Tuesday, 29 November 2022]

No 191—2022] FOURTH SESSION, SIXTH PARLIAMENT

PARLIAMENT

OF THE

REPUBLIC OF SOUTH AFRICA

ANNOUNCEMENTS, TABLINGS AND COMMITTEE REPORTS

TUESDAY, 29 NOVEMBER 2022

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ANNOUNCEMENTS

National Assembly and National Council of Provinces

The Speaker and the Chairperson

1. Calling of Joint Sitting

CALLING OF JOINT SITTING OF PARLIAMENT

In terms of section 84(2)(d) of the Constitution of the Republic of South Africa, 1996, read with Rule 7(1)(a) of the Joint Rules of Parliament, the President of the Republic of South Africa has called a joint sitting of the National Assembly and the National Council of Provinces on Thursday, 9 February 2023 at 19:00, in order to deliver the State-of-the-nation Address to Parliament.

N N MAPISA-NQAKULA MP
SPEAKER OF THE NATIONAL ASSEMBLY

A N MASONDO MP
CHAIRPERSON OF THE NATIONAL COUNCIL OF PROVINCES

2. Calling of Joint Sitting

CALLING OF JOINT SITTING OF PARLIAMENT

The Speaker of the National Assembly, Ms N N Mapisa-Nqakula, and the Chairperson of the National Council of Provinces, Mr A N Masondo, in terms of Joint Rule 7(2), have called a joint sitting of the Houses of Parliament to conduct a debate on the President's State-of-the-nation Address on 14 and 15 February 2023 at 14:00. The President's reply to the debate is scheduled for 16 February at 14:00.

N N MAPISA-NQAKULA MP
SPEAKER OF THE NATIONAL ASSEMBLY

A N MASONDO MP
CHAIRPERSON OF THE NATIONAL COUNCIL OF PROVINCES

National Assembly

The Speaker

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

(1) Bill, subject to proposed amendments, passed by Council on 29 November 2022 and returned for consideration of Council's proposed amendments:

(a) **Electoral Amendment Bill** [B1B-2022] (National Assembly – sec 75) (for proposed amendments, see Announcements, Tablings and Committee Reports, 25 November 2022, p 7).

Bill and proposed amendments referred to the **Portfolio Committee on Home Affairs** of the National Assembly.

2. Introduction of Bills

(1) **The Minister of Women, Youth and Persons with Disabilities**

(a) **National Council on Gender-Based Violence and Femicide Bill** [B31-2022] (National Assembly – proposed sec 75) [Explanatory summary of Bill and prior notice of its introduction published in ***Government Gazette*** No 46991 of 30 September 2022.]

Introduction and referral to the **Portfolio Committee on Women, Youth and Persons with Disabilities** of the National Assembly, as well as referral to the Joint Tagging Mechanism (JTM) for classification in terms of Joint Rule 160.

In terms of Joint Rule 154 written views on the classification of the Bill may be submitted to the JTM. The Bill may only be classified after the expiry of at least three parliamentary working days since introduction.

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 29 November 2022:

(a) **Rates and Monetary Amounts and Amendment of Revenue Laws Bill** [B25-2022] (National Assembly – sec 77).

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

(2) Bill passed by National Assembly and transmitted for concurrence on 29 November 2022:

(a) **Taxation Laws Amendment Bill** [B26-2022] (National Assembly – sec 77).

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

(3) Bill passed by National Assembly and transmitted for concurrence on 29 November 2022:

(a) **Tax Administration Laws Amendment Bill** [B27B-2022] (National Assembly – sec 75).

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

(4) Bill passed by National Assembly and transmitted for concurrence on 29 November 2022:

(a) **Protection of Constitutional Democracy against Terrorist and Related Activities Amendment Bill** [B15B-2022] (National Assembly – sec 75).

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

TABLINGS

National Assembly and National Council of Provinces

1. The Minister of Transport

(a) Report and Financial Statements of the Road Accident Fund for 2020-21, including the Report of the Auditor-General on the Financial Statements and Performance Information for 2020-21.

COMMITTEE REPORTS

National Assembly

1. REPORT OF THE STANDING COMMITTEE ON APPROPRIATIONS ON THE ADJUSTMENTS APPROPRIATION BILL [B23 – 2022], DATED 29 NOVEMBER 2022

The Standing Committee on Appropriations having considered the *Adjustments Appropriation Bill [B23-2022]* (National Assembly – section 77), referred to in terms of section 12 (15) of the Money Bills and Related Matters Act, 2009 (Act No. 9 of 2009) (as amended), reports as follows:

1. Introduction

The Minister of Finance tabled the 2022 Adjustments Appropriations Bill (henceforth referred to as the Bill) in Parliament on 26 October 2022 during the presentation of the 2022 Medium Term Budget Policy Statement (MTBPS). The Bill was tabled in Parliament in terms of section 12(1) and (2) of the Money Bills and Related Matters Act as amended by the Money Bills Amendment Procedure and Related Matters Amendment Act, 2018 (Act No. 13 of 2018). Section 12(1) of the Money Bills and Related Matters Act requires the Minister of Finance to table a national adjustments budget as envisaged in section 30 of the Public Finance Management Act, 1999 (Act No. 1 of 1999) (hereafter referred as the PFMA). Section 12(2) of the Money Bills and Related Matters Act requires that "an adjustments appropriation Bill must be tabled with a national adjustments budget". The Bill was referred to the Committee on 9 November 2022 for consideration and report in terms of section 12(15) of the Money Bills and Related Matters Act.

In addition to National Treasury briefing the Committee on the Bill in its entirety, the Financial and Fiscal Commission and Parliamentary Budget Office were also invited to comment on the Bill. Furthermore, to deliberate and understand the possible service delivery implications of the budget adjustments, the Committee invited national government departments who were affected by the budget adjustments to make oral and written submissions on the overall impact of these budget adjustments on their respective legislative mandate. The Department of Social Development as well as the South African Social Security Agency (SASSA), briefed the Committee on 18 November 2022. In addition, the Department of Cooperative Governance and Traditional Affairs as well as the National Disaster Management Centre (NDMC) were invited to brief the Committee on 22 November 2022.

To facilitate public participation and involvement, an advertisement was published in national and community newspapers from 27 to 30 October 2022 inviting general public and all interested stakeholders to make written submissions and comments on the Bill. The Congress of South African Trade Unions, Public Service Accountability Monitor, Organisation Undoing Tax Abuse, and Equal Education made comments on the Bill in response to the aforementioned advertisement. A public hearing on the Bill was held on 25 November 2022 via the Zoom virtual meeting platform.

Section 43 (1) of the Public Finance Management Act of 1999 (PFMA) allows Accounting Officers to utilise savings in the amount appropriated under a main division (programme) within a vote to defray excess expenditure under another main division within the same vote, unless the relevant treasury directs otherwise. However, section 43 (2) states that the amount of savings under a main division of a vote that may be utilised in terms of subsection (1) may not exceed 8 per cent of the amount appropriated under that main division. To this end, the Committee identified departments that have exceeded the 8 per cent requirement of the PFMA and National Treasury supplied the reasons for these virements and supported these virements. These departments were National Treasury, Higher Education and Training, Health, Social Development, Independent Police Investigative Directorate, Communication and Digital Technologies, Employment and Labour, Forestry, Fisheries and the Environment, Science and Innovation, and Trade, Industry and Competition. Furthermore, section 43 (4) does not authorise (a) the utilisation of savings on an amount specifically and exclusively appropriated for purpose mentioned under a main division within a vote, (b) the utilisation of savings on an amount appropriated for transfer to another institution, and (c) utilisation of savings on an amount appropriated for capital expenditure in order to defray current expenditure.

This report focuses on the proposed adjustments to the Appropriations Act (Act No. 7 of 2022) as tabled by the Minister of Finance and the matters raised during the engagements with the invited stakeholders and the organisations that made submissions in response to the Committee advertisements.

2. Overview of the 2022 Adjustments Appropriation Bill

Total in-year spending adjustments amounts to R13 billion, inclusive of the total adjusted appropriations per vote and adjusted estimates of direct charges against the National Revenue

Fund (NRF). The Adjustments Appropriation Bill provides for increases to allocations set out in the main Appropriation Act of 2022. The in-year spending adjustments is as follows:

- In total, the net effect of the Adjustments Appropriation is an increase to vote appropriations by R7.453 billion as follows:
  - Unforeseeable and unavoidable expenditure amounting to R6.3 billion, prompted largely by the flood damages in KwaZulu-Natal and Eastern Cape provinces.
  - Expenditure earmarked in the 2022 Budget Speech for future allocation totalling R500 million towards the Presidential Employment Initiative (PEI), with the main focus being the digitisation programme for the Department of Home Affairs.
  - Rollovers totalling R990 million. The bulk of the rollovers emanate from two votes (Agriculture, Land Reform and Rural Development vote and Communications and Digital Technologies vote) for the roll-out of Phase 2 of the PEI.
  - Total declared unspent funds amount to R1.96 billion and is largely driven by the Social Development Vote where R1.8 billion was unspent due to lower than anticipated uptake of the Social Relief of Distress (SRD) grant.

- Of the total in-year adjustments of R13 billion, R7.24 billion is with respect to direct charges against the NRF as follows:
  - A proposed additional allocation of R5.93 billion towards Debt service costs.
  - A proposed additional allocation of R48.5 million as unforeseeable and unavoidable expenditure through the Provincial Equitable Share for provincial Social Development departments for the continuation of care and protection of flood victims who were placed in shelters in KwaZulu-Natal.
  - A proposed additional allocation of R306.26 million for State Owned Companies (SOEs): Denel R204.7 million and Land and Agricultural Development Bank R101.56 million.
  - A proposed additional allocation of R618.82 million for the skills levy and sector education and training authorities (SETAs).

Table 1: Unforeseeable and unavoidable expenditure

Vote and description of expenditure		R thousand
National government		**6,346,941**
2	**Parliament**	
	Initial costs to rehabilitate the Parliamentary building damaged by fire and additional accommodation for Parliament members	118,000
3	**Cooperative Governance**	
	R3 292.719 million for the municipal disaster recovery grant for the reconstruction and rehabilitation of municipal infrastructure damaged by floods in the KwaZulu-Natal, Western Cape, and Eastern Cape, R247.614 million to replenish the municipal disaster response grant; and R96.886 million for the provincial disaster response grant	3,637,219
16	**Basic Education**	
	Reconstruction and rehabilitation of schools damaged by floods in KwaZulu-Natal and Eastern Cape	116,766
23	**Defence**	
	Operation CHARIOT: Deployment of forces to flood affected areas of Kwazulu-Natal	193,450
33	**Human Settlements**	
	R350 million top-up funding for the provincial emergency housing grant and R92.106 million for the informal settlements upgrading partnership grant	442,106
40	**Transport**	
	R1 020.4 million for the provincial roads maintenance grant: Disaster relief component; R454 million for the South African National Roads Agency: Non-toll network (Capital); and R365 million for the South African National Roads Agency: Damage to toll roads from floods in KwaZulu-Natal	1,839,400
Provincial government		**48,500**
8	**National Treasury** **Provincial equitable share**	
	Provincial Department of Social Development for the continued care and protection of flood victims who were placed in shelters in KwaZulu-Natal	48,500
Total		**6,395,441**

Source: *National Treasury (2022) Adjustments Appropriation Bill*

Table 2: Expenditure earmarked in the 2022 Budget speech for future allocation

Vote and description of expenditure		R thousand
5	**Home Affairs**	**500,000**
	Presidential employment initiative: Home Affairs digitisation programme	
Total		**500,000**

Source: *National Treasury (2022) Adjustments Appropriation Bill*

Table 3: Roll-overs

Vote and description of expenditure		R thousand
3	**Cooperative Governance**	**12,835**
	Ex-gratia payment for ex-councillors	
6	**International Relations and Cooperation**	**102,000**
	R78 million for the procurement of server and storage to refresh infrastructure, laptops and desktops; and R24 million for the repatriation of South African citizens due to COVID-19 travel restrictions	
14	**Statistics South Africa**	**193,972**
	Remuneration Census 2022 field staff	
27	**Office of the Chief Justice**	**26,522**
	Purchase of server, storage, and virtualisation to refresh infrastructure	
29	**Agriculture, Land Reform and Rural Development**	**231,000**
	Payment to subsistence producers selected in phase 2 of the presidential employment initiative	
30	**Communications and Digital Technologies**	**200,000**
	Broadband Access Fund: Phase 2 of the presidential employment initiative	
31	**Employment and Labour**	**108,175**
	R3.849 million for the construction of the Taung labour centre, R32.326 million for the completion of an ICT maintenance and support project for enterprise resource planning, R20 million for the presidential employment initiative for recruiting intern psychologists, and R52 million for the Government Technical and Advisory Centre to appoint an ecosystem manager	
34	**Mineral Resources and Energy**	**72,865**
	R1 million for the integrated national electrification programme grant, R28.045 million for the payment of integrated national electrification programme: Non-grid electrification service providers, and R43.82 million for the solar water heater programme	
40	**Transport**	**27,775**
	R7.08 million for new ICT equipment and R20.695 million for the resettlement of 3 858 households on Passenger Rail Agency of South Africa reserves	
41	**Water and Sanitation**	**15,341**
	R15.341 million for the regional bulk infrastructure indirect grant for operational expenditure for the Emfuleni local municipality's water infrastructure (Vaal River System)	
Total		**990,485**

Source: *National Treasury (2022) Adjustments Appropriation Bill*

Table 4: Shifting of funds between votes

Vote and description of expenditure		R thousand
10	**Public Enterprises** Funds shifted from the Social Development for Transnet to repair flood-damaged infrastructure	**2,937,000**
13	**Public Works and Infrastructure** Declared unspent funds of R388.91 million shifted to Transport to construct 24 bridges in Eastern Cape and Limpopo	**(388,910)**
19	**Social Development** Declared unspent funds of R755.303 million shifted to Defence and R2.937 billion shifted to Public Enterprises	**(3,692,303)**
23	**Defence** Funds shifted from Social Development to cover a budget shortfall due to the extended deployment of the South African National Defence Force as part of Operation VIKELA in Mozambique	**755,303**
25	**Justice and Constitutional Development** Funds shifted from Agriculture, Land Reform and Rural Development to provide for the legal representation function performed by Legal Aid South Africa	**89,603**
29	**Agriculture, Land Reform and Rural Development** Funds shifted to Justice and Constitutional Development to provide for the legal representation function being performed by Legal Aid South Africa	**(89,603)**
31	**Employment and Labour** Funds shifted from Forestry Fisheries and the Environment for the secretariat of the presidential climate commission and its associated responsibilities	**9,995**
32	**Forestry Fisheries and the Environment** Funds shifted to Employment and Labour for the secretariat of the presidential climate commission and its associated responsibilities	**(9,995)**
40	**Transport** Funds shifted from Public Works and Infrastructure to the provincial roads maintenance grant to construct 24 bridges as part of the Welisizwe rural bridges programme	**388,910**
Total		–

Source: *National Treasury (2022) Adjustments Appropriation Bill*

Table 5: Self-financing expenditure

Vote and description of expenditure		R thousand
4	**Government Communication and Information System** Expenditure to produce Vuk'uzenzele newspaper, which is funded from revenue generated through advertising in the newspaper	**1,000**
5	**Home Affairs** Expenditure incurred issuing official documents, which is defrayed by revenue generated from issuing the documents	**798,000**
22	**Correctional Services** Expenditure for offender gratuities, which is funded from revenue generated from the hiring out of offender labour	**896**
23	**Defence** Expenditure for defence activities, which is defrayed from reimbursements from the United Nations for South Africa's contribution towards peace support operations, and the sale of equipment and spares procured through the special defence account	**760,185**
39	**Trade Industry and Competition** R9.246 million for unitary payment in respect of the public-private partnership for shared campus accommodation, which is funded from unitary payments received from public entities and R10.625 million for expenditure towards the Industrial Development Corporation: Tirisano Construction Fund for projects that form part of the annual plan under the voluntary rebuild programme settlement agreement	**19,871**
Total		**1,579,952**

Source: *National Treasury (2022) Adjustments Appropriation Bill*

Table 6: Declared unspent funds and projected underspending

Vote and description of expenditure		R thousand
8	**National Treasury** On payments for financial assets	**101,557**
10	**Public Enterprises** Compensation of employees	**3,800**
13	**Public Works and Infrastructure** Transfers and subsidies	**21,548**
19	**Social Development** R350 social relief of distress grant	**1,769,697**
28	**Police** Payments for capital assets	**31,806**
36	**Small Business Development** Compensation of employees	**35,000**
Total declared unspent funds		**1,963,408**
National government projected underspending		**3,917,343**
Local government repayment to the National Revenue Fund		**2,000,000**
Total		**7,880,751**

Source: *National Treasury (2022) Adjustments Appropriation Bill*

The National Treasury has reported the following proposed virements that needs to be approved by Parliament:

- **National Treasury (Vote 8):** a proposed total of R13 million is shifted from the Public Finance and Budget Management programme (Development Bank of Southern Africa) to the International Finance Relations programme (Financial intermediary Fund). In addition, a proposed total of R86.2 million is shifted from the Financial Accounting and Supply Chain Management (SCM) systems programme (Integrated financial management project) to the International Financial Relations programme for the compensation to the Common Monetary.

- **Department of Higher Education and Training (Vote 17):** a proposed total of R54 million is shifted from the Technical and Vocational Education and Training programme (compensation of employees) to the University Education programme to fund the upgrading of the National Student Financial Aid Scheme ICT. Furthermore, a proposed total of R260 million is shifted within the Technical and Vocational Education and Training programme for the payments of employee remunerations where post-provisioning norms have not been implemented.

- **Department of Health (Vote 18):** a proposed total of R1.1 million is shifted from the Communicable and Non-Communicable Diseases programme (business and advisory services) to the Health System Governance and Human Resources Programme as a transfer to the South African Medical Research Council for the Global Adult Tobacco Survey.

- **Department of Social Development (Vote 19):** a proposed total of R538 million is shifted within the Social Assistance programme due to lower than anticipated uptake in social grants from Households to Payments for financial assets (social assistance debt write-off).

- **Independent Police Investigative Directorate (Vote 24):** a proposed total of R1.9 million, R989 000 and R5.4 million are shifted from the Investigation and Information Management programme (vacant posts) to the Administration programme for the procurement of business and advisory services, computer services, and minor assets as well as ICT equipment. A proposed total of R1 million is shifted from the Legal and Advisory Services programme to the Administration programme for the procurement of ICT equipment. Furthermore, a proposed total of R2 million is shifted within the Administration programme (vacant posts) for the procurement of computer services.

- **Department of Communications and Digital Technologies (Vote: 30):** a proposed total of R 500 000 is shifted from the ICT Policy Development and Research programme (travel and subsistence) to the ICT Information Society and Capacity Development programme for the establishments of the artificial intelligence hubs. Furthermore, a proposed total of R5.5 million is shifted from the ICT Policy Development and Research programme (business and advisory services, consultants) to the ICT Information Society and Capacity Development for the establishments of the artificial intelligence hubs.

- **Department of Employment and Labour (Vote 31):** a proposed total of R12 million is shifted within the Administration programme (vacant posts) for the construction of Standerton and Taung labour centres; repair and renovation of Upington and Ulundi labour centres. Furthermore, a proposed total of R55 million is shifted from the Inspection and Enforcement Services programme (vacant posts) various programmes. These programmes include a proposed total of R10 million is shifted to the Administration programme for the construction of Standerton and Taung labour centres; repair and renovation of Upington and Ulundi labour centres, while R45 million is shifted to the Labour Policy and Industrial

Relations programme for the hosting of the fifth global conference on the elimination of child labour.

- **Department of Forestry, Fisheries and the Environment (Vote 32):** a proposed total of R987 000 is shifted from the Oceans and Coasts programme (operating payments to the Climate Change, Air Quality and Sustainable Development programme to fund the South African Whether Services.

- **Department of Science and Innovation (Vote 35):** a proposal to shift funds from the Research, Development and Support programme (research and development infrastructure) to the Technology Innovation programme (departmental agencies and accounts) is as follows:

  - A proposed total of R18.7 million is shifted to the Deep Space Ground Station facility;
  - A proposed total of R2.8 million is shifted to the South African National Space Agency: Space Weather Centre.
  - A proposed total of R7 million is shifted to the Bio African Convention 2022.
  - A proposed total of R10 million is shifted to the data analysis and research work-stream for the energy national joint operation and intelligence structures.
  - A proposed total of R40 million is shifted to various non-profit organisations for vaccine innovation development and manufacturing strategy.
  - A proposed total of R50 million is shifted to various non-profit organisations for the hydrogen society roadmap catalyst project.

In addition, a proposal to shift funds from the Research, Development and Support programme (strategic science platforms, science awareness, human resources development, and cyber infrastructure) is as follows:

- A proposed total of R144 million is shifted from the strategic science platforms to the National Research Foundation: square Kilometre Array.
- A proposed total of R13.3 million is shifted from the science awareness programme to the National Research Foundation: square Kilometre Array.
- A proposed total of R1.2 million is shifted from the human resource development programme to the National Research Foundation: square Kilometre Array.
- A proposed total of R70.3 million is shifted from the cyber infrastructure programme to the National Research Foundation: square Kilometre Array.

A proposed total of R2.8 million is shifted from the Socio-economic Innovation Partnership programme to the Research, Development and Support programme for the National Research Foundation: square Kilometre Array.

- **Department of Trade, Industry and Competition (Vote 39):** a proposal to shift funds within the programmes of the department is as follows:
  - A proposed total of R11.2 million is shifted from the Administration programme (catering, communication, contractors, entertainment, fleet services, operating leases, travel and subsistence, venues and facilities) to the Industrial Financing programme for manufacturing development incentives.
  - A proposed total of R6 million is shifted from the Trade Policy programme (contractors, travel and subsistence, venues and facilities) to the Industrial Financing programme for manufacturing development incentives.
  - A proposed total of R7.5 million is shifted within the Industrial Policy Programme (CSIR) to various non-profit organisation for trade and industrial policy strategies.
  - A proposed total of R1.5 million is shifted from the Industrial Policy programme (travel and subsistence) to the Industrial Financing programme (public corporations and private enterprises) for manufacturing development incentives.
  - A proposed total of R3.5 million is shifted from the Industrial Policy programme (operating payments, travel and subsistence) to the Industrial Financing programme (public corporations and private enterprises) for manufacturing development incentives.
  - A proposed total of R1 million is shifted from the Industrial Policy programme (machinery and equipment) to the Industrial Financing programme (public corporations and private enterprises) for services sector development incentives on the film and television production.
  - A proposed total of R72.8 million is million is shifted from the Industrial Policy programme (National Metrology Institute of South Africa) to the Industrial Financing programme (public corporations and private enterprises) for services sector development incentives on the film and television production.

A proposal to shift funds from various sub-programmes of the Consumer and Corporate Regulation programme to other programmes of the department is as follows:

- A proposed total of R2.8 million is shifted within the sub-programme from consultant's services to the International Financial Reporting Standards Foundation.
- A proposed total of R296 000 is shifted from consultants' services to the Industrial Financing programme for manufacturing development incentives.
- A proposed total of R2 million is shifted from the catering, operating payments, travel and subsistence to the Industrial Financing Programme for manufacturing development incentives.
- A proposed total of R3.3 million is shifted from advertising, travel and subsistence to the Industrial Financing Programme for manufacturing development incentives.

A proposal to shift fund within various sub-programmes of the Industrial Financing programme is a follows:
- A proposed total of R3.4 million is shifted from travel and subsistence to manufacturing development incentives.
- A proposed total of R6.2 million is shifted from catering, consultants, operating leases, operating payments, travel and subsistence, venues and facilities to the manufacturing development incentives.
- A proposed total of R2.4 million is shifted from computers and hard drives to the services sector development incentives for film and television production.

In addition, a proposal to shift funds from the Competition Policy programme to the Industrial Financing programme is as follows:
- A proposed total of R641 000 is shifted from travel and subsistence to the manufacturing development incentives.
- A proposed total of R1.5 million is shifted from travel and subsistence to the services sector development incentives for film and television production.
- A proposed total of R5.7 million is shifted from catering, consultants, travel and subsistence to the services sector development incentives for film and television production.

3. Adjustments per identified department

The section below outlines the adjustments on budget allocations for the departments, which were identified by the Committee for briefings and written submissions on the Bill.

3.1. Department of Social Development

The Department of Social Development's (DSD) 2022/23 main appropriation of R257.001 billion was adjusted downwards by R5.462 to R251.539 billion. Total expenditure as at the end of the second quarter of the 2022/23 financial year was R111.081 billion or 44.78 per cent of the adjusted appropriation. In terms of non-financial performance, as at the end of the second quarter of the 2022/23 financial year, the Department reported that it achieved only 48 or 74 per cent of its total 65 targets, leaving a variance of 17 targets.

With regard to the SRD grant, SASSA reported that an amount of R44 billion was allocated for the grant to target approximately 10 million individuals for the 2022/23 financial year. Since the period April to October 2022, SASSA has committed R16 billion to provide for those who have been approved. SASSA reported that at the current uptake trend, if no further changes were made to the regulations, it was likely to spend between R31 to R32 billion and reach just over 8 million clients by the end of the financial year (excluding appeals by individuals who were not approved). Furthermore, approximately 3 per cent of all appeals were upheld and was therefore not likely to impact the budget allocation. To this end, SASSA declared a saving totalling R6 billion in respect of the SRD grant. As at 8 November 2022, SASSA reported that a total of twelve million nine hundred and thirty thousand six hundred and thirteen (12 930 613) applications for the SRD grant were received from South Africans and 8 106 applications from non-South Africans.

SASSA reported that the SRD-R350 appeals website, hosted by DSD, was activated on 27 June 2022. The appeals process for the new iteration of the Covid-19 SRD-R350 was integrated with the electronic and automated platform used for the lodging, verification and processing of the SRD-R350 by SASSA. The said integrating lessened the burden on declined applicants as their personal information was preloaded on the system and the lodging of appeals was accordingly quick and easy. SASSA reported that as of 12 October 2022 a total number of five million two hundred and thirty thousand two hundred and fifty-six (5 233 256) appeals were received via the SRD-R350 DSD appeals website (as from June 2022). The processes governing the consideration of appeals for the SRD-R350 is that the Independent Tribunal would during considering of appeals, reassess the declined decision of SASSA against the relevant updated information at its disposal and the prescribed qualifying criteria. The Independent Tribunal finalized all appeals related to June 2022 (excluding care givers which are to be reprocessed by SASSA).

3.2. Department of Cooperative Governance and Traditional Affairs

The Department of Cooperative Governance and Traditional Affairs' (Cogta) 2022/23 main appropriation of R111.364 billion was adjusted upwards by R3.650 billion to R115.014 billion. The Department spent R42.180 billion to date or 36.7 per cent of the adjusted budget. Cogta provided an overview of the financial performance in terms of the Municipal Infrastructure Grant (MIG) and reported that R4.962 billion has been transferred to the 218 municipalities from which R2.397 billion or 48.3 per cent has been spent as at the end of the second quarter of the 2022/23 financial year. Cogta reported that from the transferred funds to the municipalities, 88 have spent less than 10 per cent of the transferred allocations and 22 municipalities have spent zero percent.

The reasons for the poor expenditure in respect of the MIG put forward by Cogta included SCM delays, late registration of projects, poor performance of contractors, local business forum interferences impacting on project progress, community protests resulting in stopping of projects, changing of project implementation priorities, limited/lack of technical capacity within municipalities, and vacant positions in municipalities. Cogta also reported that the following corrective measures have been put in place to address the aforementioned challenges:

- With regard to SCM delays, municipalities were requested to develop and share SCM plans, with a view of accelerating the appointment processes;
- Cogta MIG provincial teams have coordinated municipal interventions with the participation of provincial departments, Municipal Infrastructure Support Agent (MISA) and sector departments;
- The interventions are informed by specific challenges from each of the affected municipalities;
- Municipalities presented their improvement plans, and were interrogated by the team to ensure their relevance in addressing the identified challenges;
- With regard to planning challenges, MISA has been able to support municipalities where they have a footprint; and

- MISA has committed to support municipalities with technical capacity challenges which include visiting projects with implementation challenges, and agreeing on actions to improve performance/implementation.

Cogta reported that the high estimated costs to repair damaged infrastructure in ten identified municipalities in KwaZulu-Natal amounted to R6.575 billion. Cogta also provided an overview of the disaster response grant funding and submitted that 16 municipalities received grant funding in KwaZulu-Natal and Eastern Cape. To date, a total of R516.748 million has been disbursed to the 16 municipalities from which only R58.100 million or 11 per cent has been spent as at 15 November 2022. The table below highlights the challenges as well as mitigating actions implemented as reported by Cogta.

