No 34—2017] Fourth Session, Fifth Parliament

PARLIAMENT

OF THE

REPUBLIC OF SOUTH AFRICA

ANNOUNCEMENTS, TABLINGS AND COMMITTEE REPORTS

TUESDAY, 14 MARCH 2017

TABLE OF CONTENTS

National Assembly

National Council of Provinces

ANNOUNCEMENTS

National Assembly

The Speaker

1. Referral to Committees of papers tabled

(1) The following paper is referred to the **Standing Committee on Finance** for consideration and report:

(a) Municipal Budgets for the 2016 Medium Term Revenue and Expenditure Framework (MTREF), tabled in terms of section 24(3) of the Local Government: Municipal Finance Management Act, 2003 (Act No 56 of 2003).

TABLINGS

National Assembly and National Council of Provinces

1. The Speaker and the Chairperson

(a) Monthly Financial Statements of Parliament – February 2017, tabled in terms of section 54(1) of the Financial Management of Parliament and Provincial Legislatures Act, 2009 (Act No 10 of 2009).

2. The Minister of Economic Development

(a) Annual Performance Plan of the Competition Tribunal for 2017-2018.

(b) Annual Performance Plan of the Competition Commission for 2017/18.

(c) Corporate Plan of the Industrial Development Corporation of South Africa for 2017/18 - 2021/22.

(d) Annual Performance Plan of the International Trade and Administration Commission of South Africa for 2017/2018.

3. The Minister of Finance

(a) Corporate Plan of the Land Bank for 2017/18 – 2019/20.

(b) Municipal Budgets for the 2016 Medium Term Revenue and Expenditure Framework (MTREF), tabled in terms of section 24(3) of the Local Government: Municipal Finance Management Act, 2003 (Act No 56 of 2003).

4. The Minister of Home Affairs

(a) Annual Performance Plan of the Government Printing Works (GPW) for 2017 - 2018.

5. The Minister of Labour

(a) Annual Performance Plan for 2017/2018 and Amended Strategic Plan of the Department of Labour for 2015 – 2019/20.

(b) Amended Strategic Plan of the Unemployment Insurance Fund (UIF) for 2017/18 – 2021/22.

(c) Annual Performance Plan of the Unemployment Insurance Fund (UIF) for 2017/2018.

(d) Annual Performance Plan of the Commission for Conciliation, Mediation and Arbitration (CCMA) for 2017 – 2018.

(e) Amended Strategic Plan of the National Economic Development and Labour Council (NEDLAC) for 2015/16 – 2019/20.

(f) Annual Performance Plan of the National Economic Development and Labour Council (NEDLAC) for 2017 – 2018.

(g) Revised Strategic Plan of the Productivity South Africa for 2014/15 – 2019/20 and Annual Performance Plan for 2017 – 2018.

(h) Annual Performance Plan of the Compensation Fund for 2017/18.

6. The Minister of Social Development

(a) Annual Performance Plan of the Department of Social Development for 2017/18 [RP 24 – 2017].

(b) Annual Performance Plan of the South African Social Security Agency (SASSA) for 2017/18 – 2019/20 [RP 64 – 2017].

(c) Strategic Plan of the National Development Agency for 2017/2022 [RP 12 – 2017].

National Council of Provinces

1. The Chairperson

(a) Submission of responses of NCOP report on the implementation of the resolution/recommendation adopted by the House in relation to the Department of Education and Health.

Referred to the **Select Committee on Social Services** for consideration.

