to Barkley West which the project cost estimated at R59 million with the project duration scheduled for six months. The project started 10 August 2022 and expected completed around February 2023

The committees were informed about other work taking place around the R31 in Platfontein. The section of the road was constructed through the ponds which were dry for many years and because of the climate change, the Northern Cape province in 2019 experienced abnormal rain fall. The heavy rainfall contributed to the high water level which in turn submerged the top surface of the road. The storm water and leaking water pipes and faulty sewage pump stations of the Sol Plaatjie Municipality flow into the Platfontein pan. The pan became full and overtopped the road which caused the diversion of the heavy vehicles to alternative roads. To address the water challenge on the section of the road, Department commissioned the process to uplift the vertical alignment of the road up to 1.5 meter. The project of raising of the vertical alignment on the road started on 24 January 2022 and expected to completed 24 August 2022 with the estimated budget of R34 million and project 91 per cent complete.

On the future of the pond, Northern Cape Department of Roads and Public Works, National Department of Water and Sanitation, Sol Plaatjie Municipality are investigating the feasibility of pumping water from the pan to Vaal River. With regard to the strategy of R31 for future sustainability, the Northern Cape Provincial Government through the Office of the Premier has written to the Minister of Transport to request that the R31 road be transferred to SANRAL. According to the Department of Roads and Transport the transfer would assist the province to offload the maintenance burden of the road as the road would be part of the national roads. The committees welcome the assurance that the Northern Cape provincial government has already written to the National Department of Transport for the South African National Roads Agency to take responsibility for the R31. The committee has called on the Department of Transport to expedite this process as this move will ensure that necessary investments are made to rehabilitate the road.

The committees' concerns emphasise the need for massive investments in rail infrastructure to move cargo transportation from the road to rail networks. Furthermore, as the province implements its economic recovery plans anchored on the export of iron ore and manganese mining, the need for a reliable rail infrastructure to transport cargo to ports is essential. Tourism

will also play a critical role in unlocking economic potential in the province and reducing unemployment.

6.7. Platfontein Lodge

The Committees conducted a site visit to the Platfontein Lodge. It was reported that the community of Platfontein, the! Xu and Khwe!, are the indigenous first peoples of the Northern Cape. They are one of the communities to have their land rights restored to them through the Restitution of Land Rights Act. The vision of the community was to establish the Platfontein lodge as an economic hub which would not only be a source of employment but also a springboard for the development of other economic ventures and activities, which would benefit the community into the future. The community boasts a significant cultural heritage, which is showcased throughout the lodge. From a tourism perspective, the Platfontein Lodge offers the opportunity to preserve a culture that is quickly being lost and to offer an unforgettable hospitality experience and conferencing and events venue for the Kimberley area. The Department of Tourism, through the Working for Tourism Programme funded the refurbishment and conversion of an old farm house into a lodge. All buildings that formed part of this Departmental project had been constructed before and were part of the abandoned farmland of Platfontein. The main focus of the Departmental project was the refurbishment of these dilapidated structures.

The delegation was informed that the project started in March 2017 and was completed in October 2018. The project was handed over to the community and an Operator in November 2018 for operations. At the beginning of 2019 the Operator wrote to the Department alerting the department of the latent defects. The Department in turn communicated with the contractor who fixed the snags that were identified, however a few months later the operator wrote again to the department indicating that it had rained heavily and the roof leaked and that there were cracks in the building. The Department then took the decision attend to all the remedial works and this work is currently being completed through the Development Bank of South Africa.

Completion of the project through the Development Finance Bank of South Africa

The Department entered into a partnership agreement with the Development Finance Bank of South Africa (DBSA) for the fixing of the identified defects and snags. The DBSA has finalised the planning and submitted to the department for approval, and thereafter a contractor will be appointed for the actual remedial works.

- Convert a farm house into a 12-bedroom lodge with ablution facilities, reception area, dining area;
- Swimming pool;
- Convert hall into conference centre with kitchen;
- Constructing of guardhouse;
- Upgrading of pump house;
- Sewer and water reticulation;
- Entrance road 1.2 KM gravel;
- Renovate the current 55,6m2 structure to a storage facility;
- Refurbish the existing building into a staff facility;
- Renovate existing facilities in a manager's house; • install street lighting on the 1.2km entrance road; and
- Cleaning and clearing of Platfontein area.

Ownership:

The project is built on communal land which is under the custodianship of the !XU and Khwe Communal Property Association (CPA) The owning entity is the !XU and Khwe CPA. The project was handed over to the CPA who continues to act as a custodian of the project on behalf of the community.

Observations:

- The Platfontein Lodge was meant to be generate revenue from both the accommodation and conference sections. To date, the Lodge has only been able to generate revenue from the conferencing. This has resulted in annual revenue between R1.5 million and R1.8 million.
- Upon conducting a site visit of the accommodation section of the Lodge, Members were saddened to see that structural defects that was pervasive throughout the site barely five years since construction. These include cracks in the foundation, pool, walls, ceilings. In addition, moisture and damp was observed on the walls and ceiling. These structural defects resulted in loss of income and loss of job opportunities for XU! And Khwe communities.
- The Management of the Lodge indicated that its venue higher section was in high demand by the public sector.

- Members noted that the Department and DBSA are in the process of repairing these defects which involves underpinning foundations which were found to be unsuitable for the type of soil and other defect in the structures. There is no storm water management on the site, so whenever it rains water does not flow away from the buildings hence the problems with the foundations. There is no proper landscaping to help control the movement of water.
- Members were of the opinion that the contractor needed to be held accountable and legal action taken for the shoddy workmanship and wasted expenditure.
- Further concerns were raised that the project still has to service the R35 million loan it received from the IDC which is hindered by the loss of income in the accommodation section of the lodge.
- It was further noted that roadworks has limited access to the lodge thereby inhibiting clients access and entry to the lodge.
- Concerns were raised regarding the Sol Plaatjie Local Municipality not attending to complaints relating to sewer leakages which is affecting approximately 800 hectares of land.

7. Recommendations

1. Over the 2023 medium term, the National Ministers responsible for transport, roads, public enterprises, energy, water and sanitation including trade, investment, infrastructure and small businesses working together with the Member of the Executive Council responsible for economic development, transport and roads including the John Taolo Gaetsewe district municipality need to develop an integrated plan to operationalise the Strategic Integrated Project 5 (SIP5, Saldanha–Northern Cape Development Corridor including Khathu Industrial Park. The plan should be submitted to the Select Committees on Trade, Economic Development, Employment and Labour, Small Business and Tourism and Transport, Public Works and Infrastructure and Public Service and Administration, by the end of the 2023/24 financial year.
2. Further, over the 2023 medium term, the Ministers for Cooperative Governance and Traditional Affairs and Trade, Industry, and Competition should engage the Minister of Finance to consider of establishing Regional Economic Development Fund to support local government authorities to fund and finance local economic development

initiatives, and establish capacity and capability to manage local economic development.

3. Over the 2023 medium the Minister of Tourism, and the Minister of Tourism and Arts, Culture, Sport and Environmental Affairs must develop integrated plan to support local government to fund development programmes that seek to spur growth of the creative economy, tourism (nature based tourism) and sport. The Ministers responsible for these sectors must engage the Minister of Finance to consider funding for these development initiatives. Local government authorities need to prioritise and fund tourism development initiatives.
4. Tourism industry remains a critical strategic industry that needs cross sector support ranging from roads infrastructure investment including water and sanitation, energy, transport, information and technology. Over the 2023 medium term, the Minister of Tourism must engage all relevant Ministers responsible for transport, roads, public enterprises, energy, water and sanitation including trade, investment, infrastructure and small businesses working together with the Member of the Executive Council responsible for economic development, transport and roads including the John Taolo Gaetsewe and Frances Baard districts to develop a plan that will support tourism development initiatives, and submit such a plan to the to the Select Committees on Trade, Economic Development, Employment and Labour, Small Business and Tourism and Transport, Public Works and Infrastructure and Public Service and Administration, by the end of the 2023/24 financial year.
5. The John Taolo Gaetsewe District Municipality should submit its road and transport plan for the district to the Committees of Select Committees on Trade, Economic Development, Employment and Labour, Small Business and Tourism and Transport, Public Works and Infrastructure and Public Service and Administration before the end of the end of the 2022/23 financial year.
6. The Sol Plaatjie Local Municipality should appear before a joint meeting of the Select Committees on Trade, Economic Development, Employment and Labour, Small Business and Tourism and Transport, Public Works and Infrastructure and Public Service and Administration the Committee in 2023 in order to provide an update on its interventions in respect to the storm water, leaking water pipes and faulty sewage pump stations that flow into the Platfontein pan and flooding the R31 road.

Report to be considered

3. Report of the Select Committee on Finance on the Rates and Monetary Amounts and Amendment of Revenue Laws Bill [B25 - 2022] (National Assembly- section 77), dated 01 December 2022

1. Introduction and background

Section 77 of the Constitution requires all money Bills to be considered by a procedure for passing revenue Bills established by the Money Bills Amendment Procedure and Related Matters Act, 2009 (Money Bills Act). Section 11 (1-3) of the Money Bills Act states that, in amending the revenue Bills, the Committee must ensure that the revenue raised is consistent with the fiscal framework; it considers equity, efficiency, certainty and ease of collection; the composition of tax revenues; regional and international tax trends and the impact on development, investment, employment and economic growth. Section 11 (4) further requires the Committee to hold public hearings on the revenue Bills and report to the House.

