Friday, 3 December 2021]

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PARLIAMENT

OF THE

REPUBLIC OF SOUTH AFRICA

ANNOUNCEMENTS, TABLINGS AND COMMITTEE REPORTS

FRIDAY, 3 DECEMBER 2021

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COMMITTEE REPORTS

National Assembly and National Council of Provinces

1. Report of the Joint Standing Committee on the Financial Management of Parliament on the Parliament of the Republic of South Africa's performance in the First Quarter of 2021/22, dated 26 November 2021.

The Joint Standing Committee on the Financial Management of Parliament, having considered the Parliament of the Republic of South Africa's First Quarter 2021/22 Report, reports as follows:

1. Introduction

1.1 Section 4 of the Financial Management of Parliament and Provincial Legislatures Act, No 10 of 2009 (the FMPPLA) provides for the establishment of an oversight mechanism to maintain oversight of the financial management of Parliament. The Joint Standing Committee on the Financial Management of Parliament (the Committee) was established in terms of the Joint Rules of Parliament. The Committee has the powers afforded to parliamentary committees under sections 56 and 69 of the Constitution of the Republic of South Africa, 1996 (the Constitution).

1.2 Parliament derives its mandate from:

- Chapter 4 of the Constitution, which sets out its composition, powers and functions;
- the FMPPLA which regulates the institution's financial management;
- the Money Bills Amendment Procedure and Related Matters Act, 2009, No 9 of 2009 (Money Bills Act) which provides procedures to amend money bills; and
- the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act of 2004, No 4 of 2004 which defines and declares the national and provincial legislatures' powers, privileges and immunities.

1.3 Parliament has as its vision to be an activist and responsive people's Parliament that improves the quality of life of South Africans and ensures enduring equality in our society. Its mission is to represent the people and to ensure a government by the people in fulfilling its constitutional functions of passing laws and overseeing executive action. To this end, the institution conducts its business in line with the following values: openness, responsiveness, accountability, teamwork, professionalism, and integrity.

1.4 Section 54 of the FMPPLA requires that the Executive Authority table quarterly performance reports in Parliament for referral to the oversight mechanism. Accordingly, the First Quarterly

Performance Report of Parliament for 2021-22 was referred to the Committee on 12 August 2021.

1.5 This report comprises four parts:

- an overview of the performance in the period under review (Part A);
- an overview of the expenditure in the period under review (Part B)
- committee observations (Part C); and
- committee recommendations (Part D).

1.6 This report should be read with the Committee's report on the Strategic Plan of the Sixth Parliament, and the draft 2021/22 Annual Performance Plan (APP).

PART A

2. Overview of Parliament's performance in the First Quarter of 2021/22

2.1 Overall performance

2.1.1 In the first quarter of the 2021/22 the institution, in line with the strategic objective to strengthen oversight and accountability, continued to strengthen oversight by the committees and houses of Parliament. This was done through questions to the President and Deputy President and other members of the Executive, that in the period under review focused on the provision of quality healthcare, environmental issues, provision of quality education, skills development, and matters related to the provision of housing, water, electricity and sanitation.

2.1.2 The country was under lockdown adjusted level 4 in the period under review and the majority of plenary and committee activities remained virtual. Parliamentarians were nevertheless able to conduct oversight, and the administration succeeded in providing the required supporting services.

2.1.3 In the period under review twelve indicators were measured: three from the previous APP, and nine from the current. All nine new indicators relate to member satisfaction which is in line with the goal of creating a member-centric parliamentary service. Of the 12 indicators, the one relating to the number of annual parliamentary frameworks adopted will be measured at the end of the financial year. All of the remaining 11 indicators were measured, and met or exceeded their targets.

2.1.4 The period under review saw the administration for the first time measuring performance based on client satisfaction with the services provided by the Parliamentary Service. Members' satisfaction with services will henceforth be measured quarterly through a survey that allows for the rating of services.

2.1.5 Table 1 below, is a summary the outcome of the member satisfaction survey conducted to ascertain the performance in the period under review. Per the tabled quarterly report, the results have no historical benchmark on which to base targets. The absence of such a benchmark explains the positive variances between actual and targeted performance. Once the results of all four surveys for 2021/22 have been analysed it will be possible to set a realistic benchmark.

Indicator	Overall Member Satisfaction (%)	Ease of Access	Timelines	Reliability	Fairness	Usefulness
ICT Services	88,26	87,00	87,10	89,35	NA	88,20
Facilities Management Services	80,97	80,87	78,70	81,30	N/A	81,67
Capacity Building Services	77,53	75,56	77,14	77,78	N/A	78,29
Research Services	86,97	86,98	86,51	85,65	87,44	88,37
Content Advice	85,92	86,52	85,22	85,11	86,67	86,52
Procedural Advice	80,10	77,95	78,95	80,51	81,03	81,03
Legal Advice	80,05	79,51	79,51	80,00	80,49	80,49
Committee Support Services	92,54	92,55	92,40	92,80	92,40	92,40
Public Participation Support	79,75	77,21	79,50	80,00	80,95	80,49

Table 1: Client Satisfaction Survey Snapshot (Source: Presentation by the acting STP to the JSCFMP, 3 Sept 2021)

2.2 Programme-by-programme overview

Programme 1: Administration

2.2.1 Programme 1 provides strategic leadership, management and corporate services to Parliament, and comprises the following sub-programmes: Executive Authority, Office of the Secretary, and Corporate and Support Services.

2.2.2 Table 2 below, illustrates the performance trends in relation to Support Services. Per the Quarterly Report, ICT services achieved the highest scores for reliability, followed by usefulness, and timeliness and ease of access. While sub-programme Facilities reported the highest scores for usefulness, followed by reliability, ease of access and timeliness.

Parliamentary Service	Indicator	Q1 target	Q1 Performance	Variance	Status	Reasons for Variance/ Mitigation
Digital service	% Member satisfaction	74%	88,26%	+7,3	✓	
Facilities management service	% Member satisfaction	60%	80,96	+20,96	✓	

Table 2: Performance Trends –Support Services (Parliament First Quarter Report 2021-22)

2.2.3 Paragraphs 2.2.4 to 2.2.14 summarise key developments reported during the period under review.

ICT

2.2.4 In respect of ICT, the administration completed a draft business case for the redesign and optimisation of core and supporting business processes through technology; developed the House Resolutions-system; and made progress in the planning towards the ERP Cloud pilot.

2.2.5 In the period under review technical support was provided to support, amongst others, virtual conferencing platforms, and security of network and systems. To ensure employees were able to work from home effectively, 90 of the 216 laptops acquired by Parliament were distributed.

2.2.6 In respect of access to virtual platforms, Parliament is licenced to use MS Teams in 2021/22 and parliamentarians and employees are able to make use all of its functionalities. At the time of reporting the institution was in the process of renewing licences to the Zoom platform to include access to webinar-hosting functions. Initiatives were underway to upgrade facilities in order to expand virtual and hybrid committee meeting capabilities, and implementation is scheduled for the second quarter.

Facilities Management

2.2.7 In the period under review the Catering Section recovered its cost on stock and adjusted its offering in line with COVID-19 protocols.

2.2.8 The institution ensured that screening, vetting and the pre-screening of visitors accessing the precinct took place as required. The Safety, Health and Environmental (SHE) service unit monitored and assessed contractor compliance and adherence to all applicable legislation and regulations including COVID -19 regulations.

Parliamentary Communications Services

2.2.9 In the period under review the Parliamentary Communication Service (PCS) issued media statements and alerts, published online articles on the parliamentary website in support of committee activities, recorded three podcasts related to oversight and accountability, and the legislative process, and published and distributed two editions of the *InSession*, and three of the *Masithethe* newsletters.

2.2.10 To ensure public awareness of activities on the parliamentary programme, *Happening in Parliament* statements were issued on a weekly basis, media were mobilised through advisories, and statements were developed for legislation considered in plenary.

Human Resource Management

2.2.11 In terms of Human Resource Management, succession planning took place in relation to two posts i.e. Procedural Adviser: Questions and Chief Editor: Bills Office; and the application process of the second intake of the Graduate Development programme closed.

2.2.12 Design proposals for the organisational realignment project were completed and submitted. The second phase of the project is underway and involves the micro-analysis and design of business operating models, processes and positional structures to enable the macro functional design. The Government Technical Advisory Centre (GTAC) was appointed to provide additional organisational analysis and to design technical services, and will do so from 1 June 2021 to 31 December 2021.

2.2.13 The institution's staff turnover stood at 0,15 per cent, 4,85 per cent better than anticipated. Two resignations were reported by the Parliamentary Budget Office (PBO), and the Knowledge and Information Services (KIS) division. The administration ascribes the low staff turnover to a "conducive work environment underpinned by good employee value propositions".

2.2.14 Parliament has proposed to manage the cost of compensation for employees through the implementation of the Voluntary Early Retirement Dispensation (VERD), within the laws and rules of the respective pension schemes, Government Employees Pension Fund (GEPF) and PSOP. In the period under review an actuarial valuation of the penalties that the GEPF would impose on those employees eligible for early retirement was concluded by Alexander Forbes. The VERD will be implemented from 31 March 2022.

Programme 2: Legislation and Oversight

2.2.15 Programme 2 provides for support services for the effective functioning of the National Assembly (NA) and the National Council of Provinces (NCOP) including procedural, legal and content advice; information services and record keeping; and secretarial and support services for the houses and their committees. The programme covers the core business of Parliament and focusses on the outputs, activities and inputs related to legislation and oversight functions.

2.2.16 The programme comprises the following sub-programmes: NA (House; Committees); NCOP (House; Committees); Public Participation and External Relations; Shared Services; Sectoral Parliaments and Joint Business.

2.2.17 Table 3 below, illustrates the performance trends in relation to this programme. Per the quarterly report

Parliamentary Service	**Indicator**	**Q1 target**	**Q1 Performance**	**Variance**	**Status**	**Reasons for Variance/ Mitigation**
Programming Service	Number of annual parliamentary frameworks adopted	0	n/a	n/a	n/a	
	Number of NA programmes adopted	1	1	0	✓	

	Number of NCOP programmes adopted	1	1	0	✓	
Capacity Building Service	Percentage members' satisfaction	65	77.53	+12,53	✓	
Research Service	Percentage members' satisfaction	70	86,97	+17,97	✓	
Content Advice Service	Percentage members' satisfaction	70	85,92	+15.92	✓	
Procedural Advice Service	Percentage members' satisfaction	70	80,10	+10,10	✓	
Legal Advice Service	Percentage members' satisfaction	65	80.05	+15,05	✓	
Committee Support Service	Percentage members' satisfaction	70	92.54	+22,54	✓	
Public Participation Service	Percentage members' satisfaction	60	79.75	+19.75	✓	

Table 3: Programme 2 Performance Indicators (Source: Parliament of the RSA)

2.2.18 Paragraphs 2.1.19 to 2.2.25 below, summarises key developments reported during the period under review.

Members *Capacity Building*

2.2.19 Since the decision at the start of the Sixth Parliament to focus on developing parliamentarians' capacity in line with Parliament's mandate, the Speaker's Forum has approved the establishment of the Parliamentary Institute for the Legislative Sector for building appropriate capacity through training, development and research. At the time of reporting research, conceptualisation and scoping of the institute had been completed, and the governance and funding model approved.

2.2.20 In pursuit of the above, the parliamentary service must:

- ensure that programme development is based on a continuous needs assessment;
- improve co-ordination and co-operation of role-players in the capacity-building sphere;

- integrate individual capacity-building programmes under a customised curriculum;
- centralise resources and funding to improve overall programme impact;
- initiate processes to measure the usefulness of programmes;
- consider the competencies required to function efficiently and effectively in Parliament; and
- provide on-going development for specialist skills required.

Legislation and Oversight

2.2.21 In the period under review, the administration delivered the following, in respect of the legislative and oversight sub-programme:

- 46 Announcement, Tabling and Committee Reports (ATC) publications;
- content and logistical support for 14 oversight trips undertaken by committees;
- 18 committee reports on bills;
- committee minutes, 92,45 per cent of which were delivered within three working days, as prescribed;
- committee reports, 92,31 per cent of which were produced within eight days, as prescribed;
- 22 legal opinions, 14 for committees and 8 for the administration;
- drafts of 17 contracts, 4 private members' bills, and 2 committee bills;
- 70 pending litigation matters were attended to; and
- five bills were introduced, five act forms were submitted for assent and four acts were sent to the constitutional court for safe-keeping.

Knowledge Management

2.2.22 A draft research plan, supporting the institutional oversight plan, was developed and is under discussion. The organisational realignment project will, amongst others, provide for equal access to information services. At the time of reporting draft proposals in relation to the organisational realignment of knowledge and content support services was 90 per cent complete, and set for finalisation in the second quarter.

2.2.23 Parliament has a longstanding partnership with the United Nations Children's Fund (UNICEF) which includes a series of online seminars on the rights and protection of children, including child-sensitive budgeting. These are available to members through their training programmes. For greater collaboration with partners and third party/external stakeholders, memoranda of understanding (MOUs) were concluded with Statistics South Africa (Stats SA), the Council for Scientific and Industrial Research (CSIR), and the Academy of Science in South Africa (ASSAf). Engagements for MOUs with the Human Sciences Research Council (HSRC), Public Affairs Research Institute (PARI) and the University of Venda (UNIVEN) will continue in the second term.

2.2.24 Initiatives within the KIS division to improve its information dissemination process, are ongoing. In order to introduce institutional standards and quality management processes, and as part of the organisational realignment process, standard operating procedures were revised. Discussions have also been initiated to establish a Research Advisory Panel to guide and advise information services.

Public Participation

2.2.25 The sub-programme was scored highest in respect of fairness, followed by usefulness and reliability. In the period under review, there was a focus on the delivery of public education and information programmes, empowering people to participate in parliamentary processes, mobilising public stakeholders, and capitalising on the use of digital and preferred platforms.

Programme 3: Associated Services and Transfers

2.2.26 Programme 3 provides for the facilities and financial support to political parties including leadership, administrative and constituency support. It also provides for transfer payments to entities in Parliament. It comprises the following sub-programmes: Members' Facilities, Leadership, Administrative and Constituency support to political parties; Transfer to the PBO, Legislative Sector Support, and Office Supporting ISDs. Performance in respect of this programme was not measured.

2.2.27 All services to members continued uninterrupted since 23 March 2020. Processes have been reconsidered to support the changed working conditions. The remote working situation has created the opportunity to explore modern digital solutions for a truly seamless service offering. The policies informing facilities provided to members are continually being assessed and reviewed to ensure that they remain relevant.

2.2.28 In the period under review, the space designs for the Members' main lounge area and consultation rooms were completed and approved. Procurement and scheduling of work was underway.

2.2.29 The turnaround time for claim processing and reimbursement averaged 1.71 days with 4 452 claims processed, and R4.12 million paid in the first quarter of 2021.

PART B

3. Expenditure Report

3.1 Overview

3.1.1 Table 4 below, outlines the expenditure across all three programmes during the first quarter, and year-to-date.

	April – June 2021				**Annual**			
Main Division	**Budget R'000**	**Actuals R'000**	**Variance R'000**	**%**	**Annual Budget R'000**	**Actuals R'000**	**Variance R'000**	**%**
Administration	143,823	143,823	0	100	697,656	697,656	0	100
Legislation and Oversight	154,890	154,575	315	99	739,702	739,702	0	100
Associated Services	173,423	164,893	8,530	95	747,642	736,309	11,333	98
Sub-Total	**472,136**	**463,291**	**8,845**	**98**	**2,185,000**	**2,173,667**	**11,333**	**99**
Direct Charges	117,928	121,803	(3,875)	103	471,710	487,212	(15,502)	103

Table 4: Expenditure Across Programmes (Source: Parliament of the RSA)

3.1.2 Table 4 reflects the first quarter budget for 2021/22 and how it was spent. In the period under review, Parliament underspent on its quarterly budget by R4,970 million or one per cent. All three programmes spent their allocated budget well, and the under-expenditure related mainly to Programme 3: Associated Services.

3.1.3 In respect of the Direct Charges, Parliament recorded an over-expenditure of R3,875 million or three per cent of the quarterly budget. No reasons were provided for the variance.

3.2 Expenditure Across programmes

3.2.1 Programme 1: Administration succeeded in spending 100 per cent or its entire R143,823 million first quarter budget. No variances were reported. Indications are that the programme's entire budget will be spent by the end of the financial year.

3.2.2 Programme 2: Legislation and Oversight spent 99 percent or R154,575 million of its R154, 890 million first quarter budget. The NCOP sub-programme spent 96 per cent of its first quarter budget. The four per cent variance is ascribed the previous year's travel invoices which were only credited during the first quarter.

3.2.3 Programme 3: Associated Services spent 95 per cent or R164,893 million of its R173,423 million first quarter budget. Indications are that there will be an under-expenditure of R11,333 million or two per cent by the end of the financial year. The variance will result from the decrease in the number of members who have joined the Parmed Medical Aid Scheme.

3.3 Expenditure across economic classification

3.3.1 Table 5 below illustrates the expenditure across economic classification for the period under review, and the year-to-date.

	April – June 2021				Annual			
Economic classification	**Budget R'000**	**Actuals R'000**	**Variance R'000**	**%**	**Annual Budget R'000**	**Actuals R'000**	**Variance R'000**	**%**
Compensation of Members	117,928	121,803	(3,875)	103	471,710	487,212	(15,502)	103
Compensation of Employees	272,513	272,513	0	100	1,235,240	1,223,907	11,333	99
Goods and Services (APP)	46,816	46,501	315	99	290,126	290,126	0	100
Goods and Services	20,596	20,596	0	100	113,884	113,884	0	100

(Members' entitlements)								
Transfers	128,258	119,728	8,530	93	513,031	513,031	0	100
Capital Expenditure	3,953	3,953	0	100	32,719	32,719	0	100
TOTALS	**590,064**	**585,094**	**4,970**	**99**	**2,656,710**	**2,660,879**	**(4,169)**	**101**

Table 5: Expenditure Across Economic Classification (Source: Parliament of the RSA)

3.3.2 Spending on compensation of members stood at R121, 803 million or 103 per cent at the end of the first quarter. The R15,502 million projected overspending for the financial year is ascribed to the budget reductions.

3.3.3 One hundred per cent of the first quarter allocation towards compensation of employees was spent. Indications are that by the end of the financial year, the institution will have underspent by 1 per cent on this item. The predicted under-expenditure is based on the number of members who have discontinued their Parmed Medical Aid Scheme membership.

3.3.4 By the end of the first quarter expenditure on goods and services related to the APP stood at 99 per cent of the allocation. Indications are that the entire annual budget will have been spent by the end of 2021/22.

3.3.5 In respect of Goods and Services related to Members' entitlements, the entire first quarter budget was spent. Indications are that the entire annual budget will have been spent by the end of 2021/22.

3.3.6 Spending on transfer payments relating to transfers to represented political parties stood at 93 per cent or R119,728 million of the R128,258 million first quarter budget. The 7 per cent variance can be ascribed to political parties that failed to submit financial statements, and therefore have not had the funds transferred.

3.3.7 Capital expenditure stood at 100 percent or R3,953 million at the end of the first quarter. The full annual budget of R32,719 million will have been spent by the end of the financial year.

Part C

4. Observations

4.1 As previously reported, the Committee continues to be concerned that Parliament must, like national departments, apply to the National Treasury for a share of the national budget. Parliament is a separate arm of the state and cannot be expected to rely on the executive for its budget allocation. This reliance has the potential to weaken Parliament's oversight of the Executive. This concern was raised in our reports on the Sixth Parliament's Strategic Plan and the draft 2021/22 Annual Performance Report and is yet to be responded to.

4.2 The Committee supports all efforts to increase public participation in Parliament's activities. Ensuring that more people have access to information about Parliament through television, radio and social media would contribute greatly towards that goal. However, Parliament has failed to convincingly address our concerns about televising Parliament's business on a pay-to-view channel. While having its own television studio is an exciting development for Parliament, it will have limited value if nothing is done to ensure that its broadcasts are accessible to the majority of citizens.

4.3 While the Committee welcomes the move to a member-centered performance evaluation system, the detail of how the system will work in practice remains murky.

4.4 As noted in our report on the 2021/22 APP, we remain concerned about the fact that Programme 3 will receive a substantial allocation and includes Members Facilities, yet performance in respect of this programme will not be measured.

4.5 As indicated in previous reports, the Committee notes that the OISD, PBO, TAO and LSS will report directly to the Executive Authority. The APP contains no information with regard to how the performance of these offices will be measured.

4.6 The Committee is aware that the PBO tabled its own 2021-2024 Business Plan and Budget Estimates in April 2021. The Committee notes with concern that the information has not yet been referred to an oversight committee. This is of concern, as the allocation the PBO receives is a direct transfer from Parliament's budget and must be accounted for.

4.7 The Committee welcomes the appointment of the directors in the PBO and the TAO. However, we remain deeply concerned about the extremely and unacceptably long delay in the filling of the Secretary to Parliament, Chief Financial Officer and Chief Audit Executive posts. In order to ensure that the institution achieves its objectives the administration must have leadership stability.

PART D

5. Recommendations

The Executive Authority should respond to the following recommendations within 30 days of the adoption of this report by both houses of Parliament.

5.1 The Committee recommends that it be provided with the detail of the new way of managing performance e.g. more detail around how reliability, usefulness, accessibility and timeliness are measured; and how the new method impacts the existing performance management system.

5.2 The Committee should be provided with the rationale for having included Members Facilities under Programme 3, and for not having targets under this programme especially in relation to the performance of Members Facilities.

5.3 The Committee recommends that clarity be provided around how the impact of the offices referred to in paragraph 4.5, which are funded, will be measured and where they will account for their expenditure and performance.

5.4 The Committee should be provided with an explanation for the delay in the referral of the PBO's Business Plan and Budget Estimates. Further, the Executive Authority should ensure that the planning and budget information is referred for processing by the relevant oversight committee so as to ensure that the public funds allocated to the PBO are properly accounted for. The Committee should be kept abreast of progress in this regard.

5.4 The Committee should receive a detailed report on the reasons for the long delay in filling the Secretary to Parliament, CFO and CAE vacancies, as well as on the measures that have been put in place to fill them by the end of March 2022.

5.5 The Committee recommends that the challenges around the allocation of Parliament's budget be addressed as a matter of urgency and with full regard for Parliament's status as an arm of state, and its constitutional obligation to perform oversight of the executive.

5.6 The Committee recommends that every avenue be pursued to ensure that the vast majority of citizens are able to access information about parliamentary committee meetings and plenaries. Parliamentary meetings should not be aired on pay-to-view channels, but should be broadcasted on the national broadcaster's platform. The Committee should be provided with quarterly progress reports on the interventions the PCS is working on.

5.7 The Committee should receive a detailed brief on the new broadcast studio, particularly how it was funded, its expected impact, and the cost of operating it over the next three years.

Report to be considered.

2. Report of the Joint Standing Committee on the Financial Management of Parliament on the Parliament of the Republic of South Africa's Draft Annual Performance Plan for 2022/23, dated 26 November 2021.

The Joint Standing Committee on the Financial Management of Parliament, having considered the Parliament of the Republic of South Africa's draft Annual Performance Plan for 2022/23, reports as follows:

1. Introduction

1.1 Section 4 of the Financial Management of Parliament and Provincial Legislatures Act, No 10 of 2009 (the FMPPLA) provides for the establishment of an oversight mechanism to maintain oversight of the financial management of Parliament. The Joint Standing Committee on the Financial Management of Parliament (the Committee) was established in terms of the Joint Rules of Parliament. The Committee has the powers afforded to parliamentary committees under sections 56 and 69 of the Constitution of the Republic of South Africa, 1996 (the Constitution).

1.2 Parliament derives its mandate from:

- Chapter 4 of Constitution the which sets out its composition, powers and functions;
- the FMPPLA which regulates the institution's financial management;
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- the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act of 2004, No 4 of 2004 which defines and declares the national and provincial legislatures' powers, privileges and immunities.

1.3 Parliament has as its vision to be an activist and responsive people's Parliament that improves the quality of life of South Africans and ensures enduring equality in our society. Its mission is to represent the people and to ensure government by the people in fulfilling its constitutional functions of passing laws and overseeing executive action. To this end, the institution conducts its business in line with the following values: openness, responsiveness, accountability, teamwork, professionalism, and integrity.

1.4 Section 17(1) of the FMPPLA requires that the Executive Authority table planning and budgeting documents in Parliament for referral to the oversight mechanism. These include the draft annual performance plan (APP) and draft budget which should be tabled at least one month before the draft budget must be submitted to the National Treasury.

1.5 This report comprises four parts:

- an overview of the draft APP (Part A)
- an overview of the draft budget (Part B);
- observations (Part C); and
- recommendations (Part D).