COMMITTEE REPORTS

National Assembly and National Council of Provinces

1. Draft Report of the Constitutional Review Committee on 2013 Public Submissions, Dated 14 March 2017

The Constitutional Review Committee, having considered the 2013 public submissions made on the review of the Constitution reports as follows:

1. Introduction

The Committee, during the 2013 public submissions process received 13 submissions. The incumbent committee, upon commencement of its work, isolated matters that were outstanding from the Fourth Parliament, and the legacy submissions that were not considered by the previous committee were identified as needing priority. The submissions were categorised in accordance with; submissions that were ready for consideration, submissions that required a specialist or legal opinion, as well as submissions that do not speak to a review of the Constitution. The Committee decided to set aside the submissions from the aforementioned period, that were re-submitted during the 2015 submissions process, in order to consider them with those of the latter period. Thus, out of the 13 submissions, five submissions were re-submitted in 2015.

Following that process, the Committee invited submitters, who made submissions during the 2013 submissions period to make oral presentations. Out of the eight submitters, that were contacted to make oral presentations, only five could be located. In this case, on 15 April 2016, four submitters made oral presentations to the Committee. The fifth submitter will be included in the 2015 round of oral submissions.

Hereunder are brief summaries of the submissions from the public, as well as the Committee's views and recommendations.

2. Summaries of Submissions

2.1 Submission 1 by Institute for Accountability in Southern Africa (IFAISA).

(a) Establishment of an Integrity Commission

The IFAISA proposes an establishment of anti-corruption Commission as a Chapter Nine institution, namely; "the Eagles" to address crime syndicates and corruption faced in South Africa. The submission refers to the effects of the judgment in the Glenister case, and the South African Police Service Act of 2012.

Committee Decision
The Committee is of the view that the above matter requires an in depth discussion. It therefore, recommends that the submissions should be dealt with in September 2016.

(b) Proportional representation

The IFAISA proposes the committee to consider section 47(3)(c) of the Constitution for a review. The committee is of the view that, the Parliamentary legal advice pertaining an amendment of this section states that any amendment of the electoral system and representation in Parliament is a policy decision which requires deliberations and resolutions from party-political level of engagement.

Committee Recommendation
The committee recommends that, the conclusion on this submission should be held in abeyance to allow for the electoral court decisions on the matter. The submitters will be informed of the committee's decision in this regard.

(c) Reform of the Judicial Service Commission (JSC)

The submission requests a review of the selection of the JSC candidates. The submitters argue that, the powers of the JSC to fill vacancies in terms of section 178 together with the process of the appointment of the Chief Justice needs to be reviewed. The IFAISA's opines that the proposal for the review of the Constitution in this regard is due to many political appointees in the JSC.

Committee Recommendation
The committee is of the view that the matter was dealt with by the Portfolio Committee on Justice and Constitutional Development through a Private Member's Bill. Thus, it should be left as it is. The submitters will be advised on the committee's decision in this regard.

2.2 Submission 2 by Ms Mosiane

The submitter proposes that menstrual pains should be recognised when considering sick leave for women. The committee is of the view that, the submission is covered in section 22 of the Basic Conditions of Employment Act, No. 11 of 2002, which specifically deal with sick leave.

Committee Recommendation

Based on the above, the committee is of the view that, the submission does not require an amendment to the Constitution as it is already catered for in existing legislation. The submitter will be advised on the committee's conclusion in this regard.

2.3 Submission 3 by O Shembe

The submission pertains a proposal to amend the phrase in the Preamble of the Constitution. The submitter claims that, the phrase stating that "…South Africa belongs to all who leave in it" should be replaced with the phrase "…South Africa belongs to its legitimate and legal citizens".

Committee Recommendation
The committee is of the opinion that, in light of the xenophobic violence that was reported in the South African media, a focus should rather be on fostering unity among Africans than emphasising differences as means of exclusion. Furthermore, the Government of South Africa supports the international efforts to protect and assist refugees and asylum seekers. This is done through the provision of access to health facilities, schools and social services. In addition, South Africa as a signatory to the United Nations and the African Union conventions on refugees, is obliged to grant protection to refugees.

The Committee attempted to locate the submitter to no avail.