The Minister of Finance formally tabled the 2022 Rates and Monetary Amounts and Amendment of Revenue Laws Bill (Rates Bill) on 26 November 2022.

The Committee received a briefing from National Treasury and the South African Revenue Service (SARS) on 18 October 2022. The Committee held virtual public hearings on 15 November 2022 and received a total of eight submissions from the South African Medical Research Council (SAMRC), the National Council Against Smoking (NCAS), the Congress of South African Trade Unions (COSATU), the Consumer Goods Council of South Africa (CGCSA), Research Unit on the Economics of Excise Products (REEP) from the University of Cape Town; the Tobacco, Alcohol and Gambling Advisory Advocacy and Action Group (TAGSA); South African Sugar Association (SASA), and the Beverage Association of South Africa (BEVSA).

2. Overview of the proposed amendments in the 2022 Rates Bill

The objective of the 2022 Rates Bill is to fix the rates of normal tax; to amend the Income Tax Act (ITA), of 1962, to amend rates of tax and monetary amounts; to amend the Customs and Excise Act, of 1964, to amend rates of duty in Schedule 1 to that Act; to insert new tariff items; to delete tariff items; to delete rebate items; to insert rebate items; to amend the Carbon Tax Act (CTA), of 2019, to amend a rate of tax; to amend the Rates and Monetary Amounts and Amendment of Revenue Laws Act, of 2020, to provide for corrections; and to provide for matters connected therewith.

3. Summary of the proposed amendments in the draft 2022 Rates Bill

Key proposed amendments in the draft 2022 Rates Bill include the general excise duty on alcohol and tobacco inflationary adjustments of between 4.5 and 6.5 per cent; delaying the increase of the Health Promotion Levy (HPL) by one year; and a temporary relief on the fuel levy.

The section below briefly summarises the proposed amendments as explained by the National Treasury.

3.1.1 General increase in the excise duty on alcohol and tobacco by between 4.5 and 6.5 per cent

National Treasury explained that the government has a guideline for direct excise duty policy where duty should be 11, 23 and 36 per cent of the weighted average retail price for wine, beer and spirits and 40 per cent of the price of the most popular brand for cigarettes. In 2022, therefore, the government proposes excise duty inflationary adjustments of between 4.5 per cent and 6.5 per cent.

3.1.2 Temporary relief on the fuel levy

On 31 March 2022, the Minister of Finance and the Minister of the Department of Mineral Resources and Energy (DMRE) issued a joint statement detailing temporary measures to cushion the impact of large expected increases in the prices of petrol and diesel.

The relief included a two-month reduction in the general fuel levy of R1.50 per litre from 6 April 2022. This intervention reduced the levy by 40 per cent, at a fiscal cost of around R6 billion. National Treasury clarified that a sale of strategic oil stocks was expected to fund this R6 billion and, therefore, would not have an impact on the fiscal framework.

After further petrol price increases, the government extended the relief by another two months. The statements issued by the two Ministers reiterated that the government was looking to introduce a petrol price cap to promote competition and reduce prices. National Treasury emphasised that; the loss in revenue in this instance could not be paid for through further sales of strategic oil stocks and will have an impact on the fiscal framework. National Treasury expects that this extended measure will lead to around R4 billion in revenue foregone.

3.1.3 Delaying the increase to the Health Promotion Levy by one year

The 2022 Budget stated that the Health Promotion Levy (HPL) would be increased by 4.5 per cent to 2.31 cents per gram from 1 April 2022. Further announcements were made to start consultations on lowering the 4g of sugar per 100ml threshold and to extend the levy to fruit juices. On 1 April 2022, the Minister of Finance released a media statement to delay the implementation of the increase in the health promotion levy by one year, to 1 April 2023.

4. Key issues raised during the Committee's public consultation process

Of the total eight submissions received, four comments are on the HPL, and four are on tobacco increases.

4.1 Tobacco tax increase

Overall, the stakeholders support the proposed increase in tobacco because tax is a tool that, when used correctly, can save the country money and if applied consistently can make tobacco products progressively less affordable. Also, empirical evidence showed that increases in tobacco excise taxes reduce tobacco use.

The concerns raised include that the proposed 5.5 per cent tax increase is substantially below the current inflation rate; and the targeted excise tax burden is currently 40 per cent, which is substantially below the World Bank and the World Health Organisation (WHO) recommendations and that tobacco use increases public health expenditure; and imposes a significant health and economic burden on countries.

The stakeholders recommended that National Treasury should substantially increase the excise tax on tobacco products by at least 10 per cent; accompany excise tax increases with efforts to strengthen the fight against illicit cigarettes, and the government should provide specific commitment and feedback on progress to ratify the WHO Protocol to Eliminate Illicit Trade in Tobacco Products.

4.2 Health Promotion Levy

The majority of commentators on expressed support for the proposed extension of the increases in the HPL by one year, to align with the government's commitments to the Sugar Master Plan.

The stakeholders raised various concerns including that further increases to the HPL will not only place the sugar industry at risk but also threaten the progress made through the Sugar Master Plan and result in a loss of demand for sugar; the uncoordinated and disproportionate policy efforts across various ministries on the HPL might have potential unintended but catastrophic economic consequences; the government's refusal to accept previous requests to ring-fence money raised from the HPL for health promotion; and that the one-year extension is not enough.

The stakeholders recommended that the increases in HPL should be suspended for at least three to five years to enable the NDoH to conduct the TDIS, and the industry to recover from the devastation of the effects of the inflationary prices brought about by the war between Russia and Ukraine, the impact of COVID-19 pandemic, and the developments in KZN in 2021 and 2022, amongst other things; that any discussion about the extension of HPL should be informed by the recommendations that will emanate from the Sugar Master Plan; that the sugar tax must be applied equitably, as its current application is disproportionately applied to only one industry; and the National Treasury should be transparent on the much-awaited envisioned consultative plan on the HPL.

4.3 Fuel levy

COSATU, the only commentator on the fuel levy, appreciates the temporary relief in the fuel levy and expressed disappointment that this relief has since been phased out. COSATU recommends that the government should comprehensively review the fuel price regime to reduce costs and re-table the Road Accident Fund (RAF) and Road Accident Benefits Scheme Bills (RABSB) at Parliament.

5. Summary of submissions received during the public consultation process

5.1 South African Medical Research Council

The Alcohol, Tobacco and Other Drug Research Unit of SAMRC supports the proposal to increase tobacco tax because tax plays a critical role in curbing both the initiation and discouraging uptake of these products thus prioritizing and protecting public health.

The SAMRC commends the government for acknowledging the importance of South Africa's obligation as a signatory to the WHO Framework Convention on Tobacco Control (FCTC) to apply measures to curb the demand and supply of these harmful products through taxation which is one of the most effective ways of preventing tobacco and nicotine related diseases.

The SAMRC recommends the above-inflation increase in excise tax on tobacco and believes that a tax of at least 10 per cent is more feasible to achieve the purpose of imposing these tobacco taxes which is to prevent youth initiation and encourage cessation, as per the WHO recommendations. The current proposal in the 2022 Rates Bill to increase the cigarette tax by 5.5 per cent will unfortunately not be able to achieve this target to place South Africa on the path to regaining her place in the committee of nations on tobacco control.

5.2 Research Unit on the Economics of Excise Products

REEP submitted that tobacco use imposes a significant health and economic burden on countries, and that consistent, year-on-year, increases in tobacco excise taxes reduce tobacco use, citing the studies conducted by Global Adult Tobacco Survey (GATS) and the National Income Dynamics Study (NIDS).

While the proposed increase in the excise tax on tobacco products by 5.5 per cent, in the 2022 budget is appreciated, REEP believes that the National Treasury could have been bolder.

REEP is also concerned about the illicit trade in South Africa which is a criminal issue and not primarily an excise tax issue and that it significantly reduces government revenue. Also, the fact that the South African government has not ratified the Protocol to Eliminate Illicit Trade in Tobacco Products, despite multiple requests by civil society organisations and REEP to do so, is a cause for concern. REEP further expressed its disappointment that the SARS's 2019 call for tenders to develop a track and trace system in South Africa, was withdrawn in 2021.

REEP urged the National Treasury to substantially increase the excise tax on tobacco products next year by at least 10 per cent; consider a multi-year taxation approach in which, each year, tobacco excise taxes are increased by the inflation rate, plus a pre-announced additional percentage and to accompany these systematic excise tax increases with efforts to strengthen the fight against illicit cigarettes. According to REEP, this will ensure that tobacco products become less affordable over time and align South Africa's tobacco taxation strategy with the recommendations of the WHO's FCTC. REEP further urged the Committee to exercise extreme caution when engaging with the tobacco industry on the matter of illicit trade because the industry will use the high levels of illicit trade in South Africa as a reason why excise taxes on tobacco products should not be increased in the upcoming budget.