1.6 This report should be read with the Committee's report on the Strategic Plan of the Sixth Parliament.

PART A

2. Overview of the draft Annual Performance Plan

2.1 Strategic Plan of the Sixth Parliament

2.2.1 Section 14(1) of the FMPPLA requires that the accounting officer must prepare and present the draft strategic plan to the Executive Authority within six months of the election of the National Assembly (NA), or by another date determined by Parliament.

2.2.2 Section 14(2) of the FMPPLA requires that the draft strategic plan must:

- cover the following five years or another period determined by Parliament;
- specify the administration's priorities for the period of the strategic plan;

- include objectives and outcomes for each of Parliament's programmes;
- include multi-year projections of all revenue and expenditure; and
- include performance measures and indicators for assessing the administration's performance in implementing the strategic plan.

2.2.3 The Medium Term Strategic Framework (MTSF) sets out the government's strategic plan for 2019 to 2024. It contains 7 priorities, 81 outcomes with 561 indicators. Parliament will monitor the overall impact of the development indicators contained in it.

2.2.4 The implementation of the strategic plan is achieved through annual performance plans (APP) and associated operational plans and budgets. APPs outline the outputs that must be delivered to achieve the outcomes in strategic plans. Operational plans in turn focus on the activities and inputs needed to deliver outputs.

2.2.5 The 2022/23 APP will be the second towards the implementation of the Strategic Plan of the Sixth Parliament which was approved in 2020. It is a continuation of the changes that were first introduced on 2021/22.

2.2.6 In 2021/22 Parliament reduced its programmes from five to three programmes. Additionally, since 2021/22 performance is measured using the client satisfaction model rather than the more conventional method informed by the framework on strategic and annual performance plans of the Department of Planning, Monitoring and Evaluation (DPME).

2.2 Programme overview

Programme 1:Administration

2.21 Programme 1 provides strategic leadership, governance, management, corporate and support services to Parliament. It consolidates three former programmes namely Strategic Leadership and Governance, Administration and Support Services. Programme 1 comprises the following sub-programmes: Executive Authority, Office of the Secretary, and Corporate and Support Services.

2.2.2 The administration has identified the following key focus areas for 2021/22:

- addressing the future way of work through the development of a new business model for the Parliamentary Service;
- redesigning and optimising core and support business processes through technology;
- upskilling and re-skilling programmes especially in relation to the effective use of technology;
- specialised skills programmes for expertise and specialisation;
- continuous innovation and improving of processes and skills, allowing for co-creation and value adding;
- integrating service offerings through a collaborative approach where service recipients are offered a holistic response;
- providing policy, tools and facilities for remote conditions; and
- implementing virtual meetings and collaboration platforms.

2.2.3 Table 1 reflects the annual performance targets for Programme 1.

Parliamentary service	**Output indicator**	**Annual Performance Targets**						
		Estimates			**Estimated**	**MTEF**		
		2018/19	**2019/20**	**2020/21**	**2021/22**	**2022/23**	**2023/24**	**2024**
Digital Service	**% Members satisfaction**	-	72	74	74	75	75	75
Facilities Management Service	**% Members satisfaction**	-	67	48	60	65	70	70

Table 1: Programme 1 – Performance Targets (Source: Parliament of the RSA)

Programme 2:Legislation and Oversight

2.2.4 Programme 2 provides for support services for the effective functioning of the National Assembly (NA) and the National Council of Provinces (NCOP) including procedural, legal and content advice; information services and record keeping; and secretarial and support services for the houses and their committees. The programme covers the core business of Parliament and focusses on the outputs, activities and inputs related to legislation and oversight functions.

2.2.5 The programme comprises the following sub-programmes: NA (House; Committees); NCOP (House; Committees); Public Participation and External Relations; Shared Services; Sectoral Parliaments and Joint Business.

2.2.6 As of 2021/22 Parliament implemented a new programming framework with a shift towards dedicated constituency, committee and plenary weeks. The new framework also allows for the scheduling of joint committee and joint inter-sectoral work.

2.2.7 In respect of members' capacity building, the institution will do continuous needs assessments; improve co-ordination and co-operation between role-players; integrate individual capacity building programmes; and initiate processes to measure the usefulness of the programmes.

2.2.8 In respect of Knowledge and Information Services (KIS), the institution identified the following objectives for 2022/3:

- to develop a 3-year research plan in support of the oversight plan;
- to coordinate the various information providers into an integrated and seamless delivery model;
- to ensure equal access to information services;
- to forge improved collaboration with partners;
- to augment the information dissemination process, ensuring improved packaging, information simplicity, and ease of use of information products;
- to introduce institutional standards and quality management processes to ensure quality and objectivity;

- to establish a Research Advisory Panel to guide and advise information services; and

- to implement an institutional knowledge management strategy, ensuring institutional data and information management processes.

2.2.8 To expand public participation the institution will:

- implement interventions focussing on public education and information, mobilising public stakeholders, and the use of digital and preferred platforms, with virtual public meetings, e-hearings and e-petitions;

- broaden cooperation with partners and stakeholders in the legislative sector, government, community organisations, constituencies; and

- consolidate current programmes, capacities and resources into a single service to support public participation activities.

2.2.9 Table 2 below sets out the annual performance targets relating to the planning framework, and to capacity building.

Parliamentary service	**Output indicator**	**Annual Performance Targets**						
		Estimates			**Estimated**	**MTEF**		
		2018/19	**2019/20**	**2020/21**	**2021/22**	**2022/23**	**2023/24**	**2024/25**
Programming Service	**Number of annual parliamentary programmes adopted**	1	1	**1**	1	1	1	1
	Number of NA programmes adopted	4	4	**4**	4	4	4	4
	Number of NCOP	4	4	**4**	4	4	4	4

	programmes adopted							
Capacity Building Programmes	**% Members satisfaction**	-	-	**Establish baseline**	65%	70%	70%	70%
Research	**% Members satisfaction**	-	57%	**53%**	70%	70%	70%	70%
Content Advice	**% Members satisfaction**	-	44%	70%	70%	70%	70%	70%
Procedural Advice	**% Members satisfaction**	-	64%	**69%**	70%	70%	70%	70%
Legal Advice	**% Members satisfaction**	-	48%	**43%**	65%	70%	70%	70%
Committee Support	**% Members satisfaction**	-	63%	**76%**	70%	70%	70%	70%
Public Participation Service	**% Member Satisfaction**	_	57%	**53%**	60%	65%	70%	70%

Table 2: Programme 2 – Performance Indicators (Source: Parliament of the RSA)

Programme 3:Associated Services and Transfers

2.2.10 Programme 3 provides for the facilities and financial support to political parties including leadership, administrative and constituency support. It also provides for transfer payments to entities in Parliament. It comprises the following sub-programmes: Members' Facilities; Leadership, Administrative and Constituency support to political parties; Transfer to the Parliamentary Budget Office (PBO); Legislative Sector Support; Office Supporting ISDs (OISD).

2.2.11 Performance in respect of this programme will not be measured.

Entities reporting to the Executive Authority

2.2.12 The following entities have from 2021/22 reported directly to the Executive Authority: the PBO; the OISD; the Treasury Advice Office (TAO); and Legislative Sector Support (LSS). They will continue to do so in 2022/23.

PART B

3. Budget Information

3.1 Summary of the 2022/23 Draft Budget

3.3.1 Parliament proposes a budget amount of R2 875 373 billion for 2022/23, and R3 018 735 billion and R3 179 571 billion for 2023/24 and 2024/25 respectively. The budget proposal of R2 875 373 billion for 2022/23 represents an eight per cent increase on the 2021/22 approved budget of R2 656 710 billion. Further, the proposed budget is set to increase by 5.2 per cent over the 2022 Medium Term Expenditure Framework (MTEF). For the proposed 2022/23 draft annual budget of R2 875 373 billion, the majority of the proposed funds will be appropriated to Programme 3: Associated Service (32%) followed by Programme 2: Legislative and Oversight (28%). Programme 1: Administration will receive the smallest share at 24 per cent.

3.3.2 Under Programme 1: Administration, Parliament budgeted for an amount of R697,656 million in 2021/22, increasing to R674,571 million in 2022/23 and to R722,420 million in 2023/24. In 2022/23 Parliament intends spending the bulk of the budget on sub-programme Corporate and Support Services (R575, 183 million), and R90, 410 million and R,978 million on sub-programmes Executive Authority and Office of the Secretary respectively.

3.3.3 In respect of Programme 2: Legislation and Oversight, Parliament budgeted R739,702 million in 2021/22, and intends increasing that allocation to R806,430 million in 2022/23, and to R867,553 million by in 2023/24. In 2022/23 the bulk of the allocation will go towards sub-programme Shared Services (R656 496 million). The NA and the NCOP will receive R49, 468 million and R52 606 million. Sub-Programme Sectoral Parliaments will receive the smallest allocation – R47 860 million.

3.3.4 Programme 3: Associated Services and Transfer Payments received R747,642 million in 2021/22. Parliament intends increasing the allocation to R919,645 million in 2022/23, and to R964,929 million in 2023/24. The bulk of the allocation will be go towards transfers: Political Party Allowances, and remainder to Members Facilities (R365 160 million) and Transfer: PBO (R15 803 million).

Part C

4. Observations

4.1 As emphasised in previous reports, it is untenable that Parliament must, like national departments, apply to the National Treasury for a share of the national budget. Parliament is a separate arm of state and cannot be expected to rely on the executive for its budget allocation. This reliance has the potential to weaken Parliament's oversight of the Executive.

4.2 The Committee supports all efforts to increase public participation in Parliament's activities. Ensuring that more people have access to information about Parliament through television, radio and social media would contribute greatly towards that goal. However, Parliament has failed to convincingly address our concerns about televising Parliament's business on a pay-to-view channel. While having its own television studio is an exciting development for Parliament, it will have limited value if nothing is done to ensure that its broadcasts are accessible to the majority of citizens. As noted previously, the Committee is concerned that despite plans to allocate a substantial budget to Programme 3 which includes Members Facilities, there are no performance indicators under this programme. This means that it will once again not be measured in 2022/23.

4.3 The Committee again notes that despite our previous recommendations, the APP contains now indicators for measuring the performance of the OISD, TAO and LSS which will report directly to the Executive Authority.

4.4 The Committee is aware that the PBO tabled its own 2021-2024 Business Plan and Budget Estimates in April 2021. The Committee notes with concern that the information has not yet been referred to an oversight committee. This is of concern, as the allocation the PBO receives is a direct transfer from Parliament's budget and must be accounted for.

4.5 While the Committee welcomes the move to a member-centered performance evaluation system, the detail of how the system will work in practice remains unclear.

PART D

5. Recommendations

The Executive Authority should respond to the following recommendations within 30 days of the adoption of this report by both houses of Parliament.

5.1 The Committee recommends that the challenges around the allocation of Parliament's budget be addressed as a matter of urgency and with full regard for Parliament's status as an arm of state, and its constitutional obligation to perform oversight of the executive.

5.2 The Committee recommends that every avenue be pursued to ensure that the vast majority of citizens are able to access information about parliamentary committee meetings and plenaries. Parliamentary meetings should not be aired on pay-to-view channels, but should be broadcasted on the SABC's platform. The Committee should be provided with quarterly progress reports on the interventions the Parliamentary Communication Service is working on.

5.3 The Committee should receive a detailed brief on the new broadcast studio, particularly how it was funded, its expected impact, and the cost of operating it over the next three years.

5.4 The Committee should be provided with the rationale for having included Members Facilities under Programme 3, and for not having targets under this programme especially in relation to the performance of Members Facilities.

5.5 The Committee recommends that clarity be provided around how the impact of the offices referred to in paragraph 4.3, which are funded, will be measured and where they will account for their expenditure and performance.

5.6 The Committee should be provided with an explanation for the delay in the referral of the PBO's Business Plan and Budget Estimates. Further, the Executive Authority should ensure that the planning and budget information is referred for processing by the relevant oversight committee so as to ensure that the public funds allocated to the PBO are properly accounted for. The Committee should be kept abreast of progress in this regard.

5.7 The Committee recommends that Parliament's objectives and strategic goals be aligned to National Development Plan-goals. As 2030 draws nearer, parliamentary committees should be interrogating and reporting on the progress made as far as reaching the NDP goals especially those related to skills development, poverty alleviation, and job creation. Committees would benefit from research in this regard.

5.8 The Committee recommends that it be provided with the detail of the new way of managing performance e.g. more detail around how reliability, usefulness, accessibility and timeliness are measured; how the new method impacts the existing performance management system.

Report to be considered.

3. Report of the Joint Standing Committee on the Financial Management of Parliament on the Parliament of the Republic of South Africa's 2020/21 Annual Report, dated 26 November 2021

The Joint Standing Committee on the Financial Management of Parliament, having considered the Parliament of the Republic of South Africa's 2020/21 Annual Report, reports as follows:

1. Introduction

1.1 Section 4 of the Financial Management of Parliament and Provincial Legislatures Act, No 10 of 2009 (FMPPLA) provides for the establishment of an oversight mechanism to maintain oversight of the financial management of Parliament. The Joint Standing Committee on the Financial Management of Parliament (the Committee) was established in terms of the Joint Rules of Parliament. The Committee has the powers afforded to parliamentary committees under sections 56 and 69 of the Constitution of the Republic of South Africa, No 108 of 1996 (the Constitution) . In addition, section 4 of the FMPPLA mandates the Committee to, amongst others, consider Parliament's Annual Report.

1.2 Parliament's 2020/21 Annual Report was tabled on 10 September 2021, and referred to the Committee for consideration. The Speaker of the National Assembly presented the Annual Report to the Committee on 10 November 2021. On the same day, the Committee received briefings from the Auditor-General of South Africa (AGSA) and the acting Secretary to Parliament—the accounting officer—and her senior management team.

1.3 This report should be read along with Parliament's 2019-2024 Strategic Plan, the 2020/21 Annual Performance Plan and budget, the institution's 2020/21 Annual Report, as well as the Committee's quarterly reports on the institution's performance in the financial year under review.

1.4 This report comprises five parts: Part A, containing a summary of the institution's financial and performance information for the period under review; Part B, containing the AGSA's key findings; Part C, containing the Audit Committee's recommendations; Part D, containing the Committee's observations; and Part E, containing the Committee's recommendations.

Part A: Performance in the 2020/21 Financial Year

2. Mandate

2.1 Parliament derives its mandate from:

- chapter 4 of the Constitution, which sets out its composition, powers and functions;
- the FMPPLA which regulates the institution's financial management;
- the Money Bills Amendment Procedure and Related Matters Act, No 9 of 2009 which provides procedures to amend money bills; and
- the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act, No 4 of 2004 which defines and declares the national and provincial legislatures' powers, privileges and immunities.

2.2 Mission and Vision

2.2.1 The institution has identified six values according to which it conducts its business i.e. openness; responsiveness; accountability; teamwork; professionalism; and integrity.

2.2.2 In pursuit of its vision to be "activist and responsive" so as to improve the quality of life in South Africa and to ensure enduring equality, the institution has, as its mission, to provide:

- a vibrant people's assembly that intervenes and transforms society and addresses the developmental challenges of the people;
- effective oversight over the Executive by strengthening its scrutiny of actions against South Africans' the needs;
- the participation of all citizens in the decision-making processes that affect South Africans' lives;
- a healthy relationship between the three arms of the State in order to promote efficient cooperative governance, and to ensure appropriate links within the region and the world; and
- an innovative, transformative, effective and efficient parliamentary service and administration that enables Members of Parliament to fulfil their constitutional responsibilities.

2.3 Strategic Priorities: 2019-2024

2.3.1 Having taken into account Parliament's budgetary constraints in the face of South Africa's poor economic performance and the low growth forecast, Parliament identified only two strategic priorities for the Sixth Parliament: to strengthen oversight; and to enhance public involvement in Parliament's activities.

2.3.2 In order to achieve the above outcome, the Sixth Parliament will:

- *improve committee oversight work* in relation to the budget cycle in particular, through allowing more time in the parliamentary programme for oversight activities and encouraging committees to undertake joint oversight activities; and
- *improving the effectiveness of public hearings* through greater public participation by expanding public education, better dissemination of information, effective use of broadcasting, technology and social media, the use of more official languages, and encouraging committees to undertake joint public hearings.

2.3.3 To aid the above activities, the institution will:

- enhance research and legal support in respect of oversight activities;
- improve members' capacity through capacity-building programmes that will empower parliamentarians to be effective and efficient in executing their oversight responsibilities;
- improve oversight and accountability through better monitoring, tracking and evaluation in respect of Parliament's own work, as well as the work of the Executive;
- ensure openness and accessibility through the use of modern technology in respect of social media, tools-of-trade, workflows and automation; and
- cut costs to allow for operational sustainability.

3. Financial performance

3.1 Overview

3.1.1 Parliament received an unqualified audit report with no material findings on performance information and compliance with laws and regulations.

3.1.2 In 2020/21 Parliament received an appropriated budget amounting to R2.015 billion, R195.293 million less than in the previous financial year. The statutory appropriation amounted to R476.474 million, R30.683 million less than the previous year.

3.1.3 In addition to the above, Parliament received R26.117 million in donor funds from the European Union, for the purposes of strengthening public participation and representation, strengthening capacity in law making and oversight, building an efficient and effective legislative sector and to strengthen the sector's capacity to engage, participate in, and oversee international relations. The donation may not be used for any other business.

3.1.4 Parliament's ability to generate revenue was impacted negatively by the lockdown which saw most employees, parliamentarians and other users of the catering services, working from home and therefore not making use of parliamentary restaurants. This resulted in the revenue generated decreasing from R11.344 million in 2019/20 to R2.294 million in 2020/21.

3.1.5 The institution's interest income also decreased from R16.815 million in 2019/20 to R13.906 million in 2020/21, despite the institution having had more money in the bank. The decrease is ascribed to interest rate cuts.

3.2 Budget vs Expenditure

3.2.1 Table 1 below illustrates the institution's budget versus its actual expenditure. The variances are clarified in paragraphs 3.2.2 to 3.2.6 below.

Line Item	**Final Budget R'000**	**Actual Amounts R'000**	**Variance R'000**	**Variance in percentage**
Compensation of employees	1217,642	1,117,091	100,551	8%
Compensation of members	476,474	510,613	-34,139	-7%
Goods and services	365,493	189,470	176,023	48%
Transfer to non-profit organisations	500,302	495,400	4,902	1%
Acquisition of Property, plant and equipment	30,005	18,208	11,797	39%
Purchase of intangible and heritage assets	328	316	12	4%
Total	2,590,244	2,331,098	259,146	10%

Table 1: Budget vs Expenditure (Source: Parliament of the Republic of South Africa presentation to the JSCFMP, 2021)

Compensation of employees

3.2.2 The 8 per cent underspending on compensation of employees is ascribed to terminations during the year, and delays in filling critical vacant positions owing to the suspension of recruitment processes as a result of the national lockdown. The amount underspent will be made available in 2021/22 and will mitigate the impact of the R257 million budget reduction of 2021/22.

Compensation of members

3.2.3 The overspending of 7 per cent on compensation of employees is ascribed to the payment of loss of office and exit gratuities to retired/resigned/deceased members of parliament. The National Treasury's decision to reduce the initial allocation for Direct Charges by R30.683 million also contributed to the over-expenditure. The National Treasury refunded the amount in terms of section 23(4) of the FMPPLA.

Goods and services

3.2.4 The 48 per cent underspending on Goods and Services is ascribed to the national lockdown and the accompanying travel restrictions. The restrictions resulted in a significant reduction in local travel and the halting of all international travel. Furthermore, as most work was taking place remotely, printing and stationery use and related rentals, and catering were radically reduced. The monies not spent will be made available for spending in 2021/22.

Transfers to non-profit organisations

3.2.5 The one per cent under-expenditure was the result of the withholding of monies from political parties that spent funds in contravention of the policy on transfers to political parties. The reasons for the non-compliance were found to be inadequate and hence the transfers were not made. The money will be made available in the next financial year.

Acquisition of property, plant and equipment, purchase of intangible and heritage assets

3.2.6 The 39 per cent underspending on property, plant and equipment, and 4 per cent on intangible and heritage assets, is ascribed to delivered assets that had not been paid by the end of the financial year, and lockdown restrictions which contributed to the late delivery of computer assets. The amount owed for these assets is accounted for as part of payables from exchange transactions. The monies that were not spent will be used to make outstanding payments.

3.3 Financial position

Non-current liabilities

3.3.1 Parliament reported a net liability amounting to R1,480,588 billion, due to the post-retirement medical aid provision for former members of Parliament and provincial legislatures. The contribution increased by 2 per cent from R1,3 billion in 2020 to R1,33 billion in 2021. The increase is due to an increase in discount rates, and in the number of members receiving the benefit.

3.3.2 The provision for Members' gratuities is calculated for all current parliamentarians with service of five years and longer. The liability also includes members with service shorter than five years so as to provide for any members that may exit before five years have passed. The provision is calculated at four months' pensionable salary for every five years in service or a pro-rata share of the five-year period. Pensionable salary is 60 per cent of the total gazetted remuneration package. The 14 per cent increase from R89.969 million in 2020 to R102.257 million in 2021 is ascribed to the increase in the years of service. 2020/21 also saw significant payments being made to former members of parliament who had lost their seats.

3.3.3 The exit gratuity is payable to parliamentarians who are members of the Political Office Bearers Pension Fund. The gratuity is calculated as the difference between the value payable in terms of the new fund rules and the value payable in terms of old fund rules. This amount increases with the CPI each year up until it is paid to a member when they exit the fund. The institution reported a 4 per cent reduction from R166.254 million paid in 2019/20 to R160.293 million paid in 2020/21.

3.3.4 Parliament provides domestic travel benefits to former parliamentarians, and former ministers and deputy ministers and their spouses. Beneficiaries receive a travel allocation each calendar year. Unused allocations do not carry over to the following year. The travel privileges come into effect on the first day after they have exited office and exclude journeys made when vacating state-owned residences to the places where they intend to settle. The institution reported a 15 per cent decrease from R132.702 million in 2019/20 to R112,763 million in 2020/21.

3.3.5 Long service awards are paid to employees with a certain number of years of service to the institution. Effective from 1 April 2019 employees are rewarded in terms of monetary value. The one per cent increase from R9.397 million in 2019/20 to R9.515 million in 2020/21 is ascribed to an increase in recipients.

Current liabilities

3.3.6 The Finance lease liability consists of cellphone, tablet and modem lease contracts averaging two years. The 63 per cent decrease from R15.823 million in 2019/20 to R5.898 million in 2020/21 is attributed to the significant increase of the lease contracts for these devices I the previous financial year, and which have now decreased owing to amortisation.

3.3.7 Payables from exchange transactions relate to monies owed to service providers for goods and services provided. The 9 per cent increase from R38.627 million in 2019/20 to R42.258 million in 2020/21 is attributed to services rendered close to year end which were not paid, and service providers not submitting invoices for services listed on their statements.

3.3.8 The Payables from non-exchange transactions-item consists of disability support provided to all represented political parties to ensure the needs of all parliamentarians with disabilities are met. The 45 per cent increase from R3.585 million in 2019/20 to R5.187 million in 2020/21 is due to disability support that was not paid by the end of the previous financial year.

3.3.9 The current employee benefits-item relate to short-term benefits owed to employees for services rendered such as provisions for leave liability, performance bonuses, salary savings, long service awards and overtime. The item also includes Members' benefits for gratuities i.e. current post medical and travel benefits as per actuarial evaluation. Overall, this item increased from R186.348 million in 2019/20 to R188.797 million in 2020/21: employee benefits increased by 24 per cent due to an increase in the accrued leave; member benefits decreased due to the likelihood that post-retirement, medical and travel benefits will decrease the following year.

3.3.10 The provisions-item relates to legal cases where Parliament is liable to pay costs but where the bill of costs has not yet been granted. The amount is estimated based on past experience. The 218 per cent increase from R5.339 million in 2019/20 to R16.966 million in 2020/21 is ascribed to delays in the State Attorney providing reconciliation and billing owing to challenges related to the national lockdown.

Non-current assets

3.3.11 The main purpose of the cash and cash equivalents is to fund Parliament's business, and not for investment. The 186 per cent increase from R113.892 million in 2019/20 to R326.140 million in 2020/21 is ascribed to low spending in the previous financial owing to the national lockdown.

3.3.12 The Property, Plant and Equipment-item relates to furniture, equipment, motor vehicles, computer equipment and library books. The 11 per cent reduction in spending on this item from R70.319 million in 2019/20 to R62.907 million in 2020/21 is ascribed to fewer additional purchases having been made, and an increase in depreciations in the period under review.

3.3.13 The 33 per cent decrease in intangible assets from R10.400 million in 2019/20 to R6.965 million in 2020/21 is attributed to fewer purchases of software and greater amortisation of initial costs in the period under review.

3.3.14 Heritage assets are defined as assets that have a cultural, environmental, historical, natural, scientific, technological or artistic significance, and are held and preserved indefinitely for the benefit of present and future generations. The change in the value of the assets is minimal—R55.437 million in 2019/20 to R55.493 million in 2020/21—due to heritage assets' long economic life and because few additions were made in the period under review.