2.4 Submission 4 by Mr L Mahlatsi

The submitter proposes that the law ought to be changed to permit homeowners to protect themselves by killing armed robbers in self-defence. The committee is of the view that, in light of constitutional rights to life, human dignity, freedom and security, any degree of force or violence may executed lawfully in limited circumstances only. For instance, in the prevention of one's own life. Additionally, self - defence is governed by common law and the use of force during the arrest of a criminal by police is governed by section 49 of the Criminal Procedure Act No. 51 of 1977.

Committee Recommendation
The committee is of the view that, the submission is dealt with in the existing law and does not a warrant an amendment to the Constitution. The submitter will be advised as such.

2.5 Submission 5 by Support Public Broadcasting Coalition (SOS)

The submitters calls for the transformation of the South African Broadcasting Corporation (SABC) into a Chapter 9 institution as a way of protecting its independence.

Committee Recommendation
The committee recommends that, since the submission was re-submitted in the 2015period, it should be included when considering those.

2.6 Submission 6 by Deaf South Africa (DEAFSA)

The submission calls for the designation of the sign language as an official language.

Committee Recommendation
The committee recommends that, since that submission was re-submitted in 2015. It will be considered during consideration of the 2015 public submissions. The submitters will be informed on the committee's recommendation in this regard.

2.7 Submission 7 by Mr Nqabeni

Mr Nqabeni's submission had two parts, i.e. proposal for a review of the rights of inmates and disapproval of same sex marriages. However, at the time the submitter made an oral submission, the focus was on the proposal around the review of the rights of inmates.

(a) Rights of prisoners

The submission proposes a review of the rights of inmates in correctional centres. The submitter expresses dissatisfaction and accused persons. The submitter's dissatisfaction is based on the fact that prisoners receive facilities such as free accommodation, food and education which victims pay through tax.

The committee is of the opinion that, prisoners' rights are protected under Chapter 2 of the Constitution, which covers the Bill of Rights. In this regard, section 25 of the Bill of Rights provides for the rights of prisoners to conditions of detention that are consistent with human dignity. Moreover, the statutory rights of prisoners and the rules the rules that the Department of Correctional Services must follow in running the correctional centres are enshrined in national legislation such as the Correctional Services Act of 1998.

Committee Recommendation

The committee concludes that, the submission does not set out which constitutional provision requires an amendment. As such, the submitter's concerns may be addressed through legislation. In this case, the submission will be referred to the Portfolio Committee on Justice and Correctional Services.

(b) Disapproval of same sex marriages

The submitter submits a disapproval with same sex marriages based on personal religious convictions. The committee is of the view that, the submission requires an in depth consideration and therefore, should be deliberated further at a later stage.

2.8 Submission 8 by South African Local Government Association (SALGA)

The submission proposes amendments to the following provisions:

- Section 67 of the Constitution on voting rights in provincial elections;
- Section 139 of the Constitution on provincial intervention in local government, which undermines the separation of powers; and
- Section 163 on funding for organised local government.

Committee Recommendation

The committee recommends that, since the submission was re-submitted during the 2015 submissions period, it should be dealt with during consideration of the 2015 submissions.

2.9 Submission 9 by Holy Faith Mission Evangelical Church

The submitters submit that, the Khilovedu language should be included within section 6 (1) of the Constitution as an official language.

Committee Recommendation
The committee agreed that the submission should be included in the list of the 2015 submissions that will be considered in September 2015. The submitters will be invited to make an oral presentation on the submission.

2.10 Submission 10 by Mr Ngobese

The submitter raises disagreements with existing legislation and Constitutional Court rulings. The submissions speaks to issues provided for under national legislation such as the Sexual Offence Act of 2009, the property clause in section 25 of the Constitution, and the Criminal Procedure Act 51 of 1977.

Committee Recommendation
The committee is of the view that, the submit

2.11 Submission 11 by South African Veterinary Council (SAVC)
The SAVC submits that, the State Veterinary Services need to be centralised based among other things, fragmented delivery of services, poor coordination of services, as well as poor implementation of policies.