5.3 National Council Against Smoking

The NCAS submitted that the proposed 5.5 per cent tax increase is substantially below the current inflation rate and even lower than the 2021/22 increase of 8 per cent on cigarettes and will not yield desirable health and economic benefits. NCAS is also concerned that the targeted excise tax burden is currently 40 per cent, which is substantially below the World Bank and WHO recommendation that the tax share should represent at least 75 per cent of the retail price of the most popular brand of cigarettes.

NCAS recommends a tax increase of at least 10 per cent for cigarettes, which is above inflation and that the 40 per cent target be formally discarded while the government cracks down on the illicit market. In this regard, the NCAS recommends that solid steps be made to secure the supply chain and that the government should provide specific commitment and feedback on progress to ratify the WHO Protocol to Eliminate Illicit Trade in Tobacco Products.

5.4 Tobacco, Alcohol and Gambling Advisory Advocacy and Action Group

The TAGSA submitted that there exists a serious problem with the illicit trade of cigarettes in South Africa, and while the tobacco industry might argue that this is a factor of tax, it is not. Illicit trade is a criminal activity that will occur even if the tax is zero. The TAGSA further submitted that the proposed 5.5 per cent increase in excise tax is not sufficient and is below the current inflation rate, estimated at 7.6 per cent in August 2022.

Concerns were raised that the proposed reduction rate will not reduce consumption or prevalence; and the long-term result will be disease, disability and death; public healthcare costs will increase.

The TAGSA recommends that the current excise tax should be increased by 20 per cent; South Africa must ratify the protocol on Illicit trade in the FCTC; the tax must be used as a tool to improve public health; the system for taxing all tobacco products must comply with the FCTC framework and must be applied consistently every year to make tobacco products progressively less affordable; and that National Treasury must ensure that taxes achieve the two objectives of protecting public health and generating income for the fiscus.

5.5 South African Sugar Association

SASA commented on the effective date of an increase in the HPL and raised concerns that further increases to the HPL not only place the industry at risk; but also threaten the progress being made through the master plan. According to SASA, increases in the HPL will result in a loss of demand for sugar; and decreased sales.

SASA and the sugar industry appreciate the one-year suspension on the increases of the HPL to align with the government's commitments to the master plan. Whilst this demonstrates understanding and empathy towards the sugar industry, SASA complained that a one-year suspension is not enough. It recommends that the increases in HPL be suspended until the market potential for alternate revenue streams for sugarcane is fully investigated, estimated to take three to five years.

5.6 Beverage Association of South Africa

BEVSA noted the revision of the effective date for the increase in the HPL to 1 April 2023 and announcements by the Minister of Finance that consultations would be initiated to consider the lowering of the 4-gram threshold and the extension of HPL to fruit juices. BEVSA is extremely concerned about the uncoordinated and disproportionate policy efforts across various ministries on the HPL, with potential unintended but catastrophic economic consequences, particularly at a time when the industry is facing strong headwinds.

BEVSA urges the National Treasury to consider the sugar industry's impact on the economy, agricultural and industrial investments, foreign exchange earnings; its high employment, and its linkages with major suppliers, support industries and customers; the results of the socio-economic impact of the HPL NEDLAC report, which shows that the HPL will affect the employment, tax revenue and the sugarcane value chain; subject the HPL to government's

Socio-Economic Impact Assessment System (SEIAS), as per the decision taken by Cabinet; the need for the Total Dietary Intake Study (TDIS); costs to the industry associated with the economic effects of COVID-19 pandemic, the impact of the unrest in KwaZulu Natal (KZN) in 2021, and the impact of extreme floods in KZN in 2022.

BEVSA recommends that any discussion about the extension of HPL should be informed by the recommendations that will emanate from the Sugar Masterplan; the Sugar Tax must be applied equitably, as its current application is disproportionately applied to only one industry; and National Treasury should be transparent on the much-awaited envisioned consultative plan on the HPL.

5.7 Consumer Goods Council of South Africa

CGCSA raised its concerns that the government has refused to accept previous requests to allocate or ring-fence money raised from the HPL for health promotion as originally planned.

Echoing the same sentiments as the BEVSA, the CGCSA raised concerns about the lack of consultation on the impact of the HPL, particularly on the struggling sugar industry and its value chain; the need for the TDIS that should inform this policy decision, the economic effects of COVID-19 pandemic; the unrest in KZN in July 2021; extreme floods in KZN in April 2022, and the need for a SEIAS.

CGCSA recommended that the HPL should be postponed for a further two-to-three years, to enable the NDoH to conduct the TDIS; the industry to recover from the devastation of the effects of the inflationary prices brought about by the war between Russia and Ukraine, the impact of COVID-19 pandemic, amongst other things; the government to conduct the necessary research; and the National Treasury and related departments, namely, the Department of Agriculture, Rural Development and Land Reform (DARDLR) as well as the

Department of Trade, Industry and Competition (DTIC) to constructively consult and engage the sector and together map out a sustainable policy environment.

5.8 Congress of South African Trade Unions

COSATU welcomes the delay of one year in the implementation of the promulgated increase in the HPL, in line with the Sugar Master Plan signed by the government, businesses and labour.

COSATU appreciates the temporary relief in the fuel levy provided by the government but is disappointed that this relief has since been phased out and there are no medium and long-term fuel price regime proposals by the government to protect workers and the economy from international oil price volatility. COSATU reminded the Committee about the then Minister for Energy, Mr Jeff Radebe's promise made in September 2018 that the fuel price regime will be reviewed in January 2019.

COSATU recommends that the government should comprehensively review the fuel price regime to reduce costs; re-table the Road Accident Fund (RAF) and Road Accident Benefits Scheme Bills (RABSB) at Parliament; take immediate steps needed to deploy the South African National Defence Force (SANDF); re-establish a dedicated South African Police Service (SAPS) Railway Unit to secure our railway network; temporarily ban scrap copper and steel exports; regulate, monitor and crack down on scrap dealers involved in cable theft; invest massively in public transport to reduce the number of commuters travelling in private cars; convert vehicle manufacturing industry from fossil fuel to electric and hydro vehicles, and Parliament should hold the government to account for these.

6. Responses from the National Treasury on issues raised

6.1 General increase in the excise duty on tobacco by between 4.5 and 6.5 per cent

In response to a comment that the proposed 5.5 per cent tax increase is substantially below the current inflation and will not yield desirable health and economic benefits, the National Treasury said that at the time of the 2022 February Budget, the excise duty rate increases were above anticipated headline inflation for 2022. It further said that it should be noted that even though the size of rate increases this year is less than last year's excise duty rate adjustments, they were still above anticipated inflation.

6.2 Delaying the increase to the health promotion levy for one year

On the recommendation to further extend the increases in the HPL by at least three to five years, National Treasury responded that, as announced by the Minister, the engagements will be undertaken with stakeholders on the review and the Minister will make the necessary decision and communicate such a decision at the appropriate time.

7. Committee observations

- 7.1 The Committee welcomes the high-quality submissions and the robust discussions held with the stakeholders, and the comprehensive responses by the National Treasury on the issues raised and recommendations made by the stakeholders.
- 7.2 The Committee observed that, while concerns were raised, in principle, the majority of the stakeholders support the proposed increase in tobacco tax; and that if applied consistently, tax can make tobacco products progressively less affordable.
- 7.3 The Committee also noted that the majority of commentators expressed support for the proposed extension of the increases in the HPL by one year, to align with the government's commitments to the Sugar Master Plan.
- 7.4 While acknowledging the substantive comments made, which straddle between the fiscal and health issues, the Committee observed that most of the comments raised by the stakeholders are related to health, an area that the Committee does not have oversight over and enough knowledge and experience of to scrutinise and should be dealt with by the Parliamentary Committees and the Department of Health.
- 7.5 The Committee believes that there have to be appropriate trade-offs and necessary balances between the needs and interests of the various relevant stakeholders, even if health issues are primary. The considerations include the health of the people, and the economy, the needs of the sugar industry, including the emerging farmers and entrepreneurs and workers in the sector, among others.
- 7.6 General increase in the excise duty on tobacco by between 4.5 and 6.5 per cent

7.6.1 The Committee noted the concern raised by the stakeholders that the proposed excise duty on tobacco increase is substantially below the current inflation and will not yield desirable health and economic benefits; and the National Treasury's response that at the time of the 2022 February Budget, the excise duty rate increases were above anticipated headline inflation for 2022.

7.6.2 The Committee noted the importance of South Africa ratifying the WHO protocol to Eliminate Illicit Trade in Tobacco, and the National Treasury's response that the NDoH is leading the government on the matter. The Committee will follow up with the National Treasury and the SARS on a recommendation made in its report on this matter.

7.7 Delaying the increase to the health promotion levy for one year

7.7.1 The Committee noted the sugar industry's recommendation to further extend the increases in the HPL by at least three to five years, to allow the industry to recover from the economic effects of the COVID-19 pandemic, the impact of the unrest in KZN in 2021, and the impact of extreme floods in KZN in 2022. The Committee also noted the National Treasury's response that, while the comments will be reviewed, the final decision to make changes lies with the Minister of Finance and that such a decision will be communicated at the appropriate time.