Areas of concern	**Actions taken to prevent possible under/over expenditure and under performance**
Disaster Response Grants are disbursed to various organs of state for disaster interventions, however, there are key areas of concern requiring attention. The following are key identified challenges: - Delays for implementation to start, and then slow implementation pace. - Requests by municipalities for the amendment of approved projects and/or the project scope. - Non-invoking of emergency procurement system resulting in delays in implementation of projects and in expenditure. - Delays in the submission and non-submission of performance and financial reports in accordance with the Disaster Management Act, 2002 and DORA. - Inaccurate/ unverified reports. - Capacity and capability constraints within the disaster management fraternity across	- Activation of project steering teams constituted by relevant stakeholders for monitoring, reporting and interventions e.g., MISA, COGTA infrastructure units, Offices of the Premier, Municipal PMUs, Provincial Treasuries, DWS, DPWI, DFFE, etc.). - Scheduled onsite visits through provincial project steering committees for monitoring and support in the implementation of projects. NDMC continues to undertake onsite visits in provinces. - Escalations of matters - Engagements of accounting officers and CFOs in addressing encountered challenges. - Tabling and escalation of progress reports as an item in the agenda of high-level structures across the three spheres. - Focus on realisation of desired impacts within communities from project

the three spheres unavailability of some of provinces for onsite visits. - Limitations in the escalation of challenges for strategic interventions by the provincial executives	implementation – sustainability of projects and building back better.

4. Comments and hearings on the Bill with identified stakeholders

The section below provides an overview of the comments that were made on the Bill by the invited stakeholders.

4.1. Financial and Fiscal Commission

The FFC submitted that in total, the 2022 in-year spending adjustments amounted to R13 billion. Of this R13 billion, R7.45 billion was in respect of adjustments to vote appropriations - the bulk of which (R6.3 billion) related to unforeseeable and unavoidable expenditure prompted by flood damages. The FFC highlighted the proposed roll-overs which amounted to R990 million, the bulk of which emanated from two votes relating to Phase 2 of the Presidential Employment Initiative (PEI) roll-out. In the first instance, a rollover, amounting to R231 million, stems from the Agriculture, Land Reform and Rural Development vote and relates to the payment of subsistence producers selected in Phase 2 of the PEI. The FFC raised concerns regarding the poor spending in respect of the PEI implemented in this department when assessing roll-overs relating to Phase 1 of the initiative. The second largest rollover amounting to R200 million was recorded for the Communications and Digital Technologies vote, and again, this related to Phase 2 of the PEI.

The FFC noted that an additional allocation of R48.5 million was proposed for PES received to assist provincial departments of social development to continue caring for flood victims placed in shelters as a result of the April 2022 floods in Kwa-Zulu Natal. The aforementioned was classified as unforeseeable and unavoidable expenditure. The FFC emphasized that whilst it welcomed assistance to households affected by the floods, it suggested that government should initiate a more permanent solution insofar as relocating the flood victims was concerned. To this end, a timeline and milestones should be shared with Parliament so that oversight could be exercised in this regard.

The FFC noted that a proposed R618.8 million was added to the skills levy for SETAs. The FFC stated that whereas additional funding in support of skills development was essential, the effective and efficient utilization of funding was equally important. The FFC referred to a recent presentation by the Auditor-General South Africa (AGSA) to the Portfolio Committee on Higher Education and Training where some of the challenges characterizing SETAs were highlighted. The FFC was of the view that it is therefore pertinent to ensure that additional funding was coupled with strong oversight by Parliament and other role-players in respect of the use of the resources to avoid further maladministration.

In conclusion, the FFC welcomed the in-year adjustments relating to the provision of funding to repair flood-related damages to assist in rebuilding damaged infrastructure and support provided to affected households. However, it remarked that it was important to ensure that there were minimal delays in implementation and quality insofar as repairing and rebuilding damaged infrastructure. The FFC emphasized that Parliament should receive regular updates on progress in this regard.

4.2. Parliamentary Budget Office

The Parliamentary Budget Office (PBO) gave an overview of the Bill as well as the expenditure by vote which stood at 47.4 per cent of the adjusted appropriation of R1.094 trillion as at the end of September 2022. The PBO highlighted that the SRD grant, a total of R44 billion was allocated in the 2022/23 financial year to serve 10.5 million people. It submitted that DSD published amended regulations for the SRD grant on 16 August 2022 which resulted in the means test threshold being increased from R350 to R624. It noted that the Department of Social Development reported in August 2022 that only 7.5 million people were receiving the benefit on a monthly basis. This will result in significant projected underspending as at the end of the 2022/23 financial year.

The PBO also highlighted why the SRD grant was important in South Africa and further noted that it was scheduled to be terminated in March 2024. The PBO emphasised the need for the discussions around social security grants to continue and made reference to the household survey conducted by Statistics South Africa in 2021, as well as the recent findings made by the Household Affordability Index. The PBO also submitted that the cost of living crisis has plunged more people into destitution and that this came on top of the shock caused by the COVID-19 pandemic. In conclusion, the PBO asked whether government could afford not to spend more in order to address the ongoing risks to the livelihoods of South African citizens and economy at large.

5. Public submissions on the Bill

The section below provides summaries of the inputs made by organisations and individuals in response to the advertisement calling for submissions from the public on the Bill.

5.1. Congress of South African Trade Unions

In its submission, the Congress of South African Trade Union (COSATU) indicated its displeasure on the 2022 MTBPS and related bills for not responding adequately to areas of critical need. This MTBPS was tabled in the face of an ailing economy that has had a protracted period of economic stagnation. COSATU submitted that government fell short of curbing the inflation that has had a negative bearing on the workers and also, lacked the practical strategies to stimulate the economy. Despite the shortcomings, COSATU lauded the fact that there were at least, positive interventions in the policy statement by the Minister of Finance. However, it conveyed its wish for a more pointed and decisive 2023 national budget.

COSATU made the following comments and proposals with regard to the Bill:

Departmental Allocations	• The projected below inflation increases in expenditure to key frontline service departments, in particular Basic Education, Health, SAPS, Justice, Agriculture, and Employment and Labour; framework was alarming and would continue to cripple government's ability to provide quality public services that workers and the economy depend upon. • Most worrying indicators that some state of departments were struggling to meet their targets halfway through the financial year include: Basic Education, Higher Education and Training, NPA, CCMA, Human Settlements, Mineral Resources and Energy, Small Business Development, Transport, and Water and Sanitation.
Presidential Stimulus Package	• COSATU raised two major setbacks leading to the failure of this initiative and they are: i. Failure to increase funding for this project. As a result, many young people did not benefit from it.

	ii. Failure of the National Treasury to intervene with the banks to resolve the hurdles that led to the two percent of the Bounce-Back Scheme funds that were allocated to the Small Medium Enterprises. • COSATU recommends that the government should act to absorb unemployed young people by exerting pressure on departments and state owned entities.
Public Sector Wage Bill	• COSATU emphasised that government must make efforts to find amicable solution to the workers` salaries and avert the possible disruptions by workers' strike. • The decline in public service headcount was concerning with the nurses and teachers mostly affected. It was, according to COSATU, disheartening that there was a notable decline of the South African Police Service which reduced from 208 000 to 172 000 in 2022. • Commitment by government to employ 12 000 new recruits was too little considering the resignations, retirements and death of police officers.
Infrastructure	• COSATU submitted that the investment on infrastructure is still below par. This is despite the expected infrastructure investment totalling R112 billion plus the allocation of R33 billion for transport and water.
Pension Relief for Financially Struggling Workers	• The federation submitted that relevant processes must be expedited to ensure that the Bill that is before Parliament enables indebted employees to access their pensions at least by October 2023.
Revenue	• COSATU welcomed the successful generation of additional revenue of R83 billion by South African Revenue Services (SARS). • In view of the commendable functionality of SARS, the federation called on for availing more resources to SARS by government.
Social Relief of Distressed grant	• The extension of the SRD grant beyond 2023 was welcomed.

	• Concerns were expressed at the failure of the National Treasury to address the administrative challenges around the disbursements of the grants.

5.2. Public Service Accountability Monitor

The Public Service Accountability Monitor (PSAM) submitted that the continued under-spending by key service delivery departments and local government needed to be addressed as a matter of urgency, as the reasons most frequently cited for shifts/virements and under-spending were not satisfactory explanations in the current context. PSAM indicated that fruitless and wasteful expenditure further undermined service delivery.

PSAM further pointed to systemic deficiencies, contributing to weak governance and poor service delivery, at the provincial and municipal levels of government; despite government having spent R9.1 billion across 40 state agencies to support the proper functioning of municipalities. PSAM submitted that adequate and effective use of resources (financial and non-financial) were central to addressing these challenges and underscored the implications of weak or unwilling political motivation to ensure compliance with legislated public finance management prescripts. PSAM expressed serious concern over the R2 billion that had been returned to the NRF owing to local government under-spending. PSAM was further concerned that the budgets for the Department of Cooperative Governance and Traditional Affairs' Institutional Development Programme and Anti-corruption sub-programme had been reduced by R3.56 million and R500 000 respectively, given its key role in fostering sound financial management in municipalities and in ensuring that they perform their basic functions of delivering quality municipal services and promoting transparency and accountability.

With regard to infrastructure projects, PSAM pointed to backlogs occurring mainly in the Departments of Health, Basic Education and Human Settlements which impacted on services. Management of procurement, contracts and expenditure needed to be improved to ensure value for money, and that transparency and accountability requirements were adhered to. PSAM was encouraged by government's stated commitment to scaling up efforts to improve the project pipeline and the provision of additional resources for project preparation, but remained concerned about measures to safeguard funds and manage contracts and expenditure throughout the project duration.

With regard to funding for institutions fighting crime and corruption, PSAM indicated that budget and other resource constraints continued to undermine the capacity of the National Prosecuting Authority (NPA). While the recent increases to the NPA's budget were positive, limited year-on-year growth was a risk to its ability to continue to compensate recently recruited staff. The Special Investigations Unit (SIU) has received no additional funding in both the 2021 and 2022 MTBPS, despite the entity's important role in providing forensic investigation and civil litigation services to combat corruption, serious malpractices and maladministration. In addition, the budget for the function under which the SIU budget was allocated, was set to decrease by 0.5 percent in the 2023/24 financial year. PSAM was concerned that, overall, the Peace and Security function budget was declining on average by 2 percent in real terms over the MTEF.

PSAM expressed further concern over whether the institutions supporting democracy, such as the Public Protector and the South African Human Rights Commission, would be able to perform their duties, with allocations to them declining in real terms over the MTEF; and encouraged the Committees to ensure these institutions were adequately resourced.

PSAM welcomed the introduction of a pilot mechanism to garner public input on fiscal policy - the Fiscal Openness Accelerator (FOA) project, as it had the potential to deepen meaningful public participation and increase the transparency and efficacy of fiscal policy decisions. It encouraged National Treasury to consider ways to continue to partner with civil society beyond the conclusion of the FOA pilot in September 2022.

The PSAM made the following recommendations:

- The Committees should request further information from under-spending departments to determine the challenges; what was being done to resolve them and to insist on corrective measures to prevent persistence of these trends.
- The Committees should ensure that the notices for material irregularities issued by AGSA to national government departments are acted upon, and that those who continue to mismanage funds are held accountable.
- The Committees should further play a role in strengthening internal controls and accountability mechanisms to improve the performance of departments.
- There should be greater transparency of spending data and information to enable the public to monitor performance and demand justifications from departments on their spending and planning decisions.

- The committees of Appropriations, Finance, Public Accounts and Cooperative Governance and Traditional Affairs should exercise their powers to call for political support for technical interventions aimed at bolstering capacity and compliance.
- The Committee should consider requesting a comprehensive report from the National Treasury detailing all interventions to improve municipal functioning through capacity-building, technical support and resourcing over the past decade, and their impact.
- The Committees should insist on open and transparent contracting processes to enable public oversight for all major public infrastructure projects, in order to ensure that these projects had the intended developmental impact.
- The Committees should consider a pilot of social audits in areas where local government was failing to deliver services. In addition to improving participation in the budget process, this could improve spending outcomes and provide opportunities for skills development and income support for communities facing high levels of poverty and unemployment.
- Parliament should allow any member of the public or any civil society organisation to testify during its hearings on the budget proposal prior to its approval. Additionally, allowing members of the public or civil society organisations to testify during hearings on the Audit Report would contribute to improving budget efficacy and citizens trust. The role of the parliamentary constituency offices should be considered in this regard.

5.3. Organisation Undoing Tax Abuse

The Organisation Undoing Tax Abuse (OUTA) in its submission on the Bill called for government to procure locally manufactured vehicles. It submitted that the silence on this initiative indicated government's reluctance to adopt robust economic measures to improve the economy. OUTA further called on government to reduce the vehicle allowances for politicians at all levels of government.

OUTA made reference to budget Vote 34, Mineral Resources and Energy, and noted the proposed roll overs with regard to programme 5: Mineral and Energy Resources Programmes and Projects. It noted that R28.045 million was rolled over to finalise non-grid projects through the Integrated National Electrification Programme. Furthermore, R43.82 million was rolled over to finalise payments to service providers for the solar water heater programme, and R1 million was rolled over to finalise 50 electrification connections for households in the Dikgatlong municipality. OUTA submitted that because of the current load shedding by Eskom, it expected the Department of Mineral Resources and Energy (DMRE) to expedite non-grid electrification to ensure that households had access to energy. OUTA expressed concern that the allocated funding has not been spent. It also submitted that the solar water heating programme has been dogged by problems over the last few years, as the DMRE incurred storage costs which were then flagged by the Auditor-General South Africa as wasteful and fruitless expenditure.

OUTA noted the promise of additional resources in 2023 to the country's security forces to take the fight against those who threaten South Africa's peace, with a promise of 15 000 additional constables over the next three years. OUTA welcomes this and stated that it hoped that the budget will also include sufficient resources for the police to operate. However, it noted that the Police budget vote was reduced for the year, and particularly it raised concerns about the removal of R326 million for construction and upgrading of police stations and R32 million from detective services.

OUTA noted Cooperative Governance and Traditional Affairs' proposed additional allocation of R3.6 billion for the reconstruction and rehabilitation of damaged municipal infrastructure as a result of natural disasters in Kwa-Zulu Natal and the Eastern Cape. OUTA called for stringent oversight of the said funds to ensure effective and efficient spending. It also noted the promise of additional funds in 2023/24 for the delivery of free basic services to poor households to counter rising costs of free basic services and rising bulk electricity and water costs. OUTA welcomes the principle of this support, but expressed concerns that much of this funding would go to the municipalities where it is diverted to other spending and not used for subsidising these services.

Reference was made to the current situation where 43 municipalities are in crisis and the government was talking of intervention plans which include prioritising, revenue management, audit outcomes, supply chain management and the Municipal Standard Chart of Accounts. Importantly, strengthening monitoring and enforcement of financial recovery plans was highlighted. OUTA noted that government spends significant resources through Cogta on support for municipalities. However, given the state of the municipalities, OUTA questioned how this will be resourced and implemented. OUTA proposed that National Treasury should introduce mechanisms to halt the allocation of grants to municipalities that continue to misallocate or misspend. It also noted the R13 million in once-off gratuities for non-returning Councillors and submitted that this needed to be reviewed and be either significantly reduced or removed.

With regard to Higher Education and Training, OUTA welcomed the R1.4 billion additional allocation to the National Student Financial Aid Scheme (NSFAS). It further submitted that the current funding model for NSFAS within the current fiscal constraints was unsustainable and recommended that government prioritise the urgent finalisation of a new funding framework for the sector. OUTA also noted the R618.8 million additional allocation to the skills levy and SETAs, taking the funding to R21 billion. OUTA supported skills development and was of the view that it was essential to improving the economy and individuals' lives, however it emphasised that these funds should be used efficiently and effectively. OUTA made reference to the AGSA's presentation to the Portfolio Committee on Higher Education, Science and Innovation where it highlighted significant challenges in the SETAs, including irregular expenditure of R3.5 billion. Furthermore, OUTA mentioned that it has previously reported on corruption in the Services SETA and therefore felt it was necessary to ensure that the addition of funding was coupled with strong oversight of the use of the resources.

OUTA welcomed the extension of the SRD grant for another year but expressed concerns that the policy statement was silent on how the government will address the plight of the citizens as they battle to survive the relentlessly upward-spiralling cost of living and high levels of unemployment. OUTA was disappointed that the SRD has not been adjusted for Consumer Price Index (CPI) inflation and that there was still no clear pathway on how permanent social support will be introduced following its termination. It also expressed concerns that the SRD grant was not being accessed by all the people who need it and are entitled to it, mainly due to a more stringent qualifying criteria. It continued that the shift of R2.937 billion from the SRD grant to the Department of Public Enterprises was an example of how social spending was cut to fund other essentials. OUTA believed strongly that the reductions in social spending was linked to the depletion of state resources due to years of state capture, corruption and mismanagement.

With regard to Water and Sanitation, OUTA expressed concerns at the continuous roll overs on the Regional Bulk Infrastructure grant for the Vaal River Pollution Remediation project. It submitted that about 15 million people were dependent on the Vaal River in some way or another, therefore it was imperative that the Vaal River Pollution Remediation Project should be given urgent and immediate attention.

5.4. Equal Education

Equal Education's submission focused on the Medium Term Expenditure Framework therefore its summary forms part of the Committee's report on the 2022 Medium Term Budget Policy Statement.

6. Committee findings and observations

Having deliberated and considered all the submissions made by the above stakeholders on the Adjustments Appropriation Bill [B23–2022], the Standing Committee on Appropriations makes the following findings and observations:

6.1. The Committee notes and supports governments proposed R3.6 billion in unforeseeable and unavoidable expenditure toward the Cooperative Governance and Traditional Affairs budget vote, prompted largely by the flood damages in KZN, Eastern Cape and Western Cape provinces. The Committee welcomes these government interventions that will ensure quick responses to the rehabilitation and reconstruction of infrastructure in the affected areas. Furthermore, the Committee would like to implore on government to ensure speedy distribution of these fund to the affected areas in order to ensure that intended beneficiaries receive the required assistance timeously.

6.2. The Committee notes and welcomes the government's proposed R118 million as initial costs towards the rehabilitation of the Parliamentary building that was damaged by fire. The Committee views this allocation as an important step towards the restoration of the Parliamentary precinct due to its significance, which cannot be over emphasised.

6.3. The Committee notes and supports the proposed R1.8 billion as unforeseen and unavoidable expenditure for the rehabilitation of both the toll and non-toll road network of the South African National Road Agency SOC Limited (Sanral). The Committee has always emphasised the importance of a good road network. The Committee views roads as crucial infrastructure and key driver of economic growth and seamless movement of goods and people. The Committee supports the reconstruction and rehabilitation of all public roads because of the long term benefits to the economy and livelihood of people.

6.4. The Committee notes and welcomes the proposed rollover of R990 million towards the votes of Agriculture, Land Reform and Rural Development and Communications and Digital Technologies for the roll-out of Phase 2 of the Presidential Employment Initiative. However, the Committee would like to re-emphasise on the need for a framework or standard guideline on the types of jobs to be created with a benchmark remuneration standard for each job category to avoid inconsistences and potential abuse of these funds. Given the recent experience on the distribution of food parcels, the Committee would like to reemphasise that

National Treasury and the Presidency should have a well-defined approach to the implementation of this scheme, to ensure uniformity across all departments.

6.5. The Committee notes with concerns the proposed shifting of R3.6 billion from the Department of Social Development to fund the extended deployment of Defence personnel in Mozambique (R755 million) and R2.9 billion for the repairs and replacement of Transnet infrastructure that was damaged by the April 2022 floods. Given the mandate of the Department of Social Development and its entire portfolio, the Committee is concerned about the shifting of these funds. The Committee is of the view that the Department of Social Development should put systems in place and do more in reaching out to potential beneficiaries than underspending on social assistance, when the country has high levels of unemployment, poverty and inequality.

6.6. The Committee notes with concerns the total of R1.96 billion in declared and unspent funds. The Committee is concerned about government departments' inability to spend appropriated funds based on the requests from the same departments. The Committee holds the view that underspending on appropriated funds does not only undermine service delivery but also raises questions about Parliament's ability to appropriate funds to areas where they are most needed.

6.7. The Committee notes with concerns on total of R3.92 billion national government's projected underspending for the 2022/23 financial year. In the same light as declared underspending, the Committee views this lack of spending on Parliament's appropriated funds as serious problem that requires urgent attention of the all the affected government departments. The Committee would like government institutions to view this in light of the triple challenges of unemployment, poverty and inequality facing South Africans.

6.8. The Committee notes with serious concern the report from Cogta that of the R4.962 billion of MIG funding transferred to 218 municipalities, only R2.397 billion or 48.3 per cent has been spent as at the end of the second quarter of the 2022/23 financial year. Of particular concern is the report that from the transferred funds to the 218 municipalities, 88 municipalities have spent less than 10 per cent of the transferred allocations while 22 municipalities have spent zero percent.

6.9. The Committee notes and welcomes the proposal by PSAM that Parliament should allow more member of the public or civil society organisation to present during its hearings on the budget proposal prior to its approval in order to contribute towards improving budget efficacy and citizens trust. Even though the Committee is of the view that Parliament does provide the platforms for citizens and other organisation to participate in its budget process, the Committee acknowledges that there is always room for improvement and making public participation better.

6.10. The Committee notes and welcomes support of OUTA on the proposed additional allocation of R3.6 billion for the reconstruction and rehabilitation of damaged municipal infrastructure as a result of natural disasters in Kwa-Zulu Natal and the Eastern Cape. The Committee also notes and is in support of the call by OUTA for stringent oversight mechanisms of these proposed allocations to ensure effective and efficient spending.

7. Recommendations

The Standing Committee on Appropriations, having considered submissions from various stakeholders on the Adjustments Appropriation Bill [B23–2022], recommends as follows:

7.1. That the Minister of Finance and the Presidential Management Office ensure that the funds allocated towards the Presidential Employment Initiatives are spent within the required guidelines and frameworks in order to avoid potential abuse and corruption.

7.2. The Minister of Finance, working with all affected stakeholders, ensures that National Treasury speedily releases disaster relief funding in order to minimise the social and economic impact of affected communities.

7.3. The Minister of Cooperative Governance and Traditional Affairs ensures that disaster Management Centre closely monitor funding allocated for disaster relief and ensures that these relief packages are clearly communicated to affected communities. Furthermore, the Minister must ensure that the Department puts in place stringent oversight mechanisms of this proposed allocation to ensure effective and efficient spending, and eliminate the possibility of corruption at the expense of the victims of these disasters.

8. Committee Recommendation on the Bill

The Standing Committee on Appropriations, having considered the Adjustments Appropriation Bill [B23 – 2022], referred to it and classified by the Joint Tagging Mechanism (JTM) as a Section 77 Bill, recommends that the Bill be adopted, without amendments.

9. Conclusion

The relevant Executive Authorities must send the responses to the recommendations as set out in section 7 above to Parliament within 60 days of the adoption of this report by the National Assembly.

Report to be considered.

2. REPORT OF THE STANDING COMMITTEE ON APPROPRIATIONS ON THE SPECIAL APPROPRIATION BILL [B24 – 2022] (NATIONAL ASSEMBLY – SECTION 77), DATED 29 NOVEMBER 2022

Having considered the Special Appropriation Bill [B24 – 2022], referred to in terms of Section 13 of the Money Bills Amendment Procedure and Related Matters Act No. 9 of 2009 (as amended by the Money Bills Amendments Procedure and Related Matters Amendment Act, No. 13 of 2018), the Standing Committee on Appropriations reports as follows:

1. Introduction

Section 213(2) of the Constitution of the Republic of South Africa, provides that money may be withdrawn from the National Revenue Fund only in terms of an appropriation by an Act of Parliament. The Bill proposes to Parliament to appropriate additional funds in the 2022/23 financial year for the requirements of the Vote (10) of Public Enterprises and Vote (40) Transport, and to provide for matters connected therewith. This proposed additional funding is allocated to three State Owned Companies located across the Public Enterprises and Transport Votes, namely, Transnet SOC Limited (Transnet), Denel SOC Limited (Denel); and South African National Roads Agency SOC Limited (Sanral). In executing this mandate, the Standing Committee on Appropriations, hereinafter referred to as the Committee, is established in terms of section 4(3) of the Money Bills Amendment Procedure and Related Matters Act, 2009 (as amended), and herein referred to as the Act.

The Bill was tabled by the Minister of Finance on 26 October 2022 during the tabling of the 2022 Medium Term Budget Policy Statement (MTBPS). The Bill was referred to the Committee for consideration and report to the National Assembly as prescribed in section 13 of the Act. In processing the Bill, the Committee invited National Treasury to brief the Committee on the Bill in its entirety. Furthermore, section 4 (4) (c) of the Act also requires the Committees on Appropriations of both Houses to consult with the Financial and Fiscal Commission (FFC). In addition to consulting with the FFC, the Committee also invited the Parliamentary Budget Office to comment on the Bill. The Committee also engaged with Department of Public Enterprises, along with Transnet Holdings SOC Limited on the Bill. In addition to this, the Committee requested Sanral and Denel to provide written submissions on the Bill.

Section 13(2) of the Act also requires the Committees on Appropriations to hold public hearings on the Bill and for the Committee to report to the House on the comments and amendments to the Bill. In ensuring compliance with the requirements of the Act, advertisements were published in national and regional newspapers from 27 to 30 October 2022 inviting the general public and interested parties to comment on the Bill. The public hearings on the Bill were held on 25 November 2022 via the Zoom virtual meeting platform. In response, written and oral submissions were received by the Committee for consideration, and in line with the requirements of the Act from the following individuals and organisations:

- Organisation Undoing Tax Abuse;
- Congress of South African Trade Unions; and
- Public Service Accountability Monitor.

2. Provisions of the Bill

The Bill proposes that additional money to be withdrawn from the National Revenue Fund (NRF) for the requirement of these Votes as follow:

- A proposed additional allocation of R6.278 billion is appropriated to the Vote of Public Enterprises for the 2022/23 financial year. This proposed allocation is distributed to Public Enterprises entities as follows:

    - A proposed total of R 3.378 billion is allocated out of the National Revenue Fund to Denel SOC Limited for the implementation of its turnaround strategy; and
    - A proposed total of R2.9 billion is allocated out of the National Revenue Fund to Transnet SOC Limited for acceleration of the repairs and maintenance of locomotives.

- A proposed additional allocation of R23.736 billion is appropriated to the Vote of Transport for the 2022/23 financial year. This proposed allocation is appropriated out of the National Revenue Fund to the South African National Roads Agency Limited for the redemption of government guaranteed debt.

3. Comments and hearings on the Bill with identified and interested stakeholders

The sections below provide an overview of the submissions made by the identified as well as interested stakeholders in response to the published advertisement.

3.1 Financial and Fiscal Commission

The Financial and Fiscal Commission (FFC) gave an overview of the purpose of the Bill and submitted that it appreciated government's commitment to continue promoting a growth friendly, fiscal consolidation policy path geared towards stabilising government debt. However, the maturity of SOCs' debt and poor functionality posed a substantial risk to the fiscus. The challenges of SOCs have resulted in poor service delivery, poor financial management, less growth, massive unemployment, corruption and low business confidence. The FFC further cautioned that the poor performance of SOCs will result in persistent government guarantees and bailouts to ensure the survival of these entities. SOCs which considered themselves too big to fail and expect constant bailouts, imposed further pressure on contingent liabilities.

The FFC further submitted that SOC bailouts were not fiscally sound and implored government to include stringent conditions that deter these SOCs from indulging in moral hazard behaviour. The FFC further noted that National Treasury advised that the pre-conditions and post-conditions required for a bailout include financial and operational reports to ensure that money was used to repay debt and facilitated sustained development of the affected SOCs. The FFC further cautioned against the use of a Special Appropriation Bill to provide funding for SOCs, namely Sanral, Denel and Transnet, atop the Adjustments Appropriation Bill, as this signalled fiscal uncertainty, perpetuating the cycle of bailing out poorly performing SOCs. The FFC recommended that stringent conditions to be attached to the provision of funding and that National Treasury and the respective SOCs, i.e. Denel, Transnet, and Sanral, be transparent during the bailout period and make all reports and conditions publicly available.

3.2 Parliamentary Budget Office

The Parliamentary Budget Office (PBO) explained the rationale for appropriating additional funds to the Department of Public Enterprises and the Department of Transport for the 2022/23 financial year. A proposed total of R3.4 billion was allocated to Denel for the implementation of its turnaround strategy whilst R2.9 billion was set aside for Transnet to accelerate repairs and maintenance of locomotives. Furthermore, a proposed R23.7 billion is allocated to Sanral for debt redemption. The PBO submitted that the 2022 national budget revealed that Sanral's debt guarantee exposure increased by R11.7 billion to R49.1 billion as at the end of the 2021/22 financial year mainly due to accrued interest and re-evaluation of inflation-linked bonds. The PBO reported that:

- A total of R47 billion of Sanral's debt will be shared between the Gauteng provincial government and the national government;
- There will be a 30 per cent to 70 per cent split (Gauteng/national) to unblock the impasse surrounding the Gauteng Freeway Improvement Project (GFIP);
- An amount of R23.7 billion of the R47 billion debt will mature soon and will be paid by the national government; and
- The aforementioned payment was conditional on implementation of a solution to phase 1 of the GFIP.

In terms of the GFIP, the PBO submitted that due to under-collection of e-tolls, government assistance has become a significant supplementary source of funding for the toll portfolio over the past three financial years. In the 2021/22 financial year, Sanral was given R3.85 billion in the form of a GFIP grant, up from the R2.72 billion grant allocated in the 2020/21 financial year. The PBO further highlighted that the Gauteng provincial government has resolved to set up task teams that will look at sources of funding for their 30 per cent share of the GFIP debt and to investigate how the entire e-toll infrastructure can be repurposed to deal with crime issues. The PBO also submitted that the Gauteng provincial government has indicated that it intended to stagger repayment of its 30 per cent share in respect of the GFIP debt over 20 years in order to avoid pressure on the province's finances, delivery on social services and other obligations.