The committee is of the view that, the submission does not make reference to a specific constitutional provision, which it requires to be reviewed.

Committee Recommendation
The Committee therefore, recommends that, the submission should be referred to the Portfolio Committee on Agriculture, Forestry and Fisheries as the monitoring of the implementation of the Animal Health Act of 2002 falls within its ambit.

2.12 Submission 12 by National House of Traditional Leaders (NHTL)

The submission proposes a review of the following provisions of the Constitution:

(a) Sections 41 (2) which deals with Co-operative Government

On this provisions, the NHTL recommends the inclusion of Traditional Councils as intergovernmental structures to facilitate intergovernmental relations.

(b) Section 151and 155 which deal with Local Government

In relation to the above, the NHTL proses an amendment of these constitutional provisions and municipalities to be replaced by Traditional Councils so as to expedite service delivery in traditional communities.

(c) Section 190 (1) (a) which deals with the management of national, provincial and municipal legislative bodies

The submitters propose that the Electoral Commissions must, in consultation with Traditional Councils, manage elections in traditional communities.

(d) Section 211 of the Constitution which deals with the recognition of traditional leadership.

The submission proposes an amendment of this provision in order to provide for the recognition of the institution of traditional leadership not in case law, but to also ensure that it is guaranteed.

Committee Recommendation

The committee feels that, the matters raised in this submission do not necessarily speak to a review of the Constitution, but should rather be referred to the Portfolio Committee on Cooperative Governance and Traditional Affairs. The submitter will be advised in this regard.

2.13 Submission 13 by Professor M Mhango

The submitter requests a review of a Private Member's Bill (the Bill) that was introduced by the late Hon. D Smuts MP in June 2013, to make provisions for matters pertaining the appointment of the National Director of Public Prosecution (NDPP) on the recommendation and approval of the National Assembly.

The committee is of the view that, the matter raised by the submitter was dealt with and finalised by the Portfolio Committee on Justice and Constitutional Development in 2014. The Portfolio Committee considered the public submissions received on the Bill. Subsequently, the Department of Justice and Constitutional Development responded to those submissions. Following due deliberations in February 2014, the resolve that the Bill was not desirable. The submitter will be informed on the aforementioned developments.

Report to be considered

National Assembly

1. **REPORT OF THE STANDING COMMITTEE ON APPROPRIATIONS ON THE DIVISION OF REVENUE BILL [B4 –2017] (NATIONAL ASSEMBLY –SECTION 76), DATED 14 MARCH 2017**

The Standing Committee on Appropriations (the Committee), having considered the ***Division of Revenue Bill*** [B4—2017] (National Assembly), referred to it on 9 March 2017 and classified by the JTM as a section 76 Bill, reports as follows:

1. Introduction

Section 214(1) of the Constitution, 1996 (the Constitution) requires that every year a Division of Revenue Act (DORA) determines the equitable division of nationally raised revenue among the three spheres of government. This is intended to foster transparency and ensure smooth intergovernmental relations. The Intergovernmental Fiscal Relations Act, No. 97 of 1997 prescribes the process for the determination of an equitable sharing and allocation of revenue raised nationally. Sections 9 and 10 (4) of this Act set out the consultation process to be followed with the Financial and Fiscal Commission (FFC), including the process of considering recommendations made with regard to the equitable division of nationally raised revenue.

In giving effect to section 73 of the Constitution, the Money Bills Amendment Procedures and Related Matters Act, No. 9 of 2009 (the Money Bills Act) was enacted. In line with section 7(1) and Section 7(3) of the Money Bills Act, the Minister of Finance tabled the 2017 National Budget including the 2017 Division of the Revenue Bill on 22 February 2017. The Bill was then referred to the Standing Committee on Appropriations (the Committee) in line with Section 9 (2) of the Money Bills Act.