7.7.2 The Committee noted that delaying the implementation of the increases in the HPL raised public health concerns, that the desired results may not be achieved. The Committee further noted the impact of sugar tax on the general public, commercial and small-scale farmers and the KZN economy in particular, but also in other provinces.

8. Committee recommendations

- 8.1 The Committee recommends that the National Treasury should allow for adequate public participation and effectively engage with the stakeholders before the Bills are brought to Parliament, preferably between now and February 2023. The Committee encourages the stakeholders to utilise the time from when the National Treasury first publishes the amendment Bills for public comment, and the National Assembly public participation process to start raising their issues and comments on the Bills, and not only wait for the NCOP process, given that tax bills are not section 76 bills, which NCOP committees have the same power as NA committees to amend.
- 8.2 While the Committee supports the increases in the cost of tobacco products, it expresses its concern that these increases serve to create space for the illicit tobacco market to grow and that there is not enough attention being paid to acting against the illicit trade.
- 8.3 The Committee recommends that the National Treasury and SARS should consider the issues raised by the sugar industry, particularly in KZN, which include the results of the socio-economic impact of the HPL in the NEDLAC report, which shows that the HPL will affect the employment, tax revenue and the sugarcane value chain; a Socio-Economic Impact Assessment Systems study; and that the Total Dietary Intake Study (TDIS) should be conducted.

The Select Committee on Finance, having considered and examined the Rates and Monetary Amounts and Amendment of Revenue Laws Bill [B25 - 2022] (National Assembly – section 77), referred to it, and classified by the JTM as a Money Bill, accepts the Bill.

The Democratic Alliance (DA), Economic Freedom Fighters (EFF) and Freedom Front Plus (FF+) reserve their position.

Report to be considered.

4. Report of the Select Committee on Finance on the 2022 Taxation Laws Amendment Bill [B26 - 2022] (National Assembly- section 77), dated 01 December 2022

1. Introduction and background

Section 77 of the Constitution requires all money Bills to be considered by a procedure for passing revenue Bills established by the Money Bills Amendment Procedure and Related Matters Act, 2009 (Money Bills Act). Section 11 (1-3) of the Money Bills Act states that, in amending the revenue Bills, the Committee must ensure that the revenue raised is consistent with the fiscal framework; it considers equity, efficiency, certainty and ease of collection; the composition of tax revenues; regional and international tax trends and the impact on development, investment, employment and economic growth. Section 11 (4) further requires the Committee to hold public hearings on the revenue Bills and report to the House.

The Minister of Finance first introduced the draft version of the 2022 Taxation Laws Amendment Bill (TLAB) in July 2022. The TLAB was formally tabled on 26 November 2022.

On 18 October 2022, the Select Committee of Finance (SeCoF) received a briefing on Taxation Bills from National Treasury and the South African Revenue Service (SARS). The Committee held virtual public hearings on 15 November 2022 and received a total of 14 submissions from the South African Medical Research Council (SAMRC), the British American Tobacco of South Africa (BATSA), the Centre for Environmental Rights (CER) or the Life After Coal Campaign, the National Council Against Smoking (NCAS), the National Department of Health (NDoH); Just Share, Greenpeace Africa (GPAF), the Africa Centre for Tobacco Industry Monitoring (ATIM) at the University of Pretoria, Cancer Association of

South Africa (CANSAs), the Alternative Information Development Centre (AIDC), the Research Unit on the Economics of Excisable Products (REEP) at the University of Cape Town; Vaping Saved My Life (VSML); Vapour Products Association of South Africa (VPASA) and the World Wide Fund for Nature South Africa (WWF). The Committee held a meeting on 30 November 2022 to further process the TLAB.

2. Overview of the proposed amendments to the 2022 TLAB

The objective of the 2022 TLAB is to amend certain definitions, provisions and Schedules and make new provisions of the Income Tax Act (ITA), 1962; to amend the Customs and Excise Act (CEA), 1964, to make provisions for continuations and amend certain Schedules; to amend the Value-Added Tax Act (VAT), 1991, to amend certain provisions; to amend certain Schedules; and to make provision for continuations, to amend the Taxation Laws Amendment Act (TLAA), 2011, 2013, 2019, 2021 to amend the effective dates; certain provisions and Schedules; to amend the Carbon Tax Act (CTA), 2019, to amend the provisions; and to provide for matters connected therewith.

3. Summary of the proposed amendments in the draft 2022 TLAB

In summary, the key proposals in the draft 2022 TLAB include an increase of the carbon tax rate for 2023 to 2030; taxing of the electronic nicotine and non-nicotine delivery systems; extension of the research and development tax incentive sunset date; reviewing the impact of International Financial Reporting Standards 17 (IFRS17) insurance contracts on taxation of insurers and debtor's allowance provisions to limit the impact of lay-by arrangements.

These proposals seek to amend five pieces of legislation, namely, the CTA, CEA, ITA, VAT, and TLAA. Whilst there are several substantive proposed amendments, most of the proposed

amendments relate to the clarification of certain provisions in various Acts, changing; reviewing; refining or clarifying certain definitions; and technical corrections.

4. Key issues raised during the Committee's public consultation process

Overall, most public submissions received commented on the newly proposed tax on nicotine and non-nicotine delivery systems (9 of a total of 14), and five stakeholders commented on the proposed carbon tax increases.

4.1 The proposed tax on nicotine and non-nicotine delivery systems

In principle, almost all (except for the VPASA and VSML) commentators on the proposed e-cigarette tax are supportive of the tax proposal; but have raised various concerns and made recommendations.

The support is largely about the health risks associated with tobacco and nicotine consumption; and the fact that the tax on e-cigarettes aligns with the World Health Organisation (WHO) recommendations, that in countries which do not ban e-cigarettes, tax is one way to recover some of the cost externalities.

The concerns raised include that the proposed tax rate is too low to discourage the use of vaping products; the main purpose of a tax on e-cigarettes should be to prevent youth from starting use and not tax revenue; the vaping products are marketed to all age groups, mainly the youth and non-smokers, as cessation tools from tobacco products, while the cessation approach and the nicotine dispensing are not compliant with medicinal protocols; National Treasury is making proposals without having conducted a full and transparent impact assessment and cost-benefit analysis of the South African Electric Nicotine and Non – Nicotine Delivery Systems (ENDS/ENNDS) market, its dynamics and supply chain, and administrative complexities; there will likely be unintended consequences; and National

Treasury is not taking into account current scientific evidence, especially in respect of tobacco harm reduction.

There is consensus amongst the stakeholder that the proposed vaping tax rate should be increased; raised taxes should be ring-fenced to cover the cost of implementation and other tobacco control or health measures; the system for taxing all tobacco products must comply with the Framework Convention on Tobacco Control (FCTC); and that South Africa must ratify the protocol on Illicit trade. Other recommendations include that a registration system must be introduced with the excise; a track-and-trace system with a Unique Identity Code per individual product should be implemented from the onset to avoid fiscal evasion, and the implementation date should be extended to 1 January 2024 to allow for necessary public consultation.

The VPASA and VSML strongly opposed the proposed tax on vaping products arguing that the government has severely understated the efficacy of vaping products as a tool for tobacco harm reduction; a tax will favour bigger industry players while making it difficult for smaller businesses to survive; the purpose of the excise duty and its projected impact on public health is not clear; no model was implemented specifically designed to measure all aspects except for reliance on various and sometimes unrelated surveys; and the DoH and, by extension the National Treasury has continued to rely on the guidelines provided by the WHO and affiliated groups in formulating both the Tobacco Products Electronic Delivery System Control Bill and the excise on vaping liquids while this dogmatic approach highlights the hypocrisy and a lost opportunity to meet the stated outcomes of reducing non-communicable diseases relating to tobacco consumption.

VPASA and VPSL recommended that the government should conduct a Socio-Economic Impact Assessment (SEIA) study to have a better understanding of what the impact of the

proposed excise tax will be on the industry, specifically, on small businesses and jobs; and that the South African Bureau of Standards (SABS) should devise standards for testing of nicotine for products being declared; and that the government must devise strategies to make smoking cessation more accessible.

4.2 The proposed increase in the carbon tax rate

Overall, the commentators, also in principle, support the proposed carbon tax rate. The concerns raised include that the proposed rate is too low and insufficient to deter carbon majors from continuing with their toxic business models, or to create any meaningful change at all; delaying its full implementation may compromise the original intentions; the CTA fails to provide how the revenue generated from the tax will be spent; significant tax-free emission allowances remain; the entire proposed system has not been made available for public scrutiny; the system is likely to be fragmented, ineffective and inefficient in that it straddles at least two separate Ministries, and different acts, and is reliant on regulations still to be made; and that the concept of carbon sequestration is not appropriately applied and it is misleading to highlight forest plantations and harvested wood products as being sound sequestration practices in terms of Green House Gas (GHG) emission reduction needs.

