1. Report of the Select Committee on Cooperative Governance and Traditional Affairs Inspection in Loco on Notice of Intervention issued in terms of section 139(4) of the Constitution (1996), in Metsimaholo Local Municipality, dated 29 August 2017

1. Background and Overview

1.1 The Select Committee on Cooperative Governance and Traditional Affairs, having considered the request by the National Council of Provinces (NCOP), to consider and report on the intervention notice invoked in Metsimaholo Local Municipality in terms of section 139(4) of the Constitution, the Select Committee reports as follows:

1.2 In terms of NCOP Rule 101, the Office of the Chairperson of the NCOP referred the notice of intervention by Free State MEC for Cooperative Governance and Traditional Affairs, to the Select Committee for consideration and reporting.

1.3 On 17 August 2017, during the oversight visit to Mafube Local Municipality, the delegation of the Select Committee received a briefing from the Free State Department of Cooperative Governance and Traditional Affairs on constitutional; procedural and substantive matters related to notice of intervention in Metsimaholo Local Municipality.

2. Objective of the Oversight Visit

2.1 The main objective was to solicit opinions among stakeholders on the constitutional, procedural and substantive matters related to the invocation of section 139(4) of the Constitution, in Metsimaholo Local Municipality.

3. Composition of the Delegation

3.1 The Select Committee Delegation composed of the following Members of Parliament and officials: Hon MJ Mohapi, Free State (ANC); Hon T Wana, Eastern Cape (ANC); Hon D Ximbi, Western Cape (ANC); Hon MT Mhlanga,

Mpumalanga (ANC); Hon G Monapole, Northern Cape (ANC); Hon T Monakedi, Limpopo (ANC); Hon M Chetty, KwaZulu-Natal (DA); Hon B Engelbrecht, Gauteng (DA); Hon G Michalakis, Free State (DA); Mr TM Manele, Committee Secretary (Committee Section) and Mr B Mahlangeni, Researcher (Research Unit).

4. Briefing on Constitutional, Procedural and Substantive Matters Related to Intervention in Metsimaholo Local Municipality

4.1 On 17 August 2017, Free State Department of Cooperative Governance and Traditional Affairs, briefed the Select Committee on the notice of intervention in terms of section 139(4) of the Constitution in Metsimaholo Local Municipality. This section deals with the problem flowing from the inability of a council to approve a budget or revenue-raising measures necessary to give effect to the budget.

4.2 The Department reported that Metsimaholo Local Municipality failed to adopt its annual budget during a council sitting on 31 May 2017. The budget was presented by the Mayor on 31 May 2017 and the councillors of the Democratic Alliance (DA) and the Economic Freedom Fighters voted against the approval of the budget, on grounds or reasons that the Department was not aware of.

4.3 The Department of Cooperative Governance and Traditional Affairs indicated that the Provincial Treasury conducted an assessment of the budget, and found that it was funded and supported by the council. The Department further indicated that the Head of Department for Finance wrote a letter to the Municipal Manager on 7 June 2017, indicating that in terms of section 24(1) of the Municipal Finance Management Act (Act 56 of 2003), a municipal council must at least 30 days before the commencement of the budget year, consider approval of the annual budget.

4.4 The MEC for Finance also submitted a letter to the Mayor of the Municipality, dated 6 June 2017, raising the legislative non-compliance of the Municipality with regard to the non-approval of the annual budget by the municipal council on 31 May 2017.

4.5 The MEC for Finance also indicated in the letter that the Provincial Treasury could also approach the National Treasury in terms of section 38 of the Municipal Finance Management Act, to invoke section 216(2) of the Constitution, by stopping the transfer of funds due to the Municipality.

4.6 On 28 June 2017, the Mayor of the Municipality wrote a letter to the Free State MEC for Finance, indicating that the municipal council had again failed to take a resolution during its council meeting of 28 June 2017, to approve the 2017/18 annual budget.

4.7 On 29 June 2017, the Free State Provincial Executive Council (PEC) took a resolution during its meeting, that Metsimaholo Local Municipality be placed under section 139(4) of the Constitution, with effect from 1 July 2017.

4.8 On 6 July 2017, the Free State PEC approved the temporary budget for the first six months of the 2017/18 financial year, and the revenue raising mechanisms to provide for the continued functioning of the Municipality, in terms of section 139(4)(b) of the Constitution.

5. Select Committee Observations and Opinion

5.1 In its recommendation to the NCOP, the Select Committee took into account all relevant factors, including non-compliance of the Municipality to approve the budget in terms of the legislative requirements, entrusting the MEC for Cooperative Governance and Traditional Affairs, for convening a meeting with all councillors of Metsimaholo Local Municipality on 11 July 2017, to convey the decision of dissolving the Municipality.

5.2 The Select Committee has further observed from the presentation made by the appointed Administrator, that the municipal challenges related to implementation of section 139, included the stopping of salaries of councillors and officials in political offices; ward councillors which are no longer chairpersons of ward committees, had an impact on the functionality of ward committees.

6. Recommendations

6.1 Having received the briefing on Metsimaholo Local Municipality, the Select Committee on Cooperative Governance and Traditional Affairs recommends as follows:

6.1.1 The NCOP notes the intervention by the Free State Provincial Executive Council in Metsimaholo Local Municipality in terms of section 139(4) of the Constitution.

6.1.2 The Free State MEC for Cooperative Governance and Traditional Affairs should table quarterly progress report to the NCOP on the status of the intervention in the Municipality; including challenges encountered.

6.1.3 The Select Committee on Co-operative Governance and Traditional Affairs, in co-operation with the relevant Portfolio Committee in Free State Provincial Legislature, should after the composition of the municipal council, conduct a follow-up oversight visit to the Municipality in order to monitor and evaluate progress made in respect of the intervention.

6.1.4 Having considered the content of the letter, as a referral in terms of Rule 101 of the NCOP, there is a need to give Metsimaholo Community Association (MCA) a hearing and that an oversight visit be immediately expedited.

Report to be considered.