The Committee received a briefing on the Bill from the National Treasury and also had engagements with the Financial and Fiscal Commission (FFC), and the South African Local Government Association (SALGA). In line with Section 9 (5) (b) of the Money Bills Act, the Committee has a responsibility to hold public hearings on the Division of Revenue Bill. To this end, adverts calling for public submissions on the Bill were published in print media from 3 to 9 March 2017 and the Committee also sent out invitations to interested parties which have made submissions to the Committee before. Submissions from the following organisations or interest groups were received:

- Equal Education; and
- Rural Health Advocacy Project.

2. Allocations of the Division of Revenue Bill for the 2017 Medium Term Expenditure Framework

The 2017 Budget proposals seek to maintain a balance between government's spending commitments, particularly in higher education, health and social protection, and ensuring the long-term health of the public finances. These measures are aimed at contributing to the vision of the National Development Plan (NDP). South Africa's development objectives, expressed in the National Development Plan, rely on

The Budget proposals indicate that Gross Domestic Product growth will gradually improve from 0.5% in 2016 to 1.3% in 2017 and 2.0% in 2018, supported by moderately stronger global growth, more favourable weather conditions, reliable electricity supply, recovering business and consumer confidence, and stabilising commodity prices.

While the positive trajectory marks a break with several years of declining growth, the projected rate of growth is not high enough to markedly reduce unemployment, poverty and inequality. Inclusive growth requires broad-based transformation to break down structural impediments to new economic activities, enable millions of black South Africans to generate income and accumulate capital, and raise per capita incomes across the board.

The 2017 budget includes measures to protect spending on core social obligations and these entail the following:

- The 2017 Budget lowers the spending ceiling by R10 billion in 2017/18 and R15.6 billion in 2018/19. This will be achieved through reduced national department operating budgets; lower transfers to entities, provinces and local government; and reallocations.
- Existing headcount and recruitment must be managed within the adjusted ceiling.
- Over the medium term, the Office of the Chief Procurement Officer aims to save R25 billion by renegotiating contracts with government's top 100 suppliers, consolidating spending on common goods, using technology to reduce duplication and cutting red tape.
- Proposals include the trimming down of large conditional grants to provinces and municipalities. The *human settlements development grant*, the *health facility revitalisation grant,* the *educational infrastructure grant, the water services infrastructure grant,* the *public transport network grant* and the *municipal infrastructure grant* are to be reduced.
- Guidelines have been developed that will support departments and entities to improve the treatment and disclosure of unauthorised expenditure, irregular, fruitless and wasteful expenditure.
- Compliance management and oversight of accounting officers, as set out in the Public Finance Management Act (1999), is to be reinforced.

The Constitution sets out specific criteria for the sharing of nationally raised revenue between national, provincial and local spheres of government. The constitutional principles taken into account when deciding on the Division of Revenue include the national interest, provision of debt costs, national government's needs and interest, provincial and local government basic services. Other important issues include fiscal capacity and efficiency, developmental needs, economic disparities, obligations in terms of national legislation, predictability and stability; and flexibility in terms of responding to emergencies.

The Division of Revenue Bill classifies Schedule 1 to 7 (equitable share and conditional grants) in order to divide revenue between the three spheres of government. Table 1 below provides the legal division of nationally raised revenue among these three spheres of government.

Table 1: Division of Nationally Raised Revenue among the National, Provincial and Local Spheres of Government

Spheres of Government	Column A	Column B	
	2017/18	**Forward Estimates**	
		2018/19	**2019/20**
	R'000	**R'000**	**R'000**
National[1.]	910 872 117	987 928 992	1 076 814 856
Provincial	441 331 122	471 522 489	506 103 653
Local[2]	57 012 141	62 731 845	69 273 465
TOTAL	**1 409 215 380**	**1 522 183 326**	**1 652 191 974**

1. *National share includes conditional allocations to provincial and local spheres, general fuel levy sharing with metropolitan municipalities, debt-service costs and the contingency reserve.*
2. *Local share includes an unallocated amount of R1.8 billion in 2019/20 that is not included in the forward estimates of local allocations in Schedule 3*

The Division of Revenue Bill proposes that the most important public spending programmes that help poor South Africans, generate employment and contribute to growth have been protected from major reductions. The 2017 division of revenue reprioritises existing funds to ensure these objectives are met despite a lower expenditure ceiling.