The stakeholders' recommendations included that the carbon tax rate must generally be higher; the tax should specifically benefit, and be used to contribute to, climate change mitigation and adaptation measures; the limitation of carbon offsets should be exclusively reserved for hard-to-abate sectors such as cement; the allowances should be removed entirely; stronger pricing increases over time should be considered; the first phase should be extended; the carbon sequestration potential of various activities seeking to be used to reduce carbon tax liability should be scientifically analysed and weighted in terms of assigning a value by which liability is reduced.

5. Summary of submissions received during the public consultation process

5.1 South African Medical Research Council

The SAMRC supports the proposal to tax electronic nicotine and non-nicotine delivery systems as tax plays a critical role in curbing both the initiation and discouraging uptake of these products thus prioritizing and protecting public health.

The SAMRC recommends imposition of a flat tax of at least R5 per millilitre of e-liquids regardless of nicotine concentration to make it less affordable, that is an increase from the R2.90/mil recommended in the bill and a base tax of R50 per unit; an application of an ad valorem tax on the devices and other accessories like batteries; and that the proposed new tax should be used to aid the costs of implementation of regulations for electronic cigarettes and other tobacco control measures as well as cessation programmes for those who would need assistance to quit nicotine addiction.

The SAMRC recommendations are based on health concerns, unproven use of vaping products as a cessation tool and the fact that gateway effects are real (children and adolescents who start electronic cigarette use double their risk of later smoking tobacco cigarettes, and that living closer to a vape shop was associated with an increased risk of ever using e-cigarettes).

5.2 National Department of Health

With the support of the NCAS, the Advocacy Alliance Tobacco Alcohol and Gambling Advisory (TAAG) and the CANSAs, the NDoH submitted that the draft 2022 TLAB proposal to increase the tax supports its goals of protecting public health because the new generation products are introducing new health harms, which are increasing the burden on an already compromised health system.

The Department further said that the tax measures are an important strategy to reduce consumption and demand for vaping products and raised concerns that the vaping products contain nicotine, which is addictive; and are mainly marketed as harm reduction by the industry, which is misleading. The Department raised concerns that while vaping products are marketed as cessation tools from tobacco products, these products are marketed to all age groups, mainly the youth and non-smokers while the cessation approach and the nicotine dispensing are not compliant with medicinal protocols. Emphasis was made that if the products are not controlled or regulated, they will be used by more young people and increase the burden.

5.3 British American Tobacco of South Africa

BATSA recognises that the vaping market is a nascent market with more unknowns than unknowns. BATSA submitted that excise tax needs to be collected from all actors equally to ensure fair competition and an equal playing field for all participants. BATSA further said that it recognises the health risks associated with tobacco and nicotine consumption and believes that underage youth should not consume tobacco; or nicotine products.

BATSA raised concerns that its main contentions in respect of the Discussion Paper issued by the National Treasury on 15 December 2021 and a subsequent workshop which discussed the Taxation of ENNDS held on 22 April 2022 are not reflected in the draft 2022 TLAB. These included that National Treasury did not consider Global Best Practices for the introduction of a new regulatory policy and that there will likely be unintended consequences, National Treasury is not taking into account current scientific evidence, especially in respect of tobacco harm reduction, when making policy decisions and proposals, that it appears from the workshop held that National Treasury is making proposals without having conducted a

full and transparent impact assessment and cost-benefit analysis of the South African ENNDS market, its dynamics and supply chain, and administrative complexities.

BATSA recommends that the excise framework should recognise product complexities and market fragmentation; for a robust excise system, a registration system must be introduced with the excise, make ml labelling on outer product packaging mandatory, implement a track-and-trace system, with a Unique Identity Code per individual product, from day one and avoid fiscal evasion by creating the broadest possible tax net and extend the implementation date to 1 January 2024 to allow for necessary public consultation; and there a need for a sensible approach to maximise revenue collection.

5.4 National Council Against Smoking

NCAS submission focused on three things, (1) the main purpose of the tax on e-cigarettes should be to prevent youth from starting use because e-cigarette use, especially among young people, will lead to regular cigarette smoking later on, (2) the rate of the tax, as small taxes will not impact the affordability of e-cigarettes and will not achieve a key aim of dissuading the youth from initiation use, and (3) the use of the tax given that the benefits of the tax are multiplied if the new tax revenues are used to cover the cost of implementation, as well as other tobacco control or health activities.

The NCAS submits that the proposal to tax e-cigarettes aligns with WHO recommendations that countries which do not ban e-cigarettes, should tax them to recover some of the cost externalities. NCAS commended the proposed R2.90 per ml but raised a concern that this increase will not reduce affordability, especially for disposable system e-cigarettes, which are popular among the youth.

The NCAS recommends that the main purpose of a tax on e-cigarettes should be to prevent youth from starting use, that the excise tax should be set at R5.00 per ml and set a floor of R50 per unit as the proposed R2.90 per ml will not impact the affordability of e-cigarettes and it is also significantly below the current tobacco tax burden; until there is scientific consensus on the harms and risks of e-cigarettes, novel products should be taxed at the same rate as combustible cigarettes, and no differential taxes should apply; and that those new tax revenues should be utilised to cover the cost of implementation and other tobacco control or health measures.

5.5 Research Unit on the Economics of Excisable Products

REEP supports the proposed tax increase but cautioned that the Electronic Nicotine Delivery Systems (ENDS) industry is likely to argue, on the government's proposal to increase excise tax, that they are providing a less harmful product to smokers who are unable to quit smoking, and that these products should therefore not be taxed. They may also argue that e-cigarettes can be used as a quitting device.

REEP recommends that National Treasury should set the excise tax at R5.00 per ml, rather than at the proposed rate of R2.90 per ml and set a floor of R50 per unit. Once the baseline is established, National Treasury should, each year, increase the excise tax on the ENDS by the inflation rate, plus a pre-announced additional percentage, to ensure that ENDS become less affordable over time. Through this multi-year approach, National Treasury will increase the predictability of the tax increases. This will discourage possible e-cigarette users from starting; since they can assume that their habit is becoming more expensive over time.

5.6 Public Health Africa Centre for Tobacco Industry Monitoring (ATIM)

The ATIM submitted that trends in the current use of combustible and e-cigarettes among persons aged 16-34 years during 2010-2021 do not suggest switching is happening, but rather new users coming to the market and that public perception and support is high for regulation in South Africa.

The ATIM recommends that the public health goal should be to prevent youth uptake and reduce addictiveness; while the market is complex and evolving, a simple excise tax protocol of 30 to 57 per cent of the price should be the priority; and has greater potential to prevent youth uptake and generate up to R2 billion as opposed to R860 million from the current proposal; there is a need to make smoking cessation support more widely available at Primary Health Care (PHCs), while effectively regulating these emerging products as bans seems not to have been very effective; and prevention through effective regulation rather harm reduction should remain the focus, especially in South Africa where the cigarette smoking epidemic has not advanced in the largest segment of the population, black Africans and women.

5.7 Cancer Association of South Africa

CANSA submitted that the proposal to tax e-cigarettes aligns with the WHO recommendations that countries which do not ban e-cigarettes, should tax them to recover some of the cost externalities. CANSA raised concerns that the proposed tax of R2.90 per ml to both nicotine and non-nicotine solutions is small and will neither impact the affordability of e-cigarettes nor achieve a key aim of dissuading the youth from initiation use; and that e-cigarette use, especially among young people, will lead to regular cigarette smoking later on and that young e-cigarette users are at least three times more likely to become tobacco users.

CANSA recommends that the main purpose of a tax on e-cigarettes should be to reduce the consumption of this harmful product, and especially to prevent youth from starting use; revenue generation should be a secondary consideration; until there is scientific consensus on the harms and risks of ENNDS, novel products should be taxed at the same rate as combustible cigarettes, and no differential taxes should apply; the tax on e-liquids should be increased to a flat excise duty rate of at least R5.00 per ml for both nicotine and non-nicotine solutions, and the floor should be set at R50 per unit; new tax revenues should be utilised to cover the cost of implementation and other tobacco control or health measures and National Treasury should substantially increase the excise tax on tobacco products next year.

5.8 Vapour Products of South Africa

The VPASA does not support excise tax and raised concerns that the government has severely understated the efficacy of vaping products as a tool for tobacco harm reduction. The VPASA is of the view that at this stage, a tax will favour bigger industry players while making it difficult for smaller businesses to survive. The VPASA is also not clear about the purpose of the excise duty and its projected impact on public health.

The VPASA cautioned that the estimated tax revenue of R680 million does not account for the cost of tax administration and enforcement; that lack of enforcement could incentivise increased illicit activity; and that the proposed excise duty will have significant, unintended, and irrational consequences by emboldening the black market with counterfeit vaping products, making vaping expensive and might have a destructive economic impact on the vaping industry.

VPSA recommends that the government should conduct a SEIA study to have a better understanding of the impact of the proposed excise tax will be on the industry specifically, small businesses and jobs; and that the SABS should devise standards for testing nicotine for

products being declared. Until the above recommendations are implemented, the VPSA recommends that the Committee should defer adopting the proposed excise duty at this stage. If the Committee deems the tax necessary, the industry recommends a tax rate significantly lower than the proposed rate, and lower than that levied on Tobacco Heated Products (THP), given that (ENDS) are less harmful than both combustible tobacco cigarettes and THPs.