Current Assets

3.3.15 The 54 per cent over-expenditure in relation to the statutory allocation—an increase from R22.185 million in 2019/20 to R34.139 million in 2020/21—was due to the reduction of the initial allocation to R30.683 million.

3.3.16 Prepayments include payments in advance for contingencies, S&T and petty cash advances and other pre-payments for subscriptions to professional bodies. Contingencies, S&T and petty cash advances decreased as a result of the enforcement of the S&T policy which provides travel expenses must be claimed within 20 days after the trip, and the deduction of advances from salaries should the travel documents for trips not be submitted within the prescribed time.

3.3.17 Prepaid expenses relate to the portion of annual subscriptions and membership fees that relate to the next financial year. The 34 per cent decrease from R13.011 million in 2019/20 to R8.641 million in 2020/21 is ascribed to prepayments in the previous year for open tickets amounting to R5.704 million which were not used and for which monies were refunded. The membership fees of employees to professional bodies increased as a result of increases in subscription fees.

3.4 Irregular, and Fruitless and Wasteful Expenditure

3.4.1 Table 2 below, illustrates that Parliament recorded and incurred no irregular expenditure in the period under review. However, Parliament has incurred fruitless and wasteful expenditure amounting to R23

000. The closing balance of R51 000 therefore includes fruitless and wasteful expenditure relating to the previous financial years.

Details	2021	2020
Irregular Expenditure		
Opening balance	R0	R336'
Add: Irregular Expenditure - current year	R0	R0
Less: Condoned	R0	R336'
TOTAL	**R0**	**R336'**
Fruitless and Wasteful Expenditure		
Opening Balance	R40'	R299'
Add: Fruitless and Wasteful expenditure – current year	R23'	R12'
Less: recoverable	R0	R4'
Less: written off	R12'	R267'
TOTAL	**R51**	**R40'**
Details of Fruitless and Wasteful Expenditure		
Interest on Late Payments	R51'	R38'

Table 2: Irregular, and Fruitless and Wasteful Expenditure (Source: Parliament of the RSA)

4. Performance across programmes

In 2020/21 Parliament had 14 performance indicators, of which only 9 were met or exceeded. This section summarises the purpose of each of the five programmes, and the reported performance against targets.

4.1 *Programme 1: Strategic Leadership and Governance*

4.1.1 This programme provides for political and strategic leadership, governance and institutional policy, executive communication and coordination, and oversight of the development and the implementation of Parliament's strategic plan, APP and Budget. It comprises the following sub-programmes: Office of the Speaker, Office of the Chairperson. Office for Institutions Supporting Democracy (OISD), and the Parliamentary Budget Office (PBO).

4.1.2 Of the two indicators measured under this programme, only one was met i.e. the percentage analysis of reports to support parliament on ISD-related matters, provided within agreed timeframes. In respect of the percentage of legal and procedural advice to support parliament on ISD-related matters, and provided within 7 days, the institution only managed to deliver 83,33 per cent such advice within 7 days i.e. 6,67 per cent less than planned. Although the target was not met, the performance represents a 3.33 per cent increase on the previous year. The under-performance was ascribed to an increase in demand from committees.

4.2 *Programme 2: Administration*

4.2.1 Programme 2 provides for strategic management, institutional policy and governance, development programmes for parliamentarians, overall management and administration, financial management and internal audit, and a registry of Members' interests. It comprises the following sub-programmes Office of the Secretary; Strategic Management and Governance; Finance Management Office; Internal Audit; Registrar of Members' Interests; and Legislative Sector Support.

4.2.2 There were two indicators under this programme: percentage of programmes implemented (Number of programmes implemented); and number of reports prepared on implementation of Sector Strategy. All targets in respect of this programme were met.

4.2.3 The following four members' capacity building programmes were implemented as planned: Advanced Governance and Public Leadership (University of the Witwatersrand); Continuing Education Programme (University of Johannesburg); Post Graduate Diploma in Public Policy and African Studies (University of Johannesburg); and Personal Mastery Course (In-House).

4.2.4 All four reports on the implementation of the sector strategy were prepared.

4.3 *Programme 3: Core Business*

4.3.1 Programme 3 provides for procedural and legal advice, analysis, information and research, language, content and secretarial and legislative drafting services for meetings of the NA, National Council of Provinces (NCOP) and their committees. It also provides for public education, information and access to support public participation, and analysis, advice and content support, and support for international engagements. It comprises the following sub-programmes: NA, NCOP, Core Business Support, Knowledge and Information Services, International Relations and Protocol.

4.3.2 There were six indicators in relation to this programme, and 50 per cent were met. All targets in relation to the adoption of an annual parliamentary framework, and quarterly programmes for the NCOP and NA were met.

4.3.3 The institution set out to ensure that 93 per cent of information in relation to the Service Charter levels would be available, but only succeeded in having 87,19 per cent available. Overall, 7 of the 13 sub-indicators met their target. Some services were impacted by Covid-19 lockdown conditions and this led to under-performance.

4.3.4 In respect of the percentage of the population having access to participate in the processes of Parliament, the institution set out to ensure 16 per cent participation. Owing to the lockdown only 13 per cent participation was possible.

4.3.5 In respect of the percentage of the population participating in house and committee activities, Parliament failed to meet the 10 per cent-improvement target. Instead the institution's performance declined by 2 per cent on the previous year's. The decline is ascribed to lockdown restrictions which resulted in a decline in participation.

4.4 *Programme 4: Support Services*

4.4.1 Programme 4 provides facilities and support services to Parliament. It comprises the sub-programme Human Resources Management; Information Communication Technology (ICT); Parliamentary Communication Services (PCS); Institutional Support Services (ISS); and Members' Support Services (MSS).

4.4.2 Of the four indicators under this programme, three were met: the percentage of the population aware of the business of Parliament (24 per cent), percentage of universal access (94,12 per cent), and percentage increase in the Talent Management Index (9 per cent). The 8 per cent over-achievement in respect of the TMI was attributed to the faster than anticipated implementation of the succession planning programme, and the low staff turnover in the period under review.

4.4.3 In respect of the percentage of clients satisfied with the services received, the institution under-performed by 22 per cent. The ISS division achieved a satisfaction rate of 48 per cent: customer satisfaction is defined as the number of customers, or percentage of total customers, whose reported experience with services (Household, Catering, Protection Services, Fleet Management, SHE, Mail Distribution, and Post/Courier Services) exceeded specified satisfaction targets. During the financial year, ISS-services did not operate as normal due to remote working and lockdown conditions. This resulted in under-performance.

4.5 *Programme 5: Associated Services*

4.5.1 Programme 5 provides for travel, communication and other facilities for parliamentarians to enable them to fulfil their duties as elected representatives, and for financial support to political parties represented in Parliament, their leaders and constituency offices. The programme comprises the following sub-programmes Members' Facilities, and Transfers to Political Parties. There are no performance indicators attached to this programme.

Part B: Report of the Auditor General of South Africa

5. Audit Outcome

5.1 The AGSA submitted that Parliament has sustained its unqualified audit outcome with no material findings.

5.2 The AGSA also evaluated the usefulness and reliability of the reported performance information in accordance with criteria developed from the performance management and reporting framework, in relation to Programme 3: Core Business Support. No material findings were made on the usefulness and reliability of the reported performance information.

6. Financial health

6.1 Parliament's overall assessment for financial health improved in 2020/21. The improvement is mainly attributed to the increase in cash reserves from R113 million in 2019/20 to R326 million in the 2020/21. This is a direct result of a decrease in operating expenditure as a result of the lockdown.

6.2 Parliament also improved its net liability position because the majority of its members exited the fund as a result of the general elections that took place in May 2019. This resulted in the liability for the exit gratuities decreasing.

6.3 It should be noted that the creditor's payment days increased from 27 to 46 days in the current year.

Part C: Report of the Audit Committee

7. Audit Committee recommendations

7.1 The Audit Committee reviewed the reports of management, internal and external auditors on the design, implementation and effectiveness of internal controls. No material breakdown was reported in the system of internal control. However, concerns about the long-standing vacancies in key positions including that of the Secretary to Parliament, Chief Financial Officer and Chief Audit Executive remain of concern. The asset management controls, and the financial health of the institution too remain of concern, particularly as budget constraints continue to threaten the ability of the institution to deliver on its mandate.

7.2 Although the Audit Committee remains concerned about the effectiveness and maturity of the institution's risk management processes, it has noted the appointment of the Senior Manager: Risk and Compliance, and that risk management processes and a risk management committee were in place.

7.3 Although the Audit Committee noted challenges in the resourcing and structure of the Internal Audit Unit, it was satisfied that the unit operated independently from management and in compliance with the approver charter and risk-based annual audit plan. The unit operated effectively.

7.4 The Audit Committee reviewed the institution's implementation plan for audit issues raised in the previous year and was satisfied that the matters raised were substantially resolved.

7.5 The responsibility to oversee combined assurance was delegated to the Committee in terms of the Charter. However, combined assurance is still in its infancy, and the Audit Committee committed to working with the management team towards a fully integrated and streamlined assurance provision across all lines of assurance. The Internal Audit Unit has been mandated to facilitate the development of a combined assurance framework.

7.6 The Audit Committee was satisfied by the progress made in improving the quality of financial and non-financial performance reporting but recommended that a robust monitoring and evaluation process be put in place to sustain the improvements.

Part D: Observations

8. Observations

8.1 The Committee welcomes the unqualified outcome with no material findings, which the institution has sustained for the past seven financial years.

8.2 The Committee is pleased that concerns around the lack of reporting on the quality of performance/services have been noted, and that the institution is in the processing of improving its performance management system.

8.3 The Committee noted the under-achievement of certain targets under Programme 3: Core Business, related to public awareness and participation, and recognises the impact the lockdown restrictions may have had.

8.4 Furthermore, the Committee welcomes proposals to perform an audit of constituency offices to ascertain where they are situated, their effectiveness, and how they may be resourced to ensure that they play their role as far as connecting citizens to Parliament

8.5 The Committee notes efforts underway to increase public access to Parliament's business and activities, particularly through broadcasting, memoranda of understanding with Sentech and National Community Radio Forum, and efforts to acquire licensing for an exclusive television channel. These efforts should be accelerated so as to ensure that all citizens have equal access to information about and participation in Parliament's business and processes. While the Committee notes arguments that Channel 408 on the DSTV platform is accessible to many South Africans, it is not convinced that the cost, however low it may be, allows for equal access. Furthermore, the high cost of data and the inaccessibility of the internet continue to prevent citizens from accessing the broadcasts via YouTube and other social media.

8.6 The Committee welcomes the appointment of the Head: Treasury Advice Office, and looks forward to progress being made in respect of resolving the long-standing challenges around the contributions paid in respect of Parmed Medical Aid Scheme (Parmed).

8.7 The Committee continues to be concerned about Parliament seemingly being at the National Treasury's mercy for its budget allocation. Parliament's dependence on the National Treasury, and the fact that it is subjected to budget reductions that are seemingly decided without any meaningful input from Parliament, undermines Parliament's position as an independent arm of the state, and its ability to perform oversight of the executive. We have noted that the recently appointed Minister of Finance and the Executive Authority are in the process of discussing how this challenge may be resolved, and look forward to progress finally being made in this regard.

8.8 The Committee has noted that Parliament has failed to meet targets related to Hansard, Policy Advice, and Procedural Advice since the 2018/19 financial year but that the under-performance in 2020/21 was ascribed to the impact of the national lockdown.

8.9 The Committee has noted that Parliament recorded a surplus of R326 140 million at 31 March 2020. For the 2022/21 financial year, Parliament has generated a surplus amounting to R179 580. Even though the Committee welcomes the generated surplus, it is concerned that this surplus is accompanied by underspending amounting to R247.3 million.

8.10 The Committee notes with concern the delay in filling critical senior vacancies. Despite the Committee's recommendations that the Secretary to Parliament, Chief Financial Officer, and Chief Audit Executive posts be filled as a matter of urgency, these have now been vacant for more than two years. We have noted the explanation that the filling of the vacancies has been impacted by the lockdown, but find this explanation disingenuous, particularly as the heads of the Parliamentary Budget Office, and Treasury Advice Office were appointed under lockdown conditions.

Part E: Recommendations

9. Recommendations

The Executive Authority should, within 30 days of the adoption of this report by both houses of Parliament, provide the Committee with a report on the implementation of these recommendations, and /or the reasons why implementation is not possible.

9.1 The Committee has noted the implementation of client satisfaction surveys as part of the performance management process. The Committee should receive a report on how the system works, in particular how it relates to the existing system for managing employees' performance.

9.2 The Committee is of the firm opinion that, in light of the ongoing challenges around the management of the Covid-19 pandemic, and the likelihood that this will be the new normal, the administration must develop innovative ways of ensuring that citizens are informed of the business of Parliament, and given opportunities to make their voices heard.

9.3 The Committee should receive an update on progress as far as the constituency office audit, particularly its scope and implementation plan.

9.4 The Committee should be provided with quarterly updates on efforts to increase access and participation including the impact of the above-mentioned MOUs, and progress made as far as securing broadcast licencing.

9.5 The Committee recommends that discussions around how to resolve the Parmed matter be expedited so as to ensure Parliament does not bear the liability. The Committee should be provided with a progress report detailing the proposals that have been made for an alternative vehicle for this liability.

9.6 The Committee again recommends that the Executive Authority and the Minister of Finance find a constructive solution to the budgetary challenges, which will ensure that Parliament can deliver on its constitutional mandate.

9.7 The Committee acknowledges that Parliament's negotiations with National Treasury would benefit from a well-informed budget process, that includes processes to guide negotiations with National Treasury, and recommends that such be developed and tabled for the Committee's information within 90 days of the adoption of this report.

9.8 Parliament should provide the Committee with a detailed report on the performance in the areas referred to in paragraph 8.8 over the last five years, including the mitigation plans that were put in place to ensure each year's shortcomings were addressed.

9.8 The Committee should be provided with a report clarifying how the surplus was arrived at, and how it will be utilised.

9.9 The Committee should be provided with a detailed report on efforts made to fill the posts referred to in paragraph 8.10, and precisely how the lockdown had impacted the process. Furthermore, the posts should be filled as a matter of urgency, ideally by the end of 2021/22.

Report to be considered.

National Assembly

1. The Budgetary Review and Recommendation Report of the Portfolio Committee on Justice and Correctional Services, dated 3 December 2021

The Portfolio Committee on Justice and Correctional Services, having considered the financial and non-financial performance information for 2020/21 and the available quarterly financial and non-financial performance information for 2021/22 of the Department of Justice and Constitutional Development, National Prosecuting Authority, Information Regulator, Legal Aid South Africa, Special Investigating Unit, South African Human Rights Commission and Public Protector, reports as follows:

1. **Introduction**

1.1 The Money Bills Procedure Amendment and Related Matters Act 9 of 2009, as amended, (the Money Bills Act) requires portfolio committees to compile Budgetary Review and Recommendation Reports (BRRR) each year.

1.2 In particular, section 5(1) of the Money Bills Act provides that committees *must* make their assessment of the performance of national departments and institutions, with reference to the following:

- The medium term estimates of expenditure of each national department, its strategic goals and measurable objectives, as tabled in the National Assembly with the national budget;
- Prevailing strategic plans;
- The expenditure reports or statements relating to a vote appropriating funds for such department;
- The financial statements and annual report of such department;
- The reports of the Standing Committee on Public Accounts relating to a department; and

- Any other information requested by or presented to a House or Parliament.

1.3 Committees may make recommendations on the future allocation of resources, having assessed service delivery performance to date; evaluated the effective and efficient use of the resources already allocated; and considered the planned forward allocation of resources.

1.4 Delays in tabling annual reports and the financial statements because of the Covid-19 pandemic has affected the work of committees, which require the audited performance information and financial statements contained in the annual reports to prepare the BRRR. The holding of local government elections on 1 November 2021 has also impacted on the parliamentary programme.

1.5 The Committee was briefed by:

- The Minister of Justice and Correctional Services, who provided a political overview of Vote performance, on 9 November 2021.
- The Auditor General South Africa (AGSA) on the audit outcomes for Vote 25: Justice and Constitutional Development on 9 November 2021.
- The Department of Justice and Constitutional Development (the Department) and National Prosecuting Authority (NPA) on 12 November 2021
- The Information Regulator on 19 November 2021.
- Legal Aid South Africa (Legal Aid SA) on 19 November 2021.
- The Special Investigating Unit (SIU) on 19 November 2021.
- Public Protector South Africa (PPSA) on 10 November 2021
- The South African Human Rights Commission (SAHRC) on 10 November 2021.

1.6 Copies of all the presentations are available from the committee secretariat.

2. Mandate

2.1. The Committee oversees the Department of Justice and Constitutional Development (the Department) and other entities and institutions that receive their allocation under the Justice and Constitutional Development Vote (Vote 25). These include the Information Regulator, NPA, Legal Aid SA and SIU. The Vote also contains the allocations to the SAHRC and PPSA, both established in Chapter 9 of the Constitution as State Institutions Supporting Constitutional Democracy.

2.2. The Department is directly responsible for the Administration, Court Services and State Legal Services programmes, as well as the Justice Modernisation sub-programme found under Programme 5: Auxiliary and Associated Services. At present, funding for the Information Regulator is found under Programme 3: State Legal Services.

2.3. The NPA appears as Programme 4 under the Vote as the National Prosecuting Authority Act, 1998, provides for the Director General: Justice and Constitutional Development to be its accounting officer.

2.4. Programme 5 contains allocations to various auxiliary and associated services, including transfer payments to Legal Aid SA, the SIU, the SAHRC and the PPSA.

3. Context

3.1. Consideration of financial and non-financial performance for the period under review takes place in the context of the declaration of a state of national disaster on 15 March 2020 as a result of the Covid-19 pandemic, which was followed by the announcement of a hard lockdown from 26 March 2020.

From 1 May 2020, Government has adopted a risk-based strategy, easing and tightening restrictions as required.

3.2. Although the courts and justice-service points have remained open, at times access has been restricted. This has significantly affected operations and, among others, there has been a marked increase in backlogs.

3.3. In addition, subsequent to the tabling of the Budget in February in 2020, Government announced a R500 billion economic and social support package to help battle the impact of the coronavirus pandemic. There was also massive reprioritisation of funds across government. Consequently, a special appropriations bill was tabled on 24 June 2020, which also affected the Vote. In October 2020, the AENE provided for further downward revisions.

3.4. For 2021/22, fiscal policy focuses on short-term economic support, pro-growth fiscal consolidation and debt stabilisation. Narrowing the budget deficit and stabilising the debt-to-GDP ratio requires curbing expenditure growth. The 2021 Budget, therefore, proposes to reduce expenditure over the MTEF period by R264.9 billion, or 4.6% of GDP. Most of the proposed adjustments are to the public sector wage bill.

4. **Overview of key policy and operational developments**

4.1. The five-year strategic plans of the 6th Administration were tabled at the beginning of 2020/21 addressing the priorities of the new administration. However, as these were developed prior to the declaration of the state of national disaster, they were then adjusted to reflect the new circumstances and re-tabled.

4.2. The Medium Term Strategic Framework (MTSF) 2019-2024 identifies seven priorities and related interventions. Justice has specific responsibilities in respect of two priorities: namely Priority 1 ‘A capable, ethical and developmental state’ and Priority 6 ‘Social cohesion and safe communities’.

4.3. In addition, the MTSF identifies a lack of access to resources and opportunity for Women, Youth and People with Disabilities as cutting across all sectors, requiring a variety of interventions, including legislative amendments.

4.4. Key interventions for which the Justice Department is allocated responsibility for the MTSF period include:

- Instituting a programme to prevent and fight corruption in government in partnership with anti-corruption agencies and non-state actors to resolve reported incidents of corruption in the Government through disciplinary measures and criminal interventions.
- Coordinating engagements between the leadership of the executive, legislature and judiciary in order to develop a social compact by 2021 and implement the compact by 2024.
- Developing a system to ensure consistent barrier-free access to justice for persons with disabilities across the justice value chain.
- Coordinating the Implementation of the National Action Plan (NAP) to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance.
- Establishing Specialised Commercial Crime Courts (SCCC’s) in five (5) provinces (Limpopo, North West, Mpumalanga, Eastern Cape and the Free State).
- Ensuring an efficient, modernised and co-ordinated criminal justice system through integrated digital information systems.

5. Budgetary Review and Recommendation Report (BRRR) (2020) and Minister of Finance’s response to Parliament

5.1. The Committee did not support budget reductions in the case of the NPA, Legal Aid SA, and the SIU. The Committee was especially concerned that a reduced budget could undermine the contributions of each of these to the Rule of Law.

5.2. In the case of the Department, the Committee recommended that the Public Service Commission be approached with the request that it evaluate the Department with a view to identifying the reasons for the Department's non-performance and any systemic challenges, and report to Parliament on its findings and recommendations.

5.3. The Committee recommended that additional funding be allocated to the Information Regulator to allow it to recruit staff as planned.

5.4. The Committee did not support the proposed application of budget reductions in the case of the SAHRC to prevent any further loss of human resource capacity and to enable it to maintain its existing activities. The Committee also supported the additional forward funding needs presented to it by the SAHRC.

5.5. The Committee did not support the application of budget reductions at the PPSA. The Committee also recommended that special consideration be given to allocating additional funds to allow the PPSA to address the absence of security at its offices.

5.6. The Minister of Finance responded to the recommendations as follows:
"Due to the country's constrained fiscal outlook, there is limited scope to provide additional funding to institutions over the 2021 MTEF. Reprioritisation is the main policy tool for making such funding available, and, through this process, funding totalling R150 million was reprioritised towards the capacitation of the Information Regulator. Other institutions are regrettably required to reprioritise existing funding for emerging priorities."

6. Financial performance

6.1. *Vote Allocation and expenditure 2020/21*

6.1.1. The Vote was allocated R22.4 billion for 2020/21, inclusive of Magistrates' salaries. In June 2020, the supplementary budget revised the allocation to the Vote downwards by –R416 million to R21.9 billion; and in October 2020 the allocation was revised downwards once more by R886.1 million to R21.1 billion.

6.1.2. Reported cost drivers for 2020/21 were:

- Compensation of employees: R11.5 billion.
- Goods and services: R4.6 billion.
- Computer services: R820.9 million
- Operating leases: R944.2 million.
- Property payments: R1.4 billion.
- Building and other fixed structures: R290.6 million.

6.1.3. Despite the downward revisions, the final Vote expenditure for 2020/21 was R20.03 billion or 94.9% of the final appropriation of R21.05 billion with an amount of R1.08 billion unspent (compared with 2019/20, when 96.4% of the final allocation was spent

6.1.4. In March 2021, Treasury approved the use of R452 million in savings from Court Services to fund other areas of expenditure, including: R30.5 million to the PPSA; R75 million to State Capture Commission; and R40 million to Administration.

Table 1: Justice and Constitutional Development –Final Allocation vs Actual Expenditure 2020/21 (with a comparison to 2019/20)

Programme (R'000)	Final Allocation v Actual Expenditure					
	2020/21			2019/20		
	Final	Actual	%	Final	Actual	%
Administration	2 920 749	2 704 685	92.6	2 589 469	2 537 688	98.0
Court Services	6 373 234	6 204 613	97.4	6 595 401	6 428 654	97.5
State Legal Services	1 454 823	1 374 690	94.5	1 544 762	1 295 058	83.8
NPA	4 300 819	4 196 852	97.6	4 134 650	4 009 197	96.9
Auxiliary and Associated Services	3 616 658	3 404 641	94.1	3 917 224	3 917 223	99.9
Magistrates' Salaries	2 442 459	2 146 761	87.9	2 263 695	2 100 166	92.8
TOTAL	**21 108742**	**20 032 242**	**94.9**	**21 045 201**	**20 287 986**	**96.4**

6.1.5. Key areas of underspending were under *compensation of employees* as a result if unfilled vacant posts attributed to natural attrition*; goods and services* as a result of protracted procurement processes that delayed the implementation of planned Integrated Justice System projects, exacerbated by Covid-19 restrictions; and *payments for capital assets* due to underperformance by the Department of Public Works and Infrastructure in connection with court infrastructure projects attributable to Covid-19 restrictions.

6.1.6. Furthermore, there was an under-expenditure of R295.7 million under the *Direct Charge* due to vacant magisterial posts.

6.1.7. Irregular expenditure: The closing balance for irregular expenditure at 31 March 2021 was R2.06 billion. In total, irregular expenditure increased by R401.6 million in 2020/21, compared to R563.2 million in 2019/20.

6.1.8. The closing balance for fruitless and wasteful expenditure amounted to R2.41 million in 2020/21 compared to R2.5 million in 2019/20.

Part 2

7. Department of Justice and Constitutional Development

7.1. The Department administers three of the Vote's programmes: Administration, Court Services and State Legal Services. Under Auxiliary and Associated Services, the Justice Modernisation sub-programme funds the JCPS Cluster projects relating to the Integrated Justice System (IJS).