2.1 Main Budget Allocations

The main budget expenditure has increased from R1.307 trillion for the 2016/17 financial year to R1.409 trillion for the 2017/18 financial year. The main budget framework provides for average annual growth of 8.1 per cent in the main budget allocations over the next three years. Non-interest allocations for the three spheres of government grow at an average annual rate of 7.3 per cent over the Medium Term Expenditure Framework (MTEF). For the 2017/18, national government is allocated 47.5 per cent of available funds after debt costs and the contingency reserve have been provided for, provincial government is allocated 43.4 per cent of available funds and local government is allocated 9.1 per cent of available funds.

Table 2: Division of Nationally Raised Revenue, 2013/14 – 2019/20

R billion	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	Average annual MTEF growth
	Outcome			Revised estimate	Medium-term estimates			
Division of available funds								
National departments	**453,4**	**490,0**	**546,1**	**557,5**	**590,2**	**631,4**	**681,6**	**6,9%**
of which:								
Indirect transfers to provinces	*2,7*	*5,8*	*3,5*	*3,7*	*4,3*	*1,8*	*1,9*	*-20,1%*
Indirect transfers to local government	*5,9*	*8,3*	*10,4*	*7,8*	*7,3*	*7,6*	*8,0*	*0,8%*
Provinces	**410,6**	**439,5**	**471,4**	**500,4**	**538,2**	**578,6**	**621,0**	**7,5%**
Equitable share	336,5	359,9	386,5	410,7	441,3	471,5	506,1	7,2%
Conditional grants	74,1	79,6	84,9	89,7	96,8	107,1	114,9	8,6%
Local government	**82,6**	**87,6**	**98,3**	**103,3**	**112,5**	**121,5**	**132,3**	**8,6%**
Equitable share	39,0	41,6	49,4	51,2	57,0	62,7	69,3	10,6%
Conditional grants	34,0	35,8	38,3	40,9	43,7	46,3	49,8	6,8%
General fuel levy sharing with metros	9,6	10,2	10,7	11,2	11,8	12,5	13,2	5,5%
Non-interest allocations	**946,6**	**1 017,1**	**1 115,8**	**1 161,1**	**1 240,9**	**1 331,5**	**1 434,9**	**7,3%**
Percentage increase	*7,9%*	*7,5%*	*9,7%*	*4,1%*	*6,9%*	*7,3%*	*7,8%*	
Debt-service costs	101,2	114,8	128,8	146,3	162,4	180,7	197,3	10,5%
Contingency reserve	–	–	–	–	6,0	10,0	20,0	
Main budget expenditure	**1 047,8**	**1 131,9**	**1 244,6**	**1 307,4**	**1 409,2**	**1 522,2**	**1 652,2**	**8,1%**

Source: National Treasury 2017

National Treasury submitted that priorities over the 2017 MTEF period that are funded through reprioritisations in the division of revenue include:

- Strengthening specialised tertiary health services for children through a new paediatric hospital.
- Preserving the school nutrition initiative by countering the effects of rapid food price inflation.
- increasing the number of children receiving meals.
- Providing free basic services to poor households.
- Promoting access to social housing through increased subsidies.
- Introducing a new social worker employment grant. Introducing a new grant to educate learners with profound intellectual disabilities.