5.9 Vaping Saved My Life

VSML submitted that the proposed excise on e-liquids with or without nicotine will have disastrous effects on consumers that use these products to quit smoking and stay abstinent. It further said that it has been demonstrated that the majority of smokers will either resort to making their own, source their preferred product from the black market or revert to smoking.

VSML strongly opposes any excise placed on ENDS and ENNDs e-liquids based on, (1) combustible tobacco has caused untold pain and suffering to many individuals and families in our country for many decades, (2) no model was implemented specifically designed to measure all aspects but have relied on various and sometimes unrelated surveys, and (3) the DoH and, by extension National Treasury have continued to rely on the guidelines provided by the WHO and affiliated groups in formulating both the Tobacco Products Electronic Delivery System Control Bill and the excise on vaping liquids while this dogmatic approach highlights the hypocrisy and a lost opportunity to meet the stated outcomes of reducing non-communicable diseases relating to tobacco consumption.

VSML raised concerns that the government has relied solely on two methods in the attempt to address this, namely, regulations and taxation, and argued that this is insufficient and more focus should be applied to education and cessation support. Citing an example of the South African Tobacco Survey (GATS), the VSML said that it was demonstrated that the

government has yet to implement a model specifically designed to measure all aspects but has relied on various and sometimes unrelated surveys.

VSML recommended that if the government and society genuinely desire to have the non-communicable disease reduced, they should grab every opportunity and devise strategies to make smoking cessation more accessible.

5.10 Alternative Information Development Centre

The AIDC submitted that, when the government proposed a Carbon Tax in 2010, it understood that the purpose of the tax was not for generating revenue but a tax with the singular intention of incentivising heavy fossil polluters to reduce their climate change emissions.

The AIDC believes that the proposed carbon tax amendments in the now draft 2022 TLAB, appear to be protective of the very heavy carbon polluters the tax is supposedly punishing for their anti-social behaviour. The AIDC recommends that the Carbon Tax be strengthened immeasurably rather than weakened beyond recognition.

5.11 Greenpeace Africa

The GPAF submitted that a carbon tax is a crucial mechanism to mitigating South Africa's emissions profile in fulfilment of commitment to limit global temperature increases to the politically endorsed scientific consensus of 1.5oC and the impacts it could potentially have for provincial constituents.

The GPAF strongly objects to the proposed carbon tax increase of US\$1 Rand equivalent to each year for 2023, 2024 and 2025, because this is insufficient to deter carbon majors from continuing with their toxic business models; or to create any meaningful change at all.

Similarly, the proposed increases to the price of carbon between 2026 and 2030 are small compared to the billions of Rands of tax exemptions that fossil fuel corporations receive. The GPAF believes that the carbon tax is too low, and delaying its full implementation may compromise the original intentions of a carbon tax.

The GPAF also strongly opposes carbon offsets because the standards to ensure that carbon offsets are socially and ecologically sound are limited and not well regulated; there is not sufficient public scrutiny for violations; these programmes pose a threat to Indigenous people and local communities through promoting land-use changes, often focusing on monoculture that is vulnerable to pests, outbreaks and wildfires; and this practice threatens to displace communities and threaten their access to natural resources. The GPAF implores the Committee to apply a precautionary approach to carbon off-setting as the practice undercuts climate commitments by incentivising the commodification of nature and allowing carbon majors to continue their unabated pollution.

The GPAF further objects to clause 6(1)(c) of the Bill because the purchasing of renewable energy should not result in an incentive for carbon majors when considerable tax benefits are already reaped. The GPAF also objects to clause 20(1) which makes provision for carbon offsetting and sequestration. The GPAF recommends that the National Treasury should recognise the environmental and social justice co-benefits of addressing the climate crisis and take this opportunity to implement a meaningful carbon tax, avoids double incentives and underpins the South African government's commitment to reducing greenhouse gas emissions.

5.12 Just Share

Just Share supports and is encouraged that the carbon tax rate is being increased. Just Share raised concerns about the three-year delay in the implementation of phase 2 of the CTA; that

the proposed tax rate increase remains far too small to create the necessary incentivisation; that significant tax-free emission allowances remain; that the 2022 Budget Review referenced an increased carbon tax rate being applicable for emissions that exceed the carbon budget to be allocated in terms of the Climate Change Act, but this provision has been removed from the current version of the Climate Change Bill; and that there is currently no penalty or increased tax liability attached to exceeding a carbon budget. Just share recommends that carbon pricing must form part of a supportive policy package.

5.13 World Wide Fund for Nature South Africa

WWF strongly supports the proposal to strengthen the carbon tax. WWF submitted that the previous pathway proposing to stabilise carbon prices at the 2022 level provided a highly inadequate carbon price and failed to adequately incentivise mitigation within South Africa's economy. WWF recommended that providing clarity of the pathway is essential both for incentivising investments into carbon emissions mitigation by the private sector; and for ensuring alignment with the international standards set by trading partners.

WWF believes that the following considerations are critical to enhancing the efficacy of the carbon tax, (1) the limitation of carbon offsets should be exclusively reserved for hard-to-abate sectors such as cement, (2) the removal of allowances (the basic 60 per cent allowance be removed, or at a minimum phased out incrementally over the remainder of the first phase of the tax), (3) enhancing price trajectory (National Treasury should consider stronger pricing increases over time to ensure a more rapid decarbonisation process, aligning with a higher price in 2030), and (4) extension of the first phase.

5.14 Centre for Environmental Rights, Life After Coal Campaign

In principle, the CER (Life After Coal Campaign) is supportive of a carbon tax on GHG emissions, and the levying of a higher carbon tax rate for excessive emissions as one form of incentive to adhere to carbon budgets, provided that the mechanism meets the expanded principles of the Climate Change Bill.

The CER's concerns are that the entire proposed system has not been made available for public scrutiny; the system will be fragmented, ineffective and inefficient in that it straddles at least two separate ministries, and different acts, and is reliant on regulations still to be made; it is inaccurate and inappropriate to simplistically apply the \$25/tCO₂e to South Africa given the carbon intensity of the economy; section 38(1)(e) of the 2022 TLAB provision for post-2030 carbon tax rate increase is vague, creating uncertainty for longer-term climate resilience and mitigation investment; the concept of carbon sequestration is not appropriately applied and that it is misleading to highlight forest plantations and harvested wood products as being sound sequestration practices in terms of GHG emission reduction needs; the CTA fails to provide how the revenue generated from the tax will be spent; and the inclusion of offset allowances in the CTA.

The CER recommends a much higher carbon tax rate in general; and an additional punitive tax on emitters exceeding carbon budgets; amendment of the wording of Section 38(1)(e); the carbon sequestration potential of various activities seeking to be used to reduce carbon tax liability be scientifically analysed and weighted in terms of assigning a value by which liability is reduced; the allowances should be removed entirely, for the CTA to be aligned with own objectives, and if these allowances remain, their values should be significantly reduced in each successive year with immediate effect, even during the extended phase one of the CTA; the tax should specifically benefit, and be used to contribute to, climate change

mitigation and adaptation measures; and the revenue generated from the tax must be applied towards national, provincial and local climate change mitigation and adaptation measures.

6. National Treasury's responses to submissions made

6.1 Taxation of electronic Nicotine and Non-Nicotine Delivery Systems

In response to comments made on the excise structure and duty rate that vaping products should be taxed at the same rate as combustible cigarettes and no differential taxes should apply, National Treasury said that its assessment of the proposed excise rate indicates that the rate is comparable with current practise globally. The intention of the tax is for excisable products to become unaffordable, especially for more vulnerable groups such as the youth. However, it is the Minister of Finance that makes the decisions about the excise rates and adjustments.

On the recommendation that the excise tax should be set at R5.00 per ml, rather than at the proposed rate of R2.90 per ml and set a floor of R50 per unit, National Treasury responded that the current proposed rate is an introductory rate that may be adjusted in the short to medium term during the budget process. The proposed excise rate is also comparable to other rates applied in other jurisdictions that have implemented excise duties on vaping products. However, it is the Minister of Finance that makes the decisions about the excise rates and adjustments.

The stakeholders also proposed that National Treasury should apply ad valorem tax on the devices and other accessories like batteries; introduce a robust administrative framework to mitigate the risk of fiscal evasion and ensure the appropriate product compliance and standards are adhered to in the market; and support such a framework with a robust anti illicit trade framework, which includes, amongst other things, licensing of importers and

manufacturers of nicotine, security and customs presence at manufacturing sites and bonded warehouses, auditing and traceability of products. In response, National Treasury explained that South Africa has a separate ad valorem excise regime which applies to luxury goods, therefore the government could also consider including electronic cigarette devices in the ad valorem schedules in the future. It further said that SARS as the implementing agency will ensure that all the necessary measures for licencing and registration of taxpayers are done for effective enforcement of the legislation and that SARS has committed itself to detect taxpayers and traders who do not comply with their tax obligations and make non-compliance hard and costly for them.