7.2. *Audit outcome*

7.2.1. This is the fifth consecutive year in which the Department has received a qualified audit opinion. The audit qualification for 2020/21 relates to significant deficiencies in the accounting of contingent liabilities in the State Attorney environment, which were overstated by R234.6 million.

7.2.2. The Auditor General attributes the stagnation of the Department's audit outcome to the failure to adequately monitor the post-audit action plan to address the matter. Further, addressing the qualification requires collaboration between the State Attorney, Legal Services, NPA and Finance Unit but a lack of accountability meant that this was not the case again in 2020/21. The contingent liability should have been reviewed by senior officials. Further, management was given the opportunity to remedy the finding but could not.

7.2.3. Findings on compliance: The findings on compliance are similar to the previous year: Procurement and contract management; prevention of irregular, fruitless and wasteful expenditure; and expenditure management to ensure the timeous payment of service providers. The AGSA attributes the findings to vacancies in key management positions, which resulted in the failure to monitor the action plans to address significant internal control deficiencies.

7.2.4. Findings on the quality of the performance information: The Department had material findings in the usefulness and reliability of the performance information reported as a result of inadequate monitoring and reporting of reliable and useful performance information.

7.2.5. The Department incurred irregular expenditure amounting to R401 million in 2020/21, which is a reduction from 2019/20.

- There was a regression in supply chain management compliance (no effective and appropriate steps taken to prevent non-compliance; no competitive or fair procurement practices; and inadequate contract management).
- Vacancies at senior management level in the Department, including the position of the Director-General which was only filled at year end, resulted in irregular expenditure investigations not being finalised timeously to allow for the consequence management process to take place.

7.2.6. The Auditor General also identified IT governance and IT systems control as cause for concern. Regarding IT governance, the inability to conduct skills development of officials as a result of Covid-19 was highlighted. Under IT systems control, weaknesses relating to service continuity and security management could be attributed to the failure to review procedures; a lack of capacity within the Department to implement critical security principles; expired security management tools; and lack of testing of the disaster recovery plan.

7.2.7. The Auditor General made the following recommendations:

- To the Department –
  - ➢ Fill key executive positions with skilled and experienced personnel.

- Develop and implement effective audit action plans to address audit findings.
- Monitor performance and consequence management.

- To the Committee -
  - The Committee should request the accounting officer and the Minister to provide feedback on the progress of action plans to address the audit outcomes.
  - Monitor the vacancies to ensure leadership stability.
  - Follow up on whether there has been consequence management.

7.3. **Non-financial performance 2020/21**

7.3.1. . Overall, in 2020/21, The Department reports that it achieved 66% of its planned indicators (compared with 2019/20, in which the Department achieved 51% of its planned indicators). If the indicators for the NPA are removed, the Department achieved 70% of the planned indicators (compared with only 49% in 2019/20).

Table 2: Department of Justice and Constitutional Development - overall performance 2020/21 (with a comparison to 2019/20)

Programme	**2020/21**			**2019/20**
	Percentage performance	**Targets achieved**	**Planned Targets**	**Percentage performance**
Administration	40%	6	15	18%
Court Services	81%	13	16	40%
State Legal Services	75%	33	44	60%
NPA	50%	7	14	57%
Justice Modernisation	67%	2	3	66.6%
Overall	**66%**	**61**	**92**	**51%**

7.3.2. A key achievement in 2020/21, was the filling of the posts of the Director-General, Deputy Director-General: Corporate Services and Chief Master to bring stability to the Department.

7.3.3. Other achievements include:

- The completion of Phase 3 of the Femicide Watch.
- New buildings were completed at Durban (point) Family Branch Court, KwaZulu-Natal, and Dimbaza Magistrates Court, Eastern Cape.
- 6 new Specialised Commercial Crime Courts were established.
- The Cashless Solution was deployed at 25 courts.
- Trust and Deceased Estates online registration is at an advanced stage.
- The e-submission enhancements for memoranda and parliamentary questions were developed and rolled out.
- Mojapay was rolled out at the remaining 7 courts and all 12 State Attorneys Offices.
- A SMS notification capability was implemented in Domestic Violence and Family Advocate services to notify parties on the status of their cases.
- The Masters' web information portal has been updated to include case information for insolvency matters.
- Under the Integrated Justice System, more than 190 589 accused persons were tracked and 4 502 wanted persons could be identified and linked to SAPS circulations as persons of interest in other cases as a result if the CJS person integration achievements. Also, 371 593 cases were electronically processed via the IJS transversal hub using IJS integrations between SAPS, NPA and the Department. The case integration solution is in operation nationally connecting 1 144 police stations to 509 courts countrywide.

7.3.4. Key challenges include:

- Arresting the declining performance.
- Addressing the negative audit outcome.

- Addressing the high vacancy rate.
- In the area of ICT, refreshing key infrastructure technology, renewing licenses and ensuring infrastructure maintenance and support.

7.3.5. ***Linking financial and non-financial performance information***.

- The Department spent 94.9% of the overall budget, while achieving 66% of the revised Annual Performance Plan for 2020/21 with the Administration programme reaching only 40% of its targets.
- Notably, the Department's revised annual performance plan for 2020/21 adjusted certain targets downwards as a result of human resource restraints imposed by the Level 5, 4 and 3 lockdown restrictions. Furthermore, the AGSA queried the usefulness and reliability of certain performance information under the Court Services programme.

7.4. **Programme 1 - Administration**

7.4.1. The Administration programme is responsible for the Department's management and for the development of policies and strategies for the efficient administration of justice.

7.4.2. In 2019/20, the Administration programme spent R2.7 billion or 92.6% of the R2.9 billion appropriated to the programme.

7.4.3. The underspending of R216.1 million is attributed to delays in filling vacancies, lower than anticipated payment of performance bonuses and less than anticipated expenditure in the Commission of Inquiry into State Capture.

7.4.4. Overall, the Programme met or exceeded 6 of 15 or 40% of the planned targets (compared with 18% for 2019/20).

7.4.5. Areas of underperformance were as follows:

- 25% of significant findings on key specific areas resolved against a target of 100%.
- 27% of reported incidents of corruption resolved through the departmental disciplinary code and procedure for the Public Service.
- Although 81% of total MMS posts are occupied by Africans against a target of 59%, 45% of these posts are occupied by women against a target of 46%.
- 2.1% of the total workforce is occupied by persons with disabilities against a target of 2.2%.
- The Department's reconfigured macro structure was not finalised by 31 March 2021 as planned.
- 177 people were trained as per the workplace skills plan (WSP) against a target of 4000.
- 99% of undisputed and valid invoices were paid within 30 days of receipt against a target of 100%.
- The audio-visual remand system was rolled out at no sites against a target of 18.
- There was 1 site where the Virtual Platforms Solution was deployed against a target of 12.

7.4.6. ***Linking financial and non-financial performance information***: The programme achieved only 40% of planned targets for 2020/21, albeit this being an improvement from the 18% achieved in 2019/20, and underspent by –R216.1 million.

7.5. **Programme 2 - Court Services**

7.5.1. The Court Services programme facilitates the speedy resolution of criminal, civil and family law disputes by providing accessible, efficient and quality administrative support functions to the lower courts; and manages court facilities and justice security services.

7.5.2. The Programme has the following outcomes:

- Increased access to justice.
- Crime and corruption reduced through effective prosecution.

7.5.3. In 2020/21, the Programme met or exceeded 81% or 13 of 16 planned targets (compared to 40% in 2019/20).

7.5.4. Areas of underperformance include:

- No additional courts were designated in terms of section 55A of the Criminal Law (Sexual Offences and Related Matters) Amendment Act 2007, against an annual target of 27.
- There were no facilities with term contacts for unplanned maintenance against a target of 10.
- Zero percent of backlog cases on the priority roll were finalised against a target of 20%.

7.5.5. ***Linking financial and non-financial performance information***:

- In 2020/21, the Programme met or exceeded 81% or 13 of 16 planned targets (compared to 40% in 2019/20) but spent 97.4% of the final appropriation. Notably, the AGSA queried the usefulness and reliability of certain performance information under the Court Services programme.
- The underspending is even greater when reprioritised funds are taken into account. The programme was allocated R7.1 billion, which was adjusted downwards to the final appropriation of R6.37 billion, spending R6.2 billion.
- The underspending of R166.7 million is attributed to delays in filling posts, lower than anticipated payment of performance bonuses and slow

progress by the Department of Public Works in implementing planned infrastructure projects due to Covid-19.

7.6. **Programme 3 - State Legal Services**

7.6.1. This Programme provides legal and legislative services to the Department government broadly; supervises the administration of deceased and insolvent estates; registers trusts, and manages the Guardian's Fund; and prepares and promotes legislation. In addition, the Programme facilitates constitutional development and undertakes research in support of this.

7.6.2. The Programme has the following outcomes:

- Transformed Masters services.
- Colonial/Apartheid-era justice-related legislation reviewed and repealed or replaced.
- Transformed state litigation services.
- Transformed legal profession.
- Advancement of constitutionalism, human rights and the rule of law.

7.6.3. In 2020/21, the programme met or exceeded 33 of 44 or 75% of its planned targets (compared with 60% in 2019/20).

7.6.4. Areas of underperformance include:

- 67% of letters of authority issued in trusts within 14 days of receipt of all required documents against a target of 70%.
- 8 research papers were submitted to the South African law reform Commission for approval against a target of 11.
- The draft Office of the Solicitor-General strategy was not approved by the Minister by 31 March 2021 as planned.

- 6 heads of offices of the State Attorney were appointed against a target of 6.
- No policies to implement the State Attorney Amendment Act were implemented against a target of 3.
- 80% of value of briefs were allocated to PDI legal practitioners against a target of 83%.
- The State Attorney framework contract was not finalised by 31 March 2021 as planned.
- No regulations in terms of the Legal Practice Act were approved by the Minister against a target of 2.
- The NAP governance structure was not established by 31 March 2021, as planned.
- No programmes were developed to commemorate the 25th anniversary of the Constitution by 31 March 2021, as planned.
- The policy framework for extradition was not submitted to the Minister for approval by 31 March 2021 as planned.

7.6.5. ***Linking financial and non-financial performance information***:

- Programme performance has improved since 2019/20 from 60% to 75%. Under-performance is observed in the Litigation and Legal Services and Constitutional Development sub-programmes in particular.
- Spending increased from 83.8% in 2019/20 to 94.5% of the final appropriation of R1.45 billion in 2020/21, with R80.1 million left unspent.
- The Department reports that unfilled vacancies and lower than anticipated payment of performance bonuses attributed to the underspending.

7.7. **Programme 5: Auxiliary and Associated Services Programme - Justice Modernisation sub-programme**

7.7.1 Programme 5 contains the Justice Modernisation sub-programme which has funds for the implementation of IT infrastructure for the Department and also includes the earmarked funds for IJS integration across the Cluster. The Justice Modernisation subprogramme designs and implements IT infrastructure and networks, reengineers, automates and integrates business processes for the administration of civil and criminal justice in the integrated justice system,

7.7.2 The Justice Modernisation sub-programme has the following outcome: Modernised and digitised justice services platforms.

7.7.3 The sub-programme met 67% or 2 of 3 indicators (compared to 67% in 2019/20): The programme did not meet the target to finalise the IJS assessment report by 31 March 2021, as planned.

7.8. **Overview of First and Second Quarter 2021/22 financial and non-financial performance**

7.8.1. The Department has embarked on a turnaround strategy that has the following pillars: Alignment of strategy to priorities; macro-structure redesign; human capital and skills audit; modernisation; the repositioning of justice college; change management; audit turnaround; and service delivery improvement.

7.8.2. Overall, in the First Quarter of 2021/22, the Department achieved 27 of 59 or 67% of planned targets:

Table 3: Programme performance 2021/22 Quarter 1

Programme	No. of indicators with planned targets	Actual Performance	% Performance
Administration	27	15	27%
Court Services	14	12	86%
State Legal Services	26	18	69%
NPA	13	8	62%
Justice Modernisation	3	3	100%
Total	**83**	**56**	**67%**

7.8.3. The ransomware attack in September 2021 impacted on both the delivery of services and the progress of the Department's modernisation programme. Second Quarter performance information is at present incomplete as the overall performance cannot yet be validated with certainty. However, the preliminary report indicates a drop in performance below 50%.

7.8.4. The Department spent R9.3 billion or 43.6% of its budget by the end of the Second Quarter of 2021. The projected spending to the end of September 2021 period was R10.6 billion, with underspending occurring as a result of vacant posts, delays in processing accommodation charges and municipal invoices, delays in procurements and payments process as a result of the system downtime, as well as lower than anticipated spending of the infrastructure budget and under-performance of IJS/CJS member departments.

8. **National Prosecuting Authority (NPA)**

8.1. In line with its constitutional mandate, the NPA provides a co-ordinated prosecuting service to ensure that justice is delivered to the victims of crime through general and specialised prosecutions, protects certain witnesses and removes the profit from crime.

8.2. The NPA is a programme within the Justice and Constitutional Development Vote and the Director-General: Justice and Constitutional Development is its accounting officer. In the past, National Treasury provided an exemption that allowed the NPA to prepare its own annual financial statements separate from those of the Department until legislation regularising the practice was enacted but the exemption expired on 31 March 2014. However, in terms of the National Prosecuting Authority Act, 1998, the National Director of Public Prosecutions (NDPP) has submitted an annual report on operations for 2020/21.

8.3. For the 2020-2025 term, the NPA has aligned its strategy with the Department's impact statement of 'Improved public perception, confidence in the justice system and respect for the rule of law' and to the Department's Outcomes 2 and 7, namely 'Modernised, accessible courts and people-centred services' and 'Crime and corruption significantly reduced through effective prosecution'. The NPA has also committed to making the following impact: 'A South Africa in which crime is significantly reduced and everyone feels safe and abides by the law'. The intended outcome is 'Crime and corruption significantly reduced through effective prosecution.

8.4. The NPA reported the following:

- While progress has been made, it's been patchy and too slow.
- COVID-19 has impacted on the NPA's plans to improve progress, resulting in a less than satisfactory achievement of targets.
- Despite this, the NPA has continued to deliver uninterrupted services and used the available time to attend to chamber work resulting in a significant increase in decision dockets being finalized, which include long outstanding decisions in complex commercial crime matters.

- The NPA has prioritised dealing with corruption, specifically by capacitating and supporting the Independent Directorate.
- Another focus has been on internal projects to improve efficiencies, capacities and staff morale, which include:
  - Building an Independent Professional, Accountable and Credible (IPAC) organisation - All strategic initiatives are designed to strengthen and complement the interrelated IPAC pillars.
  - NPA Independence - This is a priority for the NPA and it has submitted an affidavit to the Commission of Inquiry into State Capture that makes a solid legal case for the independence of the NPA. Initial discussions are underway with the Minister to establish a working group in this regard.
  - There has been good progress in establishing an Office for Complaints and Ethics (OCE) to assist in promoting the accountability of all NPA staff, including the top leadership. A proposal on draft legislation, the mandate and staffing requirements will be finalised by 30 November 2021.
  - The Innovation, Policy and Support Office (IPSO) has been established as a permanent resource to support innovation across all parts of the NPA.
  - Community Prosecution Initiative (CPI) - The NPA established 22 community prosecution sites (2 per division) and posts. The sites focus on important crime and public safety issues, e.g. GBV, stock-theft and crime driven by alcohol/drugs. The impact will be measured over the next two years.
  - Non-Trial Resolutions (NTR) - A policy is being developed, providing for trial agreements based on international best practice and local realities.
  - Prosecution Prioritisation Policy - A prioritisation initiative for prosecuting housebreaking and house robberies is being developed – strategic prosecution of organised criminal gangs involved in

housebreaking and house robberies can have a disproportionate impact in terms of prevalence and fear of crime.

- Enhancing NPA Communication - Effective internal/external communication is now at the centre of NPA strategic priorities. The NPA intranet (Ithala) and cutting-edge website developed and launched.

8.5. Operational challenges experienced in 2020/21 included:

- COVID-19 impacted on performance as investigations, consultations and trials were hampered; specifically, in Regional Court matters.
- The NPA was particularly affected by the pandemic reporting a 22.47% infection rate (1 011) which is much higher than norm of 4.86% in South Africa. Likewise, the SAPS and the Department suffered from a similar trend impacting courts in many areas. The recorded death rate in the NPA was markedly higher than in the rest of South Africa.
- Money laundering matters usually consists of several charges and intricate financial investigations, which are time consuming, and trials are protracted with several legal challenges.
- Lack of skill and the ability to dedicate staff to highly complex and voluminous matters still plague the organisation and criminal justice system as a whole.
- All volumes of cases in courts declined dramatically during 2020/2021. In addition, finalised cases in all courts decreased by 40,2% (from 368 319 to 220 272).

8.6. ***Financial performance***

8.7.1. The NPA was allocated R4.3 billion for 2020/21, compared to R4.1 billion in 2019/20 and spent R4.2 billion (or 98%) of the final budget, underspending by R103 million.

8.7.2. The under-expenditure is attributed to delays in delays in filling vacancies and appointing aspirant prosecutors as a result of the lockdown.

8.7. ***Non-financial performance***

8.8.1. Overall, in 2020/21, the NPA achieved 7 of 14 or 50% of planned targets (compared to 61% in 2019/20).

8.8.2. Areas of underperformance were as follows:

- 55 operational TCCs were in place against a target of 58.
- 90.2% conviction rate in complex commercial crime achieved against a target of 93%.
- 147 persons were convicted of private sector corruption against a target of 150.
- 86 government officials were convicted of corruption and/or offences related to corruption against a target of 220.
- 44 cases were prosecuted involving money laundering against a target of 90.
- Freezing order to the value of R611 million were obtained for corruption and/or offences involving corruption against a target of R2.4 billion.
- R3 million was recovered relating to corruption or related offences against a target of R1.4 billion.

8.8. ***Linking financial and non-financial performance information.*** In 2020/21, the NPA achieved 50% of its targets compared to 61% in 2019/20, and spend 98% of the budget.

8.9. Again the performance of the AFU was particularly poor but interventions have been put in place to address the challenges the AFU is experiencing.

8.10. ***Performance 2021 to date:***

8.10.1. The NPA is allocated R4.44 billion for 2021/22, compared with R4.3 billion in 2020/21 and has spent 55.6% of its budget by 31 October 2021.

8.10.2. The NPA has seen a marked improvement in the performance in the current financial year, with 69% of the targets achieved.

8.10.3. The spending focus is on personnel, computer services, consultants, legal services, property payments and travel and subsistence.

8.11. ***Funding***:

8.11.1. The NPA reports that it has submitted a request to National Treasury concerning funding for the MTEF informed by the following:

- Covid-19 contributed to the current economic crisis, compounded by corrupt activities allegedly committed by government officials. South Africa needs to bring criminals to book.
- The benefit derived from corrupt activities must be returned to the State and the NPA is the only government institution mandated to do this.
- The NPA is committed to the JCPS Economic Recovery Plan, however, under-resourcing will render the strategy ineffective and the NPA unable to address corruption, GBV and organised crime.
- Current allocations over the MTEF are below inflation.
- The NT has implemented budget cuts in the MTEF period.
- While the NPA can absorb a budget baseline reduction for 2021/22, proposed cuts in respect of outer MTEF years will cripple its ability to deliver on its mandate.

8.11.2. The NPA reports a shortfall on its compensation of employees’ budget over the MTEF. These projections are based on current warm bodies within NPA and excludes resignations; Cost of Living Adjustments (1.5% for non SMS and SMS) and new appointments.

Table 4: **NPA MTEF allocation for compensation of employees**

R' 000	2022 MTEF Budget (Adjusted)	Projected Total Expenditure	Variance
2021/22	3 926 046	3 880 295	**45 751**
2022/23	3 865 145	3 920 439	**-55 294**
2023/24	3 895 885	3 981 110	**-85 225**
2024/25	4 070 847	4 042 691	**28 156**

*

8.11.3. Independent Directorate and Witness Protection

- An additional R363.4 million funding is needed due to the growth of the ID as a result of the Commission of Inquiry into State Capture ending. (R83 million for current financial year).
- There is also a growing need for witness protection causing pressure on the already inadequate budget.
- There has been no CARA allocation, which has helped the Office of Witness Protection in the past.

Table 5: NPA: MTEF funding needs Independent Directorate

Additional funding needs MTEF	2022/23 R'000	2023/24 R'000	2024/25 R'000	Total
Shortfall on Compensation of Employees	83 265	74 097	77 049	234 411

Shortfall on Goods and Services	40 000	43 000	46 000	129 000
Total funding request	**123 265**	**117 097**	**123 049**	**3631**

9. **Information Regulator**

9.1. The Protection of Personal Information Act, 2013, (POPIA) regulates the processing of personal information by providing a framework that sets out the minimum standards that responsible parties must comply with when processing personal information. The Act applies to public and private bodies, including juristic persons, and aims to achieve a balance between the free-flow of information and the right to privacy.

9.2. The Information Regulator is established in terms of section 39 of POPIA and has a wide range of powers and functions regarding promoting and enforcing the right to privacy.

9.3. POPIA also transfers certain key responsibilities concerning the Promotion of Access to Information Act, 2000, (PAIA) to the Information Regulator. These include the handling of complaints, conducting investigations, and making assessments about compliance by public and private bodies. In accordance with a Memorandum of Co-operation, the SAHRC and the Regulator agreed that the SAHRC conclude its PAIA functions by 30 September 2021.

9.4. On 17 June 2020, the President issued a Proclamation to bring into operation certain outstanding sections of POPIA on 1 July 2020. The remaining sections came into effect on 1 July 2021 and, in terms of section 114(1), public and private bodies had a years' grace period to comply with POPIA.

9.5. In terms of POPIA, the Regulator is given the power to determine its own administration in consultation with the Minister of Finance.

9.6. The Regulator does not produce separate Annual Financial Statements for the 2020/21 financial year as its financial records form part of those of the Department and are audited by the Auditor-General as part of the Vote.

9.7. ***Independence.*** Although the CEO is the Accounting Officer in terms POPIA, this is not the case in terms of the PFMA, as the Regulator's budget is managed through the Department. The listing of the Regulator in the Public Finance Management Act 1 of 1999 (PFMA) remains unresolved, as the separation of the Regulator from the Department which will ensure its independence is dependent on this classification. Consultations with the Department and National Treasury were held during the year under review.

9.8. The Regulator's funding is ring-fenced under the Justice Departments' State Legal Services programme. An amount of R45 million is allocated to the Information Regulator for 2020/21, compared with R28.9 million in 2019/21. The allocation for the remainder of the 2020 Medium Term Expenditure Framework (MTEF) is as follows: R57.7 million in 2021/22; and R63.7 million in 2022/23.

9.9. The Regulator spent R29.9 million or 66% of the allocation for 2021, reporting under-expenditure of R15.6 million as follows:

- Under-spending of R10.8 million on compensation of employees was a result of delays in filling the positions of the executives for POPIA and Education and Communication, and resignations of three staff members.
- Underspending R3.2 million on Goods and Services was due to a delay in appointing the Communication and Branding Strategy service provider (appointment was done in March 2021), and due to the lack of utilisation on Travelling and Subsistence, Stationery and Printing, and

Training and Development. Overspending on Household payments of R353 000 is due to unplanned resignations of staff.

- Underspending of R917 000 on Machinery and Equipment was due to commitments on office furniture and equipment received but not paid for.
- Underspending of R1.1. million on Software and Intangibles was due to the bidder’s price on the Automated Complaints Management System being greater than the budget amount and, therefore, the bid could not be considered.

9.10. The Regulator achieved 11 of 18 or 61% of its performance targets. Key reported achievements for 2020/21 include:

- The Guidance Note on applications for Prior Authorisation was issued.
- The Regulator made use of digital meetings and social media platforms to ensure continuous engagement with stakeholders and the public.
- Webinars were organized to commemorate the International Day for Universal Access to Information on 28 September 2020 and the Data Privacy Day on 28 January 2021.
- The Guidelines to Develop Codes of Conduct and the standard for making and dealing with complaints under approved codes of conduct provided for in section 65 of POPI were adopted.

9.11. The Regulator reports a shortfall on its allocated budget: it requires R84.9 million in 2021/22; R138.4 million in 2022/23; and R306.3 million in 2023/24 if it is to grow the establishment to the planned 383 employees.

9.12. ***Human Resources*:** At the beginning of 2020/21, 13 positions had been filled as part of Phase One which had started in 2019/2020. A further 21 positions were added to the structure. As a result, the staff compliment increased to 34. At the end of 2020/21, Regulator had finalised a list of 43 positions that will form part of Phase Three of the structure. A 10% vacancy rate was reported against an approved establishment of 39.