With regard to Transnet, the PBO submitted that SOE's operational and financial performance for the 2021/22 financial year was below target. The main reasons for this underperformance was security problems, constraints on locomotive availability, and subdued economic trading conditions. The PBO stated that the volume of goods transported in South Africa decreased by 20 per cent between 2018/19 and 2021/2022. In summary, the PBO submitted that the cash injection will assist Transnet Freight Rail to address declining volumes and revenue since 2018 and with the help of state support it should be able to improve its revenue flows and liquidity position by improving its operational efficiency, and leveraging its balance sheet.

In terms of Denel, the PBO submitted that the SOE's guarantee facilities and debt was at R3.4 billion in 2021/22. This was afterR2.5 billion in revenue lapsed following the cancellation of the Egyptian missile contract as well as the maturity of R1 billion debt. Denel was allocated R3 billion in the 2022 national budget to cover capital and interest payments on guaranteed debt that reduced its debt to R290 million. The SOE's financial challenges resulted in it struggling to pay employee salaries during the COVID-19 pandemic and failing to submit financial results within the required time frame, which led to the JSE suspending trading of its bonds earlier in 2022. This resulted in Denel being unable to sell more debt on the primary market and its bonds could not be traded on the JSE's secondary market.

The PBO continued that in 2019, the government announced a R230 billion 10-year support package for Eskom in order for the SOE to remain financially viable from which R140 billion of this package has been disbursed to date. In addition, Eskom had used R323.9 billion of its R350 billion government guarantee facility as at 30 June 2022 and since then this number increased to R327.9 billion due to additional drawdowns. The PBO expressed concerns that the 2022 MTBPS and other government plans did not adequately explain government's long term plans for Eskom's debt relief programme and the financial implications. Concerns were raised that much of the details of the programme have not been communicated and were yet to be finalised in consultation and negotiation with stakeholders. Furthermore, conditions will be informed by an independent review of Eskom's operations. Further details on the programme, according to the 2022 MTBPS, will be announced in the 2023 national budget.

3.3 Transnet Holdings SOC Limited

Transnet submitted that it launched a review application in the High Court in March 2021 to set aside the 1064 locomotive transactions and for it to retain all non-defective locomotives delivered as per the contract. Alstom and the China Railway Rolling Stock Corporation (CRRC) voluntarily submitted self-reports to the Directorate for Priority Crime Investigation (DPCI), more commonly known as the Hawks, enabling Transnet to focus on its civil litigation whilst allowing for any criminal proceedings to continue. To date, Transnet reported that it has reached settlements with GE/Wabtec and reached, in-principle agreements, with Bombardier/Alstom and CRRC. These will be formalised into Definitive Settlement Agreements. These Definitive Settlement Agreements, which are contingent on the CRRC obtaining a valid tax certificate from the South African National Revenue Service (SARS) are likely to be concluded and take effect by mid-January 2023. These will provide for the following:

- Immediate rehabilitation of non-operating locomotives as well as long term material reliability and support agreements to avoid circumstances currently experienced; and
- Independent and competent price verification of locomotive price.

In terms of its 2022/23 corporate plan, Transnet reported that it was driving a strategy to restructure the balance sheet and manage the debt to sustainable levels. The medium to long term target was to maintain a gearing ratio of 45 to 40 per cent to allow for headroom while continuing to leverage the balance sheet. It was in the process of driving a partnering approach with third parties to deliver on critical projects without extensive increase in debt levels. Transnet further reported that its debt maturity profile in the next five years was significantly high, hence the proposed allocation of R2.9 billion from the fiscus will allow it to improve rolling stock availability without increasing borrowings. Both the R2.9 billion government support for locomotives and the R2.9 billion for the Kwazulu-Natal floods were included in the 2022/23 estimate for borrowings.

Transnet submitted it was uniquely positioned to drive growth in the economic activity of South Africa benefiting both businesses as well as the citizens of the country. However, it has been directly impacted by global macro-economic trends, trade flows, and the low economic activity in South Africa. This has resulted in a decline in performance over recent years. The key binding constraints facing Transnet were reported as the decrease in locomotive availability, infrastructure challenges as a result of under-investment, and security challenges such as theft and vandalism resulting in operational disruptions. To this end, Transnet reported that it envisaged to repair 143 non-operating locomotives between December 2022 and March 2023 at an estimated cost of R892.7 million. Furthermore, between the period April 2023 and March 2024, a total of 181 locomotives will be returned to service at an estimated cost of R1.818 billion. The total cost of repairs to locomotives over the two years will amount to R2.7 billion, excluding cost escalations. Transnet further reported that an estimated 255 new locomotives will be delivered by CRRC and Alstom between the 2022/23 and 2025/25 financial years.

In conclusion, Transnet submitted that it received no fiscal support over the last 15 years from government which has resulted in a growing debt burden for the entity. Rail infrastructure required significant maintenance and the full recovery of such investments by the entity will not assist with the mandate to lower cost of logistics in South Africa. Transnet further submitted that it was advancing the Private Sector Partnership strategy to increase capacity without adding the debt burden on the country's balance sheet and that it was aligned to the Balanced Funding Model advocated for in the Rail Reform White Paper.

3.4 South African National Roads Agency Limited

The South African National Roads Agency (Sanral), in its submission to the Committee, stated that it operated two ring-fenced portfolios, being the non-toll and toll portfolios. The non-toll portfolio was fully funded from government grants and Sanral may not spend its earmarked allocation on anything other than declared non-toll national roads. Non-toll roads represent 87 per cent of the proclaimed national road network of 23 536km. The toll portfolio, representing 2 952 km (12.6 per cent) of national roads was required to be fully self-funding, and utilised the toll revenue collected to finance the maintenance, upgrade and operations of the declared national toll roads. Sanral further submitted that toll revenue collected may not be utilised on anything other than a declared national toll road. Sanral granted three concessions, which were Build-Operate Transfer contracts, and were therefore funded and maintained from the balance sheet. This represented 1 271 km of the declared toll roads. Sanral submitted that it operates and maintains the remaining 1 681 km with toll revenue collected on these declared toll routes. Its toll portfolio has accumulated losses over the past three years due to the impact of civil disobedience (non-payment of GFIP invoices). The table 1 below shows income and expenditure in respect of toll businesses of Sanral.

Table 1: Toll segment reported income and related expenses

Description (R'000)	2020	2021	2022
Toll revenue	4 370 120	3 706 874	4 522 032
Other income	972 739	1 074 217	1 471 613
Finance income	696 158	386 939	532 694
Net fair value gains	281 871	(252 922)	(97 581)
Total income	6 320 888	4 915 108	6 428 758
Total expenses	(8 553 391)	(8 092 453)	(9 104 300)
Other expenses	(2 713 212)	(2 492 638)	(2 872 229)
Depreciation and amortisation	(1 742 221)	(1 909 691)	(1 915 329)
Finance costs	(4 097 958)	(3 690 124)	(4 316 742)
Profit (loss) for the year	(2 232 503)	(3 177 345)	(2 675 542)
GFIP Grants received	2 667 939	2 721 793	3 857 101
Surplus/(Deficit) after grant	**435 436**	**(455 552)**	**1 181 559**

Source: *South African National roads Agency Limited (2022)*

Sanral submitted that in an attempt to resolve the funding issue on the GFIP Phase1, the Minister of Finance and the Premier of the Gauteng Province have agreed to repay the outstanding debt owed to investors for the project in a 70/30 split. The R23.7 billion will represent a portion of the 70 per cent to be paid by the national government. The allocation will therefore be used to reduce Sanral's debt obligations by repaying bonds as they mature. The finalisation of the resolution regarding the tolling/non-tolling of GFIP will ensure the entity's financial sustainability and therefore it would not require any further bailouts. Sanral submitted that other toll roads were fully self-funding with the existing toll revenues. It also emphasised that it will still be required to have a borrowing programme to finance capital projects required on the other existing toll roads, however these will be repaid with the existing toll revenues from conventional toll plazas, at the existing toll tariffs, which are kept at real rates, i.e. adjusted by inflation annually.

3.5 Denel SOC Limited

Denel made a written submission to the Committee and stated its performance has deteriorated over the years. The impact of liquidity, COVID-19 and declining local spending has impacted the company's revenues. Denel reported that the net losses were as a result of the reduced sales and increased under-recoveries caused by low levels of manufacturing activity across the group. It further submitted that primarily due to the worsening liquidity constraints and difficult trading conditions, the entity found it-self in hostile trading conditions with suppliers and a demotivated work force on the back of non-payment of full salaries since May 2020. The table below provides an overview of the financial performance over the past three financial years.

Table 2: Abridged Income Statement

INCOME STATEMTN (Rm)	2020	2021	2022
Revenue	2 729	2 794	1 455
Cost of sales	(2 146)	(2 230)	(1 267)
Gross profit	**583**	**564**	**188**
Other income	132	151	60
Other operating expenses	(2 229)	(1 813)	(864)
Operating profit/(loss)	**(1 515)**	**(1 098)**	**(616)**
Net finance income (costs)	(576)	(464)	(333)
Share of profit/(loss) of associated companies	62	46	2
Profit/(loss) before tax	**(2 029)**	**(1 516)**	**(947)**
Income tax expense	67	1	33
Profit/(loss) for the year	**(1 962)**	**(1 515)**	**(914)**

Source: *Denel SOC Limited (2022)*

Denel reported that its liquidity constraints continued to affect the business despite the entity's effort to raise its own funding and the efforts by the Shareholder to repay its debt amounting to R2.9 billion. Denel submitted that it required the R3.4 billion cash injection to deal with its legacy debts including unlocking its supplier base in order to execute on the current order book. The abridged balance sheet of Denel over the past three financial years is reflected in table 3 below.

Table 3: Denel SOC Limited abridged balance sheet

	Audited Mar 20 Rm	Unaudited Mar 21 Rm	Unaudited Mar 22 Rm
ASSETS			
Non-current assets	3 670	3 220	2 349
Current assets	4 856	4 270	3 868
Assets classified as held for sale	-	-	622
Total assets	**8 526**	**7 490**	**6 839**
EQUITY AND LIABILITIES			
Total equity	**(2 227)**	**(3 074)**	**(931)**
Non-current liabilities	3 189	3 239	2 772
Current liabilities	7 614	7 325	4 998
Total liabilities	**10 803**	**10 564**	**7 770**
Total equity and liabilities	**8 526**	**7 490**	**6 839**

Source: *Denel SOC Limited (2022)*

Denel submitted that it required an estimated R5.2 billion in recapitalisation to restructure and turn the company around to profitability. From this, R3.4 billion will be received from the proposed recapitalisation in the Bill, whilst the balance of R1.8 billion will be raised through the sale of Denel non-core assets. Based on progress to date, Denel submitted that it was confident it will be able to raise the R1.8 billion from the sale of its own assets over the next six months to augment the recapitalisation and complete the turnaround and restructuring process. To this end, Denel assured the Committee that no further bailouts request is foreseen in the short to medium term.

In conclusion Denel submitted that the success of its turnaround plan was premised on the timeous cash inflow of working capital to execute operations and the restructuring costs. This required access to some of the recapitalisation funds before the completion of the sale of all non-core assets. Denel therefore requested the release of recapitalisation funding proportional to the funds raised from the sale of non-core assets, subject to fulfilling all other conditions as stipulated, in the short term until targeted funds are raised for full recapitalisation consideration.

3.6 Organisation Undoing Tax Abuse

The Organisation Undoing Tax Abuse (OUTA) submitted that, with regard to the GFIP, it would have preferred that government had not embarked on the costly exercise of implementing e-toll infrastructure in the first place or paying exorbitant amounts to a collection agency. Notwithstanding, OUTA welcomed the resolution of the matter and the acknowledgement by government that Gauteng commuter roads (social infrastructure) should be funded by the fiscus. OUTA submitted that it was important that there be improved transparency and clarity around the finances of Sanral before the Bill was finalised in Parliament. OUTA noted that in the 2012 court papers, the cost of the GFIP upgrade has been given as R20 billion. Sanral borrowed R20 billion to fund this. Since 2011/12, national government has authorised government grants totalling R30.053 billion to Sanral, explicitly for the GFIP (this included the R3.740 billion transferred in July 2022 but excluded the proposed R23.736 billion transfer) and that Sanral has also raised about R6.2 billion in e-toll revenue. However, the Sanral and the GFIP debt remained inexplicably high. OUTA also noted that of the R25.648 billion in GFIP grants to the entity from 2011/12 to 2021/22, Sanral recorded these as receipt of only R22.440 billion, leaving a discrepancy of R3.208 billion. To this end, OUTA submitted that an independent investigation was required on the entity's actual expenditure on the GFIP project. The said investigation should ascertain the following:

- how much was spent on the various road construction packages of GFIP;
- how much was spent on the e-toll infrastructure;
- why the costs escalated significantly from approved budgets in 2012; and
- how was National Treasury's GFIP allocations to Sanral applied between 2012 and 2022.

OUTA noted that as one of the conditions attached to the Sanral's bailout, the Department of Transport should submit a draft Road Funding Policy to National Treasury by 31 January 2023. OUTA submitted that it would like to be sure that this policy will go out for public comment and that the public must be given sufficient time to comment and that those comments will be taken into account. OUTA requested the Standing and Select Committees on Appropriations to request the Portfolio Committee on Transport to encourage the Department of Transport to make this process as transparent as possible while drafting this policy, to ensure public buy-in on this crucial matter.

OUTA expressed concerns around the ongoing failure of SOEs as well as government's continued failure to reassess this sector. It submitted that Eskom, will be a significant drain on the fiscus for years to come. It made reference to the 2022 MTBPS which stated that financial support for Eskom amounted to R224.6 billion from the period 2019/20 until 2025/26. This was likely to be more when National Treasury takes on a significant amount of Eskom's debt. OUTA stated that whilst it agreed that Eskom needed support, it was distressing to see funds which should be used for improving quality of life having to be used to clean up the results of state capture. OUTA emphasised that government has repeatedly promised to overhaul the SOE sector but has to date done nothing. It submitted that it was time for the unnecessary SOEs to be shut down or amalgamated, and for much more stringent controls over them. OUTA was of the view that it was pointless for the government to continue to pour massive sums into Eskom while failing to address the key problem of the debt owed to it by customers, particularly delinquent municipalities.

3.7 Congress of South African Trade Unions

The Congress of South African Trade Unions (Cosatu) welcomed the proposed allocation of R23.7 billion to reduce the GFIP debt and submitted that a final solution was now needed to correct this policy mistake for good. Cosatu was of the view that government has listened from struggling commuters who cannot afford to continuously bail out SOEs.

Cosatu also noted and welcomed the proposed allocation of R2.9 billion to repair Transnet's infrastructure and locomotives. It submitted that more must be done by law enforcement agencies to protect South Africa's railway infrastructure. Cosatu also commented that the failure by government to provide similar support to Metro Rail, where many lines have not been returned to service two years after the 2020 lockdown, was extremely disappointing.

Cosatu noted with appreciation, the proposed R3.6 billion allocation to Denel, especially for those workers who have not been paid their salaries for years. It submitted that government needed to provide assurances that the money owed to the workers at Denel will now be paid. Cosatu stated that it was a mark of great shame that those workers were left for more than 18 months without their salaries and that unions were forced to take Denel to court repeatedly in this regard. It proposed that government must share the envisaged turnaround plan to restore Denel to its once world-renowned status and that this plan needed to include saving the employees' jobs.

3.8 Public Service Accountability Monitor

The Public Service Accountability Monitor (PSAM) was concerned that bail-outs to state-owned entities (SOEs) continued despite very little evidence that these entities would become self-sufficient, or that conditions attached to bail-outs had any impact; as it continued to pose a threat to public finances; and made the following recommendations:

- The Committees should insist that the conditions applied to SOE bailouts (including those in the past few years) must be made available to the public, together with clear plans for less reliance by SOEs on government assistance.
- The Committees should urge that the National Treasury, the Department of Public Enterprises and other departments ensure transparency and timely reporting in the operations of SOEs who receive public funds.
- The Committees should request national departments responsible for SOEs to facilitate the opening of annual general meetings (AGMs) of SOEs to the public, and to make information on remuneration and incentives of board members and executives public.

4 Committee Findings and Observations

Having deliberated and considered all the submissions made by the above stakeholders on Special Appropriation Bill [B24-2022], the Standing Committee on Appropriations makes the following findings and observations:

4.1 The Committee notes and welcomes the Bill proposed allocation of R3.378 billion to Denel SOC Limited for the implementation of its business turnaround strategy. The Committee views Denel as not only critical to South Africa through the creation of jobs, but also through its vital role to South African National Defence Portfolio. The Committee also views Denel ass very crucial to the defence ecosystem through its ability to provide various defence equipment for the South African National

Defence Force without whom it will have to rely on imports. This might compromise the sovereignty of the country.

4.2 The Committee notes and welcomes the Bill proposed allocation of R2.9 billion to Transnet SOC Limited for the acceleration of repairs and maintenance of locomotives. The Committee views Transnet as key to both the South African economy and the global supply chain. Therefore, the acceleration and speedy repairs of Transnet locomotives are critical to the economy, more so in the current climate of slow economic growth, coupled with high levels of unemployment.

4.3 The Committee notes and welcomes the proposed reallocation of R23.736 billion to the South African National Roads Agency Limited for the redemption of government-guaranteed debt. It supports this proposed allocation that will ensure that Sanral does not default on its government-guaranteed debt, with adverse consequences to all government-guaranteed debt obligations.

4.4 The Committee notes the submission by the FFC that the maturity of SOCs debt payments coupled with poor functionality poses a substantial risk to the fiscus. The Committee views SOCs as very important and have a crucial role to play in ensuring that government achieves its primary objectives of reducing unemployment, poverty, and inequality.

4.5 The Committee notes and supports the FFC submission that cautions government against perpetuating a cycle of bailouts for poorly performing SOCs. Like the FFC, the Committee supports the call for National Treasury to ensure that stringent conditions are applied to the provision of this funding and ensures that all reports and conditions are made publicly available, in the interest of transparency and prudent public finance management.

4.6 The Committee notes and supports the National Treasury proposed conditions attached to the allocation to Sanral SOC Limited, Denel SOC Limited and Transnet SOC Limited. However, the Committee encourages National Treasury to strictly implement these conditions and be transparent and fair on their implementation.

5 Recommendations

The Standing Committee on Appropriations, having deliberated and considered all the submissions made by various stakeholders on Special Appropriation Bill [B24 - 2022], recommends as follows:

5.1 That the Minister of Transport ensures that Sanral SOC Limited meets all the National Treasury conditions before disbursement of any portion of the proposed R23.736 bill proposed allocation and also ensures compliance by Sanral when these funds are utilised.

5.2 That the Minister of Public Enterprises ensures that the proposed R3.378 billion allocation to Denel SOC Limited is used only for the purpose specified on the Bill and ensures that Denel complies and meets all the National Treasury conditions. Furthermore, the Minister must ensure that Denel provides regular quarterly reports to Parliament on progress made and challenges encountered in implementing its business turnaround strategy.

5.3 That the Minister of Public Enterprises ensures that the proposed R2.9 billion allocation to Transnet SOC Limited is utilised only for the purpose as specified on the Bill and ensures that Transnet complies and meets all the National Treasury conditions. Furthermore, the Minister must ensure that Transnet provides regular quarterly reports to Parliament on progress made and challenges regarding the repairs and maintenance of its locomotives as envisaged by this proposed allocation.

5.4 That the Minister of Finance ensures that National Treasury strictly implement all conditions on the proposed allocation to Sanral SOC Limited, Denel SOC Limited and Transnet SOC Limited. Furthermore, the Minister of Finance must ensure that National Treasury produces regular quarterly reports to Parliament on the implementation these conditions and the disbursement of the proposed allocations as envisaged on the Bill.

6 Committee Recommendation on the Bill

The Standing Committee on Appropriations recommends that the National Assembly adopts the Special Appropriation Bill [B24-2022], without amendments.

7 Conclusion

The responses to the recommendations as set out in section 5 above by the relevant Executive Authorities must be sent to Parliament within 60 days of the adoption of this report by the National Assembly.

Report to be considered.

3. REPORT OF THE STANDING COMMITTEE ON APPROPRIATIONS ON THE 2022 MEDIUM TERM BUDGET POLICY STATEMENT, DATED 29 NOVEMBER 2022

Having heard and considered submissions and comments from identified stakeholders on the 2022 Medium Term Budget Policy Statement, the Standing Committee on Appropriations reports as follows:

1. Introduction

The Minister of Finance tabled the 2022 Medium Term Budget Policy Statement (MTBPS) on 26 October 2022. The MTBPS was tabled in terms of section 6 (1) of the Money Bills Amendment Procedure and Related Matters Act, No. 9 of 2009 (the Act) as amended by Act No. 13 of 2018 (the Act). The MTPBS is a government policy document that communicates to Parliament and to the country the economic context in which next year's national budget will be presented, along with government fiscal objectives and spending priorities over the medium term (three-year expenditure period). As required by section 4 (4) (b and c) of the Act, after the tabling of the MTPBS by the Minister of Finance, the Division of Revenue Amendment Bill, Special Appropriation Bill and Adjustments Appropriation Bill were referred to the Committee for considerations and report to the National Assembly (NA). Amongst its responsibilities, as per section 6 (8) of the Act, the Committee is required to consider and report on the following:

- the spending priorities of national government for the next three years;
- the proposed division of revenue between the spheres of government and between arms of government within a sphere for the next three years; and
- the proposed substantial adjustments to conditional grants to provinces and local government, if any.

In an effort to deepen democracy, promote good governance, enhance public participation and involvement, the Committee invited the Financial and Fiscal Commission and Parliamentary Budget Office for submissions and comments on the tabled 2022 MTPBS. In addition to the invited stakeholders, the Committee published an advertisement in national and local newspapers from 27 to 30 October 2022 inviting the public to make submissions and comments on the 2022 MTPBS. The Committee held public hearings with interested stakeholders on the Zoom virtual meeting platform on 25 November 2022. Submissions were received from the following stakeholders in response to the aforementioned advertisement:

- Congress of South African Trade Unions;
- Equal Education; and
- Organisation Undoing Tax Abuse.

2. Economic overview and context

The 2022 MTBPS was tabled at the time when South Africa was beginning to emerge from shadows of the COVID-19 pandemic and an increase in economic activity was beginning to improve. South Africa's broad economic recovery was to a larger extent supported by higher global commodity prices, which improved exports and fiscal revenue. South Africa's real Gross Domestic Product (GDP) growth recovered to 4.9 per cent in 2021 from a low base of negative 6.3 per cent in 2020. However, economic recovery has been hampered by a number of factors, namely; the slow implementation of economic reforms and a series of shocks, including the domestic riots and looting in July 2021, historic flooding in various parts of the country in April 2022, and the escalating power cuts. Despite this witnessed positive growth, the three societal ills of unemployment, poverty and inequality remain a cause for concern.

The 2022 MTBPS was presented when Statistics South Africa (STATSSA) had released employment data for the second quarter of 2022 on 23 August 2022. The Quarterly Labour Force Surveys (QLFS) published by STATSSA painted a slightly favourable picture in as far as employment data is concerned. As at the end of the second quarter of 2022, the number of unemployed persons increased by 132 000 to 8 million compared to the first quarter of 2022. The number of discouraged work-seekers decreased by 183 000 (4.9 per cent) and the number of people who were not economically active for reasons other than discouragement decreased by 452 000 (3.3 per cent) between the two quarters resulting in a net decrease of 635 000 in the not economically active population. These changes in employment and unemployment data resulted in the official unemployment rate decreasing by 0.6 per cent from 34.5 per cent in the first quarter of 2022 to 33.9 per cent in the second quarter of 2022. The unemployment rate according to the expanded definition of unemployment also decreased by 1.4 per cent to 44.1 per cent in the second quarter of 2022.

The second quarter employment/unemployment data again demonstrated that the youth remain vulnerable in the labour market. As at the end of the second quarter of 2022, youth unemployment rates decreased by 1.3 per cent to 46.5 per cent.

As the South African economy accelerates its recovery from the negative economic impact of the COVID-19 pandemic, the July 2021 riots and other structural constraints, National Treasury projects that the South African economy will grow by 1.9 per cent in 2022, compared to the 2.1 per cent projected in the 2022 Budget Review ***(see table 1 below)***. While National Treasury emphasised the need to urgently implement structural reforms, especially in the energy sector to improve the productive capacity and competitiveness of the economy, the country's growth is projected to average 1.6 per cent from 2023 to 2025.

The International Monetary Fund (IMF), in its October 2022 World Economic Outlook report, acknowledged that the global economy is experiencing a number of turbulent challenges. These include higher inflation, tightening financial conditions in most regions, Russia's invasion of Ukraine, and the lingering COVID-19 pandemic, which all weigh heavily on the outlook. Global growth is forecasted to slow down from 6.0 percent in 2021 to 3.2 per cent in 2022 and 2.7 per cent in 2023. According to IMF, this is the weakest growth profile since 2001 except for the global financial crisis and the acute phase of the COVID-19 pandemic and reflects significant slowdowns for the largest economies: a US GDP contraction in the first half of 2022, a euro area contraction in the second half of 2022, and prolonged COVID-19 outbreaks and lockdowns in China. However, IMF emphasised that the global economy's future health rests critically on the successful recalibration of monetary policy, the course of the war in Ukraine, and the possibility of further pandemic-related supply-side disruptions, for example, in China. Table 1 below provides an overview of projected economic growth for selected countries over the next years.

Table 1: Economic growth in selected countries

Region/country Percentage	2020	2021	2022	2023	2024
	Actual		Forecast		
World	**-3.0**	**6.0**	**3.2**	**2.7**	**3.2**
Advanced economies	**-4.4**	**5.2**	**2.4**	**1.1**	**1.6**
United States	-3.4	5.7	1.6	1.0	1.2
Euro area	-6.1	5.2	3.1	0.5	1.8
United Kingdom	-9.3	7.4	3.6	0.3	0.6
Japan	-4.6	1.7	1.7	1.6	1.3
Emerging and developing countries	**-1.9**	**6.6**	**3.7**	**3.7**	**4.3**
China	2.2	8.1	3.2	4.4	4.5
India	-6.6	8.7	6.8	6.1	6.8
Brazil	-3.9	4.6	2.8	1.0	1.9
Russia	-2.7	4.7	-3.4	-2.3	1.5
Sub-Saharan Africa	**-1.6**	**4.7**	**3.6**	**3.7**	**4.1**
Nigeria	-1.8	3.6	3.2	3.0	2.9
South Africa1	-6.3	4.9	1.9	1.4	1.7
World trade volumes	**-7.8**	**10.1**	**4.3**	**2.5**	**3.7**

Sources: *National Treasury 2022 MTBPS and IMF October 2022 World Economic Outlook*

It was against this background that the Committee decided to invite and have engagements with identified stakeholders on the 2022 Medium Term Budget Policy Statement.

3. Medium term expenditure framework and expenditure priorities

The 2022 MTBPS emphasises the continued government commitments of reducing fiscal risks in the short term, narrowing the fiscal deficit, stabilising debt, while proposing measures to enhance economic growth and restore funding for infrastructure and service delivery programmes. Government aim to focus on ensuring clear and stable macroeconomic policies, implementing economic reforms while addressing key enablers to growth and state capability. Consolidated budget deficit is projected to narrow from 4.1 per cent of the GDP in 2023/24 to 3.2 per cent of GDP in 2025/26, while gross government debt is projected to stabilise at 71.4 per cent of GDP in 2022/23 – two years earlier and at a lower level than projected in the 2022 budget. Consolidated government spending is projected to increase from R2.21 trillion in 2022/23 to R2.48 trillion in 2025/26, at an average annual growth of 4 per cent. The medium-term changes to spending priorities are largely driven by government's decision to extend the COVID-19 special relief of distress grant by one year until 31 March 2024.

3.1. In-year spending adjustments

Compared with the 2022 Budget estimates, government proposes a net addition of R37 billion to main budget non-interest spending in 2022/23. This consists of R54.1 billion in spending increases, partially offset by declared unspent funds, and projected underspending and contingency reserve drawdowns. The proposed in-year allocations are intended to address balance sheet weaknesses in public entities that are central to economic recovery. SANRAL is allocated R23.7 billion to settle maturing debt and debt-related obligations. A total of R5.8 billion will be allocated to Transnet, half of which is shifted funds to repair infrastructure damaged by the recent floods, and half to repair and maintain freight rail locomotives. Denel will be allocated R204.7 million to reduce contingent liabilities arising from its weak financial position and R3.4 billion if a set of conditions are met to complete its turnaround plan.

In addition, the total in-year spending adjustments amounts to R13 billion (Adjustment Appropriation Bill), inclusive of the total adjusted appropriations per vote and adjusted estimates of direct charges against the National Revenue Fund.