Further recommendations made include total visibility of the products entering and moving through the market; introduction of mandatory ml labelling requirements on outer packaging; and the extension of the implementation date for the new excise to 1 January 2024.

National Treasury responded that the NDoH is leading the government on the matter of ratifying the WHO's Protocol to Eliminate Illicit Trade in Tobacco Products and as part of the Protocol, South Africa would be required to consider, as appropriate developing a practical tracking and tracing regime that would further secure the distribution system and assist in the investigation of illicit trade, and the implementation of a track and trace system would be beneficial for the administration of all excisable products as it would equally apply. In addition, the NDoH is revising legislation to include regulation of ENDS/ENNDS which will empower its Minister to make regulations on several issues related to the regulation of the products.

Regarding the implementation date, National Treasury clarified that the initial proposal announced in the 2022 Budget was to implement the excise duty from 01 January 2023.

However, in the 2022 TLAB, consideration was made to have a later implementation date of 01 June 2023 to provide SARS and taxpayers sufficient time for the administration of the system. SARS will develop the administration rules and conduct stakeholder/taxpayer engagements.

6.2 Carbon tax proposals

In response to concerns raised that the proposed carbon tax rate is insufficient to deter carbon majors from continuing with the toxic business models; National Treasury responded that the first phase of the carbon tax will be extended in light of the impacts of the COVID-19 pandemic on the economy, to allow the economy to recover. Although the proposed rates in the 2022 TLAB are below the carbon prices required to fully internalise the externality costs of climate change, they would start to align with the average effective carbon tax rates implemented globally. This would send an important price signal to drive future investment decisions. Companies that invest in low-carbon technologies and energy efficiency measures now will have a lower carbon tax liability.

Regarding comments on tax-free allowances, that the basic deduction of 60 per cent across the board undermines the effectiveness of the carbon tax and will increase the effective shock when it is removed, the National Treasury responded that the carbon tax is intended to help reduce the price differential between the low and high carbon-emitting technologies. The current carbon tax design provides significant tax-free allowances and revenue recycling measures to support the industry's transition and minimise potential adverse impacts on industries and poor and low-income households. The CTA does not include a sunset date on the transition allowances. A provision for the retention of the allowances is therefore not required. A paper on phase 2 of the carbon tax will be published in 2023. This will include

design options for the carbon tax allowances. Consultations with stakeholders will be held once the paper is published.

Regarding a comment that the government should identify priority sectors for carbon budget allocation and carbon offset allowances, potentially exclude some sectors with unavoidable process emissions that do not align with a long-term low carbon trajectory; the National Treasury mentioned that there is a limitation on the number of offsets that can be used in the carbon tax system. Future adjustments of the tax-free allowances for the hard-to-abate sectors will take into account the availability of mitigation technologies and the pace and scale of the transition over the next decade. Adjustments to the Carbon offsets allowances may be made through a consultation process to plan accordingly for the future of the offsets market. National Treasury further noted that it is important for accounting carbon dioxide removals from the atmosphere under financial mechanisms or emissions reduction mitigation actions that are permanent. The carbon sequestration deduction takes into account the Department of Forestry Fisheries and the Environment (DFFE) guidelines on accounting for the permanence of sequestered carbon dioxide.

7. Committee observations

7.1 The Committee welcomes the high-quality submissions and the robust discussions held with the stakeholders, and the comprehensive responses by the National Treasury on the issues raised and recommendations made by the stakeholders.

7.2 The Committee noted that the key proposals in the draft 2022 TLAB proposals seek to amend several pieces of legislation, including the CTA, CEA, ITA, VAT, and TLAA. Whilst there are several substantive proposed amendments, most of the proposed

amendments relate to the clarification of certain provisions in various Acts; changing; reviewing; refining or clarifying certain definitions; and technical corrections.

7.3 The Committee noted that most public submissions received commented on the newly proposed tax on nicotine and non-nicotine delivery systems and the proposed carbon tax proposals.

7.4 The Committee noted that, in principle, most commentators on the proposed nicotine and non-nicotine delivery systems and carbon tax are supportive of the tax proposals; but have made recommendations for effective implementation of the proposed tax.

7.5 The Committee refers to the observations and recommendations on these issues in the Report on the Rates and Monetary Amounts and Amendment of Revenue Laws Bill.

7.6 The proposed tax on nicotine and non-nicotine delivery systems

7.6.1 The Committee noted the concern raised by the stakeholders that the proposed tax rate on vaping products is too low and might not achieve the intended objectives. The Committee also noted the National Treasury's response that while the decision to adjust the excise rates lies with the Minister of Finance, the current proposed rate may be adjusted in the short to medium term during the budget process and that it is comparable with rates applied in other jurisdictions that have implemented excise duties on vaping products.

7.6.2 The Committee further noted the response from the stakeholders that instead of comparing rates with other countries, the National Treasury should consider better understanding the South African vaping market; conduct a Socio-Economic Impact Assessment study to have a better understanding of what the impact of the proposed excise tax will be on the industry, specifically, on small businesses and jobs; and that the government must devise strategies to reduce the extent of smoking.

7.6.3 The Committee noted the National Treasury's response to the recommendation of the introduction of an administrative and illicit trade framework to mitigate the risk of fiscal evasion and ensure the appropriate product compliance and adherence to standards; that the SARS, as the implementing agency, will ensure that all the necessary measures for licencing and registration of taxpayers are done for effective enforcement of the legislation.

7.6.4 The Committee noted the importance of South Africa ratifying the WHO protocol to Eliminate Illicit Trade in Tobacco, and the National Treasury's response that the NDoH is leading the government on the matter. The Committee will also follow up with the National Treasury and the SARS on a recommendation made in its report on this matter.

7.6.5 The Committee noted the stakeholder's proposal to extend the implementation date for the new excise to 1 January 2024, to allow for necessary public consultation and the National Treasury's response that while the date was already extended to June 2023, the SARS will develop the administration rules and conduct consultations with the stakeholders. The Committee further noted the response from the stakeholders that the proposed deadline of June 2023 appears ambitious as its tightness may not allow the National Treasury and SARS to better understand the South African vaping market, conduct effective public consultations, ensure that the reporting measuring tools, requirements are met, and companies are afforded sufficient time to update their systems. National Treasury was urged to guard against non-compliance and fiscal evasion.

7.6.6 The Committee further noted the proposal from the stakeholders that the National Treasury should consider developing a road map for excise tax, similar to the carbon tax road map, which will determine the expected tax rate for 5-10 years of inflation rate adjustment and proposed tax increases; and put systems in place to address illicit trade.

7.7 Carbon tax proposals

7.7.1 The Committee noted a concern raised by the majority of commentators that the proposed carbon tax is too low to make the desired impact on climate change and change behaviour of industries. The Committee also noted the National Treasury's response that while the proposed rates are below the carbon prices required to fully internalise the externality costs of climate change, they would start to align with the average effective carbon tax rates implemented globally, and this would augur well for future investment decisions.

7.7.2 The Committee noted the National Treasury's response to concerns raised by the stakeholders on significant tax-free carbon tax allowances, that these allowances are expected to support the industry's transition and to minimise potential adverse impacts on industries and poor and low-income households. Also, the National Treasury will publish a paper on phase 2 of the carbon tax in 2023, which will include design options for the carbon tax allowances and the stakeholders will be consulted.

7.7.3 The Committee noted that tax can be a blunt instrument in driving tax policy decisions and that passing the proposed tax increases does not guarantee tax revenue in the national fiscus.

7.7.4 The Committee noted NT is opposed to the ring-fencing revenue raised for specific programmes. NT said that tax revenues are "not ear-marked or ring-fenced for any particular expenditure. Earmarking could lead to an inefficient allocation of revenue, with fewer levels of accountability. Programmes may still find themselves short of funds if ear-marked instruments do not bring in sufficient revenue"

8. Recommendations

- 8.1 The Committee recommends that the National Treasury should allow for adequate public participation and effectively engage with the stakeholders before the Bills are brought to Parliament, preferably between now and February 2023. The Committee encourages the stakeholders to utilise the time from when the National Treasury first publishes the amendment Bills for public comment, and the National Assembly public participation process to start raising their issues and comments on the Bills, and not only wait for the NCOP process, given that tax bills are not section 76 bills, which NCOP committees have the same power as NA committees to amend.
- 8.2 The Committee urges the stakeholders to also make submissions on how the tax proposals impact provinces.
- 8.3 The Committee urges the National Treasury to assist the stakeholders to understand the annual budget process and that the stakeholders should note that repeated submissions are needed to make policy changes, but it will take time. Also, civil society should utilise its collective power to mobilise and campaign and not just make presentations to the Parliamentary Committees.
- 8.4 The Committee believes that there is room for further research on the proposed taxation and recommends that the National Treasury and SARS should consider conducting socio-economic assessment studies on the proposed changes in the legislation to better understand the projected impact on public health, business and the economy, and better understand the South African vaping market.
- 8.5 The Committee recommends that the National Treasury and SARS should put effective revenue collection mechanisms in place to ensure that maximum revenue is collected; ensure compliance and timeously provide guidance on administrative systems.