Part 3
Auxiliary and Associated Services

10. Legal Aid South Africa

10.1. Legal Aid SA is an autonomous statutory body that derives its mandate from the Constitution, 1996; the Legal Aid South Africa Act 39 of 2014; and other legislation requiring the government to provide legal assistance to the indigent. Its main objective is to make legal representation available to indigent persons at State expense, ensuring the right of all citizens to access to justice. Notably, the Legal Aid South Africa Act, 2014, provides that Legal Aid SA must render or make available legal aid and legal advice; provide legal representation at state expense; and provide education and information concerning legal rights and obligations, as envisaged in the Constitution.

10.2. The main objective of Legal Aid SA is to render or make available legal representation to indigent persons at state expense as contemplated in the Constitution, ensuring the rights of citizens to access to justice.

10.3. The Strategic Plan 2020-2025 sets out the policy priorities, programmes and project plans for the period, as well as the related outcomes, outcome indicators and five-year targets. Legal Aid SA's plans are aligned with the MTSF priority 'Social cohesion and safer communities':

10.4. Legal Aid SA's strategic outcomes for 2020-2025 are to provide quality justice for all, especially, the poor and vulnerable, and to be a respected, high performance, sustainable and accessible public entity that will have a positive impact on society, the economy and the environment.

10.5. In carrying out its mandate, Legal Aid SA continues to prioritise the following vulnerable groups: children; detained persons, including sentenced prisoners; accused persons who wishes to appeal or review a court decision in a higher court; women, particularly in divorces, maintenance and domestic violence cases; and the landless, especially in eviction cases.

10.6. The transfer of land-related matters legal services from the Department of Agriculture, Land Reform and Rural Development to Legal Aid SA is at an advanced stage. The outstanding matter is the transfer of funds to Legal Aid SA so that it can begin offering services from 2022.

10.7. At 31 March 2020, Legal Aid SA reports a staff establishment of 2 551 with budgeted posts at 2 799. Legal staff, including paralegals, account for 80% of the establishment.

10.8. Delivery continues to occur nationwide through 64 Local Offices and 64 satellite offices. In addition, Legal Aid SA makes uses of accredited Judicare partners; co-operation partners and agency agreements with private law firms to deliver services. This ensured a mixed model delivery system in which 96% of all new matters were handled by the Local Offices; 3% by Judicare practitioners and Agency Agreements; and 1% by co-operation partners.

10.9. In 2020/21, Legal Aid SA achieved an unqualified audit opinion for the twentieth consecutive year and a clean audit opinion for the fifteenth consecutive year.

10.10. ***Financial performance***

10.11.1. Legal Aid SA was allocated R2.07 billion for 2020/21 (an increase from R2.04 billion in 2019/20).

10.11.2. Legal Aid SA reported that it spent R1.9 billion or 92.2% of the allocation for 2020/21. The under-expenditure is attributable to a reduction in operating expenses, such as travelling, as a result of restrictions placed by the Covid-19 lockdown, as well as the conservative management of the staff establishment. However, two budget cuts in 2020/21, totaling R127 million impacted negatively on service delivery and the ability to fulfil Legal Aid SA's constitutional mandate. Also, payments to creditors and Judicare within 30 days was below 100% target owing to system and accessibility challenges

10.11. ***Non-financial performance***

10.12.1. Legal Aid SA reports the following key achievements for 2020/21:

- All criminal courts as well as specialised criminal courts, including specialised Child Justice Courts, Sexual Offences Courts and Commercial Crimes Courts, were covered as planned.
- Civil legal aid services including legal advice services were affected by the Regulations, Directions and Directives issued to curb the spread of Covid-19.
- There were significantly fewer new cases taken on and cases finalised as a result of the lockdown restrictions.

10.12. ***Human Resources***

- At 31 March 2021, the number of funded posts was 2 799; with total staff recruited 2 426.
- Legal staff were 1 871 (77% of recruited staff): Criminal legal staff 1 487; Civil legal staff 214; and Paralegals 170. There were 555 support staff.
- The recruitment rate at financial end was 86.7% against a target of 95%. The 8.3% variance is mainly due to budget constraints to avoid overspending on the compensation of employee's budget.

10.13. ***Funding***

10.13.1. The R534.7 million total budget cut over the 2021 MTEF period will result in a reduction in the coverage of courts and delivery of legal aid services to indigent and vulnerable persons, affecting the ability of Legal Aid SA to fulfil its mandate.

Table 6: Legal Aid SA MTEF baseline reductions

	Budget 2021/22	**MTEF**		
		2022/23	**2023/24**	**2024/25**
	R'000			
Baseline allocations	2 204 215	2 313 817	2 222 563	2 197 390
COE reductions	-100 692	-125 076	-121 808	0
Goods and Service reductions	-81 335	-105 759	0	0
Total Allocations	**2 022 188**	**2 082 982**	**2 100 755**	**2 197 390**

10.13.2. *New land mandate funding*. Although plans are under way to secure the funding for the transfer of the functions to Legal Aid SA from 1 January 2022, if the funding is not be made available, Legal Aid SA will not be able to take over the function in January 2022 as planned. Legal Aid SA has projected that the function will require R114 million for 2022/23 and approximately R97 million per annum after that.

11. Special Investigating Unit (SIU)

11.1. The legislative mandate of the Special Investigating Unit (SIU) is derived from the Special Investigating Unit and Special Tribunals Act 74 of 1996 (as amended). The SIU's principal function is to investigate serious malpractices, maladministration and corruption in connection with the administration of state institutions, state assets and public money, as well as any conduct, which may seriously harm the interests of the public. Matters are referred to the SIU through Presidential proclamations that set out the scope of the investigation. The SIU also:

- Institutes and conducts civil proceedings in any court of law or special tribunal, in its own name or on behalf of state institutions.
- Brings potential disciplinary matters to the attention of state institutions.
- Provides for the secondment of SIU officials to improve departmental systems.

11.2. Although the SIU does not have the power to arrest or prosecute offenders for criminal conduct, it reports matters to the Directorate for Priority Crime Investigation (DPCI/the Hawks), the South African Police Service (SAPS) and the National Prosecuting Authority (NPA). The SIU works closely with the Asset Forfeiture Unit (AFU) in the NPA, where its powers are more appropriate or effective in recovering the proceeds of crime. The MTSF also identifies the investigative reports of the Financial Intelligence Centre as key in the identification of high priority cases. The SIU is part of the Anti-Corruption Task Team (ACTT), which was established to fast–track investigations and prosecutions of serious corruption cases; and is also part of the Fusion centre which was established to deal with corruption in respect of the procurement of Personal Protective Equipment.

11.3. The SIU locates its role under the MTSF priorities: 'Social Cohesion and Safe Communities' and 'A capable, ethical and developmental state'. The MTSF envisages an improvement in corruption perception by the end of the five-year period. The SIU is to contribute by reducing levels of fraud and corruption in the private and public sectors; freezing money and assets; establishing and strengthening the capacity of the Special Tribunal for civil recoveries; and increasing the use of Financial Intelligence Reports in identifying high priority cases.

11.4. The SIU is on a journey to become a risk intelligent organisation. A National Treasury Risk Maturity Model has been adopted to assess the progress of the SIU, which places the SIU at Level 5. The SIU is now aiming towards achieving Level 6, which is the highest level of maturity. The SIU has identified the following as key risks:

- Inability to financially sustain SIU operations in the short-medium term due to shortcoming in funding model.
- Inability to timeously commence SIU investigations due to protracted approval process for proclamations
- Failure by State Institutions to implement SIU legal recommendations
- Inability to pro-actively assist public institutions to prevent corruption and maladministration practices
- Insufficient preparedness to respond to physical threats to investigators and security breaches
- Inability to achieve forensic investigation's legal outcomes
- Inability to conduct forensic investigations according to predetermined standards
- Inability to attract adequate and high performing workforce that is suitably skilled and properly managed
- Ineffective collaboration with external and internal stakeholders
- Failure to process and finalize civil matters enrolled in the Special Tribunal Court
- Inability to provide appropriate ICT services across SIU business.

11.5. ***Audit outcome.*** The SIU maintained a clean audit outcome in 2020/21 (its fifth consecutive clean audit since 2016/17). However, the AG did note the issue of material debt impairment.

11.6. ***Human Resources***

- As at the end of the 2020/21, the staff complement was 532, of which 509 (96%) were permanent and 23 (4%) fixed-term as compared to 530 in the previous year.
- The vacancy rate as at the end of 2020/21 was 15% as compared to the 14% planned target. The conclusion of the Siyakha Recruitment Agreement with labour was delayed longer than anticipated, which affected the recruitment progress.
- The staff turnover for the financial year 2020/21 was 14 which is 2.6%, with resignations being the main contributor compared to 4% in 2019/20.

11.7. ***Financial performance***

11.7.1. The SIU's funding model provides for a baseline grant from National Treasury. In addition, the SIU charges state institutions for its services, thus raising additional revenue. The recovery of debts from state institutions for services has proven to be a challenge. The value of outstanding debtors at the end of 2020/21 was R691 million, which includes national, provincial and local government and public entities.

11.7.2. The approved budget allocation for 2020/21 was R756 million, consisting of R421.6 million received from a government grant, R299.5 million in project revenue and R34.8 million in other non-tax revenue.

11.7.3. In 2020/21, the SIU spent R688 million or 91% of the projected allocation. The SIU reports that its finances are very positive, despite challenges in the recovery of its debt that it has invoiced for investigation and related services performed.

11.7.4. As at 31 March 2021, the SIU had a R836 million accumulated surplus that it has managed to build over past years. For the year ended 31 March 2021, the SIU reflected a surplus of R68 million (2020: R193 million). Despite debt recovery challenges, the SIU still managed to reflect a positive "Net cash flow from operating activities" of R13 million at 31 March 2021 (2020: R194 million).

11.7.5. The Unit's main cost driver is compensation of employees. The Unit reported spending of R431 million in 2020/21 on this item, compared to R426 million in 2019/20; an increase of 1.13%. This is 63% of the SIU's total expenditure of R688 million.

11.8. ***Non-financial performance***

11.8.1. The SIU's Strategic Plan 2020 – 2025 identifies certain high impact initiatives and interventions for the MTSF period:

- Pursuing Priority High-Impact Targets to optimise the deployment of its resources.
- Rejuvenating the organisation by investing in critical parts of the business.
- Differentiating the SIU through its 'unique offerings'.
- Enforcing consequence management measures through a monitoring and evaluation competency (with the Auditor General).
- Pursuing civil litigation.
- Applying cutting-edge data analytics and technology.
- Optimising the uniqueness of the Special Tribunal.

11.8.2. The SIU has identified the following impact statement, organisational outcomes and five-year targets for 2020-2025:

Table 7: SIU – Impact statement, outcomes and five-year targets 2020-2025

IMPACT STATEMENT: Ridding society of fraud and corruption in state institutions	
OUTCOME	**FIVE-YEAR TARGET**
A compliant, high performance SIU that is well capacitated to rid society of corruption,	• Achieve and exceed all set performance targets

maladministration and fraud in State institutions	• Maintain positive AG audit outcomes
State assets and cash resources are protected from maladministration, fraud and corruption for the realisation of full value for money for state programmes	Estimated R10 billion
Confidence in the governance systems, structures and policies of the State is restored and maintained	An established index on confidence in the state's ability to effectively combat corruption and maladministration
Corruption, maladministration and fraud deterred through proactive preventative mechanisms and effective enforcement of consequence management measures	A minimum 10% annual decrease (aligned to the MTSF Priority Five-year target)

11.8.3. The SIU has three programmes:

Table 8: SIU – programmes

PROGRAMME	RESPONSIBILITY
Administration	Responsible for the provision of business oversight and enablement services to the core business units of the SIU.
Investigations and Legal Counsel	Responsible for ensuring the adequate execution of the mandated service delivery of the SIU.
Market Data Analytics and Prevention	Responsible for the implementation of relevant and proactive initiatives to prevent the reoccurrence of fraud and corruption cases as a result of systemic weaknesses in the public sector and to positively influence the behaviour of South African citizens

11.8.4. At programme level, the SIU reports that, in 2020/21, it achieved 18 of 24 or 75% of targets, compared to 69% in 2019/20. The majority of targets not achieved related to the Administration programme.

11.8.5. Notably, under the Investigations and Legal Counsel programme, the SIU far exceeded its targets in many instances. In respect of its civil litigation work, the SIU reports the following matters pending as at 31 March 2021: 56 cases in the High Court involving contracts to the value of R62 billion and 64 cases in the Special Tribunal involving contracts valued at R7 billon.

11.8.6. At 30 September 2021, the SIU reports that it achieved 71% of targets; did not achieved 29% of targets. Two targets did not form part of planned reporting for the Quarter.

11.9. ***Linking financial and non-financial performance:***

- In 2020/21, the SIU achieved 75% of planned targets while spending 91% of the budget (4 unachieved targets related to the Administration programme and 2 to Market Data Analytics and Prevention).
- Under the Investigations and Legal Counsel programme, the SIU far exceeded its targets in many instances. For example, the rand value of actual cash and/or assets recovered was R1.8 billion against a target of R60 million, while the rand value of contracts set aside or deemed invalid was R7.1 billion against a target of R900 million.
- Despite the challenges in achieving planned targets in the Administration programme, the SIU was able to maintain its clean audit opinion.
- The SIU reports that, at present, its finances are healthy although debt recovery has been flagged as a concern.

12. South African Human Rights Commission (SAHRC)

12.1. The SAHRC's mandate is extremely broad, encompassing the promotion, protection and monitoring of human rights in South Africa. The Commission derives its mandate from the Constitution and South African Human Rights Act, 2014. The Commission also has specific obligations in terms of the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000, among other. In 2020/21, the SAHRC published its final report on work undertaken in terms of the Promotion of Access to Information Act, 2000, following the transfer of its PAIA functions to the Information Regulator in terms of POPIA.

12.2. In recognition of South Africa's core challenges – high levels of poverty, inequality, unemployment and violence – all areas of the SAHRC's work attempt to contribute to addressing each of these challenges. The identified strategic focus for the period under review includes: children and migration; civil and political rights; disability and social security; education; equality and social cohesion; health care; land, environment and the right to food; and water, sanitation and housing. Its interventions include complaints handling, strategic impact litigation, investigative hearings, public outreach, monitoring recommendations and research.

12.3. Parliament ratified the Optional Protocol to the Convention against Torture, Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) at the end of March 2019. The OPCAT obliges State parties to establish national preventative mechanisms (NPM) to monitor places of prevention of liberty through regular visits. The Commission is the co-ordinating body for the NPM in South Africa, in accordance with Article 17 of the OPCAT. The Commission received R1.68 million in 2019/20 from the Justice Department for this work.

12.4. The SAHRC has also been accredited as an Independent Monitoring Mechanism (IMM) under the Convention on the Rights of People with Disabilities (CRPD). This obligates the Commission to fully establish and ensure the functionality of the IMM, monitor and report on compliance with the requirements of the CRPD to the United Nations Committee on the Rights of Persons with Disabilities.

12.5. The MTSF highlights the need for social cohesion and a key outcome under the priority 'Social Cohesion and Safe Communities' is the implementation of the National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance. In addition, the MTSF identifies the Commission as contributing to:

- The promotion of the Constitution and its values in schools, awareness campaigns, public engagements and dialogues.
- The development of a system to ensure consistent barrier free access for persons with disabilities to justice across the justice value chain.
- Strengthening and expanding protection measures for children and for adults with disabilities in institutionalised settings, such as special school boarding facilities, mental health care facilities and residential facilities.

12.6. The SAHRC's Strategic Plan 2020-25 provides for mandate-linked strategies:

- Promotion - Enhancing human rights advocacy, visibility and awareness programmes by conducting high impact engagements to influence policy, legislation and its application; establishing strategic partnerships for capacity and collaboration; empowering communities and the public to proactively engage with human rights issues; and utilising media platforms to raise awareness and increase visibility.
- Protection – Increasingly using redress mechanisms to minimise human rights violations by instituting strategic impact litigation and proactively conducting investigative inquiries and hearings.
- Monitoring – Comprehensive human rights monitoring and impact evaluation by strengthening and applying a comprehensive monitoring system to assess the state of human rights.

12.7. The Commission has four programmes: Administration; Promotion of Human Rights; Protection of Human Rights; and Monitoring of Human Rights.

12.8. The Commission reports a vacancy rate of 19% with 161 posts filled out of 198 approved posts. (The vacancy rate in 2019/20 was 15%). At senior management level, the vacancy rate is 34%.

12.9. The Commission's Deputy Chairperson, Commissioner Priscilla Jana passed away in 2020/21.

12.10. **Audit outcome**. In 2020/21, the SAHRC received an unqualified audit opinion with emphasis of matter and findings, including errors in performance reporting and internal control deficiencies. Some of these were repeat findings: challenges within the supply chain management environment and performance information reporting remain.

12.11. ***Financial performance***

12.11.1. The Commission was allocated R200 million for 2020/21, with an adjusted budget of R191.7 million for 2020/21, increasing from R190.3 million in 2019/20 and spent R179.3 million or 90% of the allocation.

12.11.2. In 2021/22, the Commission is allocated R206 million. As at 30 September 2021, the Commission had spent R88.1 million or 42% of the allocation.

12.12. **Non-financial performance**

12.12.1. Overall, in 2020/21, the SAHRC achieved 23 or 64% of 36 targets (compared with 88% in 2019/20).

Table 9: SAHRC – Performance 2020/21

Programme	Total Targets	Actual	Percentage achievement
Administration	12	7	58%
Promotion	9	6	67%
Protection	4	3	75%
Monitoring	11	7	64%
Total	**36**	**23**	**64%**

12.12.2. Much of the Commission's focus for 2020/21 was on human rights matters emanating from Covid-19 (particularly in respect of the issues of health, education, human settlements, water and sanitation) and the consequent lockdown. The monitoring programme of the Commission was the most affected by the lockdown. (Of a total number of 11 targets for this programme, the Commission achieved seven (64%).) Other achievements include:

- Finalised 7 129 complaints.
- Meeting the South African Council of educators to discuss the integration of sexual offences registers and developments regarding the GBV Bills.
- Participating in the South Africa Local Government Association in a research process focussing on the Service Charter on Local Government in order to set out basic standards for service delivery at local government level.
- Engaging with the Housing Development Agency and the City of Tshwane concerning a commitment to complete 2000 houses.
- Distributing the Equality Toolkit across provinces and to various stakeholders.
- Entering a memorandum of understanding with the South African Depression and Anxiety Group to promote the rights of persons living with psycho-social and intellectual disabilities.

- Engaging with the South African Institute of Medico-Legal Experts to discuss challenges relating to the way in the which the Road Accident Fund dealt with claimants, undermining access to justice.
- Celebrating the 25th anniversary of the Commission's establishment through various activities.
- Undertaking a proactive investigation of the North West Department of Health's alleged debt to medical suppliers.
- Engaging with the National Student Financial Aid Schema on backlogs in applications and expanding methods of communication including remote access.
- Protecting against unlawful evictions in various provinces.
- Monitoring the response to the Commission's recommendations in the report on the Inquiry into the Sewerage Problem of the Vaal River.

12.12.3. As at 30 September 2021, the Commission reports that it achieved 73% of its targets. Highlights include:

- Convened strategic engagements on the civil unrest of July 2021.
- Initiated National Campaign on Social Cohesion, Healing and Harmony.
- Conducted workshops to promote awareness and the functionality of equality courts.
- Hosted provincial rounds of the National Schools Moot Court Competition.
- Secured undertaking to open sections of the Charlotte Maxeke Hospital in Gauteng.
- Initiated mental health awareness project focusing externally and internally.
- Hosted conference on impact of Covid-19 on children.
- Implementing resolutions from the Anti-Corruption and Human Rights Conference.
- Finalised more than 3 000 complaints and enquiries.

- Dealt with violations pertaining to citizenship, identity and stateless persons, which often create problems of access to many other services.
- Addressed service delivery complaints, especially relating to the provision of water and sanitation at local level, across the country.
- Protected employees against mandatory vaccinations at the workplace.
- Granted leave to intervene by the European Court of Human Rights in the Caster Semenya case.
- Provided protection to evicted farm dwellers and other communities
- Monitoring the implementation of the Commission's recommendations: Mental health care; Vaal River inquiry; mining-affected communities.
- Monitoring the implementation of the national vaccine roll-out strategy.
- Schools monitoring: opening of schools; Covid-19 compliance; water and sanitation provision and infrastructure; and learner teacher support material.
- Child rights monitoring.
- Monitoring under the National Preventive Mechanism.
- Monitoring observance of the rights of persons with disability and older persons.
- Completed annual report on compliance with the Promotion of Access to Information.

12.13. **Budget reductions**

12.13.1. Although the Commission did not experience a budget cut in the Supplementary/Special Adjusted Budget in July 2020, the Commission's budget was adjusted downwards by R8.4 million, to be funded from Compensation of Employees allocations.

12.13.2. The Commission's cost of employees' budget has reduced from 71% in 2020/21 to 66% in 2021/22. Ongoing mechanisms to reduce the cost of employees to the Treasury recommended rate of 60% include a review of posts as and when they become vacant, as well as organisational structure redesigning.

12.13.3.The implications of reducing the number of employees include:

- The personnel budget is aligned with the execution of the Commission's mandate, as a largely service driven organisation. Therefore, reductions in personnel budget imply reduction in operations.
- There is a high risk of retrenchments, which is undesirable, to maintain lower personnel costs.
- Certain critical posts have been eliminated including the Head of Commissioners Programme; management support to the Office of the COO.
- The Commission reports the following spending pressures and related forward funding needs:

Table 10: SAHRC Funding needs 2022 MTEF

Mandate Area	**Current (Rands)**	**2022/23 (Rands)**
National Preventive Mechanism	4 100 000	4 100 000
Independent Monitoring Mechanism	1 000 000	1 000 000
Information and Communications Technology	5 500 000	7 000 000
Human rights monitoring	2 400 000	4 800 000
Expanded Monitoring Framework: Local Government	0	2 100 000
4 IR: Digitisation and Website: Accessibility	3 000 000	3 000 000
Critical Reflection Publication – Handover	0	500 000
TOTAL	16 000 000	**22 500 000**

13. **Public Protector South Africa (PPSA)**

13.1. The Public Protector is an independent constitutional institution whose mandate, broadly, is to support and strengthen constitutional democracy by investigating maladministration or improper conduct in state affairs or the public administration in any sphere of government and to take appropriate remedial action. The Constitution also states that the Public Protector must be accessible to all persons and communities.

13.2. The PPSA's Vision 2023 is underpinned by the following pillars:

- Enhancing access to (PPSA) services.
- Engaging targeted communities in their mother tongue.
- Expanding the (PPSA's) footprint.
- Leveraging stakeholder relations and formalising those relationships in Memoranda of Understanding.
- Projecting the image (of the PPSA) as being a safe haven for the downtrodden.
- Empowering people to understand their rights.
- Encouraging organs of state to establish effective internal complaints resolution units.
- Turning communities into their own liberators.

13.3. The PPSA has adopted a Strategic Plan 2020-2025 in terms of which it seeks to have the following impact: 'Empower everyone at all levels of society to effectively engage organs of state about any injustice, service delivery failure or improper conduct and assist organs of state to establish and maintain efficient and effective governance and administration'.

13.4. Due to the Covid-19 pandemic and measures in place to deal with it, the PPSA had to adjust its targets, especially within the Stakeholder Management

Programme. A revised 2020/21 Annual Performance Plan was tabled in the National Assembly in August 2020.

13.5. ***Human Resources***: As at 31 March 2021, the PPSA had 336 employees with approved posts of 356. The vacancy rate is 4.8%.

13.6. ***Audit outcome.*** The PPSA achieved a clean audit opinion once more in 2020/21.

13.7. ***Non-financial performance.*** The PPSA reports that it achieved 10 of 12 or 83% of its targets for 2020/21, improving from 79% of targets for 2019/20. Certain targets were revised downwards or removed as a result of the lockdown restrictions

13.8. In terms of caseload, the PPSA experienced a decline in the number of complaints received from 5108 compared to 10 111 complaints received in 2019/20), while finalising 6 927 matters (compared with 11 643 in 2019/20).

13.9. ***Financial performance***

13.6.1. In 2020/21, the PPSA was allocated R339 million, which was adjusted downwards by R16.1 million from its compensation of employees' budget. This prevented the PPSA from filling critical vacancies or address ongoing issues with the aging ICT infrastructure.

13.6.2. At the end of R2020/21, a virement of R30.5 million from the Department assisted the PPSA to prevent unauthorised expenditure. This is the fourth consecutive year in which a virement has been made from the Department to the PPSA to prevent shortfalls.

13.6.3. In 2021/22, the PPSA's baseline is reduced by –R28.7 million and over the MTEF period by R-R85.1 million. is allocated R341.8 million, compared to R322.6 million in 2019/20. A total of 77.8% or R266 million is for compensation of employees, while the goods and services budget is R72.6 million or 21.2% of the overall budget.