- Unforeseeable and unavoidable expenditure amounting to R6.3 billion, prompted largely by the flood damages in KwaZulu-Natal and Eastern Cape provinces.
- Expenditure earmarked in the 2022 Budget Speech for future allocation totalling R500 million towards the Presidential Employment Initiative (PEI), with the main focus being the digitisation programme for the Department of Home Affairs.
- Rollovers totalling R990 million. The bulk of the rollovers emanate from two votes (Agriculture, Land Reform and Rural Development vote and Communications and Digital Technologies vote) for the roll-out of Phase 2 of the PEI.
- Total declared unspent funds amount to R1.96 billion and is largely driven by the Social Development Vote where R1.8 billion was unspent due to lower than anticipated uptake of the Social Relief of Distress (SRD) grant.
- R1.6 billion for self-financing expenditure from the revenue generating activities of departments to enable them to continue with these activities.

3.2. Expenditure

Relative to the 2022 national budget, government proposes an increase in the main budget non-interest spending by a net R52.4 billion in 2023/24 and R58.5 billion in 2024/25. These adjustments are made mainly to increase the COVID-19 special relief of distress grant, improve investments in infrastructure, and support safety and security, and education and health services. These include the following proposed additions over the next two years:

- R66.9 billion for health, education and provision of free basic services by local government, and a one-year extension of the *COVID-19 social relief of distress grant*.
- R8.9 billion for safety and security.
- R11.3 billion for infrastructure investment, including rehabilitating damaged municipal infrastructure and refurbishing provincial roads.

These proposed spending increases are funded by the improved revenue estimates and an expected drawdown of the 2022 Budget unallocated reserve in 2023/24. The unallocated and contingency reserves cushion the framework from fiscal risks that may materialise over the medium term. The unallocated reserve is increased by R11.3 billion to R41.3 billion in 2024/25. The contingency reserve has also been increased by R2 billion over the next two years.

4. Division of Revenue

In terms of functions, provinces are responsible for basic education, health services, roads, housing, social development and agriculture, while municipalities provide basic services such as water, sanitation, electricity reticulations, roads and community services. Provincial and municipal governments face pressures from rising costs of basic and social services over the medium term as government contains spending growth and weak economic growth affects other sources of funding. Over the next three years, government proposes allocating 48.4 per cent of available non-interest spending to national departments, 41.4 per cent to provinces and 10.1 per cent to local government (***see table 2 below***).

Table 2: Division of revenue framework

R billion	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26
		Outcome		Revised		Medium-term estimates	
Division of available funds							
National departments	**749.8**	**790.5**	**823.0**	**857.9**	**817.7**	**822.2**	**859.1**
of which:							
Provincial indirect grants	*2.9*	*2.9*	*3.7*	*4.6*	*4.2*	*4.4*	*4.8*
Local indirect grants	*5.6*	*4.1*	*5.7*	*8.2*	*9.9*	*10.7*	*14.0*
Provinces	**613.5**	**628.8**	**660.8**	**684.5**	**684.3**	**709.5**	**743.3**
Equitable share	505.6	520.7	544.8	560.8	556.4	576.5	602.9
Conditional grants	107.9	108.1	116.0	123.7	128.0	133.0	140.4
Local government	**123.0**	**137.1**	**135.6**	**154.2**	**164.9**	**174.6**	**183.5**
Equitable share	65.6	83.1	76.2	87.3	95.1	102.4	109.4
General fuel levy sharing with metropolitan municipalities	13.2	14.0	14.6	15.3	15.4	16.1	16.8
Conditional grants	44.2	40.0	44.8	51.5	54.4	56.1	57.3
Provisional allocations not assigned to votes1	–	–	–	14.8	36.5	38.0	39.3
Unallocated reserve	–	–	–	–	–	41.3	47.3
Projected underspending	–	–	–	-5.9	–	–	–
Non-interest allocations	**1,486.2**	**1,556.4**	**1,619.4**	**1,705.5**	**1,703.4**	**1,785.6**	**1,872.5**
Debt-service costs	204.8	232.6	268.1	307.7	332.2	352.9	380.7
Contingency reserve	–	–	–	5.0	6.0	6.0	10.0
Main budget expenditure	**1,691.0**	**1,789.0**	**1,887.5**	**2,018.2**	**2,041.6**	**2,144.5**	**2,263.2**
Percentage shares							
National departments	50.4%	50.8%	50.8%	50.6%	49.1%	48.2%	48.1%
Provinces	41.3%	40.4%	40.8%	40.3%	41.1%	41.6%	41.6%
Local government	8.3%	8.8%	8.4%	9.1%	9.9%	10.2%	10.3%

1. *Includes support to Eskom, amounts approved for projects through the Budget Facility for Infrastructure and other provisional allocations*

Source*: National Treasury (2021) Medium Term Budget Policy Statement*

5. Spending priorities by function group

Over the 2023 Medium Term Expenditure Framework (MTEF), spending on community development function, which mainly provides for basic services to households, grows the fastest, averaging 7.2 per cent per year, behind only the economic development function at an annual average of 8 per cent. Over the same period, spending on social development will contract by an average of 2.4 per cent due to the special relief of distress grant concluding in March 2024. Debt-service costs grow at an annual average of 7.3 per cent while the contingency reserve increases from R6 billion in 2023 to R10 billion in 2025/26 (***See Table 3 below***)**.** While the allocation to the learning and culture function increases at an annual average of 3.5 per cent over the MTEF, the peace and security function and the general public services function allocations increase at an annual average of 2.7 per cent and 3 per cent respectively, over the same period.

Table 3: Consolidated expenditure by function[1]

R billion	2021/22 Outcome	2022/23 Revised	2023/24 Medium-term estimates	2024/25	2025/26	Average annual growth 2022/23 – 2025/26
Learning and culture	**413.3**	**447.4**	**455.6**	**473.4**	**496.5**	**3.5%**
Basic education	284.3	301.8	308.4	314.1	329.4	3.0%
Post-school education and training	118.4	134.2	135.4	147.8	155.3	5.0%
Arts, culture, sport and recreation	10.5	11.5	11.7	11.5	11.8	1.1%
Health	**257.4**	**258.4**	**256.1**	**267.5**	**279.4**	**2.6%**
Peace and security	**217.1**	**227.6**	**226.4**	**235.4**	**246.5**	**2.7%**
Defence and state security	49.0	52.5	52.3	52.4	54.5	1.3%
Police services	108.4	112.3	111.9	119.2	125.5	3.8%
Law courts and prisons	49.1	51.7	51.4	53.6	55.9	2.6%
Home affairs	10.6	11.1	10.7	10.2	10.6	-1.5%
Community development	**208.9**	**236.7**	**258.7**	**274.9**	**291.7**	**7.2%**
Economic development	**195.8**	**222.9**	**237.6**	**262.4**	**280.8**	**8.0%**
Industrialisation and exports	40.3	41.0	41.5	42.6	43.1	1.6%
Agriculture and rural development	27.2	29.4	29.1	30.2	31.5	2.3%
Job creation and labour affairs	20.6	24.9	24.5	26.2	27.3	3.1%
Economic regulation and infrastructure	90.9	110.2	125.0	145.1	160.1	13.3%
Innovation, science and technology	16.7	17.4	17.5	18.2	18.8	2.6%
General public services	**67.6**	**71.4**	**73.1**	**74.8**	**78.0**	**3.0%**
Executive and legislative organs	14.0	15.3	16.9	16.4	17.2	3.8%
Public administration and fiscal affairs	45.7	47.4	47.9	49.3	51.5	2.8%
External affairs	7.9	8.6	8.4	9.0	9.4	3.0%
Social development	**342.8**	**365.6**	**370.9**	**350.2**	**340.3**	**-2.4%**
Social protection	257.4	273.6	280.0	256.4	267.9	-0.7%
Social security funds	85.4	92.0	90.9	93.8	72.4	-7.7%
Payments for financial assets	**76.1**	**62.6**	**25.2**	**25.4**	**26.5**	
Allocated by function	**1,779.0**	**1,892.6**	**1,903.5**	**1,963.9**	**2,039.7**	**2.5%**
Debt-service costs	268.1	307.7	332.2	352.9	380.7	7.3%
Unallocated reserve	–	–	–	41.3	47.3	
Contingency reserve	–	5.0	6.0	6.0	10.0	
Consolidated expenditure	**2,047.0**	**2,205.3**	**2,241.7**	**2,364.1**	**2,477.7**	**4.0%**

1. *Consisting of national and provincial departments, social security funds and public entities*

Source: *National Treasury (2022) Medium Term Budget Policy Statement*

The 2022 MTBPS categorises consolidated government expenditure by "spending priorities by function group" namely:

- **Learning and culture:** the learning and culture is made up of the basic and higher education sectors, as well as sports, arts and culture. Over the medium term, provincial education budgets will stabilise as funding is added for compensation of employees to fill teacher vacancies and reduce class sizes, supporting improved learning outcomes. To continue providing nutritious meals to 9 million learners each school day, funding will be added to the *national school nutrition programme conditional grant* over the next three years. Following the recent shift of the early childhood development function from social development to basic education, funding is added for the Department of Basic Education to build its oversight and monitoring capacity, and to improve and expand early childhood development services in provinces.

- **Health:** the public health sector experienced two years of severe strain from the COVID-19 pandemic and disruptions to routine healthcare services. As the immediate pressure from the pandemic eases, COVID-19 vaccinations are being integrated into general health services from separate vaccination sites. Over the MTEF period, the sector will refocus on other core health services and address accumulated backlogs. Additional funds will be provided to alleviate critical funding pressures in areas such as healthcare personnel, medicine, laboratory services, medical supplies, and critical goods and services. Funds will also be provided to address service backlogs such as surgery, oncology, antiretroviral treatment and tuberculosis screening and treatment. In addition, funds will be provided to build the new Limpopo Central Hospital in Polokwane.

- **Social development:** this function includes programmes aimed at income protection and social welfare, and for women, youth and persons with disabilities. The function receives the second-largest share of the consolidated budget over the MTEF period. On 1 October 2022, the old age grant, war veterans grant, disability grant and care dependency grant increased by an additional R10 per month from R1 980 (R2 000 for over 75-year-olds and war veterans) to R1 990 (R2 010 for over 75-year-olds and war veterans).

- **Community development:** the main priority of this function group is to provide basic services to poor households. Funds are allocated for water and sanitation services, household electrification, low-income housing and upgrading of informal settlements, and public transport. The largest component of spending is the local government equitable share allocation to support municipal operations and the provision of free basic services for poor households. Over the medium term, water services infrastructure will be upgraded. Additional funding will be allocated through the Budget Facility for Infrastructure for projects in Nelson Mandela Bay Metropolitan Municipality, Sol Plaatje Local Municipality, Drakenstein Local Municipality and the City of Johannesburg. Bulk water supply projects to be implemented by water boards will also receive funding.

- **Economic development:** this function group supports job creation, industrial development, and inclusive and sustainable economic growth. Over the medium term, about 8.8 per cent of this function group’s allocation will provide for transfers and subsidies to departmental agencies, public corporations and private enterprises. Medium-term priorities primarily support economic reconstruction and recovery through reindustrialisation, employment protection and creation, greening the economy, agriculture and food security, and investment in infrastructure. The Department of Agriculture, Land Reform and Rural Development will reprioritise funds over the MTEF period to help contain the spread of foot and mouth disease, while the Department of Small Business Development will work with municipalities to reduce administrative and regulatory burdens for small, medium and micro enterprises and co-operatives.

  Government will also prioritise large-scale investment in infrastructure and capability to enhance the role of the South African National Space Agency, including to support critical climate data and monitoring services. The Department of Tourism has reprioritised funds towards the pilot phase of the Tourism Equity Fund introduced in 2021

- **Peace and security:** over the MTEF period, the peace and security function is allocated additional funding to improve safety and security. The South African Police Service will receive additional funding to increase the number of student constables to improve capacity, mainly in police stations. The departments of Defence and Home Affairs will receive additional funding to enhance border security and territorial integrity. The defence funding also provides for the procurement of equipment and technology that will support operations and for the repair and maintenance of navy defence systems to improve maritime security.

The Department of Justice and Constitutional Development has reprioritised funds to the Financial Intelligence Centre to implement recommendations from the State Capture Commission and the Financial Action Task Force. Funding will also be allocated to the National Prosecuting Authority to increase capacity in specialised tax units and the Investigating Directorate, procure specialist prosecution services for complex matters (especially financial crimes), appoint forensic auditors and accountants to deal with high-priority asset forfeiture matters, establish a digital forensic data centre, and finance increased witness protection operational costs. Additional funding will enable the Financial Intelligence Centre to increase its human resource capacity and help the Special Investigating Unit to initiate civil litigation following the State Capture Commission recommendations.

- **General public services:** this function contributes to building a state that can play a developmental and transformative role. The function has reprioritised funds over the MTEF period from goods and services to cover key policy initiatives and enhance capacity in departments. Funds will be shifted from the Department of Public Works and Infrastructure to the Presidency to increase capacity in the Project Management Office, which supports other government departments to develop programmes that provide work opportunities for youth. The South African Revenue Service will receive additional funds to improve information and communications technology capacity and revenue collection capabilities, and to report on tax administration digital resilience during the COVID-19 pandemic. Funds have been reprioritised over the medium term for the Government Communication and Information System to prioritise campaigns on gender-based violence and femicide, anti-corruption and the economic recovery plan.

2. Fiscal Risks

In engaging with government's proposed spending over the MTEF, the Committee notes the following medium to long-term risks to public finances and outlook as reported in the 2022 fiscal risk statement:

- **Macroeconomic risks:** these risks include slowdown in economic growth, higher global interest rates resulting in higher than anticipated debt services costs, and higher debt trajectory.
- **Expenditure risks:** these risks include higher than anticipated budget wage bill expenditure, large unfunded social expenditure and subnational government activities like the provincial unpaid invoices, the medico-legal claims and the financial position of municipalities.
- **Contingent and accrued liabilities risks:** these risks include government guarantees to SOEs, and the weak financial position of state owned entities.

3. Submissions on the 2022 MTBPS

This section provides an overview and summary of all the submissions from identified and interested stakeholders on the 2022 MTBPS.

8.1 Financial and Fiscal Commission

The Financial and Fiscal Commission (FFC) submitted that the 2022 MTBPS was presented when the world economy has been hit by successive external, unforeseeable shocks. These shocks included the COVID-19 pandemic, the war between Russia and Ukraine, and climate disasters. As a result, according to the October 2022 IMF World Economic Outlook, global growth will slow down from 6 per cent in 2021 to 3.2 per cent in 2022 and 2.7 per cent in 2023, reflecting its weakest growth profile since 2001. As a small open economy heavily dependent on commodity exports, South Africa was exposed to the downside of lower global growth. The FFC made the following comments and recommendations with regard to the 2022 MTBPS.

Expenditure per functional group

The FFC submitted that consolidated spending was projected to increase from R2.21 trillion in 2022/23 to R2.24 trillion in 2023/24, R2.36 trillion in 2024/25 and finally, R2.48 trillion in 2025/26. This represented a nominal annual average growth of 4 per cent from 2022/23 to 2025/26. The year-on-year increases showed that in the 2023/24 financial year, overall consolidated spending was projected to grow by 1.6 per cent. More robust growth was projected for 2024/25 (5.5 per cent) and 2025/26 (4.8 per cent). However, the FFC cautioned that the growth rates of the outer two years were subject to wide variations. With regard to the expenditure projections over the MTEF, the FFC made the following observations and recommendations:

- Concerning projections for 2023/24, the FFC welcomed the prioritisation of growth in funding directed at the Community Services function as it related to providing free basic services to indigent households. However, it advised that national and provincial governments as well as Parliament should exercise strict oversight over the utilisation of these funds to prevent misuse. This was particularly important given the number of municipalities in financial distress.
- Whilst noting the growth in allocations to basic education, the FFC submitted that shifting the ECD function from Social Development to Basic Education allowed the government to strengthen its investment in ECD. In addition, the MTBPS mentioned that additional funding was being added to the function for ECD to improve monitoring, oversight and service delivery in provinces. The FFC looked forward to more detailed information around these aspects in the 2023 national budget.
- The FFC emphasised that policy certainty was required in the social development sector insofar as finding a permanent and fiscally sustainable solution to providing comprehensive support for economically vulnerable and working-aged individuals.
- Concerning higher education and training, the FFC reiterated its recommendation in its response to the 2022 national budget, which called for the urgent finalisation of a new funding framework for the sector. Furthermore, following the proposal by the ministerial committee on student funding to investigate the matter further, the FFC advised that clear timelines and milestones should be determined.

Debt Management Risks

The FFC submitted that high debt-service costs made it more challenging to stabilise government debt, representing a significant risk to the sustainability of public finances because debt-service costs crowd out fiscal space and productive expenditure. As a result, debt-service costs have been revised upward by R5.9 billion compared to the 2022 national budget, increasing to R307.7 billion in 2022/23. The 2022 MTBPS projected that debt-service costs will continue to increase over the medium term, reaching R380.7 billion in 2025/26, or 4.8 per cent of GDP. The FFC further submitted that the uncertain global economic landscape and persistent unfavourable domestic conditions, such as continued energy supply shortages and high domestic interest rates, may negatively impact debt dynamics over the medium term. Therefore, despite the improved fiscal stance, South Africa still faced much uncertainty and challenges ahead concerning its public debt levels, debt-service costs, and the future debt path, especially given that debt-service costs still appear to be escalating.

Contingent Liabilities

The FFC noted that in the 2022 MTBPS, contingent liabilities were expected to exceed R1 trillion, posing a significant risk to the fiscus. If materialised, funds will have to be redirected elsewhere, adversely impacting the sustainability of public finances. The risk of materialising contingent liabilities was heightened due to the poor state of many SOCs that relied heavily on government guarantees to sustain their weak financial positions. The FFC observed that government guarantees as a proportion of GDP have more than doubled over the past decade, from 4.5 per cent in 2009/10 to 10.3 per cent in 2019/20. The FFC submitted that a sustained decrease in contingent liabilities and government guarantees will be significant for investor confidence as these liabilities weakened the economic and fiscal position of South Africa. The FFC made reference to the Zondo Commission reports, which detailed corruption and state capture within many SOCs that continued to receive debt relief. The 2022 MTBPS recognised the need to combat corruption, but more urgent institutional reforms, particularly in public procurement, will be needed to ensure the viability of many SOCs. The FFC recommended as follows with regard to contingent liabilities:

- The FFC supported and commended pro-growth fiscal consolidation that aimed to stabilise and reduce government debt and rein in debt-service costs. However, significant global and domestic risks remained and should be mitigated. Therefore, careful attention should be given to the budget and debt financing strategy to slow down the annual growth rate of debt service costs. Furthermore, government should ensure that interest expenditure does not continue to consume fiscal space and crowd out spending on basic services and realising socio-economic rights.
- Weak productivity in expenditure needed to be addressed to create job-enhancing, inclusive growth through quality expenditure and investment-enticing reforms. In addition, the FFC stressed that long-term growth prospects will require addressing structural constraints. To that end, reforms that address vulnerabilities to corruption (such as procurement reform); ensure energy security by enticing private sector investment and fast-tracking the unbundling of Eskom. Lastly, the overall increase in competitiveness of the economy through the reduction of regulatory barriers that support small and medium enterprises (SMEs) was urgently needed.

Furthermore, proper expenditure management was also required to prevent fiscal leakages and fruitless spending.

Public Service Compensation Data

The FFC submitted that Compensation of Employees (COE) remained one of the most significant expenditure items from the fiscus. According to National Treasury, COE in the public sector absorbed 31.4 per cent of government revenue in 2022/23. This represented a 3.1 per cent decrease from 2019/20 and was part of the government's deliberate attempt to contain COE costs. Although the FFC commended government's effort to lower COE, it advised that care should be given to wage negotiations in 2022/23. If the wage agreement exceeded the available budget, this will pose significant challenges to the medium-term fiscal projections.

The FFC further noted that over the MTEF, the consolidated public service wage bill will grow at an annual rate of 3.1 per cent, with Police growing at a rate of 4.1 per cent annually due to the government's commitment to increase the number of constables in the police force in response to high crime statistics in the country. Whilst government committed to increasing capacity in services such as education, health and police, FFC was of the view that this should be done within the constraints of available budgets to avoid additional pressures on the wage bill. The FFC reiterated its recommendation in its 2021 MTBPS submission that government should develop a long-term plan incrementally to address unsustainable public sector wage bill and that the plan should seek to improve public sector productivity at a lower cost.

The FFC made the following recommendations in terms of the 2022 MTBPS

- The FFC welcomed the 2022 MTBPS and recommends that the government continue to stay consistent in its policy stance towards maintaining fiscal credibility, ensuring fiscal sustainability to minimise economic risks.
- Elevated domestic inflation and rising interest rates may exacerbate existing social inequalities and create vulnerabilities in South Africa. Accordingly, the FFC recommended that medium-term spending be reprioritised towards social and economically inclusive growth-supporting expenditures to mitigate the exacerbation of inequalities and socio-economic vulnerabilities in the long run.
- SOCs continued to drain the fiscus, thus threatening the sustainability of public finances. The FFC however appreciated the need to address SOC's balance sheet weaknesses. The FFC

recommended transparent processes regarding fiscal support to SOCs, publicly available reports and conditions, and reforming the evaluation criteria for granting government guarantees to SOCs. This includes establishing a SOC governance framework with public reporting criteria that clearly defines detailed and precise profitability and non-financial objectives for transparency.

- The FFC welcomed government's efforts to stabilise government debt earlier and at a lower rate. However, debt service costs remained very high, signalling the rising cost of borrowing and slow growth. Therefore, the FFC recommended that the debt financing strategy be aligned to economic growth initiatives to slow down the debt service costs and ensure that interest expenditure does not crowd out critical spending in vital functional areas such as health and education. In addition, the FFC recommended government should improve expenditure management by preventing fiscal leakages and fruitless spending.
- The FFC reiterated its recommendation for the urgent finalisation of a new funding framework for higher education and training and local government fiscal framework. Furthermore, given expenditure moderation, comprehensive reports should be compiled by affected government departments indicating how such moderation was likely to affect the delivery of basic services and how tighter budgets would be managed.

8.2 Parliamentary Budget Office

The Parliamentary Budget Office (PBO) noted considerable changes in government`s policy priorities. These changes translated into adjusted spending priorities over the medium term. According to the PBO, these policy changes will leverage government`s efforts to reduce debt and at the same time, support initiatives for economic recovery. The decision to extend the SRD grant until March 2024 and the increase on infrastructure spending were cited as welcome developments by the PBO. Spending on infrastructure was reported to have increased from R66.7billion in 2022/23 to R112.5 billion in 2025/26. On the contrary, the PBO cautioned that lack of state capacity to deliver on the infrastructure projects and low progress in addressing structural constraints were not good signs for the economy, considering the fixed investment outlook.

With regard to the increase in revenue, the PBO informed the Committee that the country had a broad tax base and this provided an opportunity for the introduction of tax reforms in order to mobilize resources to increase revenue. The PBO indicated that the government could tax excess profits by companies that used the inflation upsurge to boost profit and make up for the COVID-19 losses.

The PBO welcomed the allocation on spending for safety and security clusters to increase the current number of police and to support the implementation of the State Capture Commission Recommendations in the MTBPS. On the other hand, PBO cautioned that the global outlook presented a rather bleak picture because of the contractionary fiscal and monetary policies. This was based on the impact of the tighter monetary and fiscal policy choices by advanced economies that were likely to increase the risk of global recession and a period of stagnation. Consequently, higher interest rates were introduced in order to fight inflation by curbing demand.

The PBO flagged weaknesses in respect of oversight and reported that some of the government departments do not have performance indicators in the annual performance plans. This made it difficult for the oversight bodies to conduct effective oversight on them. Equally, concerns were raised on the strain placed on the public finances by SOEs, in particularly Eskom. According to the PBO, efforts to reduce government debt were thwarted by the plans to service Eskom`s portion of R400 billion debt. The PBO noted the increase in the Provincial Equitable Share over the 2023 MTEF period from 1.0 per cent to 2.4 per cent. The PBO submission concluded with the following matters for noting by the Committee:

- There must be an exploration of multiple sources of revenue that have the potential to increase government revenue base.
- There must be an ongoing examination of government1s contingent liabilities and exposure to poorly performing SOEs.
- Attention should be given to government departments that do not have performance indicators in their Annual Performance Plans.
- Costs for government`s plan to pay portion of Eskom`s debt must be presented to Parliament.

8.3 Congress of South African Trade Unions

In its submission, the Congress of South African Trade Union (COSATU) indicated its displeasure on the 2022 MTBPS and related bills for not responding adequately to areas of critical need. This

MTBPS was tabled the face of an ailing economy that has had a protracted period of economic stagnation. COSATU submitted that government fell short of curbing the inflation that has had a negative bearing on the workers and also, lacked the practical strategies to stimulate the economy. Despite the shortcomings, COSATU welcomed the fact that there were positive interventions in the policy statement by the Minister of Finance. It also recommended that a more pointed and decisive 2023 national budget should be presented.

COSATU viewed the MTBPS as a missed opportunity and made the following comments and proposals with regard to the Bill:

Fuel Price Regime	• COSATU submitted that is was worrying that the Minister did not comment on the 2018 commitment about exploring the ways of dealing with the fuel price. • COSATU called on National Treasury to reduce the 32 per cent of the fuel price that goes towards taxes and work with the Department of Transport to address the problems at the Road Accident Fund.
Debt Level	• COSATU expressed the view that the economic stagnation has led to the increase of the debt level. In view of this, COSATU recommends that there must be initiatives to grow the economy in order to decrease the debt. • Government should shift from cutting budgets to addressing causes of fiscal crisis, attend to the weak SOEs, tackle corruption and deal with massive unemployment in order resuscitate the economy. • Welcomed the injection of R37 billion for the frontline departments but also, decried the underspending of a whopping R5.8 billion despite not having adequate resources.
Public Sector Wage Bill	• COSATU emphasised that government must make efforts to find amicable solution to the workers` salaries and avert the possible disruptions by workers' strike. • The decline in public service headcount was concerning with the nurses and teachers mostly affected. It was, according to COSATU, disheartening that there was a notable decline of the South African Police Service which reduced from 208 000 to 172 000 in 2022.

	• Commitment by government to employ 12 000 new recruits was too little considering the resignations, retirements and death of police officers.
Industrialisation Programmes	• There must be a demonstrable will to increase the funding of industrial sector for job creation. Much more must be done to address the crises of mass unemployment, poverty and increasing inequality. • COSATU recommended that there should be interventions to stop de-industrialization and to stop cheap imports and therefore, create more jobs. • Much more must be done to transform the colonial structure of the South African economy and forging an industrialisation led growth path. • Concerns were expressed that there was still no explicit commitment to increase the funding to industrial sector masterplans that are supposed to be the backbone of the industrialisation strategy. • Government must take more decisive interventions to stem the unfolding de-industrialisation and job losses from cheap imports. COSATU called on National Treasury and the South African Reserve Bank to explore partial imposition of capital controls to stem the tide of capital flight.
Pension Relief for Financially struggling workers	• COSATU welcomed the progress with regards to allowing highly indebted workers, public and private, to have limited access to their pension funds when in need. • A Bill providing for this proposed partial withdrawal was before Parliament and some of its final details need to be finalised between the trade union, National Treasury and Parliament.
Revenue Collection	• COSATU commended the work done by the employees of the South African Revenue Service (SARS) who have managed to generate an additional R83 billion in revenue for the state and a target of R94 billion in 2023 and R99 billion in 2024.

	• More resources should be allocated to SARS to support their efforts to fight tax avoidance and conduct lifestyle audits of politicians, senior managers in the state and the private sector.
Corruption	• The MTBPS and Bill were not prioritising the fight against corruption. The country's law enforcement agencies are not fully equipped to fight white collar crime and cybercrime. • Police stations do not have enough working tools to fix the crime situation that has left many people feeling insecure and leading to others taking law into their own hands. • An effective plan was needed to fund a whistle-blower protection programme.
SOEs	• COSATU was concerned about the silence in the MTBPS and the Adjustments Appropriation Bills regarding the South African Post Office (SAPO). • There was a need to support SAPO in order to halt 6 000 retrenchments and for it to pay workers outstanding salaries. • There was a need for a new model and turn around plans for South African Broadcasting Corporation as well other distressed SOEs.

8.4 Equal Education

Equal Education (EE) emphasised the fact that basic education was a fundamental human rights matter under the Constitution and that government has the obligation to actively take steps to promote and fulfil this right. EE further explained that basic education consisted of certain core components, including safe and sufficient infrastructure, transport, as well as learning and teaching materials such as textbooks and furniture. EE submitted that South Africa's schooling system was in crisis, with persisting systemic inequalities leaving many schools with overcrowded classrooms, burnt-out teachers, unsafe and deteriorating school infrastructure, and a lack of basic services such as sanitation, water, and electricity; and that poor black learners living in rural areas were disproportionately disadvantaged. The latest available statistics from the Department of Basic Education (DBE) reportedly showed that currently 2 130 schools still had plain pit toilets as their only form of sanitation, and 5 386 had unreliable water supply.

The COVID-19 pandemic had also set back gains in basic education; exposed the deep inequalities in the schooling system, and highlighted the critical need for safe and proper infrastructure in the sector.

EE was concerned that despite the situation described above, the 2022/23 MTEF showed a continuation of existing trends in basic education funding, not keeping pace with inflation, growing learner enrolment, and the real costs of providing education services across the provinces. The additional allocation of R3.7 billion to basic education for the current financial year, as well as increased medium-term estimates, were erased by higher-than-expected interest rates, as funding levels did not keep up with inflation over the medium term. Real consolidated basic education funding was anticipated to experience negative growth from 2022/23 until 2025/26 and when rising learner enrolment was factored in, spending per learner declined even more sharply over the following three years.