2.2 Summary of changes in transfers to provinces and municipalities

National Treasury indicated that provincial baselines remain unchanged compared to indicative figures contained in the 2016 MTBPS. To protect basic services funded by the provincial equitable share when effecting budget reductions of R6.8 billion in the provincial fiscal framework as published in 2016, only 23.5 per cent (R1.6 billion) of this is applied to the equitable share, despite its accounting for more than 80 per cent of transfers to provinces while the remaining R5.2 billion of the reduction comes from provincial conditional grants. National Treasury submitted that reductions were biased against grants with a history of under-spending.

In addition, a number of grants funding essential services, such as the *national school nutrition programme grant*, the *early childhood development grant* and the *public transport operations grant* were not reduced.

National Treasury indicated that over the medium term the following additions were made to ensure provinces and municipalities can serve growing populations, namely, R7.3 billion to the Provincial Equitable Share mainly for education and health, R5.1 billion for the local government equitable share for basic services including a R1.8 billion provisional allocation, R390 million is added to the *National School Nutrition Programme Grant* and R1 billion to the Integrated National Electrification Programme Grant.

Table 3: Conditional Grants to provinces 2016/17 to 2019/20

Table 6.3 Conditional grants to provinces

R million	2016/17	2017/18	2018/19	2019/20
Direct conditional grants[1]				
Comprehensive agricultural support programme	1 642	1 646	1 751	1 876
Ilima/Letsema projects	491	522	552	583
Community library services	1 357	1 420	1 499	1 580
Education infrastructure	9 933	10 046	13 390	14 141
Maths, science and technology	362	365	386	408
National school nutrition programme	6 060	6 426	6 802	7 186
Comprehensive HIV/Aids and TB	15 291	17 558	19 922	22 039
Health facility revitalisation	5 273	5 654	5 916	6 247
Health professions training and development	2 477	2 632	2 784	2 940
National tertiary services	10 847	11 676	12 395	13 178
Human settlements development	18 284	19 969	21 115	22 338
Mass participation and sport development	556	586	618	653
Provincial roads maintenance	10 478	10 754	11 536	12 182
Public transport operations	5 400	5 723	5 990	6 326
Other direct grants	1 242	1 852	2 436	2 614
Total direct conditional grants	**89 692**	**96 829**	**107 092**	**114 292**
Indirect transfers	**3 654**	**4 258**	**1 765**	**1 864**
School infrastructure backlogs	2 181	2 595	–	–
Comprehensive agricultural support programme indirect	212	–	–	–
National health insurance indirect	1 261	1 663	1 765	1 864

1. Excludes provisional allocations
Source: National Treasury 2017

Direct conditional grant baselines total R96.829 billion in 2017/18, R107.092 billion in 2018/19 and R114.292 billion in 2019/20. Indirect conditional grants amount to R4.258 billion, R1.765 billion and R1.864 billion respectively for each year of the same period. Changes to provincial allocations over the 2017 MTEF include:

- Implementation of an incentive component within the provincial roads maintenance grant to improve performance;
- National School Nutrition Programme benefits from additional R390 million to mitigate food price inflation and additional learners;
- The *social workers employment grant* to hire social workers to improve access to social services; *early childhood development grant* will improve access and conditions of this service and a *learners with profound intellectual disabilities grant* to improve education opportunities for learners with these disabilities;

- Reprioritising R660 million over the MTEF period from the *human settlements development grant* to the Social Housing Regulatory Agency;
- Extension of the *school infrastructure backlogs grant* which was to be merged with the *educationinfrastructure grant* in 2017/18, to allow time for projects to be completed and for the thorough assessment of the grant transition process.

Local government grants fall into two main groups: infrastructure and capacity building. The total value of conditional grants directly transferred to local government increases from R43.727 billion in 2017/18 to R46.270 billion in 2018/19 and R49.836 billion in 2019/20.