13.6.4. For some years, the PPSA has indicated that it requires additional funding for the following priorities:

Table 11: Public Protector – additional funding needs

Description	2022/23	2023/24	2024/25	Reason
	R'000			
Critical positions	6 973	19 941	19 942	Unfilled vacancies (>33) as a result of budget constraints
Subject matter experts	1 000	1 000	1 000	Subject-matter experts needed for complex investigations requiring specialised skills.
Security (provincial and regional offices)	6 127	6 446	6 774	No security at 17/18 offices
PABX	300	300	300	Currently 6 out 18 offices have new PABX system being installed with new telephone management system. Due to budget constraints 12 offices do not have adequate telephone system
Skills Development	2 000	2 000	2 000	Cannot meet the 1% of the payroll budget as per the Skills Development Act
Total	16 400	29 687	30 016	

Part 4:

Committee Observations

14. **Committee observations**

The Committee makes the following observations:

14.1. ***Funding***

14.1.1. The Committee is acutely aware of the extremely constrained fiscal environment. Nonetheless, we believe that there should be careful consideration of how, in particular, the reduced salaries' budget, implying a further reduction of capacity, will affect the overall effectiveness of our legal system, which relies heavily on warm bodies to deliver a wide range of services.

14.1.2. The Committee is also aware that any recommendations concerning funding for the coming MTEF period must take into account how well the resources already allocated have been put to use. With the notable exception of the SIU, performance and spending for 2020/21 has declined and in some instances is poor. However, it would be very unfair to not take into account how Covid-19 restricted the operations of our institutions. And it shouldn't be forgotten that all institutions have lost officials to Covid-19 and many officials have been seriously ill.

14.1.3. The Committee agrees with the NDPP's observation that the NPA's progress has been patchy and too slow. Still the Committee is encouraged by the commitment of the NPA's leadership to rebuilding the institution. The NPA's presentation of its performance, its frank engagement with the Committee on the challenges it has and the measures it has already, or plans to, put in place is promising. The NPA is well aware of the high expectations on it to deliver results, especially in tackling corruption and gender-based violence, but without the resources to address obstacles, such as capacity issues and expertise, these expectations are and will remain unreasonable. The Committee, therefore, repeats that it is opposed to any reduction to the NPA's budget, as this threatens the painstaking gains that have been made so far.

14.1.4. The Committee also notes the additional funds that the NPA requires for the Independent Directorate and for witness protection, and supports the request.

14.1.5. The Information Regulator reports that it will experience a shortfall if it is to grow its establishment as planned in order for it to be adequately capacitated to perfrom its duties as our data protection regulator and to undertake its PAIA mandate. The Committee, therefore, supports the additional funds required for this purpose.

14.1.6. Legal Aid SA, which is tightly and responsibly managed, can no longer absorb the budget shortfall/cuts through further efficiencies and cost containment measures. The only recourse has been to reduce the staff establishment, which is reflected in the lower recruitment rate. A reduction in the number of its legal practitioners will significantly impact on service delivery, resulting in an increase in pending matters and case backlogs in criminal courts, a reduction in the number of clients assisted in civil matters and advice matters and the further effect of compromising the quality of legal services. This compromises the constitutional obligations to make State-funded legal services available if substantial injustice would otherwise result. The Committee does not believe that it is an efficient or effective use of resources within the criminal justice system to reduce the number of legal aid practitioners, as it is likely to lead to more postponed criminal matters due to the unavailability of legal representation, in so doing increasing the number of awaiting trial detainees in our correctional centres and the length of their stay (for all of which the State pays). The reductions will also affect Legal Aid SA's ability to render services to the most vulnerable in our society through it civil work programme.

The Committee notes that Legal Aid SA will also require additional funds for the new Land Rights Management Unit.

The Committee, therefore, does not support any proposal to reduce Legal Aid SA's budget for the 2022 MTEF and supports the allocation of additional resources to allow Legal Aid SA to undertake the function of providing legal services to the indigent seeking land justice.

14.1.7. The Committee is extremely concerned by the impact of the cuts that have been made to the SAHRC and PPSA's budgets and does not support further cuts over the MTEF. Chapter 9 institutions are historically underfunded and, therefore, already have modest budgets that just cannot easily absorb budget cuts/reductions.

The Committee repeats its view that the decision to apply the budget cuts to the baseline allocation of a Chapter 9 institutions should carefully consider their unique and vital contribution towards strengthening our constitutional democracy, as well as the duty placed on other state institutions to assist them. The Committee, therefore, opposes any proposal to cut their budgets further over the MTEF.

The Committee observes once more that the matter of an appropriate funding model for the Chapter 9 institutions needs to be addressed.

14.2. ***Department of Justice and Constitutional Development***

14.2.1. The Committee remains gravely concerned by the lack of progress the Department has made in the year under review despite repeated commitments to do better. Plainly, its performance continues to be dismal, even taking into account the impact of Covid-19. The Department received a qualified audit opinion for the fifth consecutive year; achieved only 70% of its planned targets; and considerably underspent on its budget. The Committee has repeatedly expressed concern about the number of vacant positions in senior management, linking this to the Department's poor performance in past years.

14.2.2. On 11 February 2021, however, the appointment of a new Director-General (DG), Advocate Mashabane was announced, the position having been unfilled for more than a year. Other important appointments include the posts of Deputy Director-General: Corporate Services, Ms C Mamentja, and Chief Master, Advocate M Mafojane. The Committee, therefore, welcomes the steps that have been taken to stabilise the Department's leadership through these and other appointments to key positions and is generally pleased by the present rate of recruitment at senior management level.

23.1.1. The Committee appreciates the DG's frankness, as well as the considerable efforts so far by the Department's top officials to formulate a plan to reverse the underperformance. However, we believe the task to be monumental, requiring assistance from an independent and expert body. For this reason, the Committee draws attention to the recommendation in the 2020 BRRR that the Public Service Commission be approached to evaluate the Department so as to identify the reasons for the Department's non-performance and any systemic challenges, and report to the House on its findings and recommendations. The DG has reported that he met with the Chairperson of Public Service Commission, and that the Department's senior management had asked for 100 days to implement the turnaround plans, ending June 2021. Nonetheless, the Committee believes that the intervention is urgent, especially as serious internal control and other challenges have been exposed by, among others, the recent ransomware attack that crippled justice services, threatening the rule of law and, therefore, the country's security. There is no time to waste.

For its part, the Committee will continue to monitor progress very closely and will not hesitate to hold the Executive and top management to their commitments when doing so.

14.3. ***Audit Turnaround and Stabilisation Plan***. The Committee notes the qualification on contingent liabilities in the State Attorney environment. Although action plans have been made to address the issue, these have not been adequately monitored. There were also findings, some of them repeat, which again indicate that audit action plans and a culture of consequence management have not been exercised effectively. Since 2019, we have questioned the Department's commitments and interventions to reverse the audit opinion and again request the DG to provide the details of the commitments made, the interventions planned, as well the progress of these plans, by no later than 31 January 2022.

14.4. ***Accountability.*** The Committee has repeatedly highlighted the importance of consequence management and therefore, asks that it be given a consolidated report of all outstanding disciplinary matters so that it may track progress going forward by 30 Januaury 2022.

14.5. ***ICT infrastructure and Integrated Justice System (IJS) programme***.

14.4.1. The Committee has welcomed the focus on modernisation and digitisation projects for improved efficiency and effectiveness and for improved service delivery. We are, therefore, alarmed by the vulnerability of the Department's ICT infrastructure, which was publicly exposed by the September ransomware attack. The Committee appreciates the Department's difficulty in openly sharing details of the incident and the steps that have been taken to repair the damage and prevent another cybersecurity breach, but requests a report that addresses the adequacy of: the measures taken to repair the damage caused and to prevent a future attack; and the adequacy of the available IT capacity by no later than 31 January 2022.

14.4.2. The Committee intends to engage with the Department on the various aspects of its modernisation programme and on the IJS and will arrange a meeting as soon as its programme permits.

14.6. ***Court infrastructure and planned maintenance.*** The Committee notes that the Department reports completing the Durban Family Branch Court in KwaZulu-Natal and Dimbaza Magistrates Court in the Eastern Cape.

There has been a tendency not to make adequate provision for planned maintenance – instead savings from the capital works budget are reallocated to planned maintenance for that purpose. The Department of Public Works and Infrastructure (DPWI) reports that of 2 873 justice buildings, only 47 are in a 'very good condition; 544 in a good condition; 1 897 in a fair condition; and 57 in a very poor condition. The Department reports that the DPWI is unable to keep up with the backlog as a result of cuts to the maintenance budget cuts. Consequently, the Department plans to enter into term contracts for general building works, plumbing and fire services. The Department has also requested an increase in the financial delegation from R100 000 to R500 000 to allow it to undertake more of its own maintenance work. There is also a framework that is being developed to guide engagements between the Department and DPWI.

The Committee requests that the Department provide a comprehensive progress report on its infrastructure programme, as well as its maintenance programme by 31 January 2022 and continue to report on progress as part of the quarterly reporting process.

14.7. ***Transformation of State Legal Services.*** The Committee has been briefed on the progress of the SIU investigation of the Office of the State Attorney and will continue to regularly monitor the progress of the investigation.

14.8. ***Gender-based Violence (GBV)***

14.8.1. The Committee notes that in the Department had planned to designate 27 regional courts as sexual offences courts in 2020/21. Although 32 instead of 27 regional courts were upgraded, we understand an administrative glitch prevented their designation. This was rectified subsequently but we noted previously that there has been some concern from civil society about whether the upgrades are good enough.

The Committee also notes that the Western Cape and Eastern Cape recorded the highest backlog of sexual offences matters. We ask the Department to provide it with the number of GBV backlog cases currently on the roll and the plans to reduce the backlog, in the form of a written report by 31 January 2022.

14.8.2. The Committee has also previously noted the Justice Rapid Results Challenge that has been piloted at selected courts, intended to rapidly eradicate backlog domestic violence cases. The Committee had requested more information on the initiative and whether it has been or will be expanded to other courts, and repeats its request.

14.8.3. The Committee also notes that the Department has tabled its 2020/21 Report on the Implementation on the Criminal Law Sexual Offences and Related Matters Act and believes that consideration of its contents will provide an opportunity for focused engagement on this issue. The Committee will arrange a briefing on the Report as soon as its programme permits.

14.9. ***Legal Services ombud.*** The Committee notes the appointment of Judge Siraj Desai as the Legal Services Ombud during 2020/21 and requests a progress report on the provision of a structure to provide the necessary support to the Judge by 31 January 2022.

14.10. ***Master's Office.*** The Committee has repeatedly noted the many problems at the Master's Office, which have been exacerbated by the Covid-19 precautionary measures. The Committee noted the appointment of the new Chief Master in October 2020, providing the necessary leadership to the Office and met with him earlier this year. However, the overall vacancy rate in the Master's Office is high, with insufficient staff to deal with matters. The Committee, therefore repeats its request for a report detailing the vacancies and the plan to fill the positions by 31 January 2021.

The Committee has also noted that the Department's plan to invest in ICT technology to speed up the processing of matters in the Office and requests further information on these plans, in writing, by 31 January 2022.

The Committee has met with the SIU to be briefed on its investigation of alleged irregularities at the Master's Office and will continue to monitor the progress of the investigation. The Committee notes the SIU's preliminary recommendations to address systemic challenges in the Master's office.

14.11. ***Justice College.*** The Committee requests the Department to provide an updated report on the progress of its plans regarding Justice College by 31 January 2022 and be prepared to report quarterly on this item.

15. National Prosecuting Authority

15.1. ***Budget reductions***. The Committee opposes any attempt to reduce the NPA's budget. Again, the Committee highlights the NPA's key role in efforts to rebuild our economy and society. The NPA is committed to the JCPS Economic Recovery Plan, however, under-resourcing will render the strategy ineffective and the NPA unable to address corruption, GBV and organised crime.

15.2. The NDPP previously told the Committee that she had found the NPA under-resourced in terms of skills, capacity and funding. The Committee notes that the initiatives reportedly underway to address these challenges include establishing an Office for Complaints and Ethics (OCE) to assist in promoting the accountability of all NPA staff; establishing an Innovation, Policy and Support Office (IPSO); establishing 22 community prosecution sites as part of the Community Prosecution Initiative (CPI) that focus on important crime and public safety issues, such as GBV, stock-theft and crime driven by alcohol/drugs; developing a policy on Non-Trial Resolutions (NTR) providing for trial agreements; developing a prosecution prioritisation policy as targeting the strategic prosecution of organised criminal gangs involved in housebreaking and house robberies can have a disproportionate impact in terms of the prevalence and fear of crime; and enhancing NPA communication.

15.3. ***NPA's performance.*** The Committee welcomes the NDPP's honesty about the NPA's performance not being at the level it should be for reasons that were presented. The Committee also acknowledges that the NPA had previously warned the Committee that Covid-19 would affect the NPS' performance in particular. Although the Committee is disappointed and is especially concerned about the AFU's performance, it accepts that it will need to be patient for now.

15.4. ***Asset Forfeiture Unit***. The Committee notes the AFU's poor performance. Many of the AFU's prosecutors and investigators were moved to the Independent Directorate, and therefore, the AFU has a high vacancy rate for both prosecutors and investigators. The appointment of Adv. Rabaji Rasethaba to head the AFU is the first step in addressing the situation and there is a process underway to develop a turnaround strategy.

15.5. ***Strengthening the independence of the NPA.*** At the beginning of the 6th Parliament, the NDPP indicated that it is not satisfactory for the NPA to have the Director-General: Justice and Constitutional Development as its accounting officer. The Committee requests that it be kept updated on the progress of discussions to give effect to the NPA's operational independence.

15.6. ***Recruitment.*** The Committee requests that it be provided with an update on the progress of the NPA's recruitment drive.

15.7. ***Corruption-related cases***. The Committee welcomes the continued prioritisation of corruption cases for swift finalisation and the reorganisation of resources to that end.

16. Information Regulator

16.1. The Committee welcomes the commencement of the remaining sections of POPIA with effect from 1 July 2021.

16.2. The Regulator is a relatively new organisation and, as such, is still busy setting itself. However, now that the Act is fully operational, it is vital for the Information Regulator be adequately funded so that it is able to provide guidance as South Africa goes about establishing its data protection regime. Furthermore, the Committee believes that a well functioning data protection regime is vital to international trade and, therefore, will contribute to South Africa's access to economic opportunities and growth. At the same time, the Regulator's continued under-expenditure is concerning as it suggests difficulties in its capacitation.

16.3. The Committee does not understand why it is taking so long to resolve the Information Regulator's status in terms of the PFMA. The resolution of this issue is key to the Regulator being able to function independently from the Department and is a blockage in the Information Regualtor's attempts to adequately capacitate itself and to its operations. The Committee intends to arrange a meeting with the Ministers of Justice and Finance in an attempt to fast-track a solution.

17. **Legal Aid South Africa**

17.1. ***Budget reductions***. The Committee does not support any reduction to Legal Aid SA's baseline for the 2022 MTEF and is concerned about how the budget reductions of R534 670 over the MTEF period 2021/22 – 2023/24 will result in a reduction in the coverage of courts and delivery of legal aid services to indigent and vulnerable persons, affecting the ability of Legal Aid SA to fulfil its mandate. The entity has budgeted for a lower recruitment rate and implemented a staff rationalisation programme to avoid over-expenditure on this item. The Committee cannot feel that Legal Aid SA's importance as a strategic partner in our criminal justice system is not fully recognised when decisions are made concerning the allocation of resources. Our legal system is adversarial, which requires that both the State and accused are represented in a matter.

17.2. ***Land justice***. The Committee has previously expressed its approval that the legal representation function (and related budget) currently undertaken by the Department of Agriculture, Land Reform and Rural Development is finally to be transferred to Legal Aid SA, in order to assist the indigent that seek land justice. It is concerning that although plans are under way to secure the funding for the transfer of the functions to Legal Aid SA from 1 January 2022, if the funding is not made available, Legal Aid SA will not be able to take over the function in January 2022 as planned. Legal Aid SA has projected that the function will require R114 million for 2022/23 and approximately R97 million per annum after that.

17.3. **Audit outcome**. *The Committee congratulates Legal Aid SA on its achievement in maintaining a clean audit opinion.*

17.4. **Civil work**. Legal Aid SA's budget goes largely towards funding legal representation of accused in criminal matters, as there is a constitutional obligation on the State to assist accused persons without legal representation. The Committee appreciates the many efforts that Legal Aid SA has taken to stretch its capacity to undertake civil work to the very limits but that this capacity is at risk as a result of the budget reductions. The Committee, however, feels very strongly that funding should at least *maintain the current level of legal assistance provided in civil matters.*

17.5. **Employment equity targets.** The Committee notes that Legal Aid SA remains challenged in meeting its employment targets for African females at Top and Senior Management levels. Employees with disabilities are also under-represented at 1.6%. The Committee will continue to monitor progress.

18. Special Investigating Unit

18.1. ***Audit outcome.*** The Committee congratulates the SIU for its excellent audit results.

18.2. ***Personnel.*** The Committee has expressed itself previously on the need for the SIU to meet employment equity targets, in particular, regarding the employment of women in the professional qualified category and persons with disabilities. Although the Committee appreciates the SIU's commitment to address its challenges in this regard, as reflected in its plans, it is puzzling that there has been so little progress but will continue to monitor progress closely.

18.3. ***Funding model.*** The Committee notes that, for several years, there have been proposals to amend the SIU's enabling legislation and urges that these be finalised as soon as possible.

18.4. ***Debt recovery.*** The Committee notes the ongoing difficulties that the SIU has recovering monies owed to it by state institutions for its services and that this poses a significant risk going forward. Although the SIU is in a very healthy financial situation at present, this is especially concerning given the the possibility that the SIU, like all organs of State, may experience cuts in future and faces difficulties in recovering money owed to it for its services.

18.5. ***Performance.*** The Committee commends the SIU on its outstanding performance in tackling corruption and recovering monies and value back to the State, under the Investigations and Legal Counsel programme. For example, the rand value of actual cash and/or assets recovered was R1.8 billion against a target of R60 million, while the rand value of contracts set aside or deemed invalid was R7.1 billion against a target of R900 million.

19. **South African Human Rights Commission (SAHRC)**

19.1. ***Audit outcome***. The Committee welcomes the SAHRC's achievement in receiving an unqualified audit outcome but urges the Commission to address the Auditor General's findings. It is concerning that there are repeat findings, in particular as this indicates that audit action plans and consequence amangement are not effective.

19.2. ***Performance***. The decline in the Commission's performance is concerning, albeit that this is in part due to the impact of Covid-19 on the Commission's operations.

19.3. ***Whistleblowers.*** The Committee notes with interest and would be interested in the response to the Commission's recommendations concerning improved protection to whistleblowers, broadly that a specialised unit be established tasked with protecting the rights of whistleblowers. There should also be a campaign that promotes whistleblowing to ensure that they feel protected.

19.4. ***Budget reductions***. The Committee does not support the proposed budget reductions in the case of the SAHRC. The Covid-19 pandemic has laid bare the extreme inequality that characterises our society. The need for the Commission's intervening presence, given the degree of social conflict that is evident within our society, is more important than ever before. The Committee notes too the Commission's investigations and hearings have resulted in a deep understanding of the challenges that our society faces, which has the potential for many positive interventions towards upholding human rights. The Committee believes more should be done to ensure that the Commission's reports are taken up and acted on.

19.5. ***Budget shortfall***. The Committee notes the Commission's presentation of its forward funding needs, the details of which are captured elsewhere in this report.

20. **Public Protector South Africa**

20.1. ***Audit Outcome***. The Committee commends the PPSA for maintaing a clean audit opinion.

20.2. ***Budget reductions***. The Committee does not support budget reductions in the case of the PPSA, as already discussed.

20.3. ***Budget shortfall.*** The Committee notes that the PPSA continues to maintain that the current budget is inadequate. The PPSA's funding needs are recorded elsewhere in this report. In this regard, the Committee has previously supported increased funding for the PPSA.

20.4. ***Litigation***. The Committee once more requests that the PPSA keep it informed of the number and progress of review applications and the associated litigation costs.

21. Recommendations

21.1. The Committee does not support budget reductions in the case of the NPA, Legal Aid South Africa and the SIU. The Committee is gravely concerned at the potential of the reductions to undermine the contributions of each of these organisations to the maintenance of the rule of law. The Committee gives reasons to support its recommendations in each instance elswewhere in the report.

21.2. The Committee also supports the allocation of additional resources for Legal Aid SA to establish a Land Rights Management Unit that can provide legal services to poor and vulnerable persons seeking land justice. The amounts required are set out esewhere in the report.

21.3. The Committee supports the allocation of additional resources to the Information Regulator for it to be able to capacitate itself, as detailed elsewhere in the report.

21.4. The Committee does not support the proposed application of budget reductions in the case of the SAHRC to prevent any further loss of human resource capacity and to enable it to maintain its existing activities. The Committee gives detailed reasons to support its recommendation elsewhere in the report.

21.5. The Committee supports the additional forward funding needs presented to it by the SAHRC.

21.6. The Committee does not support the application of budget reductions in the case of the PPSA and provides reasons for this elsewhere in the report.

21.7. The Committee also recommends that special consideration be given to allocating additonal funds to the PPSA as requested. The amounts and the purpose for which the funds are required are set out elsewhere in the report.

21.8. The Committee recommends that the House looks into the matter of an appropriate funding model for the Chapter 9 institutions as recommended by Report of the ad hoc Committee on the Review of Chapter 9 and Associated Institutions, 2007.

21.9. The Committee recommends that the House resolve to request the Public Service Commission to evaluate the Department to identify the reasons for the Department's non-performance and any systemic challenges, and report to the House on its findings and recommendations as a matter of urgency.

22. Appreciation

22.1. The Committee thanks the Minister and Deputy Minister, the Director-General and all officials who appeared before the Committee for their co-operation.

22.2. The Committee thanks the National Director of Public Prosecutions and all officials who appeared before the Committee for their co-operation in this process.

22.3. The Committee also wishes to thank the Public Protector and Deputy Public Protector; the Chairperson and Commissioners of the South African Human Rights Commission; the Board Members of Legal Aid South Africa; the Head of the Special Investigating Unit; and the Chairperson and Members of the Information Regulator, as well as all respective officials that appeared before the Committee for their co-operation.

22.4. The Committee thanks the representatives of the various audit committees that appeared before the Committee.

22.5. The Committee wishes to thank the Auditor General South Africa for the support it provided to the Committee.

Report to be considered

National Council of Provinces

1. REPORT OF THE SELECT COMMITTEE ON APPROPRIATIONS ON THE *DIVISION OF REVENUE AMENDMENT BILL* [B19 – 2021], DATED 03 DECEMBER 2021

The Select Committee on Appropriations having considered the *Division of Revenue Amendment Bill* [B19 - 2021] (National Assembly – section 76), reports as follows**:**

1. Introduction

The Minister of Finance tabled the *Division of Revenue Amendment Bill* [B19 – 2021] (hereafter referred to as the Bill) in Parliament on 11 November 2021 together with the 2021 Medium Term Budget Policy Statement (MTBPS). The Bill was tabled in terms of Section 12(4) of the Money Bills and Related Matters Act No. 9 of 2009 (as amended by the Money Bills and Related Matters Amendment Act, No 13 of 2018). The Act requires the Minister of Finance to table a Division of Revenue Amendment Bill with a revised fiscal framework if the adjustments budget effects changes to the Division of Revenue Act for the relevant year. The Bill and its annexures address the following:

- Changes to provincial allocations;
- Changes to local government allocations; and
- Changes to gazetted conditional grant frameworks and allocations.

2. Process followed

The Bill was transmitted to the National Council of Provinces (NCOP) and referred to the Committee on 30 November 2021 after the National Assembly adopted it. The Committee received a briefing from National Treasury on the Bill in its entirety on 25 November 2021. Provinces were invited to this meeting and were also individually briefed by Permanent Delegates on 01 December 2021. Negotiating mandates were submitted and considered on 02 December, and final mandates on 03 December 2021.

3. Public consultations and stakeholder engagements

To facilitate public participation, the Committee published adverts, calling for public comment on the Bill, in print media in all 11 official languages from 18 November to 26 November 2021. In response, a written submission was received from the Congress of South African Trade Unions (COSATU). COSATU also made an oral presentation during a public hearing on 30 November 2021. In compliance with Section 214(2) of the Constitution and Section 10(4) of the Intergovernmental Fiscal Relations Act No.97 of 1997, the Committee consulted the Financial and Fiscal Commission (FFC) and the South African Local Government Association (Salga) on the Bill, and was was also briefed by the Parliamentary Budget Office (PBO).

4. *Division of Revenue Amendment Bill* [B19 – 2021]

National Treasury has reiterated that provinces are responsible for basic education and health services, roads, housing, social development, and agriculture. Municipalities provide basic services such as water, sanitation, electricity reticulation, roads and community services. National Treasury also explained that provincial and municipal governments face multiple pressures over the medium term as government reduces spending growth, and poor economic performance affects other revenue and funding sources. Consequently, over the 2022 Medium Term Expenditure Framework period (MTEF), transfers to provinces and municipalities will grow below inflation.