While the additional R116.8 million allocated to the Education Infrastructure Grant (EIG) to repair schools affected by floods in KwaZulu-Natal and the Eastern Cape was welcomed, EE reported that it still fell short of the current infrastructure backlog's funding needs. The DBE had reportedly stated that it would need R442 million to address the flood damage to schools in KwaZulu-Natal alone; and that an additional R5 billion would be needed to address the overcrowding crisis in schools across the country. These figures did not factor in the building maintenance crisis, with existing functional school infrastructure across the country risking falling into disrepair, further deepening the existing school infrastructure crisis. EE was deeply concerned that the DBE and provincial education departments were not meeting their targets for school infrastructure grants. In the first half of the 2022/23 financial year, only six out of the targeted 30 schools for the year had been built through the School Infrastructure Backlogs Grant (SIBG); only 149 out of the targeted 450 schools had been provided with sanitation facilities; and only 19 out of the targeted 50 schools had been provided with water.

EE was further concerned that, while education continued to be one of government’s largest spending items, basic education had received an increasingly smaller share of government’s overall spending between 2016 and 2020; and, while the percentage had begun to increase in 2021, there has not been a return to the pre-COVID-19 division of revenue. EE called for the basic education sector to receive adequate and progressive government funding, which kept up with inflation, the cost of providing educational services, and growing learner enrolment. In addition, more and targeted investments was needed in certain schools and communities.

EE further reported that the basic education system suffered from endemic under-spending, and irregular, fruitless and wasteful expenditure, impeding government's ability to provide an equal and quality basic education for all learners and impacting the ability of basic education to advocate for additional funding from National Treasury. EE reported that under-spending was often the result of a lack of capacity to effectively plan and implement projects. In addition, the current outstanding balance of identified irregular expenditure that the DBE has not dealt with, totalled R6.6 billion.

EE was concerned that Parliament, and in particular the Committees, were falling short in key areas, including that Committees relied too heavily on the departments they watched over for information regarding their spending; executive decisions seemed to be rubber stamped; public participation, most notably on the budget, remained a tick-box exercise; and, where Committees made recommendations to government, the departments were rarely held accountable if the recommendations were not implemented.

Equal Education requested the Committee to do the following:

- Reject the 2022 MTEF, and call for a budget for basic education that grows in line with inflation and learner enrolment;
- Call on National Treasury to adopt a human rights-based budgeting approach that prioritises socio-economic rights like quality basic education;
- Take its oversight responsibilities seriously, by actively engaging the departments on how they spend their money, in particular basic education; and institute public hearings for the Budgetary Review and Recommendations Reports (BRRR)s and create consequences for departments that do not follow its recommendations, and seek increased consultation with civil society and the public on their findings on government spending;
- Ensure that the DBE and provincial education departments use their money efficiently and effectively; and
- Work in the public's interest by implementing the Zondo Commission recommendations on parliamentary practice.

8.5 Organisation Undoing Tax Abuse

The Organisation Undoing Tax Abuse (OUTA) called for government to procure locally manufactured vehicles. It submitted that the silence on this initiative indicated government's reluctance to adopt robust economic measures to improve the economy. OUTA further called on government to reduce the vehicle allowances for politicians at all levels of government.

OUTA welcomed the promise that the National Prosecuting Authority (NPA) Investigating Directorate will be permanent and the commitment to increase the NPA budget from 2023/24 financial year. It mentioned, in particular, the proposed increases with regard to specialised tax units, for specialist services and the promise of the establishment of a digital forensic data centre and increased witness protection funds. OUTA submitted that it wanted to see considerable strengthening of the resources and capacity at NPA to implement the recommendations of the Zondo Commission, which were aimed at strengthening institutional, governance, and accountability mechanisms in the country. The current annual budget of R4.9 billion for the NPA was insufficient to achieve the priorities listed in the 2022 MTBPS and the President's response to state capture. OUTA compared the NPA's allocation to the budget for VIP Protection Services and Static Protection in the Police and highlighted the disparity which showed the priorities of government. Justice and Constitutional Development has reprioritised funds to the Financial Intelligence Centre to implement recommendations from the Zondo Commission. OUTA welcomed this but opined that this should not have to be deducted from other law enforcement functions. OUTA further welcomed the additional reprioritisation for court security, replacement computer equipment, procuring vehicles for provinces, and enhanced capacity at the Thuthuzela care centres.

OUTA noted the promise of additional resources in 2023 to the country's security forces to take the fight against those who threaten South Africa's peace, with a promise of 15 000 additional constables over the next three years. OUTA welcomes this and stated that it hoped that the budget will also include sufficient resources for the police to operate.

With regard to basic education, OUTA submitted that the realisation of the right to basic education will regress under austerity budgets. It submitted that the decline in real expenditure on education was concerning. It noted that vacant teacher jobs and overcrowded classrooms combined with the commodification of education through private schools mean that the existing gap in the quality of education will continue to grow. OUTA submitted that government needed to derive sufficient return on investment for the funds that were invested in education and suggested that school principals, school governing bodies and teachers must have performance targets. Furthermore, the OUTA felt strongly that the Grade 9 exit certificate must be prioritised to create multiple exit pathways for youth. It also welcomed the promise of additional funding in 2023/24 for the national school nutrition programme conditional grant and for improving and expanding early childhood development (ECD) programmes. OUTA stated that the ecosystem of ECD model needed to be strengthened to ensure all stakeholders cooperate for the transition of this programme from Social Development to Basic Education worked effectively. OUTA looked forward to more detailed information about these aspects in the 2023 national budget.

OUTA made reference to the Infrastructure Fund and posited that government undertook to contribute an amount R100 billion over 10 years to this initiative. However, this has not happened and instead, every year the budget plans funding over the MTEF and every year the MTBPS removed it. OUTA submitted that thus far, not a rand has been used as far as it could tell. The 2022 national budget allocated R4.197 billion for 2022/23, R15.428 billion for 2023/24 and R7.869 billion for 2024/25. The 2022 MTBPS deleted this year’s funds and halved the following years’ allocation, promising to make it up in future years. To this end, OUTA questioned the purpose of the Infrastructure Fund and also asked whether it as merely used as a contingency fund. In conclusion, it submitted that it would like to see this fund used not just for new infrastructure, but also for repairs to infrastructure such as water supply systems and water treatment works that have been left to collapse.

9 Committee observations and findings on the 2022 MTBPS

The Standing Committee on Appropriations, having considered the 2022 Medium Term Budget Policy Statement, and having engaged with the various stakeholders, makes the following findings and observations:

9.1 The Committee notes and welcomes that the 2022 MTBPS emphasises the continued government commitments of reducing fiscal risks in the short term, narrowing the fiscal deficit, stabilising debt, while proposing measures to enhance economic growth and restore funding for infrastructure and service delivery programmes. Furthermore, the Committee notes that over the MTEF, government aims to focus on ensuring that clear and stable macroeconomic policies, implementing economic reforms while addressing key enablers to growth and state capability. The Committee is of the view that while there is a need for government to spend, particularly on social services and health, the stock of government debt should remain at sustainable and manageable levels.

9.2 The Committee notes and welcomes that over the next three years, government proposes allocating 48.4 per cent of available non-interest spending to national departments, 41.4 per cent to provinces and 10.1 per cent to local government. However, the Committee remains concerned about the inability of government institutions' ability to spend appropriated funds. The Committee emphasises the fact that underspending on appropriated funds does not only undermine service delivery but also raises questions about Parliament's ability to appropriate funds to areas where they are needed the most.

9.3 The Committee notes and remains concerned about the overall fiscal risks, particularly those that relate to state owned companies' guarantee exposure, the financial position of the Road Accident Fund and non-payment of invoices within 30 days by provinces, and the financial position of municipalities. The Committee urges government to speed-up reforms and interventions in SOE's so that these institutions begin to deliver on their respective mandates in an efficient and economic manner, thereby allowing government to refocus government finances on other urgent needs of the country. Furthermore, the Committee argues that government must ensure compliance with the payment of invoices within the government set regulations of 30 days.

9.4 The Committee notes that relative to the 2022 national budget, government proposes an increase in the main budget non-interest spending by a net R52.4 billion in 2023/24 and R58.5 billion in 2024/25, mainly to increase the COVID-19 special relief of distress grant, improve investments in infrastructure, and support safety and security, and education and health service. The Committee notes and welcomes government's decision to extend the COVID-19 special relief of distress grant by one year until 31 March 2024.

9.5 The Committee notes that the South African economy is projected to grow by 1.9 per cent in 2022, compared to the 2.1 per cent projected in the 2022 Budget Review. The Committee would like to urge government to accelerate the implementation of the much needed structural reforms, especially in the energy sector to improve the productive capacity and competitiveness of the economy. However, the Committee also notes that the South African economic recovery was hampered by a number of factors, including the slow implementation of economic reforms, domestic riots and July 2021 unrests, historic flooding in various parts of the country in April 2022, and the escalating power cuts.

9.6 The Committee notes that the proposed in-year allocations are intended to address balance sheet weaknesses in public entities that are central to economic recovery, wherein funds are allocated to various state owned companies. The Committee takes SOCs as very important and having a crucial role to play in ensuring that government achieves its primary objectives of reducing unemployment, poverty, and inequality.

9.7 The Committee notes the submission by the FFC that SOCs continued to drain the fiscus, threatening the sustainability of public finances. The Committee also supports the recommendation by the FFC that there is a need for a transparent processes regarding fiscal support to SOCs, reports should be made public, including the establishment of SOC governance framework with public reporting criteria that clearly defines detailed and precise profitability and non-financial objectives for transparency.

9.8 The Committee notes and supports governments proposed R6.3 billion in unforeseeable and unavoidable expenditure, prompted largely by the flood damages in KwaZulu-Natal, Eastern Cape and Western Cape provinces. The Committee welcomes these government interventions that will ensure quick responses to the rehabilitation and reconstruction of infrastructure in the affected areas. Furthermore, the Committee would like to implore on government to ensure speedy distribution of these fund to the affected areas in order to ensure that intended beneficiaries receive the required assistance timeously.

9.9 The Committee notes and welcomes the proposed rollovers of R990 million, particularly towards the votes of Agriculture, Land Reform and Rural Development and Communications and Digital Technologies for the roll-out of Phase 2 of the Presidential Employment Initiatives. However, the Committee would like to re-emphasise on the need for a framework or standard guideline on the types of jobs to be created with a benchmark remuneration standard for each job category to avoid inconsistences and potential abuse of these funds. Given the recent experience on the distribution of food parcels, the Committee would like to reemphasise that National Treasury and the Presidency should have a well-defined approach to the implementation of this scheme, to ensure uniformity across all departments.

9.10 The Committee notes with concerns the total declared unspent funds totalling R1.96 billion, largely driven by the Social Development Vote where R1.8 billion was unspent due to lower than anticipated uptake of the Social Relief of Distress (SRD) grant. Given the mandate of the Department of Social Development and its entire portfolio, the Committee is concerned about the shifting of these funds. The Committee is of the view that the Department of Social Development should put systems in place and do more in reaching out to potential beneficiaries than underspending on social assistance, when the country has this high levels of unemployment, poverty and inequality.

9.11 The Committee notes and welcomes the additional allocation towards the peace and security function over the MTEF, wherein the South African Police Service will receive additional funding to increase the number of student constables to improve capacity, mainly in police stations, while the departments of Defence and Home Affairs receive additional funding to enhance border security and territorial integrity. The Committee views this function as critical in ensuring that there is peace and security within the borders of South Africa. This additional allocation is welcomed considering the high levels of crime within the country.

9.12 The Committee notes and agrees with the submission by Equal Education (EE) that basic education consisted of certain core components, including safe and sufficient infrastructure, transport, as well as learning and teaching materials such as textbooks and furniture. The Committee further notes the submission by EE that South Africa's schooling system was in crisis, with persisting systemic inequalities leaving many schools with overcrowded classrooms, burnt-out teachers, unsafe and deteriorating school infrastructure, and a lack of basic services such as sanitation, water, and electricity; and that poor black learners living in rural areas were disproportionately disadvantaged. The Committee is in agreement with EE and will continue its engagements with all the relevant stakeholders in order to improve the current situation.

9.13 The Committee notes with concerns the submission by EE that the latest available statistics from the Department of Basic Education reportedly showed that currently 2 130 schools still had plain pit toilets as their only form of sanitation, and 5 386 had an unreliable water supply. The Committee urges the Department of Basic Education to implement and finish these projects. DBE should also report quarterly to Parliament about progress and it should also have timeframes for the completion of these projects.

9.14 The Committee notes the submission by EE that the 2023 MTEF showed a continuation of existing trends in basic education funding, not keeping pace with inflation, growing learner enrolment, and the real costs of providing education services across the provinces. However, the Committee is of the view that the challenges of basic education are not funding related but also have more to do with the department's inability to effectively spend allocated resources and properly plan for the eradication of inappropriate school infrastructure.

10 Recommendations

The Standing Committee on Appropriations having considered the 2022 Medium Term Budget Policy Statement, recommends as follows:

10.1 That the Minister of Finance and the Presidential Management Office ensure that the funds allocated towards the Presidential Youth Initiatives are spent within the required guidelines and frameworks in order to avoid potential abuse and corruption.

10.2 That the Minister of Finance, working with all stakeholders, ensures that National Treasury provides for a transparent processes regarding fiscal support to SOCs, reports should be made public, including the establishment of SOC governance framework with public reporting criteria that clearly defines detailed and precise profitability and non-financial objectives for transparency.

10.3 The Minister of Finance, working with all affected stakeholders, ensures that National Treasury speedily releases disaster relief funding in order to minimise the social and economic impact to affected communities.

10.4 The Minister of Cooperative Governance and Traditional Affairs ensures that disaster Management Centre closely monitor funding allocated for disaster relief and ensures that these relief packages are clearly communicated to affected communities. Furthermore, the Minister must ensure that the Department put in place stringent oversight mechanisms of this proposed allocation to ensure effective and efficient spending of these allocation, and eliminate the possibility of corruption at the expense of the victims of these disasters.

10.5 The Minister of Basic Education must engage and share their detailed plan with Equal Education and other interested stakeholders on the eradication of inappropriate schools' infrastructure.

10.6 The Committee encourages departments to own their buildings rather than leasing them at exorbitant fees.

10.7 Small businesses are very important for economic development, recovery and employment creation. The Committee urges the Minister of Finance to substantially increase the budget of this Department of Small Business Development during the 2023 national budget. This will ensure that Department of Small Business Development plays its critical role in the economy.

10.8 Economic transformation and Broad-Based Black Economic Empowerment are Constitutional imperatives. We urge the Minister of Finance to announce funding in the 2023 national budget for this purpose.

10.9 The Committee urges the Minister of Finance to finalise the Public Procurement Bill with explicit localisation and economic empowerment imperatives.

10.10 The Committee welcomes the extension of the SRD grant with one more year. However, to create certainty for the Department of Social Development and South African Social Security Agency, the Committee recommends the extension of SRD grant for the next three years while a permanent security programme is being finalised.

10.11 The South African Post Office (SAPO) plays a crucial role in the economy of South Africa, especially among the poorest of the poor. There is a need for recapitalisation of SAPO and the Minister of Finance, in consultation with the Minister of Communication and Digital Technologies, should finalise the recapitalisation strategy and present this in the 2023 national budget.

10.12 The Committee is concerned about the overall underspending on budget allocations, it therefore urges all government departments, agencies and SOEs to report to Parliament about what they are doing about project management and contract management skills to improve on their spending.

11 Conclusion

The responses and implementation plans by the relevant Executive Authorities to the recommendations, as set out in section 10 above, must be sent to Parliament before the tabling of the 2023 national budget by the Minister of Finance.

Report to be considered.

National Council of Provinces

1. REPORT OF THE SELECT COMMITTEE ON CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS, WATER, SANITATION AND HUMAN SETTLEMENTS ON FORENSIC INVESTIGATIONS CONDUCTED IN MPUMALANGA LOCAL MUNICIPALITIES IN TERMS OF SECTION 106 OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT 0F 2000: DATED 23 NOVEMBER 2022

1. Background and Overview

1.1 The Select Committee on Cooperative Governance and Traditional Affairs (Water, Sanitation & Human Settlements), having conducted proactive oversight in terms of section 106 of the Local Government: Municipal Systems Act of 2000 in Mpumalanga Local Municipalities, the Select Committee reports to the National Council of Provinces as follows:

1.2 Section 106 of the Local Government; Municipal Systems Act states that if an MEC has reason to believe that a municipality in the province cannot or does not fulfil a statutory obligation binding on that municipality or that maladministration, fraud, corruption or any other serious malpractice has occurred or is occurring in a municipality, the MEC must (a) by written notice to the municipality, request the municipal council or municipal manager to provide the MEC with information required in the notice or (b) if the MEC considers it necessary, designate a person or persons to investigate the matter

1.3. Section 106 (3) (a) further states that an MEC issuing a notice in terms of subsection (1) (a) or designating a person to conduct an investigation in terms of subsection (1) (b), must within 14 days submit a written statement to the National Council of Provinces motivating the action

1.4 As part of ensuring executive accountability and performing parliamentary oversight on matters related to corruption, fraught and maladministration in Local Municipalities, the Select Committee jointly coordinated with the Portfolio Committee, two days' engagement meetings in Mpumalanga Provincial Legislature from the 25th to 26th October 2022.

2. Objective of the Proactive Oversight Visit

2.1. The primary objective of the proactive oversight visit was to engage the Mpumalanga Department of Cooperative Governance and Traditional Affairs and the Law Enforcement Agencies (i.e. Hawks: Directorate for Priority Crime Investigation (DPCI), Special Investigation Unit(SIU) and the National Prosecution Authority (NPA) on the progress made in respect of the findings, recommendations, opened cases and prosecutions related to the forensic investigations conducted in local municipalities in terms of section 106 of the Local Government: Municipal Systems Act, No 32 of 2000.

2.2. The secondary objective of the proactive oversight visit was to accord the affected local municipalities opportunities and platforms to table their municipal action plans to deal with the findings and recommendations of the investigations conducted in terms of section 106 of the Local Government: Municipal Systems Act, No 32 of 2000.

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 N Ndongeni (ANC) Eastern Cape; Hon S Mthethwa (ANC) KwaZulu-Natal; Hon N H Hadebe (IFP) KwaZulu-Natal; Hon M Barttlet, (ANC) Northern Cape; Hon IM Sileku (DA) Western Cape; Hon K Motsamai (EFF) Gauteng; Hon C Visser (DA); North West; Hon M Dlamini (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 B Lwazi Committee Assistant, Mr M Molepo, Parliamentary Communication Officer

4. General Overview of the Proactive Oversight Visits

4.1. During the period of the proactive oversight visits, the MEC of the Department of Cooperative Governance and Traditional Affairs, the Provincial Heads of the Hawks: Directorate for Priority Crime Investigation (DPCI) , National Prosecuting Authority (NPA) and Special Investigating Unit (SIU) briefed the delegation of the select committee on the progress regarding investigations, criminal cases and prosecution status as the result of forensic investigations conducted in Mpumalanga local municipalities in terms of section 106 of the Local Government: Municipal Systems Act of 2022

4.2. The Mayors and the Municipal Managers of the Dr Pixley Isaka Seme; Govan Mbeki; Lekwa, Dr JS Moroka and Dipaleseng local municipalities tabled their municipal action plans to implement the findings and recommendations of the section 106 forensic investigations reports

5. Presentation by Department of Cooperative Governance and Traditional Affairs

5.1. The Mpumalanga Department of Cooperative Governance and Traditional Affairs briefed the delegation of the Select Committee on the progress of forensic investigations conducted in Mpumalanga local municipalities in terms of Section 106 of the Local Government: Municipal Systems Act of 2000.

5.2. The Departmental presentations focused on findings and recommendations in the Dr Pixley Isaka Seme; Govan Mbeki; Lekwa, Dr JS Moroka and Dipaleseng Local Municipalities

5.3. The Department of CoGTA reported that there is very minimal progress in the **Dr JS Moroka Local Municipality** in addressing the findings of the S106 investigation report. There does not appear to be any progress that the municipality has made in implementing the recommendations of the S106 Investigation report. The only progress given is that the matters have been reported to the SAPS: Directorate for Priority Crimes Investigations, but there is no progress on any of the cases. The municipality has also indicated that it will be pursuing legal action against implicated officials and councillors No consequence management has been implemented by the municipality against officials and councillors implicated in wrong doing and some have left the Local Municipality.

5.4. Department of CoGTA reported that **Dr Ka Isaka Seme Local Municipality** has made progress in addressing the findings of the S106 investigation report. A number of short term recommendations have been addressed. 9 of the recommendations in the S106 have been fully dealt with by the municipality. The municipality has instituted consequence management against officials currently in the municipality who have been implicated in allegations of wrong doing. The Municipal Manager who has been suspended has subsequently left the municipality by mutual agreement. There are officials who are undergoing disciplinary processes and the PMU Manager and an official from Supply Chain Manageent are also on suspension and undergoing disciplinary processes. The municipality has indicated that some of the matters have been referred to law enforcement agents, however it is not giving progress on such cases. The findings made against sector departments have not been addressed by the respective departments. The municipality has opened criminal cases for some of the individuals implicated in wrong doing

5.5. The Department of CoGTA reported that **Dipeleng Local Municipality** has presented the report and an action plan to council. The municipality has also established an adhoc committee of council to monitor the implementation of the action plan. The municipality has made significant progress in addressing the findings of the S106 investigation but most are still in progress. Cases of maladministration, fraud and impropriety have been reported to the law enforcement agencies, but no cases have yet been enrolled in court. There is oversight by the Accounting Officer and the Executive Authorities towards the implementation of the action plan which is evident from the quarterly monitoring and reporting, cases registered with law enforcement agencies (SAPS, SIU), legal advice sought and establishment of disciplinary boards to consider internal disciplinary proceedings. There is a need for the municipality to recoup money that has been misappropriated and hold people accountable for their action.

5.6. The Department of CoGTA reported that **Lekwa Local Municipality** has made progress in addressing the findings of the section 106 investigation report. However, the process of implementation is very slow. The local municipality has managed to fully resolve 5 of the findings of the section 106 investigation report. The local municipality has failed to implement consequence management for both the officials and business entities implicated in wrong doing in the municipality. the local municipality has also failed to institute civil cases against both the officials and business entities implicated in wrong doing. The local municipality has indicated that some of the matters have been referred to the law enforcement agents for further auctioning, however, no report has been provided by the local municipality

5.7. The Department of CoGTA reported that **Govan Mbeki Local Municipality** has made progress in addressing some of the findings of the section 106 investigation report. It has fully resolved two of its findings and other are still work in progress. The local municipality has initiated disciplinary processes against officials. However, none of the implicated officials have been found guilty. The municipality has not taken action against former officials and councillors implicated in wrong doing but have left the institution. The local municipality has reported cases of fraught and corruption to the HAWKS and these cases are being investigated. The local municipality has provided the case number.

5.8. In concluding, the Department of CoGTA indicated that Dr Pixley Ka Isaka Seme and Dipaleseng Local Municipalities have shown progress in addressing the findings of the section 106 investigation reports. govan Mbeki and lekwa Local municipalities are very slow in implementing the recommendations of section 106 investigation reports.

5.9. The Department of CoGTA further indicated that Dr JS Moroka local municipality has made no progress in addressing the findings of the section 106 investigation reports.

5.10. In the opinion of the Department of CoGTA, there appears to be little commitment from DR JS Moroka to implement the findings of section 106 investigation reports. The matters with law enforcement agents have not led to any arrests or individual being arrest. All the affected local municipalities must give progress on cases referred to the law enforcement agents

6. Presentation by the National Prosecution Authority (NPA)

6.1. The Provincial Head of the National Prosecution Authority briefed the delegation of the Select Committee on the status of investigation and prosecution cases in Mpumalanga Local Municipalities. The presentation focused on local municipalities involved and number of cases.

6.2. The Provincial Head informed the delegation that Mpumalanga Province was proclaimed in May 2019 and the National Prosecution Authority shares excellent stakeholder relation and engagement with Directorate for Priority Crime Investigation and Special Investigation Unit

6.3. The Provincial Office of the National Prosecuting Authority has adopted a multi-disciplinary project management methodology in addressing fraud and corruption cases in the local municipalities. the purpose of the approach was to engage with Directorate for Priority Crime Investigation to develop investigative and prosecution strategy after analysing resources required for each municipal case

6.4. The Provincial Head informed the delegation that a procurement task team was created to specifically address municipal cases headed by regional head with 8 dedicated and experienced prosecutors. Majority of municipal fraught, corruption and contravention of

Municipal Finance Management Act emanate or originate from the findings of Auditor-General of South Africa

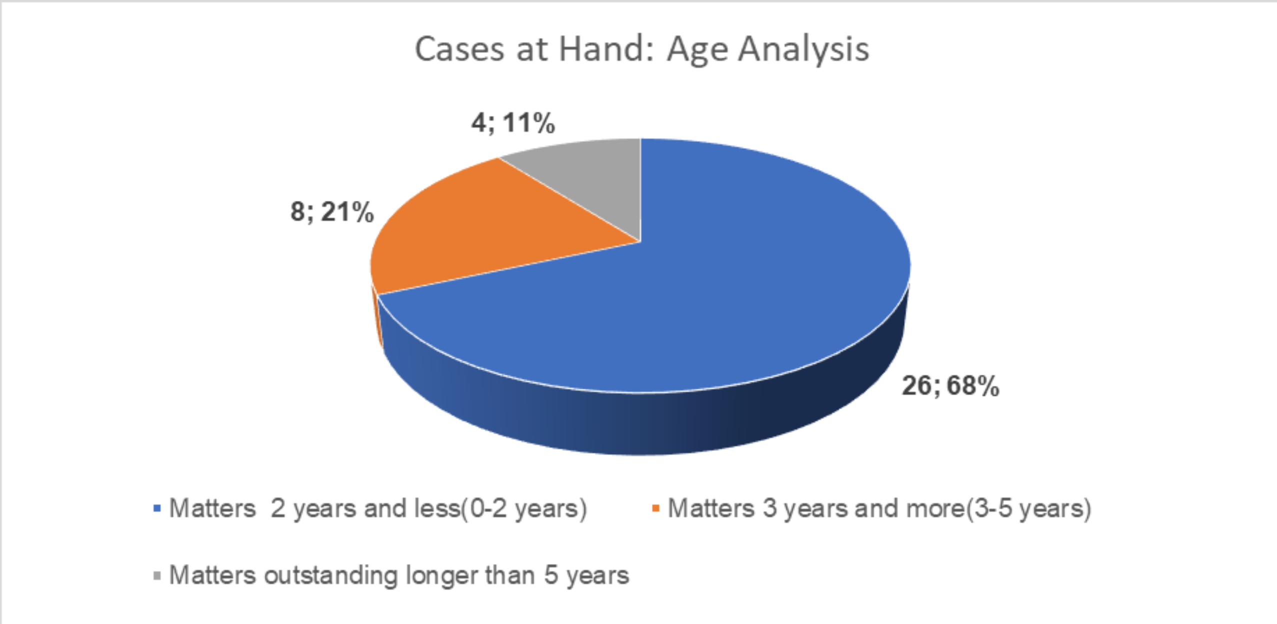
6.5. The Provincial Head indicated that modus operandi are generally the same in all municipal cases, complicity in the abuse of office by senior public servants, usually Municipal Managers, Chief Financial Officers, Supply Chain Managers, Security Managers, Speakers, Whips / Councillors colluding with service providers to siphon millions from the state coffers

6.6. The Provincial Head reported on the number of local municipalities under investigations and the number of reported cases per each municipality. In terms of the report presented there are 3 reported case numbers in Mbombela Municipality; 3 reported case number in Dipaleseng Municipality;2 reported case number in Nkomazi Municipality; 3 in Steve Tshwete Municipality; 5 in Goven Mbeki Municipality; 6 in Emalahleni Municipality;9 in Dr JS Moroka Municipality; 2 in Dr Pixly Ka Isaka Seme Local Municipality; 2 in Bushbuckridge Municipality; 1 in Lekwa Municipality; 2 in ThabaChweu Municipality and 2 in Msukaligwa local municipality.