- 8.6 The Committee recommends that the specialists on vaping and tobacco in the Department of Health should brief the Committee in the first half of 2023 on the impacts of vaping compared to cigarette smoking on public health.
- 8.7 The Committee recommends that the National Treasury should report on the impact of the increases in the HPL in the sugar-cane growing provinces, particularly KZN, in the first half of 2023. The Committee requires NT to explain if it considers a measure of compensation in the provincial equitable share if tax proposals impact adversely mainly on one or some provinces. This recommendation should go to the Rates Bill.
- 8.8 The Committee recommends that the National Treasury should consider a recommendation made by the stakeholders that the proposed implementation of the new vaping tax, still appears far too ambitious as there is a need to conduct a study to better understand the South African vaping market, SARS must conduct the public participation process and ensure that the reporting requirements and measuring tools are provided and the companies must update their systems.

The Select Committee on Finance, having considered and examined the Taxation Law Amendment Bill [B26 - 2022] (National Assembly – section 77), referred to it, and classified by the JTM as a section 77 Bill, accepts the Bill.

The Democratic Alliance (DA), Economic Freedom Fighters (EFF) and Freedom Front Plus (FF+) reserve their position.

Report to be considered

5. Report of the Select Committee on Finance on the 2022 Tax Administration Laws Amendment Bill [B27B - 2022] (National Assembly-section 75), dated 01 December 2022

1. Introduction and background

The Minister of Finance first introduced the draft version of the 2022 Tax Administration Laws Amendment Bill (TALAB) in July 2022. The TALAB was formally tabled in Parliament on 26 November 2022, together with the Medium Term Budget Policy Statement (MTBPS).

The Committee received a briefing from the National Treasury and the South African Revenue Service (SARS) on 18 October 2022. Despite calling for public comments, the Committee received no submissions on the 2022 TALAB.

2. Overview of the amendments in the 2021 TALAB

The objective of the 2022 TALAB is to amend the following Acts: Transfer Duty Act (TDA), 1949, Estate Duty Act (EDA), 1955, Income Tax Act, 1962 so as to make a consequential amendments; textual corrections; and to allow a regulated intermediary to recover refundable dividends tax from the Commissioner in certain instances; the Customs and Excise Act (CEA), 1964, to provide for the publication of advance rulings in certain circumstances; to enable the Commissioner to make rules for the time for submission of entries in respect of any types of cargo; to clarify a provision relating to particulars on invoices and to effect changes to other provisions consequential to this clarification to ensure consistency of wording relating to invoice particulars; to repeal an outdated provision; to insert a chapter providing for advance rulings in respect of the tariff classification, the application of a

specific valuation criterion and the origin of goods of a specific class or kind and for related matters; to provide for consequential amendments relating to advance rulings; and to enhance the general enabling rule provision; the Value-Added Tax Act (VAT), 1991, so as to make consequential amendments and insert a specific exception from registration for non-resident suppliers under certain circumstances; the Tax Administration Act (TAA), 2011, so as to amend a definition; delete a recognised controlling body; to provide that the tax compliance status of a taxpayer must also include an indication that a taxpayer is a newly registered taxpayer as stipulated and to clarify that SARS has the right to revoke third party access to a taxpayer's tax compliance status under certain circumstances; the Employment Tax Incentive Act (ETIA), 2013, so as to classify an employment tax incentive reimbursements as a refunds for purposes of the TAA, 2011, and specifically as refunds of tax for purposes of the understatement penalty provisions in terms of that Act, and to provide for matters connected therewith.

3. Proposed amendments in the draft 2022 TALAB and key issues raised by the stakeholders

This section briefly summarises the key issues raised during National Treasury and SARS' public consultation process. The SeCoF received no public comments on the 2022 TALAB.

3.1 Customs and Excise Act

3.1.1 Clarifying the requirements for invoices for purposes of the Customs and Excise Act

The draft 2022 TALAB proposed to amend the legislation to clarify the requirements for invoices in respect of goods imported or exported. The requirements specifically allow the Commissioner to prescribe particulars in respect of invoices by rule. As further explained by

the National Treasury, an invoice supporting an entry of goods must be true and correct and reflect the information that is required to be able to make a valid entry of the relevant goods, but the Commissioner may prescribe additional particulars depending on the circumstances, which particulars may also include particulars in respect of the transaction value of the goods.

The draft 2022 TALAB proposed to change the definition of “invoice” to avoid repetition and to ensure consistency about the wording referring to invoices or particulars on invoices in the Act. After the public consultation process, the draft 2022 TALAB proposes that the definition of an “invoice” be changed to refer to an invoice contemplated in section 41(1) to ensure consistency.

3.1.2 Advance rulings under the Customs and Excise Act

The draft 2022 TALAB proposed the insertion of Chapter IXA, to give effect to the 2022 Budget announcement that an enabling framework for advance rulings will be provided for in the CEA. As the SARS clarified, Article 3 of the World Trade Organisation Trade Facilitation Agreement obliges member states to provide for a system of advance rulings for the tariff classification and origin of goods as well as on the appropriate method or criteria to be used for determining the customs value of goods. The advantages of advance rulings that are binding for some time include facilitating international trade by assisting clients to assess future duty liabilities and to do better financial planning, as well as providing clarity and certainty and thereby improving compliance by traders. South Africa has committed to implementing such a system by 22 February 2028.

After the public consultation process, the draft TALAB proposes that applications for advance rulings be limited to importers; and the tax compliance requirement for applicants amended to provide for an applicant to be considered as tax compliant where arrangements acceptable to SARS have been made to file outstanding tax returns or pay an outstanding tax

debt. The other concerns raised during public consultation are matters that will be addressed in the rules to be drafted and subject to their public consultation process.

3.2 Tax Administration Act

3.2.1 Tax compliance status system abuse

SARS observed increased abuse of the tax compliance status system, where taxpayers that are economically active may file nil or otherwise inaccurate returns to meet the requirement that there are no outstanding returns, amongst other abuses. In the 2022 Budget review, it was proposed that approaches to ensuring that the tax compliance system provides a more accurate reflection of the actual tax compliance status of taxpayers be investigated.

As a preliminary step in combatting the abuse, the draft 2022 TALAB proposed to clarify the TAA that SARS has the right to revoke third-party access to a taxpayer's tax compliance status should it become apparent at any point in time that the taxpayer's tax compliance status is in question due to fraud, misrepresentation or non-disclosure of material facts.

Taxpayers will continue to be given at least 10 business days' notice to respond to SARS' concerns before revocation may take place. As a further precautionary measure, it was also proposed that the tax compliance status of a taxpayer include an indication that a taxpayer is a newly registered taxpayer if the taxpayer has not reached the date for the submission of a return or making of payment in respect of any of the taxes for which they are registered. Users of the tax compliance status will thus be aware that the status is not based on actual returns or payments and that additional due diligence may be required.

To take the public comments into consideration, the draft 2022 TALAB proposes changes to clarify that, the legislation refers to a suspicion of fraud, misrepresentation or non-disclosure of material facts; reserve the power to revoke access for a senior SARS official; address the

challenge that may be encountered by dormant companies registered for Corporate Income Tax (CIT) that are not required to submit provisional tax returns or individuals registered for Personal Income Tax (PIT) that fall within the auto-assessment population; and a taxpayer will thus no longer be regarded as a “newly registered taxpayer” on the earlier of the following three events: the taxpayer has reached the first date on which the taxpayer is required to submit a return or make a payment under a tax Act, in respect of a tax for which the taxpayer is registered; The taxpayer has submitted a return or made a payment, prior to the first date on which the taxpayer is required to submit a return or make a payment as mentioned; or a period of one year from the date the taxpayer was registered for a tax in terms of a tax Act has lapsed.

3.2.2 Imposition of understatement penalty for employment tax incentives improperly claimed

Given the abuse of the Employment Tax Incentive (ETI) that has been encountered, SARS proposes that the ETIA be amended to facilitate the imposition of understatement penalties on ETI reimbursements improperly claimed. This is achieved by classifying ETI reimbursements as refunds for purposes of the TAA and specifically as refunds of tax for purposes of the understatement penalty provisions.

After the public consultation process, the draft 2022 TALAB proposes that the effective date of implementation be changed to indicate that the proposed amendment will apply to returns filed on or after 1 September 2022 and an understatement penalty be imposed in terms of the TAA will be reduced by any penalty imposed on the relevant ETI reimbursement improperly claimed under the ETIA to ensure that there is no duplication of penalties.

4. Committee recommendations

4.1 Essentially this Bill is mainly related to the TLAB. The Committee refers to the recommendations in the 2022 TLAB as relevant to the recommendations in this Bill.

The Select Committee on Finance, having considered and examined the Tax Administration Laws Amendment Bill [B27B - 2022] (National Assembly – section 75), referred to it, and classified by the JTM as a section 75 Bill, accepts the Bill.

The Democratic Alliance (DA), Economic Freedom Fighters (EFF) and Freedom Front Plus (FF+) reserve their position.

Report to be considered