Table 1: Equitable division of revenue among spheres of government

Spheres of Government R'000	2021/22 Original Allocation	Adjusted amount	2021/22 Adjusted Allocation
National*	1 232 566 664	43 977 021	1 276 543 685
Provincial	523 686 351	21 148 560	544 834 911
Local	77 999 135	-	77 999 135
Total	**1 834 252 150**	**65 125 581**	**1 899 377 731**
* National share includes conditional grants to provincial and local spheres, general fuel levy, debt service costs and the contingency reserve.			

Source: National Treasury (2021a)

The additional R21.15 billion to the provincial equitable share is comprised of -

- R14.68 billion added to assist provinces to implement the wage agreement of the Public Service Co-ordinating Bargaining Council for the 2021/22 financial year; and
- R6.47 billion added through the Presidential Youth Employment Initiative as follows:

- R6 billion to employ Education Assistants and General School Assistants at public ordinary and public special schools.
- R350 million for the employment of Staff and Assistant Nurses, who will fulfil the responsibilities required in the COVID-19 vaccination programme, COVID-19 wards, High Care Units, patient observation and other duties as required.
- R120 million for the contracting of Social Workers as part of a short-term response to unemployment among social work graduates.

Over the next three years, government proposes to allocate 48.4 percent of available non-interest expenditure to national departments, 42 percent to provinces and 9.6 percent to local government. This means that the national sphere's resources will contract by an annual average of 1.8 percent, while provincial and local government resources increase by 4.1 percent each.

Table 2: Proposed changes to provincial government allocations

Province R'million	2021/22 Original Allocation	Adjusted amount	2021/22 Adjusted Allocation
Eastern Cape	68 060	2 889	70 949
Free State	29 055	1 288	30 343
Gauteng	111 429	4 192	115 621
KwaZulu-Natal	107 126	4 465	111 591
Limpopo	60 028	2 529	62 557
Mpumalanga	42 828	1 715	44 543
Northern Cape	13 919	550	14 469
North West	36 793	1 502	38 295
Western Cape	54 448	2 019	56 467
Total	**523 686**	**21 149**	**544 835**

5. Changes to provincial conditional grants

The proposed additions to direct provincial conditional grant transfers amount to R588.65 million and reductions amount to R10 million. The net effect is an additional R578.65 million for the 2021/22 financial year. The net effect of the proposed adjustments to indirect provincial conditional grant transfers is a reduction of R447.65 million for the 2021/22 financial year.

5.1 Additions

- R167.42 million is added to the HIV, TB, Malaria and Community Outreach Grant to allow provinces to procure directly for the provision of mental health and oncology services. The additional amount is converted from the personal services component of the National Health Insurance Indirect Grant.
- R243.22 million is added to the Statutory Human Resources, Training and Development Grant as part of the statutory obligation to place medical interns upon the completion of their studies. The additional amount was reprioritised from various components of the National Health Insurance Indirect Grant.
- R178 million is added to the Early Childhood Development Grant to provide unemployment risk support to 70 000 early childhood development related workers impacted by the COVID-19 lockdown, to supplement their income.
- A net amount of R113 million is added to the School Infrastructure Backlogs Grant to complete projects that are part of the Sanitation Appropriate for Education Initiative. This initiative is aimed at replacing and removing inappropriate and unsuitable sanitation, including pit toilets at schools. The funds are specifically for schools in the provinces of the Eastern Cape, Free State, KwaZulu-Natal and Limpopo.

5.2 Reductions

- A reduction of R10 million is effected to the Health Facility Revitalisation Grant allocation of the Western Cape due to delays in the appointment of professional service providers for building design with regard to the Klipfontein Hospital.
- A reduction of R560.65 million is effected to the National Health Insurance Indirect Grant, comprised of the following:
  - R243 million reduction to fund medical interns;
  - R167 million reduction to allow provinces to procure directly for the provision of mental health and oncology services; and
  - R150 million reduction due to delays with the Limpopo Academic Hospital project.

5.3 Roll-overs

R210 million of the 2020/21 School Infrastructure Backlogs Grant allocation was rolled over to complete projects under the Sanitation Appropriate for Education Initiative that were not completed at the 2020/21 year-end. R97 million of the roll-over funding is reprioritised and allocated to the Department of Basic Education to fund a shortfall in the provision of workbooks. There is an increased demand for language, mathematics and life skills workbooks due to changes in teaching and learning practices in public schools, whereby greater emphasis is placed on learners working on their own at home due to a rotational attendance timetable implemented by schools to allow for the required social distancing as necessitated by COVID-19 regulations.

6. Changes to local government conditional grants

Proposed additions to the local government conditional grant transfers for the 2021/22 financial year amount to R1.50 billion and total reductions amount to R1.34 billion. The proposed adjustments result in a net addition of R164 million for the 2021/22 financial year.

6.1 Additions

- A net amount of R751 million is added to the direct Neighbourhood Development Partnership Grant. The funding is for local government to create 32 663 jobs through precinct management, community safety, place-making, greening, integrated waste management and digitalisation, with a special focus on poor and marginalised areas and economic nodes.
- R81 million is added to the 2021/22 direct Regional Bulk Infrastructure Grant allocation of the George Local Municipality. The funding is for the implementation of the portable water security and remedial works project.
- R90 million is added to the indirect Neighbourhood Development Partnership Grant to fund project preparation, planning and implementation for municipalities facing implementation challenges. The funding is specifically targeted to support the City of Johannesburg, Mogale City Local Municipality, Kwa-Dukuza Local Municipality, West Rand District Municipality, Sol Plaatjie Local Municipality, Ray Nkonyeni Local Municipality and the City of Cape Town. The additional amount was reprioritised from the direct Neighbourhood Development Partnership Grant.

6.2 Reductions

A sum of R1.34 billion is reduced from the 2021/22 Public Transport Network Grant allocation of the City of Cape Town, to align the funding to the revised implementation plan of phase 2A of the MyCiti bus rapid transit system.

6.3 Roll-overs and reprioritisation

- R582 million of the 2020/21 direct Regional Bulk Infrastructure Grant allocation was rolled over to fund the operational payments for the Vaal River pollution remediation project in the Emfuleni Local Municipality.
- R90 million was reprioritised from the direct Neighbourhood Development Partnership Grant and allocated to the indirect Neighbourhood Development Partnership Grant to fund project preparation, planning and implementation for municipalities facing implementation challenges.

7. Stakeholder submissions

7.1 Financial and Fiscal Commission (FFC)

The FFC submitted that the 2021 MTBPS proposed a total provincial allocation of R1.9 trillion over the 2022 MTEF, representing a nominal 3 percent increase from the 2021 budget allocation. The FFC added that data showed that the 2022 allocations to the provincial sphere of government are yet to recover to the 2020/21 total provincial baseline allocation. FFC commented that, compared to the 2021 budget, the provincial total allocation had been revised upwards by R20 billion in the 2021 MTBPS, mainly to cater for compensation of employees (COE) adjustments. The FFC further stated that, in line with the government goals of budget consolidation, the equitable share was projected to decrease slightly in 2022/23 and 2023/24 before recovering to a level above the 2021 MTBPS revised allocation. The FFC highlighted that the decrease was mainly based on the assumption that the provincial COE baselines should remain repressed.

The FFC commented that the provincial conditional grant allocations were is also expected to remain stagnant over the 2022 MTEF, as the government continued with expenditure moderation. The FFC further submitted that it welcomed the proposal to rationalise various sub-components of the HIV, TB, Malaria and Community Outreach Grant. This would minimise the grant administration and provide provinces with sufficient flexibility to spend the grant in accordance with their respective needs. The FFC commented that it was currently conducting research on repurposing and realigning the system of conditional grants, both with regard to the design and the efficacy of grants. The FFC advised the Committee that expenditure moderation must be followed by comprehensive reports from the affected departments indicating to Parliament how they intend to manage tighter budgets and cushion delivery of essential social services.

On the local government fiscal framework, the FFC submitted that, over the 2021 MTEF, the local government sector was allocated R450.6 billion, divided into R254 billion in the form of unconditional grants and R149.7 billion in conditional grants. The FFC added that the total allocations were projected to decrease by 0.12 percent in real terms over the MTEF. The FFC pointed out that considering the poor growth in local government transfers, there was a need to prioritise own revenue-raising capacity by municipalities, to ensure sustainable service delivery. Municipalities should be encouraged to pursue alternative revenue sources.

The FFC submitted that the total local government equitable share (LGES) allocation was expected to increase from R78.0 billion in 2021/22 to R87.3 billion in 2024/25; and highlighted that, on average, the LGES would register a -0,4 percent growth over the 2021 MTEF. The Commission stated that it was concerned with this projected decrease, as such a trend would compromise the progressive realisation of the basic rights of poor and vulnerable households who depend on transfers for services.

The FFC welcomed the additional allocation of R841 million to the direct component of the Neighbourhood Development Partnership Grant (NDPG) allocated for the Presidential Youth Employment Initiative to create jobs, given the high levels of unemployment in the country, especially among the youth. However, the Commission recommended some consolidation of grants meant to support labour-intensive delivery of infrastructure services to municipalities.

On reprioritisation, the Commission noted the in-year conversion of a component of the Municipal Infrastructure Grant to an indirect grant in municipalities identified as being in crisis. The FFC commented that although the targeted municipalities were in crisis, in principle it would caution against converting direct to indirect grants, as it assumed that government departments would perform better. The FFC added that its previous submissions had shown that indirect grants did not necessarily perform better than direct grants. On the contrary, the reverse was true. The FFC highlighted the need to have principles in place to guide the reclassification of grants from direct to indirect, and *vice versa*. The FFC also underscored the need for building municipalities' capacity so that they could utilise direct grants and the use of indirect grants was a matter of last resort.

7.2 South African Local Government Association (Salga)

Salga noted that the revenue for the 2021/22 financial year was now estimated to reach R1.5 trillion, compared to R1.4 trillion presented during the 2021 Budget. This was an upward revision of R120.3 billion. Salga further noted that these temporary benefits were projected to fall short of pre-COVID-19 expectations over the medium term and weak growth in all tax categories. Moreover, the MTBPS showed that there were 27.8 million social grant recipients, which accounted for about 46 percent of the population, whilst the number of people working had declined.

On the revised budget allocation, Salga noted that the local government share from nationally raised revenue contracted to 8.5 percent compared to 9 percent allocated through the 2021 Budget. In monetary terms, the allocation was R137.6 billion compared to R138.1 billion tabled in February 2021. Salga added that despite these reductions, organised local government was of the view that there was a need to reduce the deficit and provide additional short-term support for health, social protection, job creation, and peace and security. Salga welcomed the increase in the allocation to the local sphere of government for the 2022/23 to 2023/24 financial years of R0.7 billion, or 0.2 percent, to R295.2 billion when comparing the MTBPS to the 2021 Budget.

Despite the reductions, Salga acknowledged the tough economic outlook and limited fiscal space that had been exacerbated by the significant negative impact of COVID-19 on the economy. Moreover, Salga supported the reduction of the budget deficit and stabilising of the debt to GDP ratio. Salga further supported the macroeconomic strategy that included fiscal consolidation to curb additional spending and maintain the expenditure ceiling.

7.3. Parliamentary Budget Office (PBO)

The PBO highlighted that the Bill provided for an increase in expenditure of 3.6 percent for the current financial year. The PBO also noted no additional allocation for local government through the Bill. The PBO was of the opinion that the Bill reflected governments' attempt to further support the economy and pursue fiscal consolidation, with projected revenue lower than estimated. Moreover, the PBO commented that the Bill provided for additional allocations to the provincial equitable share (PES) of R14.7 billion for the wage agreement, and R6.47 billion for the Presidential youth employment initiative. The PBO explained that the Presidential employment initiative would not only support the creation of more than 44 000 short-term jobs, but also aimed to catalyse growth and job creation and provide support for self-employed people.

The PBO noted that the PES and local government equitable share (LGES) formulas would be updated to account for projected household growth, inflation and estimated increases in bulk water and electricity costs over the MTEF period. The PBO commented that changes to the PES and LGES formulas aimed to improve the equal division of revenue. The PBO further stated that its analysis of conditional grants suggested improved administration, including content, context (process and reporting), and control (monitoring) was needed.

The PBO had assessed the content and performance of Basic Education, Health, Human Settlements, Agriculture and Transport conditional grants, as reflected in the schedules to the Division of Revenue Act and reported on in the 2019/20 annual reports of administering departments. The analysis showed -

- Performance outputs/ indicators were not well defined;
- There was a mismatch between expected outputs and actual outputs;
- There was duplication of indicators/outputs;
- There was inconsistent or no reporting on actual non-financial information;
- In some instances, no targets were set for outputs;
- Over-spending on some of the grants, accompanied by under-performance;
- Under-spending accompanied by over-performance;
- Reporting on the performance was not measured against set targets;
- There was incomplete performance information; and
- The lack of proper performance information on conditional grants in the Annual Reports of departments made it difficult to determine the effectiveness of expenditure and the impact of the outputs delivered by government.

7.4 Congress of South African Trade Unions (COSATU)

COSATU appreciated that the Minister had avoided the provocative stance of his predecessor, who sought to unilaterally impose a 4-year wage freeze in his Budget speeches, and had committed to respecting collective bargaining and to engage with organised labour at the Public Service Coordinating Bargaining Council. COSATU commented that this approach should be extended to the bargaining councils of Salga and state-owned entities (SOEs) too.

COSATU welcomed the R19 billion adjusted allocations to departments to provide for the 2021 wage agreement, even though it was below inflation and a once-off. COSATU emphasised that government should respect collective bargaining in the public service, entities, SOEs and local government, and engage with the relevant bargaining councils and/or fora on matters of collective bargaining, including the wage bill and signed wage agreements. COSATU suggested that government should work with organised labour to establish a single collective bargaining and wage regime for the entire state, including SOEs. COSATU further proposed that government should implement wage caps for executive managers in the SOEs and entities. Moreover, COSATU submitted that government should implement a 25 percent package cut for members of the Cabinet, Provincial Executive and Mayoral Committees, as well as executive managers in the state, entities, SOEs and metros. COSATU also felt there was a need for government to open the Ministerial Handbook for public comment, to ensure that the exorbitant perks for the executive were removed and a more modest regime adopted. COSATU further indicated that government should reverse the headcount reduction for key frontline service delivery posts, such as Police and Basic Education.

COSATU welcomed the R11 billion allocation for the Presidential Employment Stimulus Programme which would create 550 000 jobs and provide young people with a salary and experience; as well as the proposed allocation of R74 billion over the next three years, but felt it should be increased further.

COSATU expressed concern over the impact of cuts to key public service delivery functions, including the below inflation increase to the Department of Basic Education (DBE); but welcomed the additional allocation of R113 million to school infrastructure, including for sanitation and water; which included -

- R132 million for the Eastern Cape;
- R 26 million for the Free State;
- R14 million for KwaZulu-Natal; and
- R36 million for Limpopo.

COSATU commented that the inability to allocate R149 million when thousands of schools still lacked adequate sanitation, was indefensible; and that the shifting of R97 million from sanitation to the appointment of Maths teachers pointed to a serious project management capacity problem in the DBE; resulting in an inability to ensure all schools had access to decent sanitation and water. In addition, the DBE's failure to meet 80 percent of its target to provide sanitation to 1000 schools during the pandemic, was unacceptable; and the Minister and Director-General needed to be held accountable. COSATU further proposed that a clear and realistic plan must be tabled by the DBE in Parliament by the end of 2022 to ensure all schools had access to decent water and sanitation. COSATU welcomed the allocation of R6 billion for the employment of more than 310 000 teaching assistants.

COSATU submitted that the R350 Social Relief of Distress Grant should be extended beyond March 2022 and, in conclusion, indicated that workers and voters were losing faith in government's policies and commitments. COSATU expressed the hope that government would table a 2022 budget that would -

- Stimulate the economy and support job creation;
- Provide relief to the unemployed;
- Tackle corruption and wasteful expenditure;
- Rebuild SOEs and the state; and
  Respect collective bargaining.

8. Provincial mandates

The Committee met on 02 and 03 November 2021 to consider negotiating and final mandates from provinces.

8.1 Negotiating mandates

8.1.1 Eastern Cape supported the Bill and made a comment.
8.1.2 Free State supported the Bill and made comments.
8.1.3 Gauteng supported the Bill and made recommendations.
8.1.4 KwaZulu-Natal supported the Bill.
8.1.5 Limpopo supported the Bill and made a recommendation.
8.1.6 Mpumalanga supported the Bill and made a recommendation.
8.1.7 Northern Cape supported the Bill and made recommendations.
8.1.8 North West supported the Bill and made recommendations.

8.1.9 Western Cape abstained from voting on the Bill.

8.2 Final mandates

8.2.1. Eastern Cape supported the Bill.
8.2.2. Free State supported the Bill.
8.2.3. Gauteng supported the Bill
8.2.4. KwaZulu-Natal supported the Bill.
8.2.5. Limpopo did not submit a final mandate.
8.2.6. Mpumalanga supported the Bill.
8.2.7. Northern Cape supported the Bill.
8.2.8. North West supported the Bill.
8.2.9. Western Cape did not support the Bill.

9. Findings and observations

Having deliberated and considered all the submissions made by the above stakeholders on the *Division of Revenue Amendment Bill* [B19 - 2021], the Select Committee on Appropriations made the following findings and observations:

9.1 Whilst the Committee welcomes an additional amount of R65.12 billion reflected in schedule 1 of the Bill earmarked for the upward adjustment to both the national and provincial equitable share for the current financial year; the Committee remains concerned whether adequate mechanisms are put in place for funds to be spent properly for the intended purpose.

9.2 The Committee welcomes an amount of R11 billion set aside for the Presidential Youth Employment Initiative to create labour intensive job opportunities for the 2021/22 financial year, as part of the continuous effort by government to mitigate the impact of the COVID-19 pandemic.

9.3 Whilst the Committee welcomes the roll-over amount of R582 million in the indirect Regional Bulk Infrastructure Grant for operational payments for the Vaal River Pollution Remediation Project in Emfuleni Local Municipality, it is concerned about the fact that the contract has been cancelled, necessitating a deviation approval and causing delays in spending and delivery of services. Furthermore, some invoices received could not be paid before the end of the financial year, as the required work verification process could not be completed timeously.

9.4 Whilst the Committee welcomes the increase in the local government allocation from 9 to 9.6 per cent in the medium term period, it is concerned about the lack of financial management capacity in some municipalities, especially where service providers are brought in to execute the responsibilities of employees who are in the system. The Committee further noted the concern raised by Salga that, even though the increased allocation was welcomed, there was still a need to address the incorrect assumptions contained in the Local Government White Paper of 1998.

9.5 The Committee notes the concern raised by Salga around unfunded mandates, which put an additional strain on the fiscus of local government, especially in cases where a municipality is required to step in due to provincial government's inability to deliver certain services.

9.6 The Committee further notes the resolution around the unfunded mandates, which was taken during the Local Government Budget Lekgotla in December 2020, that the Department of Cooperative Governance and Traditional Affairs should take the matter forward and ensure that funds always followed function.

9.7 The Committee remains concerned about the 41 per cent water losses reported by Salga and notes the wide range of initiatives, including training courses and partnerships as well as innovative ways to prevent water and electricity losses, made available by Salga for its members to implement.

9.8 The Committee notes that the National Executive Committee of Salga took steps to extract a higher level of accountability from its members in relation to negative performance reports, failure to submit financial statements and fruitless and wasteful expenditure; and the Committee is concerned that not many municipalities responded to this initiative. The Committee further notes the fact that Salga does not have statutory powers to enforce consequence management in the local government sphere.

9.9 The Committee welcomes the R90 million reprioritised from the direct to the indirect component of the Neighbourhood Development Partnership Grant to fund project preparation, planning and implementation for municipalities struggling with project implementation.

9.10 The Committee welcomes the movement of funds towards financing the District Development Model, which is aimed at ensuring that systems are in place for more integrated delivery of services and ensuring sufficient capacity by driving coordination and alignment of processes in the local government sphere.

9.11 The Committee welcomes an additional R178 million added to the Early Childhood Development (ECD) Grant to provide unemployment risk support to 70 000 ECD-related workers impacted by the COVID-19 lockdown; the R841 million to the direct Neighbourhood Development Partnership Grant for local government to create 32 663 jobs; and the Presidential Youth Employment Intervention.

9.12 Whilst the Committee further welcomes the migration of the ECD Grant from Social Development to the Department of Basic Education, it remains concerned about the lack of parity between provinces regarding the stipends paid to the ECD workers.

9.13 The Committee notes the reductions of R150 million and R10 million from the National Health Insurance (Indirect) Grant and the Health Facility Revitalisation Grant, respectively, which were earmarked for specific projects in Limpopo and the Western Cape; and is concerned about the delays in the implementation of projects approved through the Budget Facility for Infrastructure that resulted in funds being reduced from health infrastructure projects, given the current state of public hospitals, requiring maintenance in various provinces.

9.14 The Committee is concerned about the fact that there was no application made by the Northern Cape Provincial Government for additional funding to be made available to assist farmers who were affected by fire and as part of the initiative to promote food security in light of the prolonged drought in the Province.

9.15 Whilst the Committee welcomes the reprioritisation of funds to ensure better management of assets, achievement of value for money and efficiencies by local and provincial government, the Committee is concerned about the movement of funds away from the Provincial Roads Maintenance Grant to fund a system to centralise collected data, given that provincial roads are in a state of disrepair.

9.16 The Committee welcomes an additional amount of R81 million to the direct Regional Bulk Infrastructure Grant for the George Local Municipality for the implementation of the portable water security and remedial works projects.

9.17 The Committee welcomes the additional allocation of R14.70 billion to the equitable share to assist provinces to implement the wage agreement of the Public Service Coordinating Bargaining Council for the 2021/22 financial year.

9.18 The Committee notes the roll-over amount of R210 million for the School Infrastructure Backlogs Grant to complete projects that are part of the Sanitation Appropriate for Education initiative. The Committee remains concerned over the poor expenditure trend and slow progress for this programme to simply deal with the replacement and removal of inappropriate and unsuitable sanitation at schools.

9.19 The Committee welcomes the conversion of R167 million from the personal services component of the National Health Insurance (indirect) Grant to the HIV/TB, Malaria and Community Outreach Grant to allow provinces to procure directly for the provision of mental health and oncology services.

9.20 The Committee notes COSATU's proposal that a single public sector bargaining council was necessary to address the disparities within government and would benefit government from a savings and budgetary point of view.

9.21 The Committee notes COSATU's proposal for a single centralised online procurement system for certain large items to generate significant savings for government, ensure transparency, open space for small businesses, allow competition and further reduce corruption.

9.22 The Committee remains concerned about the large number of vacant funded government positions and the fact that COSATU members had been raising the issue for quite some times in various sectors without a satisfactory response from government.

9.23 The Committee notes COSATU's proposal for increased taxes for wealthy South Africans, but expressed concern that top-earning individuals have begun leaving the country, some of whom had been contributing towards creating employment opportunities in the economy, and that COSATU's proposal could not worsen the situation.

10. Recommendations

The Select Committee on Appropriations, having considered submissions from various stakeholders on the *Division of Revenue Amendment Bill* [B19 - 2021], recommends as follows:

10.1 The National Treasury and the Cabinet should take into consideration the existing capacity of the officials and institutions to properly spend additional funds, when allocations are made to various provinces and municipalities. The situation where poor planning and lack of capacity to implement projects result in poor spending, unnecessary roll-overs and deviations, cannot be allowed to continue. The relevant Minister must further ensure that the implementation of consequence management is fast-tracked and, where necessary, law enforcement agencies are brought on board to recover any financial losses to the state and hold the implicated officials or politicians accountable.

10.2 Whilst the Committee welcomes the increased allocation for local government over the medium term period, the National Treasury and the Department of Cooperative Governance and Traditional Affairs, together with their provincial counterparts and the South African Local Government Association (Salga), need to work together to ensure that suitably qualified and experienced individuals are appointed to improve financial management capacity and service delivery in local government.

10.3 The National Treasury and the Department of Cooperative Governance and Traditional Affairs, together with their provincial counterparts, should ensure that concerns raised by Salga around the correctness of assumptions about collection of own revenue, contained in the 1998 Local Government White Paper, are addressed urgently.

10.4 The Department of Cooperative Governance and Traditional Affairs need to work with Salga to fast-track the implementation of the resolution around unfunded mandates, which was taken during the Local Government Budget Lekgotla in December 2020 and further ensure that funds always follow function.

10.5 The provincial departments of cooperative governance and provincial treasuries should work with Salga to ensure that proper interventions and systems to monitor service delivery in local government are implemented to address the issues around water loses and electricity challenges. Moreover, the Committee is of the view that the provincial executives of both finance and cooperative governance need to again work with Salga to enforce consequence management in relation to negative performance reports, failure to submit financial statements, and fruitless and wasteful expenditure, using the monthly and quarterly reports they receive.