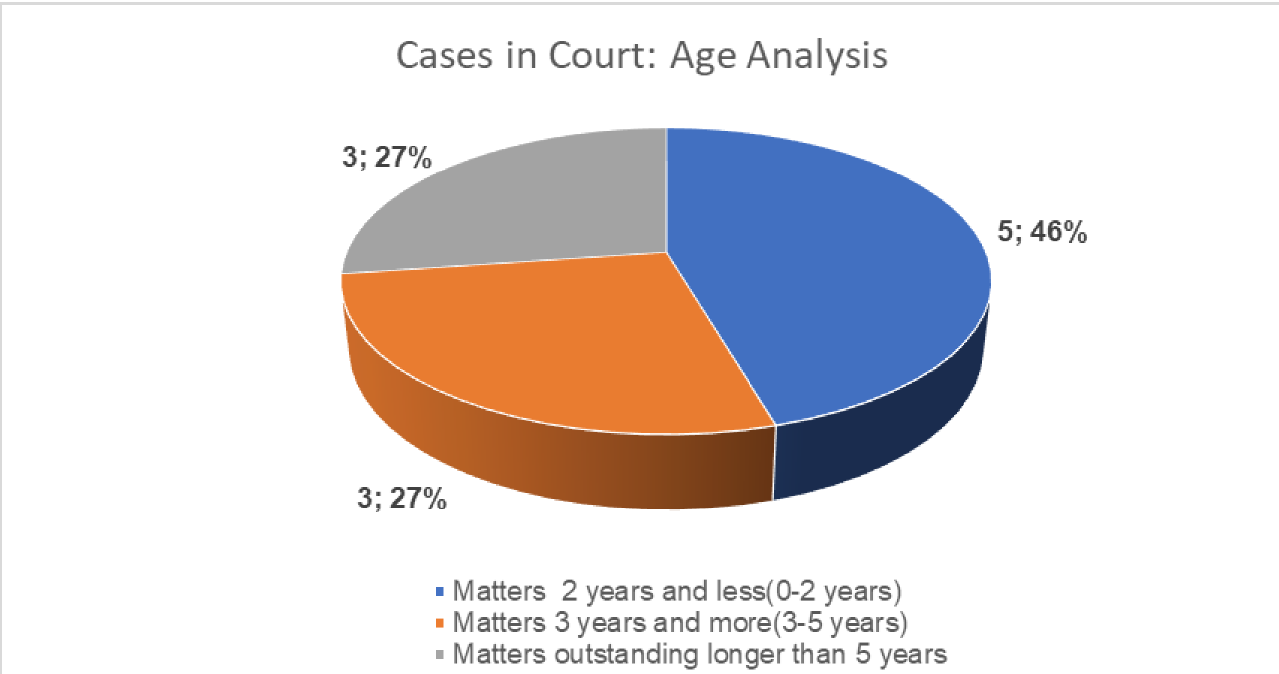
6.7. In terms of the report presented by the Provincial Office of the National Prosecution Authority, currently, there are 11 cases on the court roll and 29 under investigation

6.8. According the the Provincial Head, the Asset Forfeiture Unit has not yet many any recovery in municipal cases. Certain municipality cases have been identified and will be enrolled in court in due course

Bar Chart: Age Analysis of Cases at Hand



Bar Chart: Age Analysis of Cases in Court



7. Presentation by the Special Investigation Unit (SIU)

7.1. The Provincial Head of Mpumalanga Special Investigation Unit briefed the delegation of the Select Committee on the status of investigation on fraught and corruption in Dr JS Moroka, Dipaleseng, Victor Khanye, Thaba Chweu, Mbombela and Mkhondo Local Municipalities.

7.2. The office of the SIU Mpumalanga met with both Municipal Managers of the Dr JS Moroka Local Municipality and Dipaleseng Local Municipality respectively. The purpose of the meetings was to request further documents from the Municipality in order to start with the SIU internal process. The aim and objective of the SIU internal process is to motivate for a proclamation to the Hon President which would authorize the investigation. Documents were received and SIU internal process has started.

7.3. The Special Investigation Unit Mpumalanga received various allegations of irregularities, corruption and wasteful expenditures from whistleblowers and media relating to the Vicrtor Khanye Local Municipality and Thaba Chweu Local Municipality.

7.4. The Business Development and Management team of the SIU, started some engagement sessions with the Municipal Manager and Speaker respectively to request documents relating to the allegations. Documents were received in order to start the SIU internal process.

7.5. In Victor Khanye local municipality documents were received from the Municipal Manager and further engagement is ongoing with Thaba Chweu Municipality

7.6. The information and documents received in respect of the Mbombela Local Municipality and Mkhondo Local municipality went through the SIU internal process.

7.7. The result of the Case Assessment Committee was that a motivation for a proclamation was approved and forwarded to the Hon President via the Department of Justice to issue a Proclamation to mandate an investigation. Awaiting the issuing of the proclamation.

8. Presentation by the Hawks: Directorate for Priority Crime Investigation

8.1. The Provincial Head of the Directorate for Priority Crime and investigation briefed the delegation of the Select Committee on status of fraught and corruption related cases Mpumalanga Local Municipalities.

8.2. In line with the section 106 investigation in local municipalities reported by the Department of CoGTA, the Provincial Head reported on fraught and corruption cases in

Dipaleseng; Govan Mbeki; Dr JS Moroka; Lekwa; Dr Pixley Ka Isaka Seme Local Municipalities. The report focused on the case numbers; descriptions of cases and current status

8.3. The Provincial Head reported that the case was reported on 2022/08/31 by the Acting Municipal Manager of **Dipaleseng Local Municipality.** The case is based on Section 106 report. The investigation was conducted by a hired forensic company. It is alleged by the complainant that Dipaleseng Local Municipality received money from the Department of Water and Sanitation for a project. It was then agreed that Gert Sibande District Municipality will continue with the project and that the money received by Dipaleseng Municipality from the Department of Water and Sanitation should be paid into the account of Gert Sibande District Municipality. The amount of R55 423 237 was not paid over and later was discovered that the mentioned amount does not appear on the bank account of Dipaleseng Municipality. An enquiry was made from the former CFO, and he stated that the money was used to defray operational expenditure. Complainant further stated that in terms of Section 22(1) of the Division of Revenue Act maintain that any unspent funds reverts back to the National Revenue Fund. This case is the same as Balfour CAS: 83/03/2022.

8.4. The Provincial Head reported that the Audit General report reflected that **Govan Mbeki local Municipality** cannot account for expenditures. The report indicates fruitless expenditure's. Value involved R256 million. The case is still under investigation. It is alleged that Gavan Mbeki Local Municipality made a payment to a company for services which was notrendered. The company was procured unlawfully through utilization of Section 32 of Supply Chain Management, whereby required SCM processes were not followed. The Case still under investigation and 5 possible have been suspects identified

8.5. The case was reported on 2022/02/11 by the Executive Mayor ofGovan Mbeki Local Municipality. According to complainant, on 2020/08/20, the former Executive Mayor, submitted a report titled"NON-PERFORMANCE" with serious allegation of misconduct allegedly committed by the former Municipal Manager.

8.6. The allegation came from the report of Independent Investigation conducted by Attorneys. The investigation detected that Municipality SCM Policy was not followed in the Tender that was sadvertised and the appointment of the service provider. The Case still under investigation and 1 possible has been suspects identified

8.7. The Dr JS Moroak Local Municipality account was hacked and about R23million has been transferred to different accounts. The suspects rendered services for Dr JS Moroka Municipality. They submitted an invoice to the Municipality for the amount of R1 623 352.19. The Municipality overpaid the service providers by making a payment to the amount of R10 623 352.19. They Municipalitysuffer a loss of R9 Million. 3 suspects were arrested and charged, case is currently courtgoing. the matter has been remanded to 31 October 2022

8.8. It is alleged that the former Municipal Manager of Dr JS Moroka municipality appointed the service providers as consultants for water projects without following SCM processes whereby the bid adjudication committee in their report suggested that the advert be re-advertised. The Municipal Manager ignored the recommendation and appointed the serviceproviders.

8.9. It is alleged that during the year 2018 Dr JS Moroka Municipality allocated R18 million budget for the draught relief fund. A company was appointed to drill 10boreholes. The Company sub-contracted to another company to drill 15 boreholes. The boreholes were supposed to benefit the community. The Boreholes were actually drilled inside the officials' residential yardsand farms. It was also discovered that one of the boreholes which was drilled, falls outside the jurisdiction of JS Moroka Municipality. Actual Loss R18 Million.

8.10. It is alleged that the Councillors awarded posts to family membersin 2016 Another Councillor appointed his wive at the Municipality. Value to be determined. Case under investigation. (7 possible suspects have beenidentified) Submitted to DPP 2022-09-13. It is alleged by a councillor that he perused the Municipality forensic investigation report and he notice irregularities relating overtime paymentsto bodyguards of the Mayor at Dr JS Moroka Municipality. The Acting Municipal Manager approved the payments of overtime. Value R 123 259-80.

8.11. Abuse of petrol cards and fleets belonging to Dr. JS Moroka LocalMunicipality by its employees were presented to the MEC, Co- operative Governance and Traditional Affairs Mpumalanga. In conducting a forensic investigation, the monthly fuel records from Standard Bank was investigated over the period 7 September 2018 to October 2018 then again from 7 January 2019 to 7 May 2019. The Municipal Manager identified that the municipality spenta total of R13,243,129.94 on petrol / fleet cards. The case under investigation and suspect to be identified

8.12. It is alleged that seven (7) Companies were appointed by Lekwa Local Municipality in contravention of Sec 32 of the SCM procedures/processes and were paid without services being rendered. Lekwa Municipality appointed a company for the construction of Morgenzon Stadium. The company submitted a fraudulent completioncertificate for Morgenzon Stadium while in true fact the stadium was not completed. Value R 8.7 million.

8.13. It is alleged that in Dipaleseng Local Municipality there was a project of R13 million that was approved by the Municipality for upgrading Siyethemba SportsStadium. But when the project was not completedand the project manager gave an explanation is because some of the allocated funds were diverted from the initial project for something elseand the actual amount that was spent on the project was R1,9 million. The case is still under investigation.

9. Tabling of Municipal Action Plan by Dr Pixley Ka Isaka Seme Local Municipality

9.1. The Local Municipality tabled its municipal action plan to deal with the findings and recommendations of section 106 forensic investigation report. The action plan provided progress on findings related to Acts of maladministration levelled against the Office Bearers and Employees. (Interference by the Executive Mayor in the Administration of the Municipality; irregular payments of overtime; Non-implementation of Municipal Council; Resolutions/wrong resolutions are passed; underspending of MIG funds; abuse and non-compliance with the Supply Chain Management processes, including fictitious quotations and/or suppliers; non-compliance with Recruitment, Selection Procedures and Nepotism; failure to complete initiated projects; and irregular selling of RDP houses and empty stands

9.2. The Local Municipality has not made progress on findings related to non-compliance with the Supply Chain Management processes, including fictitious quotations and/or suppliers. The municipality needs to consider taking criminal or civil action against an official who signed tender bid documents without authority.

9.3 The Local Municipality has made progress on finding related to irregular selling of RDP houses and empty stands underspending of MIG funds. The municipal council has resolved on 20 April 2021 to place the Municipal Manager on suspension and on 30 June 2022, the Council resolved to have mutual separation with the Municipal Manager and the parties parted ways.

9.4. The Local Municipality has also made progress on matters related to non - implementation of council resolution by ensuring that regular briefing of the Mayoral Committee and Oversight Committee on the implementation of council resolutions. The Municipal Manager and Legal Services Manager attend all council meetings and are given opportunity to advice the council

9.5. The Local Municipality has instituted consequence management against officials who have been implicated in allegations of wrong doing. The Manager of Performance Management Unit (PMU) and an official from supply chain are also on suspension and undergoing disciplinary processes.

10. Tabling of Municipal Action Plan by Govan Mbeki Local Municipality

10.1. The Local Municipality tabled its municipal action plan to deal with the findings and recommendations of section 106 forensic investigation report. The action plan provided progress on findings related to non -compliance with MFMA and SCM regulations as well as the Municipal Supply Chain Policy; non-compliance with council resolution, irregular Expenditure; aappointments made not in accordance with the policies and procedure; Officials colluding with service providers and playing a role in the appointment and procurement of Sinothile Transport & Projects CC; appointment of a service provider whose Tax matters are non- compliant; irregular extension or termination of contracts for service providers;

10.2. The Local Municipality has not addressed the finding related to abuse of and non-compliance with the Supply Chain Management process including advertising of tenders without complying with SCM process

10.3. The Local Municipality has made some progress on findings related to irregular and underspending of Municipal Infrastructure Grants (MIG), Water Services Infrastructure Grant (WSIG) and the failure to complete initiated projects; reporting of Directors of certain Companies to the HAWKS, opening of case under CAS136/2/2021 and handing of all relevant documents to the HAWKS

11. Tabling of Municipal Action Plan by Lekwa Local Municipality

11.1. The local municipal presented their action plan and progress report on the implementation of section 106 forensic investigation. The municipality indicated that the purpose of the investigation was to deal with matters related to maladministration; fraud; corruption and failure of the municipality to execute its mandate.

11.2. The municipality further indicated that section 106 forensic investigation was conducted to investigate the collapse in financial controls (Eskom, DWS and SARS); Irregular expenditure; an unfunded budget over the MTREF; UIF&W; collapse in Supply Chain Practices and section 32 appointments made by the municipality

11.3. On matter related to the allegations related to lack of proper controls and financial stability, the municipality reported that an arrangement exists through a court order since 2017, there are 4 companies that pay directly to Eskom. The municipality pays 15% of its equitable share. The municipality is honouring the court order. The municipality has on average between January and May paid 76% of the Eskom account excluding interest.

11.4. In dealing with the findings that the Municipality has an irregular expenditure of R1 billion as per the audit report, the municipality reported that UIFW from 2012/13 to June 2021 has been reported to MPAC for further investigation. MPAC is yet to compile its investigation. A report will be tabled to council once the investigations have been completed

11.5. The municipality's budget is still unfunded as adopted by council on 31 May 2022. The budget was adopted while the NCR was present. The municipality is working on a revenue enhancement strategy as part of the Financial Recovery Plan

11.6. The municipality maintains tender register and ensures that all supporting documents (BSC, BEC, BAC minutes and appointment letters) are maintained for ease of audit. A new tender has been issued for the appointment of a valuer. All appointments will be made in accordance with SCM policies and issued on official letterheads

11.7. The Executive Mayor in consultation with Council and advised by the Disciplinary board, issued a warning letter as recommended by the 106 report to the Municipality Manager

11.8. Corporate Services to establish the circumstances leading to wrong doing and all implicated officials to face recommended remedial action. Legal services to provide an opinion in relation to black listing of service providers implicated in wrong doing. The municipality has already commenced with the blacklisting process of the consultants and contractors involved in all the transgressions stated in the s106 report

11.9. The municipality has in September 2022 re-established the LED forum with renewed terms of reference and a newly elected chairperson. The LED Forum has a direct working relationship with the municipality through the department of Planning and Economic Development.

11.10. The 2021/22 annual procurement plans were approved. All tenders awarded for the 2021/22 F/Y were made through competitive bidding. The municipality has established a panel of consultants for the implementation of infrastructure projects. As at 30 September 2022 the municipality's make spending was at 28% with an intention of spending the entire allocation by January 2023.

12. Tabling of Municipal Action Plan by Dr JS Moroka Local Municipality

12.1. The Local Municipality tabled its municipal action plan to deal with the findings and recommendations of section 106 forensic investigation report. The action plan deals with allegations related to misuse public funds to pay overtime to certain officials for work not done; Abuse of mayoral vehicle by the Mayor; non-implementation of council resolutions, Municipal Manager using security companies contracted to municipality to provide his personal security; misuse of Council assets; abuse of Municipal petrol cards / fleet; abuse of regulation 32 on appointment of service providers resulting in fictitious invoices being submitted without services being rendered.

12.2. The municipality also dealt with allegations related to councillors interfering with procurement processes, where some services providers have been procured directly by Councillors; irregularly extending of contracts for service providers; Irregular appointment of two (2) security companies contracted to the Municipality; unspent Municipal infrastructure Grant and Service Delivery issues.

12.3. The final set of allegations dealt by the municipality related to submission of two different Budget and IDP Documents, which is against the law and irregular appointment of staff; An amount of R40 million was spend on the construction of a fresh produce market, which to date remains incomplete; An amount of R18 Million for drought relieve project was provided to Dr JS Moroka municipality but some boreholes were drilled in houses of employees and councillors of the municipality.

12.4. The municipality reported on allegation related to lack of price negotiation process undertaken for the project of water treatment chemicals that the matter The matter will be referred to MPAC for investigation and recommendations. The municipality reported on allegations related to misuse by officials and councillors of an amount of R18 Million for drought relieve, that the matter has been referred to Attorneys for civil action against the implicated former employee and Councillors

12.5. The local municipality has not addressed the matter related to Irregular appointment of two (2) security companies currently contracted to Municipality, irregularly extending of contracts for service providers, abuse of regulation 32 on appointment of service providers resulting in fictitious invoices being submitted without services being rendered.

12.6. Councillors interfering with procurement processes, where some services providers have been procured directly by Councillors, irregular appointment and awarding of bursaries,

,12.7. The municipality has not addressed this finding. As Ms Rampedi is no longer in the employ of the municipality civil proceedings should be instituted to recover the wasted resources. Abuse of Municipal petrol cards / fleet, misuse / abuse of Council assets, use security companies contracted to municipality to provide personal security to municipal manager

13. Tabling of Municipal Action Plan by Dipaleseng Local Municipality

13.1. The Local Municipality tabled its municipal action plan to deal with the findings and recommendations of section 106 forensic investigation report. The action plan deals with allegations related to non-compliance with Supply Chain processes of all procurement of R200 000 and more from June 2019 to June 2020; salary discrepancies among Section 56 managers and section 54 managers; irregular payment of additional allowances (travel allowances, cell phone allowance and housing allowance) not included on appointment letter with no supporting documentation or council resolution; application for rollover of R61.3 million for RBIG conditional grant and of which R55 million was not cash backed; Grant funding used for other purposes rather than what it was transferred for to the municipality from June 2019 to June 2020; utilization of the COVID 19 Grant; deviations from the supply chain processes awarded in terms of section 36 of the municipal supply chain regulation from June 2010 to June 2020.

13.2. The municipal reported on non-compliance with supply chain management process that a legal opinion has been obtained that recommended that disciplinary measures be instituted against implicated officials. The matters have been referred to the Disciplinary Board. The municipality reported a committee has been established to monitor the implementation of the S106 action plan and it includes the Chairperson of the Audit Committee.

13.3. The municipality reported further that criminal case has been opened with SAPS (CASE114/8/2022) on 31 August 2022 to deal with the recommendation of instituting legal proceeding against the former CFO on allegation of application for rollover of R61.3 million for RBIG conditional grant and of which R55 million was not cash backed.

13.4. The municipality also reported that criminal case has also be opened with SAPS (CASE 114/02022) on 31 August 2022 on allegation of Grant funding used for other purposes rather than what it was transferred to the municipality from June 2019 to June 2020.

13.5. On allegation related to irregular payment of additional allowances not included on appointment letter without supporting document or council resolution, the municipality reported that all implicated officials have been referred to the Financial Misconduct Disciplinary Board.

13.6. The municipality reported that on findings related to salary discrepancies among section 54 and 56 managers, attorneys have been appointed to claim back the overpayment from the implicated officials. However, on recommendation that action must be taken against executive mayor for falling to ensure that all salaries paid to section 54 and 56 were in line with the regulation, no action taken due to the fact that the mayor is no longer a councillor.

14. Observations and Recommendations: Department of Cooperative Governance and Traditional Affairs

14.1. The Select Committee has noted that the Department of CoGTA has conducted investigations in terms of section 106 (1) (b) of the Local Government: Municipal Systems Act, 2000 in Lekwa Local Municipality (July 2018); Dr JS Moroka Local Municipality (March 2020); Dr Pixley Ka Isaka Seme Local Municipality (June 2020); Govan Mbeki Local Municipality (June 2020); Dipaleseng Local Municipality (September 2021); Nkomazi Local Municipality (October 2021) and Emalahleni Local Municipality (November 2021)

14.2. The Select Committee has also noted that the Department of CoGTA handed over the reports and finding to the local municipalities in order for the municipalities to develop action plans and implement the findings and recommendations

14.3. The Department of CoGTA handed over the forensic investigation reports to Lekwa Local Municipality on 8 July 2020; Dr JS Moroka Local Municipality; Dr Pixley Ka Isaka Seme Local Municipality; Govan Mbeki Local Municipality on 6 October 2020 and Dipaleseng Local Municipality on 10 February 2022. All these Local Municipalities submitted their action plans that were approved by their respective councils to the Department of CoGTA.

14.4. The Select Committee has noted that after the Local Government Elections the section 106 forensic investigations reports were resubmitted by the Department of CoGTA to the new municipal councils with a directive that they must be re-tabled to the new councils

14.5. The Select Committee has also noted that the reports for the section 106 investigations in Nkomazi and Emalahleni Local Municipalities have not yet been handed over to the respective municipalities by the Department of CoGTA.

14.6. The Select Committee has further noted that the section 106 forensic investigation in Bushbuckridge local municipality has not been finalised by the Department of CoGTA due to lack of co-operation from the local municipality. the investigation has been restarted on 05 October 2022.

14.7. Based on the assessment report tabled by the Department of CoGTA, the Select Committee has noted with great concern the slowness of the local municipalities in implementing the recommendations of the section 106 investigation reports. Of great concerns also by the Select Committee and the Department of CoGTA is the slowness of Dr JS Moroka local municipality in implementing the section 106 investigation report.

14.8. In order to overseer the work done by the local municipalities in implementing the recommendations of section 106 reports, the Select Committee has noted that the Department of CoGTA has established Project Steering Committee composed of Provincial Treasury, South African Police Services and the National Department of Cooperative Governance

15 In light of the above-mentioned observations, the Select Committee on CoGTA recommends as follows:

15.1. The Mpumalanga Department of Cooperative Governance and Traditional Affairs should fast track the process of handing over the reports for the section 106 investigations in Nkomazi and Emalahleni Local Municipalities

15.2. The Mayors of Nkomazi and Emalahleni Local Municipalities should ensure that the Municipal Managers develop municipal actions plans to deal with the findings and recommendations emanating from the forensic investigations conducted in terms of section 106 of the Local Government: Municipal Systems Act of 2000

15.3. The Mpumalanga Department of Cooperative Governance and Traditional Affairs should monitor the progress made by the above-mentioned local municipalities in developing municipal action plans on section 106 findings and recommendations

15.4. The MEC of Mpumalanga Department of Cooperative Governance and Traditional Affairs should table reports on each local municipality on the outcomes of forensic investigations conducted in terms of section 106 of the Local Government: Municipal Systems Act of 2000.

16. Observations and Recommendations: National Prosecuting Authority

16.1. The Select Committee has noted that most of fraud and corruption cases that the National Prosecution Authority is dealing with need unique skills from both the investigators and prosecutors. The cases the National Prosecution Authority is dealing with take long time to investigate due to their complexity such as forensic audits reports

16.2. The Select Committee has also noted with great concern the institutional, Witness and under resource challenges experienced by the National Prosecution Authority in performing its mandate of processing criminal cases.

16.3. These institutional and witness challenges include the service by 1 dedicated Specialized Commercial Crimes Court and the reluctance of Witnesses who are in the employment of the municipalities to co-operate due to fear of reprisal.

16.4. The Select Committee has noted with serious concern that when complicit municipal officials become aware of the investigations, they begin to hide or destroy documents

16.5. The Select Committee has further noted with great concern that the Witnesses who do co-operate with the National Prosecution Authority end up being victims of occupational detriment such as suspensions and disciplinary action and assassinations

16.6. The Select Committee has furthermore noted that DPCI in Mpumalanga is under – resourced, only one investigator carrying many dockets resulting in work overload. In terms of statistics, The Select Committee has noted that there are 10 numbers of court cases, 10 numbers pending decision of the National Prosecuting Authority; 20 number of cases under investigation; 40 number of cases on hand and 17 cases of section 106 investigation reports

16.7. The Select Committee has noted with concerns investigation matters that affect all the three law enforcement agents. The general concerns raised by members of the select committee relate to age delayed cases; recycling of officials implicated in corruption cases; killings of key witnesses in corruption cases; lack of arrests and prosecution of people involved in corruption; referral of cases back to investigators; inadequate courts and magistrates to deal with corruption related cases.

16.8. The Select Committee has also noted serious concerns about unresolved related corruption cases; delays in opening corruption case numbers; reluctance of whistle-blowers to participate in protection programme; lack of consequence management; gaps in implementation of coordination and anti-corruption strategies; slow implementation of section 106 findings and recommendation; destruction of document by municipal officials implicated in fraught and corruption allegation cases and failure to recoup monies misappropriated as the result of fraught and corruption in municipalities. .

17. In light of the above-mentioned observations, the Select Committee on CoGTA recommends as follows:

17.1. The National Prosecuting Authority in Mpumalanga should fast track the process of recruitment, selection and appointment investigators in order to effectively and efficiently deal generally with allegations of corruption and fraught and specifically in local municipalities

17.2. The National Prosecuting Authority in Mpumalanga should strengthen collaborative work with other law enforcement agencies such as the special investigation Unit (SIU) and the Directorate for Priority Crime Investigation (DPCI) in order to effectively and efficiently deal with allegations of fraught and corruption in local municipalities

18. Observations and Recommendations: HAWKS (Directorate for Priority Crime Investigation)

18.1. The Select Committee has noted that the Directorate for Priority Crime Investigation in Mpumalanga is currently investigating cases of fraud and corruption in Mbombela Local Municipality, Dipaleseng Local Municipality, Nkomazi Local Municipality, Steve Tshwete Local Municipality, Govern Mbeki Local Municipality; Emalahleni Local Municipality; Dr J S Moroka Local Municipality; Dr Pixley Ka Isaka Seme Local Municipality; Bushbuckridge Local Municipality; Lekwa Local Municipality; Thaba Chweu Local Municipality and; Msukaligwa Local Municipality

18.2. In line with the progress report tabled by the Department of CoGTA, the Select Committee has also noted that the Directorate for Priority Crime Investigation is currently investigating matters related to corruption in the above--mentioned local municipalities and there is no prosecution yet.

18.3. Although progress has been registered in terms of opening of criminal cases, provision of case numbers, description of cases of fraud and corruption, the Select Committee has noted with concern the absence of arrests and slowness of prosecution of people involved in corruption, fraud and maladministration in the local municipalities

18.4. The Select Committee has noted the Directorate for Priority Crime Investigation (DPCI) is experiencing capacity challenges and the directorate is in the process of advertising posts

18.5. Besides the capacity challenges, the Select Committee has noted that the other challenges faced by Directorate for Priority Crime Investigation in executing its mandate and delaying investigation, include the incomplete information provided by the municipality and the vastness of the policing area due to the geographical structure of the Mpumalanga Province

19. In line with the above-mentioned observations, the Select Committee on CoGTA recommends as follows

19.1. The Directorate for Priority Crime Investigation (DPCI) should fast track the process of recruitment, selection and appointment investigators in order to effectively and efficiently deal generally with allegations of corruption and fraught and specifically in local municipalities

19.2. The Directorate for Priority Crime and Investigation should strengthen collaborative work with other law enforcement agencies such as the special investigation Unit (SIU) and the National Prosecution Authority (NPA) in order to effectively and efficiently deal with allegations of fraught and corruption in local municipalities.

20. Observations and Recommendations: Special Investigation Unit (SIU)

20.1. The Select Committee has noted that the special investigation Unit has received various allegations of irregularities, corruption wasteful expenditures from whistle-blowers and the media relating to Mbombela Local Municipality, Mkhondo Local Municiplaity, Dr J S Moroka Local Municipality; Dipaleseng Local Municipality; Thaba Chweu Local Municipality and; Victor Khanye Local Municipality

20.2. The Select Committee has also noted that the SIU Business Development and Management Team has started an engagements session with the Municipal Managers and Speakers respectively to request documents relating to the allegations of irregularities, corruption and wasteful expenditures from the local municipalities in order to start the SIU internal process

20.3. The Select Committee has further noted that the information and documents received from Mbombela Local Municipality and Mkhondo Local Municipality have already gone to the internal processes of the Special Investigation Unit

20.4. Furthermore, the Select Committee has noted the Case Assessment Committee of the Special Investigating Unit has recommended motivation for Proclamation to be forwarded to the President of the RSA via the Department of Justice and Correctional Service so that the signed Proclamation by the President could authorize investigation in Mbombela Local Municipality and Mkhondo Local Municipality.

21. In light of the above-mentioned observations, the Select Committee on CoGTA recommends as follows:

21.1. The Case Assessment Committee of the Special Investigation Unit (SIU) should fast track the process of determination of the allegation of fraud, corruption and wastefully expenditure in Dr J S Moroka Local Municipality; Dipaleseng Local Municipality; Thaba Chweu Local Municipality and; Victor Khanye Local Municipality, like it has done with Mbombela and Mkhondo Local Municipalities

21.2. The Special Investigation Unit (SIU) should strengthen collaborative work with other law enforcement agencies such as the Directorate for Priority Crime Investigations (DPCI) and the National Prosecution Authority (NPA) in order to effectively and efficiently deal with allegations of fraught and corruption in local municipalities

22. Observations and Recommendations: Dr Pixley Ka Isaka Seme Local Municipality

22.1. The Select Committee has noted that in terms of the assessment report tabled by the Department of CoGTA, the local municipality has made progress in addressing six findings of the section 106 report and that a number of short term recommendations have been addressed

22.2. The Select Committee has also noted that in terms of the assessment report tabled by the Department of CoGTA, the local municipality has instituted consequence management against officials currently in the employment of the municipality who have been implicated in wrong doing

22.3. The Select Committee has further noted that the municipal manager and the manager of performance management unit have been suspended and are undergoing disciplinary processes.