10.6 The National Treasury should be proactive in ascertaining which provinces will not spend their housing budgets to ensure appropriate remedial actions are taken immediately, including the transfer of the funds to better performing provinces, and avoid last-minute gazettes, fruitless and wasteful expenditure and fiscal dumping towards the end of the financial year.

10.7 The National Treasury and the Department of Cooperative Governance and Traditional Affairs should ensure that challenges around delays and poor contracting, which led to the roll-over amount of R582 million for the Vaal River Pollution Remediation Project in Emfuleni Local Municipality, are addressed and the work verification process is completed for invoices to be paid as required. Otherwise, such delays will have a negative impact on the project completion timelines, service providers' cash flows and the livelihoods of their employees.

10.8 The Department of Cooperative Governance and Traditional Affairs, together with its provincial counterparts, should fast-track the implementation of the District Development Model to ensure systems are in place for more integrated delivery of services and ensure sufficient capacity, by driving coordination and alignment of processes; which have been a challenge in the local government sphere for many years.

10.9 The Department of Basic Education, together with provincial education departments, should ensure that the lack of parity between provinces regarding the stipend paid to ECD workers is urgently addressed, once the function shift from the Department of Social Development has been completed. COSATU and other federations should work with government to address this.

10.10 The National Treasury and the Department of Transport, together with their provincial counterparts, should make sure that allocations earmarked for the Provincial Roads Maintenance Grant are utilised effectively, according to the grant framework, to address the poor state of some provincial roads, which negatively affects economic activities. The quality of material used, workmanship and procurement processes for such projects need to improve in order to realise value for money.

10.11 With regard to hospital infrastructure maintenance, the National Treasury and the Department of Health, together with their provincial counterparts, should ensure that more resources are earmarked to deal with the current poor state of some hospital infrastructure, which requires proper maintenance in various provinces; especially given the advent of the COVID-19 pandemic. Furthermore, the quality of workmanship and material and procurement processes for such projects need to improve to achieve value for money.

10.12 The Department of Water and Sanitation, together with the Western Cape Provincial Treasury, should ensure that the implementation of the portable water security and remedial works project is expedited in the George Local Municipality and the allocated funds are spent according to the framework of the Regional Bulk Infrastructure Grant to ensure improved access to clean, drinkable water for all.

10.13 The National Treasury and the Department of Basic Education should ensure that the roll-over amount of R210 million for the School Infrastructure Backlogs Grant to complete projects that are part of the Sanitation Appropriate for Education initiative is properly spent to expedite the replacement and removal of inappropriate and unsuitable sanitation in certain provinces. The Committee is of the view that the pace at which this initiative is implemented, is unacceptably slow, given that this programme started in 2010. The Department should expand the programme to include the eradication of asbestos schools in certain provinces, if not already included.

10.14 The National Treasury and Department of Public Service and Administration, together with provincial treasuries, should ensure the effective implementation of the wage agreement of the Public Service Coordinating Bargaining Council for the 2021/22 financial year for public sector workers, according to the agreed terms. This should bring the much needed certainty and stability in the public service to ensure uninterrupted service delivery to the poor and vulnerable. Furthermore, government needs to ensure that funded vacant posts are filled urgently. COSATU and other federations should work with government to ensure progress in this regard.

10.15 The headcount cuts for the South African Police Service and teachers need to be reversed in order to protect frontline service delivery, the Committee is of the view that the headcount cuts should happen at the management level of each department as opposed to the levels at which services are being delivered.

10.16 The National Treasury and Cabinet need to ensure that concrete steps are taken to monitor the impact of the well-funded employment creation programmes, such as the Presidential Youth Employment Initiative, to achieve value for money and avoid mistakes that might have occurred in similar programmes in the past.

11. Committee Recommendation on the Bill

The Select Committee on Appropriations, having considered the *Division of Revenue Amendment Bill* [B19 – 2021] (National Assembly) referred to it and classified by the Joint Tagging Mechanism (JTM) as a Section 76 Bill, recommends that the Bill be adopted, without amendments.

The Democratic Alliance (DA), the Economic Freedom Fighters (EFF) and the Freedom Front Plus (FF+) rejected this Report.

Report to be considered.

2. Report of the Select Committee on Finance on the Financial Sector Laws Amendment Bill [B15B - 2020] (National Assembly- section 75), dated 2 December 2021

1. Background and Introduction

The Financial Sector Laws Amendment Bill (FSLAB) forms part of the Financial Sector Regulation Act (FSRA) or "Twin Peaks" regulatory reforms introduced in 2011, which covers the conduct and transformation of the financial sector.

As the National Treasury explained, the purpose of the FSLAB is to address banking risks, failures and weaknesses and mitigate impacts of financial crises. It seeks to address the shortcomings of the current financial legislation, partly necessitated by the lessons learnt from the 2008/09 global financial crisis and domestic experiences and to enhance the South African Reserve Bank's (SARB) financial stability mandate and to expand its objective for depositor protection. It was further said that the South African lessons learnt from the African Bank and VBS demonstrated the need for additional powers during an intervention and an explicit, privately funded deposit insurance scheme to protect vulnerable depositors.

Since 2011, the regulatory reforms led to a promulgation of the Financial Markets Act 19 of 2012, the 2015 Banks Amendment Act in response to the African Bank failure and other Acts meant to regulate the financial sector. National Treasury expects these reforms to make the financial sector safer for the economy and customers by minimising the use of public funds and reducing moral hazard.

National Treasury, the SARB and the Financial Sector Conduct Authority (FSCA) published several framework and position papers and policy and discussion documents between 2011 and now, in support of proposed amendments in the Bills introduced. In addition to the FSLAB, National Treasury planned to introduce the Conduct of Financial Institutions (CoFI) Bill in Parliament in 2021, which will provide, amongst other things, an important aspect of transformation in the financial sector.

With regards to the process followed by the Committee, on 07 September 2021, the National Council of Provinces (NCOP) formally referred the FSLAB to the Select Committee of Finance (SeCoF), for consideration and report, after the Standing Committee on Finance

(SCoF) voted on it. The National Assembly (NA) passed the Bill on 06 September 2021. The SeCoF received a briefing from National Treasury and the SARB on 15 June 2021. The Committee then received written submissions from Congress of South African Trade Unions (COSATU), Banking Association of South Africa (BASA), Free Market Foundation (FMF) and the Association for Black Securities and Investment Professionals (ABSIP). On 10 November 2021, all stakeholders, except for ABSIP, made oral submissions to the Committee in virtual public hearings. National Treasury and the SARB responded to the oral submissions made on the same day and later provided written responses. The Committee held a meeting on 30 November 2021 to deliberate on the policy aspects of the Bill and on 02 December 2021 to adopt the report.

2. Overview and objectives of the Bill

The objective of the FSLAB is to amend the Insolvency Act, 1936, the SARB Act, 1989, the Banks Act, 1990, the Mutual Banks Act, 1993, the Competition Act, 1998, the Financial Institutions (Protection of Funds) Act, 2001, the Co-operative Banks Act, 2007, the Companies Act, 2008, the Financial Markets Act, 2012 and the Financial Sector Regulation Act, 2017. These Acts are amended for various reasons including to provide for the establishment of a framework for the resolution of designated institutions to ensure that the impact or potential impact of a failure of a designated institution on financial stability is managed appropriately; to designate the SARB as the resolution authority; to establish a deposit insurance scheme, including a Corporation for Deposit Insurance and a Deposit Insurance Fund; to provide for co-ordination, co-operation, collaboration and consultation between the Corporation for Deposit Insurance and other entities in relation to financial stability and the functions of these entities.

Key objectives of the Bill detailed by the National Treasury are as follows:

2.1 Establishment of a framework for resolution of banks

The FSLAB proposes to introduce a new Chapter 12A to the FSRA 2017, that will establish a framework for resolution of designated institutions and a deposit insurance scheme. As National Treasury and SARB clarified, the aim of creating a resolution framework is to ensure that the impact of a failure by a bank, or systemically important financial institution, is managed in an orderly manner. National Treasury asserted that a speedy resolution of the institution could be a more appropriate action than the current framework, which primarily entails curatorship, business rescue proceedings and to a lesser extent, judicial management. Resolution in an orderly fashion, managed and controlled by the SARB, affords greater protection to depositors and taxpayers, who might otherwise have to foot the bill to keep a financially distressed institution afloat, National Treasury further said.

2.2 Designating the SARB as the Resolution Authority

The Bill proposes that the process of resolution takes place under the management and control of the SARB, which will be the Resolution Authority. Resolution, as defined by the National Treasury, refers to a process during which a competent authority, the Resolution Authority, takes over the control and management of the affairs of a designated institution that is failing or likely to fail in order to restructure or resolve the institution with the use of resolution tools in a manner that seeks to protect financial stability and minimise the reliance on public funds.

2.3 Deposit Insurance Scheme

The Bill proposes the establishment of a Deposit Insurance Scheme, which includes a Corporation for Deposit Insurance and a Deposit Insurance Fund. From a policy perspective, National Treasury expects the scheme to ensure protection for depositors in bank failure, provide a safety net for ordinary depositors, minimise disruption and adverse effects of failures and act as a crisis management tool available to the SARB. The Scheme will be housed within the SARB.

According to the National Treasury, the Deposit Insurance Fund would help to ensure that holders of covered deposits at a Bank in resolution will have access to their funds; limit severe financial hardship for bank depositors; promote competitiveness of smaller banks; ensure continued access to funds during a bank failure; and limit the exposure of public funds to the cost of a bank failure, amongst other things. The Fund would be financed by an annual deposit insurance levy charged and collected from the members of the fund, premiums from licensed banks, which are members of the Corporation for Deposit Insurance and provision of liquidity by the SARB. The Corporation will be tasked with the administration of the Fund.

2.4 Creation of creditor hierarchy

The Bill proposes creation of a creditor hierarchy to ensure depositor protection in an event of liquidation and adherence to the “no creditor worse off” principle. National Treasury’s rationale is that the current South African creditor hierarchy does not recognise distinction between ordinary depositors using a bank for transactions, and informed creditors and depositors making an investment in a bank for a return.

3. Public participation process

This section summarises the oral and written submissions received by the Committee, organised in terms of key concerns raised by the four stakeholders and the recommendations made thereof.

COSATU welcomes the FSLAB in principle and believes that it is a necessary and long overdue intervention by government, that would help protect workers, pensioners, the state and the economy. In particular, COSATU supports various provisions seeking to capacitate the state, the SARB, the FSCA and National Treasury to oversee the financial sector, hold banks accountable and where necessary to intervene and the depositor’s insurance. These interventions will help to protect workers, pensioners and other depositors from the worst effects of the collapse of bank, COSATU submitted.

ABSIP is in full support of the amendments proposed in the FSLAB and its overall stance on the amendments proposed by the National Treasury is that the Bill should broadly cater for transformation, encourage competition in the financial sector and support the imperative for a black economic empowerment strategy by not allowing important institutions to fail. ABSIP cautioned the National Treasury on areas of governance and transparency and proposed explicit provision on the criterion for designated institutions. It further opined that the bailouts should be on merit and case-by-case basis following the SARB Governor's consultation with the Prudential Authority and advice from the appointed investigator.

3.1 Summary of key issues raised by the stakeholders

- FSLAB provides an unhelpful definition of “resolution”, which is also not clear or accessible, vague and violates the rule of law. A further concern is that while the memorandum on the Bill’s object describes resolution, the Bill does not say it;
- Passing of the Bill is occurring at a slow pace;

- The Bill would not remove the moral hazard that might be created by insurance and government bail-out;
- The Bill amends the FSRA and that will allow Banks to pass insurance costs on to customers;
- The Bill can merely assist in maintaining financial stability as far as practicable;
- The Bill gives the SARB a subjective discretion which violates the Rule of Law, for instance, regarding powers of the SARB, it can recommend resolution if in its opinion a Bank will likely be unable to meet obligations, or it can cancel unreasonably onerous contracts;
- The proposal in the Bill to amend the FSRA such that the SARB may direct the Prudential Authority to require a specific Bank to hold flac instruments contradict the Basel Financial Services Board (FSB), which states that resolution entities should issue and maintain (not hold) Total Loss Absorbing Capacity (TLAC) instruments, and third parties should hold them;
- The SARB's sweeping powers can fail, just as a resolution can fail;
- In its current form, the Bill is vague and it is unclear what the SARB would seek to achieve in the interest of both the designated institution and its affected creditors;
- The proposed amendment in Clause 166 (W) (2) (A, B and C) of the Bill, which provides for ranking of claims for creditors, was believed to be wrong, immoral and in contravention of the Constitution's requirements for legislation to be equitable, fair and rational as it delays the unsecured creditors in accessing their savings;
- There exists a contradiction in the provision made in the Insolvency Act and the Constitution that implies that all creditors should be treated equally. While the creditor's hierarchy may guide the process of claiming by the creditors, the Resolution Authority needs to ensure that "no creditor is worse off";
- The Bill does not define creditors who might bear losses first or mention which creditors are able to properly assess their investment risks or benefited from profits,
- Section 166S(9), Prime Finance Agreements carve outs, do not cover securities lending and repurchase agreements, as such agreements clearly do not fall within carve outs (a), (c) and (d), where (a) an unsettled exchange traded transaction; (b) derivative instrument (as defined in the Financial Markets Act 2012 ("FMA")); (c) deposit where the deposit holder is the Corporation for Public Deposits and (d) an

unsecured transaction between two or more settlement system participants as defined in the National Payment System Act; and

- Prime Finance Agreements do not fall within the definition of a "derivative instrument" in the FMA (carve out (b)). This is because the rights and obligations arising under Prime Finance Agreements do not depend on the value of underlying assets, rates, indices or measures of economic value or a default event. Rather, Prime Finance Agreements document shadow banking products which are not considered to be derivative instruments by the market or the regulators both on a global and a local basis. This means that transactions under Prime Finance Agreements effectively become subject to the Resolution Powers and can be amended or cancelled by the SARB.

3.2 Some recommendations made by the stakeholders

- The Resolution Authority should broaden its scope in its concept of "too big to fail" to also cover the transformation imperative and strategy;
- Make a provision stipulating the amount and threshold of insolvency and the criteria that will determine an institution being placed under the Resolution, in line with international best practices and certain financial institutions;
- Publish the resolution process to ensure that there is clear access to information and transparency;
- The proposed objectives of the Resolution Authority as stated in Section 166B&C are satisfactory, however, clearly stipulate time frames for activities that are specified in the Act;
- Banks need to submit an annual failure management strategy and plan that states how banks plan to protects depositors; and
- The Bill needs to stipulate which creditors are covered in the Deposit Insurance Scheme and the value creditors can claim in the event of the Bank or the designated institution in liquidation.

4. Responses by the National Treasury on issues raised by the stakeholders

In response to the issues raised by COSATU, National Treasury said that it notes the concern about protecting workers' wages and benefits. National Treasury further said that it is guided by the approach in the Insolvency Act, 1936 (Act No. 24 of 1936), administered by the

Minister of Justice. In engaging with the Department of Justice, National Treasury has been informed that the Act is being reviewed in an integrated and holistic manner.

The Department of Justice and Constitutional Development has confirmed that they are continuing with work on the Insolvency Bill, which would replace the existing Insolvency Act, 1936 (Act No. 24 of 1936) and they are in the process of seeking approval to publish an Insolvency Bill for public comment. It would, therefore, be desirable for submissions regarding how workers' salaries and benefits should be protected in the event of an insolvency (and not only in respect of Banks), to be considered and appropriately addressed in that legislative process in a very well-considered.

Section 98A of the Insolvency Act provides some protection of wages and benefits as follows: Salaries or wages of former employees of the insolvent, thereafter any balance of the free residue shall be applied in paying, (1) to any employee who was employed by the insolvent any salary or wages, for a period not exceeding three months, due to an employee; any payment in respect of any period of leave or holiday due to the employee which has accrued as a result of his or her employment by the insolvent in the year of insolvency or the previous year, whether or not payment thereof is due at the date of sequestration; any payment due in respect of any other form of paid absence for a period not exceeding three months prior to the date of the sequestration of the estate; any severance or retrenchment pay due to the employee in terms of any law, agreement, contract, wage-regulating measure, or as a result of termination in terms of section 38; and (2) any contributions which were payable by the insolvent, including contributions which were payable in respect of any of his or her employees, and which were, immediately prior to the sequestration of the estate, owing by the insolvent, in his or her capacity as employer, to any pension, provident, medical aid, sick pay, holiday, unemployment or training scheme or fund, or to any similar scheme or fund.

National Treasury acknowledged that this is subject to the insolvency process, but submitted that it is also a matter that would also be relevant to consider and potentially be addressed in the Insolvency Act or successor legislation, and it would not be a matter that is beyond the appropriate scope of this legislation to address.

To FMF, National Treasury's response was that the details related to "*fla*c" will be addressed in accompanying standards and not the primary law. In this regard, SARB has published a consultation paper, which is available on its website and the Bill will come into effect at a date to be determined by the Minister.

On the issue of unclear definitions, National Treasury described Resolution as management of the affairs of a designated institution as provided for in Chapter 12A. This means that the SARB, once an institution is designated as being in resolution, may manage the affairs of the institution, in accordance with the requirements and procedures provided for in Chapter 12A, and it may implement resolution actions as provided for in section 166S.

National Treasury said that it is helpful to read and understand this definition in conjunction with the following definition, "orderly resolution of a designated institution" means the management of the affairs of the designated institution as provided in Chapter 12A in a way that (a) assists in maintaining financial stability; (b) ensures that the critical functions performed by the designated institution continue to be performed; and (c) in the case of a bank, protects the interests of depositors. The process of resolution must, therefore be applied in a manner that achieves the objectives set out in that definition. This is explained in the Memorandum on the Objects of the Bill as follows, "resolution is a process in which a Resolution Authority takes over control and management of the affairs of a Bank that is failing or likely to fail, in order to restructure or resolve that Bank with the use of resolution tools in a manner that seeks to protect financial stability and minimise the reliance on public funds".

National Treasury therefore submitted that the definition of "resolution" is appropriate for the context of the Bill, when applied as intended in the context of the "orderly resolution of a designated institution", and that it should not be necessary to amend the definition in the Bill.

On the issue of subjectivity of the SARB, National Treasury explained that this is the nature of prudential regulation, where the regulator has to make an assessment based on its own analysis. Such a recommendation is a judgement call based on evidence, and cannot be regarded as merely a "subjective" assessment. Even then, the regulator can only make a recommendation to the Minister in relation to whether it would be appropriate to place a Bank in resolution. It therefore does not constitute an administrative decision, and therefore the rule of law is not violated by making a recommendation to the Minister. The Minister would still need to consider the recommendation, and such recommendation has to be substantiated by facts that there is some likelihood that the Bank will be unable to meet its obligations. The Minister would make a decision regarding whether or not to place a Bank into resolution based on that recommendation, and the evidence supporting the recommendation, and applying his or her own mind to the decision. There necessarily has to be some degree of discretion exercised in relation to an administrative decision, and it is not possible for a decision to be made to be entirely “objective”.

National Treasury does not accept the proposal made, as it does not take account of how Banks are regulated globally, and differently, from other sectors of the economy, given that banking is based on trust and subject to a run on the bank. It then submitted that in contract law, the meaning of an onerous contract is quite well understood, and Black’s Law Dictionary defines the terms as follows: “onerous” - A contract, lease, share, or other right is said to be "onerous" when the obligations attaching to it unreasonably counterbalance or exceed the advantage to be derived from it, either absolutely or with reference to the particular possessor. Unreasonably burdensome or one-sided. It further submitted that the term is not “vague”, but that the term is sufficiently clear, and is capable of meaningful construction using the “reasonable person” test, which is another test that is applied for vagueness.

On issues raised by ABSIP, National Treasury said that it is important to note that whilst certain Bank curatorship provisions in the Banks Act may share similar traits with certain resolution provisions, the two processes are not the same and cannot be considered like for like. For example, the scope of curatorship is narrow and focuses on one institution whereas the scope of resolution is broader and focuses on the stability of the entire financial system. Curatorship has limited powers assigned to a curator whereas resolution envisages a broad set of powers including ‘bail-in’ that vest in the SARB as the Resolution Authority. Similarly, resolution (or curatorship for that matter) is not the same as insolvency. The protections in the insolvency framework for holders and creditors of certain financial instruments have to be considered from the view of the policy intention of each distinct framework. National Treasury and the SARB are committed to ensuring that South African financial sector laws are aligned with other international jurisdictions given the financial stability mandate of the SARB.

On the submission that the Resolution Authority needs to ensure that no-creditor is "worse off", National Treasury’s response was that the Bill contains various protections for creditors such as the “no creditor worse off rule” in clause 166V, that the SARB must not take a resolution action if the result of the action would lead to the value of the claim of a creditor being reduced and that when taking resolution action in relation to a designated institution in resolution, the SARB must treat claims of creditors that would have the same ranking in insolvency, equally.

National Treasury reported that the submission from BASA is under consideration and possibly resolvable outside of the ambit of the primary legislation. The National Treasury and the SARB met with BASA as directed by the Committee. National Treasury will publish a draft preliminary Standard, on the termination rights of agreements, in the form of a discussion document. Such publication will address the concern raised by BASA.

5. Observations

5.1 Clarity on specific definitions

The Committee noted the stakeholders' concerns that certain definitions in the Bill are unclear, vague and confusing and that there are some consistencies in the proposed amendments. These include the omission of the definition of "resolution" in the Bill, clearly defining the meaning of "financial stability", protection of interests of depositors and provision of the definition and precise criterion of designated institutions.

5.2 Deposit Insurance Scheme

The Committee noted that, according to the submissions made, the proposed amendments in the Bill would not remove the moral hazard that might be created by insurance and government bail-outs; does not stipulate which creditors are covered in the Deposit Insurance Scheme and the value creditors can claim in the event of the Bank or the designated institution in liquidation and that the amendments to the FSRA will allow Banks to pass insurance costs on to customers.

5.3 Creditors hierarchy

We noted the issues raised on the proposed amendments of the Bill to create a ranking of creditors, which include the belief that the ranking of claims for creditors was wrong, immoral and in contravention of the Constitution and that the Bill does not define creditors who might bear losses first or mention which creditors are able to properly assess their investment risks or benefited from profits.

5.4 Powers of the South African SARB

The Committee observed wide ranging concerns on the powers that the proposed amendments in the Bill afford the SARB. The issues raised include the subjective discretion that the Bill gives to the SARB in some instances, which violates the Rule of law; the fact that SARB's sweeping powers can fail, just as a resolution can fail; and that in its current form, the Bill is vague and that it is unclear what the SARB would seek to achieve in the interest of both the designated institution and its affected creditors.

5.5 Responses to issues raised by stakeholders

The Committee noted National Treasury's responses to the issues raised by the stakeholders, particularly BASA's withdrawal of concerns raised related to prime purchase agreements and that such concerns will be addressed in the preliminary Standard discussion document that would be published by the SARB.

5.6 Rationale for proposed amendments

We noted that the proposed amendments in the FSLAB and its framework are (1) supported by best practices globally as well as domestic experiences, (2) that National Treasury and the SARB conducted several studies, which include a Cost Benefit Analysis to determine the regulatory costs of compliance and benefits, amongst other things, in support of the proposed amendments (3) that even though the Bill does not explicitly deal with issues of transformation, it does advance principles of transformation and that the CoFI Bill which will be tabled later in Parliament, will provide for an important aspect of transformation in the financial sector.

6. Recommendations

The Committee supports the objectives of the FSRA, under which the current FSLAB falls. These objectives seek to maintain stability of the financial system; maintain soundness of regulated financial institutions; protect consumers of financial products and services; increase access to financial products and services; and combat market abuse and financial crime. The outcomes of which are expected to benefit the society in general including retail financial customers; financial institutions and their shareholders; poorest households; Small Medium and Micro Enterprises (SMMEs) and rural development programmes.

We also support the proposed amendments in the FSLAB which broadly, designate the SARB as the resolution authority; establishes a deposit insurance scheme and provides for co-ordination, co-operation, collaboration and consultation between different entities in relation to financial stability and the functions of these entities. These amendments are expected to, amongst other things, address banking risks, failures and weaknesses and mitigate impacts of financial crises.

We recommend that National Treasury and SARB continue to engage with the different stakeholders to address the gaps identified in the Bill and guard against the unintended consequences of the Bill.

The Select Committee on Finance, having considered and examined the Financial Sector Laws Amendment Bill [B15B - 2020] (National Assembly – section 75), referred to it, and classified by the JTM as a section 75 Bill, ***accepts*** *the Bill.*

The Democratic Alliance (DA) reserves its position.

The Economic Freedom Fighters (EFF) reserves its position.

The Freedom Front + (FF+) reserves its position.

Report to be considered