22.4. While acknowledging the progress made, the Select Committee has noted with concerns that in terms of the assessment report tabled by the Department of CoGTA, the local municipality has not taken action against former employees and councillors who have left the municipality but were implicated in allegations of wrong doing

23. In light of the above-mentioned observations, the Select Committee on CoGTA recommends as follows:

23.1. Dr Pixley Ka Isaka Seme Local Municipality should institute civil case against the Officials and Councillors who have been implicated in fraud and corruption in the local municipality including the recouping of monies misappropriated

23.2. Dr Pixley Ka Isaka Seme Local Municipality should fast track the process of disciplinary hearings of the Municipal Manager and the Manager of Performance

Management Unit have been suspended and are undergoing disciplinary processes.

23.3. Dr Pixley Ka Isaka Seme Local Municipality should provide quarterly reports to the Mpumalanga Department of Cooperative Governance and Traditional Affairs on the implementation of the above mentioned recommendations

24. Observations and Recommendations: Govan Mbeki Local Municipality

24.1. The Select Committee has noted that the local municipality has resolved some of the recommendations. It has fully resolved some of the findings and the rest are still work in progress. The municipality has initiated disciplinary process against implicated officials.

24.2. However, none of the officials have been found guilty. The Select Committee welcomed the initiative of the local municipality in reporting cases of fraught and corruption to the Hawks and these have been investigated

24.3. The Select Committee has noted and welcomed the commitment of the Department of CoGTA to monitor the local municipality in implementing the section 106 investigation report

25. In light of the above-mentioned observations, the Select Committee on CoGTA recommends as follows:

25.1. Govan Mbeki Local Municipality should fast track the process of resolving all outstanding findings and recommendations of section 106 investigations as well as disciplinary process against officials implicated in fraud and corruption in the municipality

25.2. Govan Mbeki Local Municipality should provide quarterly reports to the Mpumalanga Department of Cooperative Governance and Traditional Affairs on the implementation of the above mentioned recommendations

26. Observations and Recommendations: Lekwa Local Municipality

26.1. The Select Committee has noted that the municipality has made progress in addressing the findings of the section 106 investigation report. However, in terms of the assessment report of the Department of CoGTA, the progress of the municipality has been very slow.

26.2. The Select Committee has further noted that the local municipality has managed to fully resolved five of the findings of the section 106 report. However, the Select Committee has noted with serious concerns about lack of consequence management for both officials and business entities implicated in wrong doing in the local municipality

26.3. The Select Committee has furthermore noted with serious concern that there have been no civil cases instituted against both officials and business entities implicated in wrong doing in the local municipality

26.4. In terms of the assessment report tabled by the Department of CoGTA, the Select Committee has noted that local municipality has indicated that some of the matters have been referred to the law enforcement agencies for further actioning, however no report has been provided

27. In light of the above-mentioned observations, the Select Committee on CoGTA recommends as follows:

27.1. Lekwa Local Municipal should institute civil case against the Officials and Councillors who have been implicated in fraud and corruption in the local municipality including the recouping of monies misappropriated

27.2. Lekwa Local Municipal should should provide report on the matters that have been referred to the law enforcement agencies for further auctioning to the Department of Cooperative Governance and Traditional Affairs

27.3. Lekwa Local Municipality should provide quarterly reports to the Mpumalanga Department of Cooperative Governance and Traditional Affairs on the implementation of the above mentioned recommendations

28. Observations and Recommendations: Dr JS Moroka Local Municipality

28.1. The Select Committee has noted with serious concerns that the local municipality has achieved minimal progress in addressing the findings and implementing the recommendations of the section 106 report

28.2. In terms of the assessment report tabled by the Department of CoGTA, the Select Committee has also noted with concern that the only progress reported by the local municipality is that the matter has been reported to the SAPS: Directorate for Priority Crimes Investigations but there are no case numbers provided by the local municipality

28.3. The Select Committee has further noted with serious concerns that in terms of the assessment report tabled by the Department of CoGTA, the local municipality has dismally failed to implement consequence management against Officials and Councillors implicated in wrong doings and also failed to recoup the municipal funds or monies wrongly used.

29. In light of the above-mentioned observations, the Select Committee on CoGTA recommends as follows:

29.1. Dr JS Moroka Local Municipal should implement consequence management and institute civil action against the Officials and Councillors who have been implicated in fraud and corruption in the local municipality including the recouping of monies misappropriated

29.2. Dr JS Moroka Local Municipality should provide case numbers of fraud and corruption to the directorate for priority crime investigation and the Department of Cooperative Governance and Traditional Affairs should as to enable actions by law enforcement agency

29.3. Dr JS Moroka Local Municipality should provide quarterly reports to the Mpumalanga Department of Cooperative Governance and Traditional Affairs on the implementation of the above mentioned recommendations

30. Observations and Recommendations: Dipaleseng Local Municipality

30.1. The Select Committee has noted that in terms of the assessment report of the Department of CoGTA, the local municipality has established an Adhoc Committee of the council which includes the Chairperson of the Audit Committee to monitor the implementation of the action plan on section 106 report

30.2. The Select Committee has further noted and welcomed the significant progress of the municipality in addressing the findings of the section 106 report.

30.3. Furthermore, the Select Committee has also noted that in terms of the assessment report tabled by the Department of CoGTA, the local municipality has reported cases of maladministration, fraud and impropriety to the law enforcement agencies and that the municipality has provided the case numbers

30.4. While welcoming the municipal action of instituting disciplinary processes against officials implicated in wrong doing, the Select Committee has noted that in terms of the assessment report tabled by the Department of CoGTA, the local municipality has not instituted civil cases against the officials who have left the employment of the municipality and the service providers who are implicated in wrong doing including, the recouping of monies misappropriated

31. In light of the above-mentioned observations, the Select Committee on CoGTA recommends as follows:

31.1. The Dipaleseng Local Municipal should institute civil action against the Officials and service providers who have been implicated in fraud and corruption in the local municipality including the recouping of monies misappropriated

31.2. The Dipaleseng Local Municipality should fast-track the process of disciplinary hearings of the Officials who are implicated in fraught and corruption in the local municipality

31.3. The Dipaleseng Local Municipality should provide quarterly reports to the Mpumalanga Department of Cooperative Governance and Traditional Affairs on the implementation of the above mentioned recommendations

32. Observations and Recommendations: Portfolio Committee on CoGTA

32.1. The Select Committee has noted and welcomed the commitment made by the Chairperson of the Portfolio Committee to strengthen oversight in order to ensure executive and municipal accountability on the implementation of action plans related to findings and recommendations emanating from the forensic investigations conducted in terms of section 106 of the Local Government: Municipal Systems Act of 2002

33. In light of the above-mentioned observations, the Select Committee on CoGTA recommends as follows:

33.1. The Select Committee and the Portfolio Committee to jointly coordinate during the first term of 2023 Parliamentary period in order to schedule a follow-up oversight meeting with the Department of Cooperative Governance and Traditional Affairs, the law enforcement agencies (NPA, HAWKS & SIU) and affected local municipalities on implementations of action plans, status of investigations, cases and prosecutions in terms of section 106 forensic investigations in the local municipalities

Report to be considered

2. 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 2002 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 Barttlet (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 rroads master plan, and completion of projects related to uupgrading 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 loss 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 lack 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, 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 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

3. Report of the Select Committee on Land Reform, Environment, Mineral Resources and Energy on the oversight visit, dated 29 November 2022

The Select Committee on Land Reform, Environment, Mineral Resources and Energy having conducted an oversite visit to Mpumalanga from 31 October to 4 November 2022 reports as follows:

1. Background and Objectives

1.1. The Committee has prioritised oversight over the challenges of poor air quality in provinces responsible for power generation, challenges experienced by local government in monitoring air quality, as well as challenges experienced by the Department of minerals and Energy to deal with the challenges of ageing infrastructure and the need to generate sufficient electricity for the country. Further, the committee has as part of its core oversight focus "waste management in the part of local government readiness to implement climate change mitigation and adaptation." These oversight priorities of the committee form the core of the proposed oversight in Mpumalanga Province. Of particular concern in terms of air quality management is the fact that the DMRE and the DFFE is coming under increasing pressure to remedy the poor air quality of the Highveld Priority Area, while the country faces increasing load-shedding events. The committee needs to be briefed on this challenging situation.

1.2. In terms of local government capacity to fulfil its constitutional mandate, the committee is concerned by both the challenges of effectively monitoring air quality in municipalities, as well as being able to implement Paris Agreement commitments. In terms of Waste management, the committee is concerned about the state of river pollution in the country as a result of failing municipal infrastructure, and the impact it is having on natural resources.

1.3. While the majority of Portfolio Committee oversight lies either with the supply of energy or the challenge of air pollution as a result of the burning of fossil fuels for energy creation, only the Select Committee is in a position to oversee the interplay of both challenges, as well as representing the challenges local government is experiencing as a result.

1.4. While During parliamentary engagements since 1994, and continuing to the present, members of the NCOP had highlighted information coming from their constituencies indicating that wastewater management infrastructure is failing and having severe impacts on watercourses. The Crocodile River is one of the most polluted rivers in the country, thus an ideal site to focus oversight on. The air quality in Middelburg, Mpumalanga is extremely poor and exceeds maximum allowable levels for pollutants on a weekly basis. The committee has been engaging the DFFE on this matter before and after the DMRE was added to its oversight mandate, but the two committees have never been requested to provide a joint input on the matter in order for the committee to get a full picture of the magnitude facing the country.

1.5. The delegation consisted of the following members of Parliament, Ms TC Modise (Chairperson, ANC), Mr AJ Nyambi (ANC), Ms W Ngwenya (ANC), Ms L Bebee (ANC), Mr I Ntsube (ANC), Ms PT Mamorobela (ANC) Mr CFB Smit (DA), Mr FAB Du Bryn (FF+) and Parliamentary support staff, Mr AA Bawa (Committee Secretary), Mr J Jooste (Researcher), Ms A Zindlani (Committee Assistant) and Ms Y Landu (Media).

Objectives of the Visit

1.6. The oversight focuses on the committee's identified themes of environmental management (DFFE) as well energy supply at local government level (DMRE). The oversight further endeavors to develop a better understanding of local government challenges with these competencies, and relay these to the National Legislature in line with the mandate of the NCOP. South Africa is in the process of implementing its national declared commitments in terms of the Paris Agreement. Evidence suggests that capacity is not sufficient when considering air quality management, which is a critical component of Paris Agreement implementation. This process will rely heavily on the capacity of local government to implement mitigation and adaptation strategies.

1.7. The Committee wishes to gain a greater understanding of the dynamics around a shift to low carbon energy use in South Africa, from a Mpumalanga perspective. The province host a significant number of old-generation power plants, due to the abundance of coal. A significant local economy has developed around the ESKOM infrastructure, as well as associated services.

1.8. The country is facing a number of tough energy-related questions in the near future. These revolve around:

- The cost of maintaining old generation power stations vs the cost of constructing alternative energy sources, inclusive of the fact that the decommissioning of these plants are going to take place in the near future;
- The continued environmental impact of using coal, as the tightening legal constraints that could ultimately severely restrict DMRE options; and
- The impact of the inevitable shift away from coal on Mpumalanga, and the ultimate plans of the DMRE and government as a whole to facilitate this transition in an economically responsible manner.

1.9. In its oversight focus, the committee has prioritised "Air quality management challenges: Fact-finding visits to determine the actual capacity of local government to monitor air quality in priority areas" as well as "The real state of readiness for local government to develop and implement a Climate Change mitigation and adaptation plan as required by National government".

1.10. The two sites selected for oversight are both examples of some of the worst cases of these challenges faced by local governments. It is therefore important to determine what successes and setbacks have been experienced, and whether this knowledge can be applied to better support all spheres of government in addressing these challenges.

2. DAY 1: Site Visit to the Hendrina Power Station and Meeting with the Department of Mineral Resources and Energy (DMRE) and Steve Tshwete Local Municipality

2.1. Hendrina Power Station background

2.1.1. The local and indirect economic impact of the Hendrina Power Plant has been quantified, and it is not insignificant. Obviously, the economic benefits of burning coal has to be offset against the environmental impact of the process, and the negative impact the process has on the quality of life of residents close to the power plant. The reality of the decision to shift away from coal is that the economic impact will be felt in Mpumalanga, and would need to be offset through alternative economic development.

2.1.2. The estimated annual average municipal economic activity created due to the local capital expenditure over the period FY2014/15 to FY2016/17 was in the order of R2 billion. The direct impact accounted for about 34% of the total GDP impact. It is estimated that the capital expenditure by Hendrina Power Station, over the period FY2014/15 to FY2016/17, sustained on average about 6 085 jobs per year in Steve Tshwete Local Municipality (STLM).

2.1.3. Hendrina Power Station provides employment to individuals in the town of Hendrina and from other locations, typically, Emalahleni, Ermelo, Middelburg, Pullenshope, Arnot and Komati. These individuals typically contribute semi – skilled and skilled employment to the power station. The power station currently employs 753 employees.

2.1.4. Hendrina Power Station's day-to-day operations resulted in total government revenue of R4.5 billion over the period FY2014/15 to FY2016/17. An estimated 58% of this amount comes from Mpumalanga. This amount is associated with direct and indirect tax revenue collected by the national fiscus from companies in Mpumalanga linked with Hendrina Power Station's day-to-day operational costs. The total income received by households in Mpumalanga over the period FY2014/15 to FY2016/17 was estimated to be in the order of R3.8 billion. Lower income households in the Mpumalanga received an estimated R320 million amounted to about 8.5% of the total household income.

2.1.5. Total capital expenditure in the whole of Mpumalanga over the period FY2014/15 to FY2016/17 was about R796 million. Approximately R553 million (69%) of this capital expenditure was spent in the rest of the Mpumalanga province and R244 million (31%) was spent in STLM. Operational expenditure in STLM was

R2.4 billion in FY2016/17. Over the FY2014/15 to FY2016/17 period, 72% of total Hendrina Power Station operational expenditure in STLM was allocated to goods and services. An average of 49% was spent on coal. Of Hendrina Power Station's total operational expenditure over the FY2014/15 to FY2016/17 period, 12% was attributed to salaries and wages.

2.2. ESKOM, together with the DMRE, provided committee members to visit one of the older coal-fired power stations in Mpumalanga. It was important to visit one of these power stations as the ageing generations units form a key challenge in terms of South Africa's energy mix moving forward. These power stations are also at the centre of legal action against the DFFE due to the poor air quality in areas of the Highveld Priority Area (air quality management priority), and ongoing application of ESKOM for permission to deviate from current and future air quality regulations.

2.2.1. As an overview of the Hendrina power plant history provided to the committee, the following matters were emphasized:

- The power station was completed in 1976, with an initial design life of 40 years. During the 1990's, it underwent a life extension assessment, where it was decided to only decommission the plant between 2020 – 2026.
- The total generation capacity of the 6 generators still in operation is 1200 MW, which is conservative in modern standards.
- Crucially, it was decided not to perform a mid-life refurbishment as is typical of power stations of this design. Only limited retro-fitting and upgrades to some infrastructure was performed.
- A number of factors other than air quality concerns initially influenced planning regarding the shutting down of the plant:
  - The power plant's coal supply was originally located next to the plant, which made coal supply simple and affordable. As this source became depleted, coal has to be sourced from various locations and trucked to the plant. The volume of coal needed per day is significant, and the cost of transport has made the operation of the plant expensive.
  - The plant was originally going to be decommissioned as Kusile and Medupi units came online. The delays in the completion of

especially Medupi has resulted in the need to keep the Hendrina power plant operational.

- The fact that the power plant was not refurbished at its midlife of operation has resulted in serious reliability problems. Four of the original 10 generators, designed to burn gas, had been run on coal until the generators were beyond repair. The remaining units have known reliability challenges.
- Even though the power plant is old, the retrofitted air filtration system installed during the limited upgrades has ensured that the power plant has been able to comply with current emission standards. It will not be able to comply with the stricter emission standards soon to be enforced, which creates a significant operational challenge. It is not economically viable to upgrade the power plant any further due to its age and planned decommission date, but delays in the completion of new power plants will likely require the continued operation of the Hendrina power plant. This will create conflict with the Department of Fishery, Forestry and the Environment's revised air quality standards.

2.2.2. During the follow-up session at the Steve Tshwete local municipality, the committee received a more detailed briefing on the minimum emission standards of the DFFE, as well as ESKOM's vision for a Just Energy Transition (JET) by 2035. The ESKOM representative emphasized the following:

- Since the early 1980's to the present, ESKOM has been working towards reducing the amount of pollutants released from coal-fired power plants. The process resulted in the decommissioning or retrofitting of existing power plants. As a result, the release of particulate materials (PM) has been reduced by over 80%.
- Aggressive targets, in line with minimum emission standards, have been set for particulate matter as well as other major greenhouse gasses – Carbon dioxide, Sulfur dioxide and Nitrous dioxide.
- The DFFE first announced new MES for 2025. While new power plants will be able to adhere to these, ESKOM operates a significant number of older power plants that will not be able to comply. ESKOM sought postponement from the new MES in line with its own decommissioning

schedule for the older plants, but on November 2021, the DFFE instructed ESKOM to comply with the new MES.

- Of the currently operating ESKOM power plants, 4 (Lethabo, Matla, Tutuka and Kendal) will not be able to comply with the stricter MES, while Medupi, Matimba, Duvha and Kriel, are at risk of non-compliance.
- The impact of the need to comply with new MES standards will result in the loss of about 16 GW of power generated by the four non-compliant plants.

2.2.3. ESKOM admitted that a more pro-active approach to plant modernisation up to 2021 was needed. The current situation has significant operational and financial constraints that poses significant challenges to ESKOM, but which has potential to impact drastically on energy security:

- There is not sufficient time to retrofit non-compliant power plants. ESKOM estimates that 14 years will be needed to do this, while the date for compliance is only 3 years from now.
- The cost of the required retrofitting will not be justifiable, considering how close most of the plants are to decommissioning. Three of the non-compliant plants are to be shut down before the retrofits would be complete, while another three will have to be shut down shortly afterwards. The retrofitting of Flue Gas Desulphurization plants for the eight non-compliant plants are estimated to be R300 bn. Such an expense cannot be justified when the end-of life decommissioning dates of the facilities are so close.
- The loss of generation capacity will have a direct impact on the South African economy as a result of increased loadshedding and increased tariffs.
- The closure of power plants will cause a significant number of job and revenue losses in Mpumalanga and Limpopo provinces.
- The shutdowns will have a significant impact on ESKOM's balance sheet.
- As an alternative to the blunt shut-down requirements of meeting air quality standards, ESKOM is proposing the implementation of its Just Energy Transition (JET) plan, which is designed to aggressively curb greenhouse gas emissions, while operating coal power plants to their planned decommission dates. According to ESKOM, this practice will

allow sufficient time to bring planned sustainable energy generation projects on board while preventing the sudden loss of generation capacity that enforcing MES would cause.

2.3. Context

2.3.1. While the challenge of retrofit budget and timelines are ongoing, COP 27 has seen the formal presentation of South Africa's Just Energy Transition investment plan to the International Partner Group of potential investors. While the agreement could potentially result in loans and aid to the value of R1.5 trillion, the JET support will not resolve the immediate energy challenge facing the country.

2.3.2. The slow pace of retrofitting of older generation power plants have resulted in an immediate challenge that will not be fixed by the investment into renewables or the development of new renewable energy facilities. There is a maximum of three years left before all coal power facilities have to comply with new emission standards. Maintaining the status quo in terms of DFFE Minimum Emission Standards and its decision that all power plants have to comply with this requirement has been made with a focus on the air quality challenge that Mpumalanga is facing.

2.3.3. In part, the DFFE's inflexibility on exemption from Minimum Emissions Standards are not likely to be reversed. Although taken in 2021, a recent (April 2022) High Court ruling has removed the Ministers options to provide exemption on her discretion. For at least 10 years, major polluters such as ESKOM, SASOL and heavy industries in the metal processing field were given exemption from stricter Minimum Emissions Standards.[1] This and preceding leniency/lack of regulations was likely instrumental in supporting ESKOMS position regarding earlier retro-fitting of non-compliant power plants. In the past, a system called "grandfathering" also provided a way out of air quality compliance for ESKOM. The concept operated as follows:

- The 'transitional arrangements' refers to an allowance for old or existing plant to meet particular standards related to old or existing plant (the

[1]As reported on in a 2019 Committee brief entitled "Department of Environmental Affairs, Forestry and Fisheries: Briefing on Air Quality Management in Air Quality Priority Areas and challenges associated with this activity." - 8 October 2019

“existing plant standards”) within a transition period of 5 years and then for them to meet “new plant standards” a further 5 year transition period later.

- The ‘other special arrangements’ refers to the provision, as described in the 2007 National Framework, that old or existing plant may be granted a postponement of the compliance timeframes contained in the ‘transitional arrangements’ if, and only if, the individual industry’s air emissions are not causing any adverse impacts on the surrounding environment.
- This clarification is fully aligned with NEMA’s Section 28 ‘duty of care’ provision and it is clear that grandfathering is not a consideration, i.e. the ‘old rules’ do not apply to old or existing plant in perpetuity.

2.3.4. Grandfathering and regulatory discretion did not go unchallenged though. Before the environmental groups finally took the Department to court, it had been engaging with the Department since the 2015 decision to grant exemption from MES to major polluters in Mpumalanga. In a 2017 publication[2], the group stated: “*...the support provided by DEA for local authorities is not only inadequate, but the NAQO’s controversial decision in early 2015 to grant postponements from compliance with the minimum emission standards (MES) under the Air Quality Act to the biggest polluters in the HPA – Eskom and Sasol – has made it significantly more difficult for air pollution in the HPA to be reduced. At the very least, HPA facilities should comply with the MES, but ideally, local authorities should impose emission limits in atmospheric emission licences (AELs) that are even stricter than the MES.”*

2.3.5. It was based on the concerns raised in the 2017 report that the group finally took legal action in 2019. The High Court has recognised the poor air quality in South Africa’s Mpumalanga Highveld region as a breach of residents’ Constitutional right to an environment that is not harmful to their health and well-being. The ruling therefore recognises air pollution as a violation of Constitutional rights. The case was brought to court by environmental justice groups groundWork and Mpumalanga community organisation Vukani Environmental Justice Movement in Action (Vukani), and represented by the Centre for Environmental Rights

[2] Centre for Environmental Rights, BROKEN PROMISES The Failure of the Highveld Priority Area. October 2017

(CER) as attorneys in 2019, demanding that government clean up the toxic air in the Mpumalanga Highveld.

2.3.6. The Minister is appealing sections of the ruling – particularly the interpretation of Section 20 of National Environmental Management: Air Quality Act (AQA). The Minister states that the interpretation "impermissibly limits" her regulation-making discretion by imposing an obligation on her to prescribe regulations under that section, without due regard to the broad regulation-making powers conferred by the Air Quality Act. This obliges the Minister to prescribe regulations relating to a particular priority area rather than permitting regulations, which apply to all such areas, "thus limiting the minister's legislative discretion and autonomy". If the appeal is lost, the DFFE would not be in any position to reverse its instruction to ESKOM to comply with MES, and even if it would consider doing so, the decision is likely to be challenged in court.

2.3.7. In a nutshell therefore, poor decision-making from ESKOM, past leniency regarding MES and failure of Kusile and Medupi power plants to fill the gap left by the decommission of ageing power plants have created a nearly unsolvable challenge. Either DFFE has to back down from its insistence on compliance with MES moving forward and risk further litigation from environmental groups or successfully appeal the court judgement, or South Africa will face the very real prospect of serious power shortages as non-compliant power plants are forced to shut down.

2.4. Background briefing by Nkangala District Municipality

2.4.1. The municipality provided a broad overview of its capacity to enforce air quality regulations, as well as its municipal-level planning regarding the implementation of the Paris Agreement.

The municipality informed the delegation that it is one of the three Mpumalanga District Municipalities, and is comprised of six local municipality. Three of these fall within the Highveld Priority Area (HPA), which is characterised by high levels of air pollution. The NDM is a licensing Authority as per section 36 of NEMAQA. The District have been responsible for this function since 2013.

Within municipal boundaries are the Kusile, Kendal, Duvha, Arnot, Kriel, Matla, Komati and Hendrina power plants.

The district municipality and each affected local municipality each only has one Air Quality Officer and the following staff component:

Nkangala DM: 1X Divisional Manager, 1X Atmospheric Emission Licencing officer, 3X Environmental Compliance Officers
Emalahleni LM: 1X Manager, 1X Assistant Manager, 2X Environmental Compliance Officer;
Steve Tshwete LM: 1X Environmental Coordinator, 4X Environmental Officer;
Victor Khanyae LM: 1X Environmental Officer

In terms of management and adaptation plans, the following are in place:
AQMP:

- Steve Tshwete-Implementation
- Nkangala- Implementation
- Emalahleni-Implementation
- Victor Khanye-Draft AQMP

Air Quality by-laws

- NDM Air Quality by- laws
- STLM also has its Air Quality by Law and a vehicle emission strategy
- Emalahleni has a by law and vehicle emission strategy

In terms of challenges facing the municipal district, the following was highlighted:

- There is a challenge with capacity within the environmental management departments;
- NGO'S do not trust the Authority; and
- Non-compliance by some facilities within the municipality impacts air quality.

2.5. Steve Tshwete local government

2.5.1. The Committee delegation received a detailed briefing about the local municipality's capacity to enforce air quality legislation, as well as preparedness for the implementation of climate change adaptation plans.

The following points from their presentation is highlighted:

- Steve Tshwete Local Municipality is home to Eskom's coal-fired power stations, Columbus Stainless Steel and Ferrochrome, and many other mines and industries. This makes it highly susceptible to various types of pollution, especially air pollution that may contribute to the degradation of the natural surrounding environment;
- Steve Tshwete local municipality falls under the Highveld Priority Area in terms of ambient air quality;
- Manufacturing and construction is responsible for the largest portion of Carbon emissions in the municipality by a significant margin. 69% of all carbon emissions are attributed to this sector, while the energy sector is responsible for only 2%. This is the same level of emissions as recorded for agriculture, and half the recorded residential (4%) emissions.
- There is 1 Municipal Ambient Air Quality monitoring station located in Mhluzi within the STLM, but the management of the station is outsourced.
- The parameters being monitored are Nitrogen dioxide (NO_2), Ozone (O_3) , Particulate Matter (PM_{10} and $PM_{2.5}$), Sulphur dioxide (SO_2), and Carbon Monoxide (CO)
- STLM developed an Air Quality Management Plan (AQMP). Industries are required to develop emission reduction plans to limit air pollution.
- The staff component dedicated to the competency is as follows:
  - Air Quality Officer: 1
  - Regional Environmental Officer: 1
  - Environmental Officer: 4
- Municipal climate Change Mitigation and Adaptations projects include:
  - Municipal Spatial Development Framework
  - Green Building Guidelines
  - STLM Low Emissions Development (LED) Scenarios – 2014
  - STLM Greenhouse Gas (GHG) Emissions Inventory – 2012 and 2018

- STLM Climate Resilience and Vulnerability Assessment (CRVA) – 2020
- STLM Environmental Policy
- STLM Air Quality Management Plan (AQMP)
- STLM Integrated Waste Management By-Laws
- Air Quality Management By-Laws
- STLM Waste Strategy
- STLM Energy Integrated Plan
- Installation of PV solar system in municipal building (rooftop)
- Vehicle emission testing
- Air quality awareness campaigns
- Installation of PV systems for non-grid households in Doornkop village

2.6. Questions from members

Members appreciated the background received and engaged the ESKOM representatives regarding the following:

- The Committee wished to get clarity why NGOs do not trust ESKOM. The delegation requested that ESKOM elaborate on the challenges experienced;
- The delegation further expressed their concern about the limited number of environmental officers in the local land district municipalities;
- The reports of non-compliance towards air quality regulations experienced in the District Municipality was a concern to the delegation. The officials present were asked to elaborate on why action is not taken against perpetrators.
- What environmental management plans and climate change adaptation plans are in place in the municipality?
- The delegation asked that ESKOM clarify which power plants are non-compliant and why. The delegation wished to know whether sufficient maintenance is planned at these stations and whether the Komati power plant has been the first of the older power plants to be decommissioned.
- The delegation requested further details regarding the decommissioning of the Komati power plant, details requested include the public participation

process followed during the SIA, the EIA performed and a full review of the process followed to implement the repurposing programme that will be implemented at Komati.

2.7. Responses to questions

In response to questions from the delegation, the municipality and ESKOM officials provided the following feedback:

- The exemption from MES for some of the older power plants located within the municipal boundary is still in place, although it is being reviewed. This creates ambiguity in terms of minimum emission regulations enforced within the municipality.
- The municipality is struggling with compliance enforcement as it has an extremely limited budget allocation for this function. It is not possible to fund sufficient staff to perform adequate environmental enforcement duties. At present, the District municipality only has 3 environmental officers, and it took three years to have the posts approved. There is no funding available for any additional appointments.
- The District municipality has developed a draft Environmental Management Plan (EMP), but it will only go into force when the plan is approved during a scheduled sitting of the Council.
- ESKOM clarified that the possibility of further extending the operation life of any of the older power plants would simply not be economically viable due to the massive capital input that would be required to make these compliant to current and future MES. The power plants are polluting the environment and as they are of an older design era, thus are just not efficient to operate. The cost implications and the need to comply with commitments made towards implementing the Paris Agreement simply excludes the option of extending operational life on these plants.
- The maintenance of older power stations cannot be justified indefinitely as the JET has as its main aim to reduce polluting emissions that are responsible for significant health impacts. The only option with older power plants is the retro-fitting of more modern CO_2 capture capacity, which is simply too expensive.

3. Day 2: Meeting with the Emalahleni Local Municipality

3.1. Presentation by Emalahleni local municipality

3.1.1. The Municipality was requested to present on its capacity to enforce air quality regulations, as well as develop and implement Paris Agreement Adaptation Plans. The following key points from the municipality's presentation is highlighted:

- In terms of air quality monitoring and enforcement, the municipality has the following in place:
  - An Air Quality Management Plan, developed in 2019;
  - A Climate Change Strategy, completed in 2022;
  - An Integrated Environmental Management Framework, completed in 2008 and overdue for review;
  - A Vehicle Emission Control And Testing Strategy, completed in 2021; and
  - Air Quality Management bylaws, Promulgated in 2017 and due for review.
- In terms of Climate Change, the municipality has completed the development of a Climate Change Strategy (current financial year).

3.1.2. As requested, the municipality unpacked its environmental management challenges to the committee. Challenges impacting air quality in the municipality included:

- The municipality is highly industrialised, with a heavy dependence on the coal value cycle, including mining and value-adding;
- The municipality has the highest number of power plants in the country. Most of these are old-generation coal-fired plants;
- Over 51% of the economy is further dependent on mining activity. Mining is the second-largest contributor to emissions in the municipality;
- A high degree of waste burning taking place in informal settlements; and
- The transport of coal from mines using heavy trucks rather than a rail l network, increases dust particles and greenhouse gas release.

- The municipality has a challenge both with illegal mining, as well as with mining activity approved by the DMRE encroaching on residential areas. At present, there is limited interaction between the DMRE and the local authority, and thus the latter is not always aware of Environmental Authorisations being issued until after the fact. Residents are under the impression that the local government is aware of the process, and this is where complaints and petitions are directed. Where possible, the municipality attempts to ensure that it is able to comment on mining applications before the DMRE and where necessary, apply for interdicts against mining operations. This is a costly and expensive exercise.

3.1.3. The Local Authority spent some time elaborating on actions it had taken in implementing its Air Quality Management Plan (AQMP), followed by a summary of challenges it experiences during this activity. These include:

- A shortage of resources for the implementation of AQMP, especially the personnel and funding required to purchase low cost sensors;
- Lack of funding to implement Waste-to-energy projects;
- Using the Local Government Climate Change Support (CCS), the municipality was able to source funding from an international donor, which was used to develop a Climate Change Vulnerability and Response Plan. The Plan's purpose is to identify key climate change indictors where the municipality may be at risk to the impact of Climate Change.

3.1.4. During the CCS development stage, the municipality was able to identify the following challenges:

- Delays in finalising the municipal SDF impacts on planning;
- The municipality lacks critical resources such as a GIS system;
- Silo mentality within the municipal departments hamper integrated planning;
- The municipality is service supply-driven, resulting in reduced prioritisation of planning and modelling requirements;
- Budgetary limitations prevent the acquisition of key resources;
- Inability to finance projects through municipal income streams (revenue stream limitations)
- Limited grant allocation to prioritise projects; and

- Lack of institutional capacity to manage high-impact climate change mitigation and adaptation projects, coupled with poor institutional arrangements.

3.1.5. Finally, the Municipality provided a detailed summary of its Climate Change Response Actions. These focused on:

- Supply side energy management;
- Demand-side energy management;
- Supply side water management,
- Demand side water management
- Management of the physical l environment;
- Disaster management;
- Roads and Transport; and
- Other key issues.

3.2. Questions posed by the delegation

The committee members thanked the municipality for the detailed presentation, and required further clarity on the following matters:

- In terms of waste management, has the municipality considered implementing methane capture projects at any of the landfill sites it operates?
- Does the municipality have any plans in place to combat the pollution of rivers as a result of leaks/breakdowns at wastewater treatment facilities?
- It would appear as if it is necessary that meetings are co-ordinated between the municipal authority and the DMRE. It is a concern that authorisation for mining activity is given within the boundaries of residential areas. There is also a need for engagement between the community and the municipality in order to explain roles and responsibilities during authorisation. It is the opinion of the committee that mining licenses should not be issued if the human impact is not properly investigated.
- The delegation proposed that the municipality should investigate the options open to them to include more community awareness projects at

their Centre for Excellence and Innovation, especially in terms of solid waste recovery;

- The delegation requested that the municipality clarify what community awareness programmes it has implemented to educate the community in terms of the challenges of Climate Change;
- In terms of vehicle emissions testing, the delegation wished to know how the municipality selects vehicles for testing and what type of vehicle are focused on.
- The delegation noted that the municipal presentation does not assign a high pollution level to energy generation, and lists mining as the second biggest contributor to air pollution in the District. Clarity was sought as to which industry contributed the largest percentage to air pollution;
- The delegation wished to know if non-compliance with air quality regulations is a challenge in terms of enforcement capacity as well. Non-compliance should be combatted through the enforcement of regulations.

3.3. Responses from the municipal representatives

- The municipality informed the committee that it does run community awareness engagements w.r.t Climate Change, but will be able to increase these if it is felt that it is necessary to do so;
- The municipality is supported by national DFFE in terms of how <u>landfill sites</u> need to be managed and budgeted for;
- In terms of Air Quality management, the District Municipality is responsible for issuing emissions licenses, but the local municipality does receive support in terms of:
    - Developing and implementing Air Quality management;
    - Training for capturing and verifying data, as well as emissions inventory development;
    - Joint inspection and enforcement support
- The municipality echoed the delegation's sentiment that a single forum containing all parties involved in mining regulation and air quality management is represented.
- The municipality clarified that ESKOM is interacting with the municipality in terms of its emission licenses;

- In terms of air quality data, the municipality stated that it uses ESKOM's air quality monitoring reports, which has been produced for over 30 years;
- In terms of the municipal Climate Change Response Plan, the municipality highlighted that it is in the process of developing an adaptation plan but that it would want to integrate it with other local and district municipal plans before finalisation;
- The municipality normally follows up on sewerage spill reports from the public. If there are currently any that it is not aware of, it will follow up and respond;
- The mayor clarified that there are periodic meetings between her officer and the Executive of the DMRE, and that some assistance in n resolving mining authorisations given within local municipal boundaries have been received. There are currently 47 mines within the municipal boundary, with especially small-scale operations mushrooming. She further highlighted that very often, mining operations within or close to settlements are illegal activity, which creates a fire risk and major pollution problems;
- The municipality implements environmental plans and awareness campaigns, but these are always constrained by budget allocation. In terms of the latter, the municipality aims to integrate its efforts with those of civic organisations in order to improve public awareness;
- The delegation was informed that no particular category of vehicle is singled out for emissions testing. Random enforcement activities are undertaken, with those in contravention of regulations fined, and vehicles that are significantly non-compliant impounded;
- The municipality was of the opinion that ESKOM should engage with it in greater detail regarding JET plans and the potential impact of these, as well as dealing with the significant challenge the municipality has regarding non-payment of electricity bills within the community.

4. Day 3. Site Visit to the Crocodile River and Meeting with the Department of Water Services (DWS), the Department of Forestry, Fisheries and Environment and the Inkomati – Usuthu Catchment Management Agency

4.1. Crocodile River Water Pollution background

4.1.1. The recent fact-finding visit to Jagersfontein laid bare the challenges that the DFFE has in terms of managing the potential impacts of mining activity. Regulatory fragmentation has resulted in a convoluted and complicated management environment in which the DFFE has little control over the activity of creating, using and managing tailing dams, which ultimately can have a significant impact on the environment.

4.1.2. Similar situation may well exist in other environmental management areas. In the case of this oversight, the Committee will be briefed by the DFFE regarding the competency of freshwater management. Pollution as a result of the impact of human activity on the water quality of important river ecosystems is a major concern in South Africa. The crocodile river in Mpumalanga have the potential to have a major impact on the ecology of the Kruger National Park, as it forms the southern boundary. Threats to the biodiversity and river ecosystem integrity will impact on the mandate of the DFFE, thus it is critical to determine whether the current policy provides sufficient capacity for a capacitated department to play a preventative role in terms of river pollution.

4.1.3. At present, DFFE is not mandated to manage water in the country, as can be seen from the diagram presented below. Water resources management and regulation is the sole mandate of the DWS. The water services (bulk water supply and sanitation (wastewater treatment) is a concurrent function between Department and Municipalities. Municipalities are mainly responsible for water reticulation to households as well as collection and treatment of wastewater (sewage). This function is sometimes carried out by service providers appointed by municipalities. The department set the standards and norms for water and wastewater management at municipal level. The bulk water supply is the sole responsibility of the Department through water boards. Water boards then sell the potable water to municipalities to reticulate to their customers. DWS only get involved in reticulation and wastewater treatment when a municipality is not authorised as a water service authority or does not have capacity or failing water services act to intervene).

4.1.4. Water catchments are supposed to be managed by Catchment Management Agencies (CMAs). These are mandated to manage and regulate use and development of water resources on behalf of the department e.g. verifying and validating water use in their catchments or water management area; water quality monitoring (pollution control) and enforce effluent quality standards on anyone that discharges into rivers. Municipalities are also required to conduct water quality assessments. There are currently two CMAs and the plan is to have 9 CMAs in total covering all water management areas in SA.

4.2. On Thursday, the delegation met with the Department of Water and Sanitation, The Inkomati-Usuthu Catchment Management Agency, and SANBI to discuss river pollution challenges experienced in the municipality. The delegation originally requested additional input from the DFFE regarding the impact of river pollution on aquatic biodiversity and National Parks, but this briefing could not take place.

4.2.1. During initial site visits, municipal officials briefed the delegation about the state of wastewater treatment facilities within the municipality. The facilities visited were in reasonable order, but aspects of the discharged water caused concern among the delegates. There appeared to be some contradictions between the statements of the officers and observations made. Presentations received at the municipality after the site visits partially clarified where the contrast could have originated.

4.2.2. During the presentation of City of Mbombela, it was highlighted that the wastewater treatment facilities operated, with the exception of the White River treatment works, had received high green drop[3] scores, but that these were not high enough to consider the treatment works to be working optimally. The following details were provided:

- None of the WWTWs complied with the 90% score excellence standard for effluent quality
- None of the systems had updated W 2 RAPs in place or implemented the lack thereof leaving a gap in the ability to plan and cost key interventions needed to achieve compliance and best management practice

[3] The Green Drop Report provides an analysis of the current state of affairs of wastewater infrastructure and management in the country and also looks at the state of municipal wastewater treatment.

- All WWTWs classified their final sludge but lacked evidence of conformance against the national sludge disposal guidelines
- None of the plants were sensitive towards the benefits of reuse and carbon saving opportunities
- Information and inspection of sewer networks and pump stations were limited and should form part of the engineering inspection services in future

4.2.3. The Inkomati-Usuthu CMA further expanded on the inputs from the municipality, highlighting that high levels of sewerage contamination in the Crocodile River is not only attributable to the municipal wastewater treatment facilities. The CMA presented details of all the challenges the river catchment faces, including:

- Unauthorised water use(s)
- Intimidation of staff when conducting inspection/investigation
- Parties impatient with application process
- Landless miners unable to apply for authorization
- Mushrooming of informal settlements
- Illegal mining (Gold Sand)
- Tribal authorities issuing sand mining permits
- Unauthorized WWTW Discharging partially treated effluent
- Industries and mines not complying to conditions of the Water Use License (WUL)
- Flooded pits, Decant from abundant mines Expired WUL
- Lack of legal understanding by communities due to social challenges
- Abandoned mines attracting prospective illegal mining activities
- Illegal mining activities and sewage overflow having a negative impact on tourism industry in the province
- Failure by authorities to formalize some of illegal mining activities to create jobs

4.2.4. As a result, the river basin around Mbombela is classified as a Microbial Water Quality Hotspot Area, with non-compliant and unacceptable levels of microbial counts in water tested. This is the result of:

- WWTWs effluent discharges downstream of the discharge points.
- Raw sewer overflowing manholes and pump stations

4.2.5. The Lower Crocodile River also experiences nutrient enrichment as a result of agricultural activities (Sugar cane). The CMA finished off the presentation summarising challenges and interventions for the Crocodile River basin

4.2.6. Challenges:

- Land use activities that pose water quality challenges (non point and point source pollution) in the Catchment;
- Agricultural activities (pesticides, fertilizers) and irrigation returns flow;
- Residential areas (urban and rural townships) e.g. storm water run off, poor sanitation services and illegal waste dumping especially disposable nappies;
- Sewer infrastructure (e.g. non compliant treated effluent from WWTWs, overflowing sewer manholes and pump station)
- Industries such as Mining and Mills (toxins from processing plants; decants and improper management and closure of mine dumps).

4.2.7. Interventions:

- Enforcement on non-compliant activities;
- Embark on development of strategies /or plans for implementation for restoration of water quality using the provisions of the NWA and regulations;
- Cooperation and coordination with other spheres of government especially Local government as the biggest contributor of microbial and nutrients pollution

4.2.8. Key focus areas

- Ensure protection and use of water resources;
- Ensure compliance to International Obligations;
- Ensure enforcement on non compliance activities;
- Continue to participate in Joint Operations with other enforcement stakeholders;

- Investigation and prosecution of big polluters and big illegal miners;
- Continue to conduct monitoring and engaging with noncomplying stakeholders;
- Development and implementation of guilt fines.

4.3. Questions and responses

The delegation welcomed the interaction during site visits and expressed their appreciation in terms of the presentations received. The following suggestions / clarity-seeking questions were put to the Municipality and CMA officials:

- The delegation pointed out the differences between discussions at the sites and the briefing received from both the Municipality as well as the CMA. It was concerning that management of the treatment plants were adamant that they do not release effluent into the rivers, although some of the outflows were visibly running cloudy water back towards the river. It was also stated that a recent upgrade to the system is causing bottlenecks in the system that need to be addressed.
- During the site visit, the delegation was informed that a large manganese plant was responsible for polluting the river through large volume metal discharges. Farmers in the area are also complaining about the impact of the pollution. The delegation wanted to know if this has been investigated and if found to be accurate, whether it has or will be addressed.
- The committee found the green drop reporting confusing – wastewater treatment works received relatively high scores but do not receive green drop status. The delegation wanted this clarified and also reiterated that the DWS and DFFE had a responsibility to enforce environmental regulations if these are not adhered to.
- The delegation was concerned about levels of community engagement focusing on water resource conservation. The fact that informal settlements, small-scale mining and illegal mining were also having an impact on the river needed to be addressed. Buy-in from the community is essential to improve the situation. The municipality was asked if environmental officers regularly visit these pollution hotspots.

- The delegation wanted to know why the municipality's wastewater treatment works were struggling to reach green drop status, and who was responsible for intimidating their inspectorate, as this has to be addressed immediately. If needed, a thorough investigation of the situation is required.
- The delegation noted the low green drop score of the White River WWTW with concern. There was a significant difference between this and the rest of the municipality's facilities and the committee felt that the cause of this need to be clarified. The delegation also wanted to know what support the WWTW is receiving/will receive to improve the situation.

4.4. Responses from the CMA and municipality

- The Municipality stated that <u>plant maintenance</u> is a greater challenge than capacity, and will discuss quarterly performance with the operators of the facilities.
- The municipality further clarified that it is experiencing greater challenges from informal settlements and Zama-Zamas, and that the formal WWTW are frequently blamed for effluent pollution.
- In terms of the green drop status and performance of WWTW, the municipality stated that apart from the White river facility, there is a very small margin between the current scores received and the score needed to attain green drop status. The municipality was confident that this classification will soon be reached and were therefore not extremely concern about the operation of the municipal WWTW. The CMA expanded on the response, stating that directives in terms of non-compliance have only been directed at two of the municipality's facilities.
- The MEC stated that they were <u>not aware of any complaints about Manganese Metal Company (MMC) and Delta EMD, but will investigate the matter. On this matter, the CMA reported that they will always respond to complaints received about pollution incidents, but do not have the capacity to monitor the entire Crocodile River in order to detect problems.</u>

- In terms of community awareness, the municipality elaborated on its adopt-a-river programme, designed to increase community awareness and involvement in river management.
- The CMA and municipality clarified that the intimidation challenges it faces is largely coming from Zama-Zamas illegally mining sand in the area.

5. Short note on the rationale of requesting a briefing from the DFFE regarding the impacts of the pollution of the Crocodile River

5.1. Background to the oversight approach

5.1.1. During the Committee's recent fact-finding mission to the Jagersfontein disaster area, it became apparent that there were many fragmented mandates between different departments, and that there was evidence of the departments operating in silos rather than practicing effective inter-departmental cooperation.

5.1.2. The management of specific mine and reclamation activities is not the only example of multiple departments being responsible for the monitoring and enforcement role in activities that eventually impact on the environment. As will be demonstrated below, the management of water resources and the biodiversity within rivers and wetlands are managed by two departments with what appears to be mutually exclusive mandates. In terms of the DFFE, this creates significant impact on the management of aquatic biodiversity, as it is not mandated to manage the water in which the species occurs.

5.1.3. The Mpumalanga oversight focus was designed to highlight this challenge in terms of the Crocodile River. The upper reaches of the river is affected by agriculture, mining and human settlements. Water quality is degraded until the river flows into the Kruger National Park. At this point, water quality affects the ecology of the river inside the Park, but the DFFE has no mandate to address the challenge. The Crocodile River site visit was designed to allow the DFFE to present its perspective regarding this challenge, but the Department declined the opportunity to present to the committee. This is unfortunate, as aquatic ecosystems and the species occurring in them are heavily impacted by human activity.

5.2. Cause for the prioritisation of Crocodile River pollution

5.2.1. Exclusionary mandates and silo mentality risk in managing water resources

The following example presented focuses only on fish species:
There are approximately 120 species of fish occurring in South Africa freshwaters of which about 28 are recognised as threatened in the IUCN's Red Data list (this is 23% of all South African freshwater fish species). In general, threats to aquatic systems have been increasing and this is reflected in a trend of increasing numbers of species included in the IUCN listings and the levels of these estimated threats (Skelton 1987 & 2001). Despite this, very few of South Africa's threatened freshwater fishes have dedicated conservation programmes aimed at realistically reducing threats and down-listing their conservation status.[4]

5.2.2. Conversely, South Africa has rich and varied aquatic environments. South Africa has 23 RAMSAR sites. A Ramsar site is a wetland site designated to be of international importance under the Ramsar Convention, also known as "The Convention on Wetlands" an intergovernmental environmental treaty established in 1971 by UNESCO, which came into force in 1975. South Africa is a party to the Convention on Wetlands of International Importance especially as Waterfowl Habitat of 1971 (also referred to as the Ramsar Convention).

5.2.3. While Article 3(1) of the Ramsar Convention makes provision for the wise use of wetlands, which is defined as the "maintenance of the ecological character, achieved through the implementation of ecosystem approaches, within the context of sustainable development". The Conference of the Parties has agreed on inherent weaknesses that could lead to the hampering of wise use. These weaknesses include, but are not limited to:

- authorities working in isolation;
- the lack of communication between public and private sectors or technical personnel (environmental impact assessment specialists).

[4] IR Bills and ND Impson (2013) Conservation Biology of Endangered Freshwater Fishes – Linking Conservation of Endangered Freshwater Fishes with River Conservation, Focusing on the Cederberg. WRC Report No. KV 305/12

5.2.4. *Within the enabling provisions of South Africa's EIA regulations, reference is made to "water source", "water resource", "wetland" and "ecosystem". All these terms are read to include a wetland. However, whereas the terms "water source", "water resource" and "wetland" are defined in the National Water Act 36 of 1998 (NWA), an "ecosystem" is defined in the National Environmental Management: Biodiversity Act 10 of 2004 (NEMBA), and "water source" is defined in the Conservation of Agricultural Resources Act 43 of 1983 (CARA). Furthermore, the administration of the NWA is with the Department of Water and Sanitation, while NEMBA is with the Department of Environment, Forestry and Fisheries, and CARA is with the Department of Agriculture, Land Reform and Rural Development. This multiplicity, combined with the application of the various specific environmental management acts (SEMAs), complicates the manner in which an EIA application is considered. This is so in that the national environmental framework casts the net wide in identifying the competent authority, but also in its effect on wise use decision making on activities pertaining to wetlands. In light of the aforementioned, this article aims to address the shortfalls and make recommendations that promote wise use.*[5]

5.2.5. It is in relation to these types of challenges that the engagement with DFFE would have been important. The conservation requirements of aquatic ecosystems and species is of such importance that there simply cannot be any room for a silo-approach to duties that may or may not fall within a department’s mandate.

5.3. <u>Overview of the mandate and operations of the Department of Forestry, Fisheries and the Environment</u>

5.3.1. Studying the Department of Forestry, Fisheries and Environment’s Mandate, starting at the constitution of South Africa and then working down to key legislation, there appears to be a refinement of focus to the detriment of aspects of the environment:

5.3.2. Section 24 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), which affords everyone the right to:

[5] Bramley Jemain Lemine (2020) Developing a strategy for efficient environmental authorisation of activities affecting wetlands in South Africa: towards a wise-use approach. Obiter vol.41 n.1 Port Elizabeth.

a. an environment that is not harmful to their health or well-being; and
b. to have the environment[6] protected for the benefit of present and future generations, through reasonable legislative and other measures.

5.3.3. The DFFE interprets this mandate to require that it manage, protect and conserve South Africa's environment and natural resources, but somehow, this mandate has become detached from water, which is both a natural resource and a crucial part of the environment.

5.3.4. In its Annual Reports, the DFFE states *"to give effect to this constitutional environmental right and the need for sound environmental management and sustainable development, the DFFE has over a period of time developed a comprehensive environmental management legislative/regulatory framework. This regulatory framework comprises acts of parliament (environmental laws), regulations, policies, norms and standards, and other regulatory tools that are aimed at promoting sound environmental management practices in order to protect and conserve the environment for the benefit of current and future generations."*

5.3.5. Further, the Department states: *"In addition to the development, implementation and ongoing review of a progressive regulatory framework for sound environmental management, other critical environmental management interventions by the DFFE include raising awareness on key environment issues and promoting a culture of environmental activism among ordinary citizens, building capacity within the sector, and establishing and strengthening national, regional and global partnerships to address common environmental challenges."*

5.3.6. After the DFFE indicated that they will not be joining the Crocodile River site visit as they did not consider the topic as part of their mandate, the invitation to participate in the oversight was extended to the South African Biodiversity Institute (SANBI), one of the Department's entities. SANBI releases annual assessments under its Freshwater Biodiversity Programme, working together with the CSIR and the Department of Water and Sanitation. It was explained to SANBI

[6] Environment in this sense is not impaired by any legislation limiting mandates. Environment is the natural environment in its entirety.

that water management was not considered to be a DFFE responsibility, but that the impacts of river pollution has implications for the work of SANBI in terms of biodiversity management, and that the committee would appreciate any inputs from the entity. The mandate and role of SANBI, of which relevant functions are listed below, served as motivation to extend the invitation.

5.3.7. SANBI's mandate comes from the National Environmental Management Biodiversity (NEMBA) Act No. 10 of 2004: The mandate is to explore, reveal, celebrate and champion biodiversity for the benefit and enjoyment of all South Africans, which includes managing the National Botanical and Zoological Gardens as 'windows' to South Africa's biodiversity for enjoyment and education.

(1) The Institute:

a. must monitor and report regularly to the Minister on
b. the status of the Republic's biodiversity
c. the conservation status of all listed threatened or protected species and listed ecosystems; and
d. the status of all listed invasive species;

m. must coordinate and implement programmes for
    (i) the rehabilitation of ecosystems; and
    (ii) the prevention, control or eradication of listed invasive species;

The Institute must

(a) assist the Minister and others involved in the preparation of the National Biodiversity Framework, a bioregional plan or a biodiversity management plan to comply with subsection (1); and
(b) make recommendations to organs of state or municipalities referred to in subsection (2); align their plans referred to in that subsection with the National Biodiversity Framework and any applicable bioregional plan.

5.3.8. It is the opinion of the committee secretariat that the mandate of the DFFE, starting at the Constitution of the Republic of South Africa, clearly indicates that the department has a constitutionally mandated responsibility to ensure a healthy and safe environment, even if subordinate legislation removes its active management thereof. This mandate becomes conflicted with the separation of water resource management from the DFFE, but it does not imply that the impacts of poor water management does not create challenges for the department or its entities, nor that it exempts the DFFE from its constitutionally mandated responsibilities.

5.3.9. Poor water management further affects international agreements and commitments towards freshwater ecosystem conservation and the conservation of endangered species across our SADC boundaries.

5.4. Conclusion

It is the opinion of the committee secretariat that this approach of seeking out Inter-Governmental Relations (IGR) and Co-operative Government (CG) challenges created by conflicting mandates (constitutional and legislated) is worth persisting with. What was potentially under-estimated was the need further interaction with relevant Departments in order to clarify the approach and to consider any inputs the Departments may have regarding this manner of doing oversight. With a Select Committee with a portfolio such as this committee's, it is simply not possible to address identified challenges only when it involves a single department and falls entirely within that department's mandate. Almost none of the challenges identified in strategic planning has this characteristic. Most challenges involve multiple departments, or conflicts between national and provincial competencies. It is exactly for this purpose that these challenges need to be identified and addressed, since it is part of the mandate of the NCOP to identify Inter-Governmental Relations and Co-operate Governance challenges and present these matters at the National Legislature.

6. Recommendations and Resolutions

- The delegation noted with concern that the budget allocation for both District and Local municipalities appeared to be insufficient to allow for the appointment of sufficient Environmental specialists or to perform the tasks required of this municipal function. The budget constraints also extend to the required equipment and IT resources required to perform specific duties within the air quality monitoring and enforcement sphere. One area where this comes to the fore is the fact that the municipalities rely on ESKOM air quality data for some of its reporting. While the delegation is not assuming that the data is unreliable, it is problematic that the industry monitored for compliance is the one supplying the evidence for enforcement. The committee recommends that during its engagements with the relevant parliamentary committees, Cogta and Treasury, the challenges the municipalities are is facing in terms of budget allocations for local government competencies such as air quality management and enforcement is highlighted.

- The reports of non-compliance towards air quality regulations experienced in the District Municipality was a concern to the delegation. The municipality is located within the Highveld Priority area, and as such, the enforcement of air quality regulations is of critical importance. The committee recommends that, after the municipality is requested to provide details on the polluting industries, the National Department is engaged in order to determine how the local sphere of government can be assisted to improve enforcement.
- The delegation requested further details regarding the decommissioning of the Komati power plant, details requested include the public participation process followed during the SIA, the EIA performed and a full review of the process followed to implement the repurposing programme that will be implemented at Komati.
- There is a need for a greater understanding of the energy generation cost implications of complying with commitments made towards implementing the Paris Agreement. It is also important to develop a detailed understanding of the interactions between the DFFE and the DMRE on the topic. Even considering the fact that ESKOM could have applied more foresight towards the midlife refurbishment of some of its power plants, it would appear as if the need to comply with stricter minimum emissions standards was always going to result in either significant costs or loss of generating capacity. The JET appears to have extremely tight timelines attached to it, or alternatively, the DMRE did not commit fully to its undertakings from the onset, creating the potential energy challenge that would result in the forced shutdown of older power stations without alternative plants in operation. The committee resolves to engage both departments on this matter.

- The committee was informed that the maintenance of older power stations cannot be justified. The only option with older power plants that will allow these to operate within stricter emission standards is the retro-fitting of more modern CO_2 capture capacity, which ESKOM states is simply too expensive to implement. ESKOM remains challenged with completing new generating units and being unable to comply with stricter emissions standards. It is difficult to comprehend that this situation had not been predictable, with timeous adjustments made to the IRP in order to compensate for the approaching bottleneck. The committee resolves to engage the DMRE and relevant stakeholders on the topic in order to generate a better understanding of the matter.
- The committee resolves to assist in co-ordinating meetings between Emalahleni municipal leadership and the DMRE to improve transparency related to the authorisation of mining activity within or close to residential zones. There is also a need for engagement between the community and the municipality in order to explain roles and responsibilities during authorisation. It is the further the opinion of the committee that mining licenses should not be issued if the human impact is not properly investigated, and there is a need to engage with the DMRE to determine what checks and balances is in place to ensure detailed engagement with affected parties.
- The committee is concerned about the fact that a large proportion of pollution risk is reported to be caused by illegal mining activities and informal settlements within river drainage areas. The committee resolves to engage with relevant departments and NCOP committees in order to seek a more effective solution for situation.
- The committee is of the opinion that greater clarity should be sought regarding the potential pollution risks associated with the activities of Manganese Metal Company (MMC) and Delta EMD. On this matter, the CMA also reported that they will always respond to complaints received about pollution incidents, but do not have the capacity to monitor the entire Crocodile River in order to detect problems. The committee is concerned about the fact that neither the CMA nor the municipal leadership appear to have detailed knowledge of past complaints about the risk of pollution from this facility, and resolves to request greater details about the matter from all role-players.
- As with the earlier engagements with local government on their air quality management and enforcement mandate, the committee is concerned that

Mbombela municipality stated that plant maintenance is a challenge. Urban settlements are growing, while wastewater treatment facilities are ageing and in need of upgrading and maintenance. The committee recommends that during its engagements with the relevant parliamentary committees, Cogta and Treasury, the challenges that municipalities are is facing in terms of budget allocations for local government competencies such as wastewater treatment and water quality monitoring is discussed.

Report to be considered.