Table 4: Conditional Grants to local government 2016/17 to 2019/20

R million	2016/17	2017/18	2018/19	2019/20
Equitable share and related[1]	**51 169**	**57 012**	**62 732**	**67 473**
General fuel levy sharing with metros	**11 224**	**11 785**	**12 469**	**13 167**
Direct conditional grants	**40 863**	**43 727**	**46 270**	**49 836**
Municipal infrastructure	14 914	15 891	16 788	17 734
Water services infrastructure	2 845	3 329	3 559	3 757
Urban settlements development	10 839	11 382	11 956	12 631
Integrated national electrification programme	1 946	2 087	2 204	3 328
Public transport network	5 593	6 160	6 583	6 962
Neighbourhood development partnership	624	663	702	741
Local government financial management	465	502	531	561
Regional bulk infrastructure	1 850	1 865	2 060	2 175
Municipal demarcation transition	297	112	–	–
Other direct grants	1 488	1 735	1 887	1 947
Total direct transfers	**103 255**	**112 524**	**121 470**	**130 477**
Indirect transfers	**7 824**	**7 338**	**7 596**	**8 015**
Integrated national electrification programme	3 526	3 846	3 962	4 182
Neighbourhood development partnership	22	28	29	31
Regional bulk infrastructure	3 479	2 774	2 881	3 037
Water services infrastructure	362	587	608	642
Municipal systems improvement	84	103	115	122
Bucket eradication programme	350	–	–	–

Excludes provisional allocations
Source: National Treasury 2017

With regards to municipal grants, several conditional grants have been merged in previous years and the consolidation trend is expected to continue. Proposed changes to municipal allocations for the 2017 MTEF include the following:

- I Government's intention to introduce a new funding model for district municipalities once the Department of Cooperative Governance has completed its review of their functional role.
- National Treasury working with the Department of Energy and Department of Human Settlements to consolidate electrification funding for metropolitan municipalities into the urban settlements development grant.
- The Bucket Eradication Programme Grant ends in 2016/17 and all remaining projects will be completed through existing grants. In 2017/18 R385.6 million is allocated for bucket eradication projects in the *Regional Bulk Infrastructure Grant* and the *Water Services Infrastructure Grant.*

2.3 Main Changes to 2017 Division of Revenue Bill

The 2017 Division of Revenue Bill continues with emphasis on reprioritisation within the existing fiscal envelope so as to ensure that the state's policy objectives are met despite a lower expenditure ceiling.

The main policy issues considered and adjusted into the 2017 Division of Revenue Bill clauses include:

- Clause 21(1) is changed to make it easier for indirect allocations to be converted to direct transfers in-year (will make it easier for provinces to complete projects);
- Clause 21(2) clarifies the criteria for the in-year conversion of direct grants to indirect. These include: national departments must demonstrate capacity; province/municipality must have a history of underperformance; efforts must have been made to

develop their capacity; and it will prevent under-expenditure or improve delivery;

- Clause 21(4) clarifies that, when possible, an allocation converted in-year should be used to implement the same project(s) that were planned prior to the conversion;
- A new sub-clause is added to clause 35 that allows transferring officers to delegate their powers and responsibilities in terms of this Act. This is intended to make grant management more efficient in national departments;
- Reducing reporting requirements by no longer requiring the submission of draft capacity reports; and
- Clarifying that withholding is done to prevent underspending by the receiving officer (and not the transferring officer).

National Treasury in its briefing to the Committee on the Bill indicated that there is a technical error in the Bill. National Treasury indicated that the error resulted in the zero being omitted from all the municipal codes in Schedule 3 of the Bill and the Annexures and Appendixes to the Bill.

3. Stakeholder and Public Inputs on the 2017 Division of Revenue Bill

3.1 Financial and Fiscal Commission

The submission by the Financial and Fiscal Commission (the Commission) acknowledged the economic background underlying the budget and alluded to low growth below the National Development Plan target which constrains government’s ability to address unemployment, inequality and poverty. The Commission highlighted that social and fiscal risks remain high and encouraged government’s efforts to exercise fiscal discipline and improve the composition and quality of spending.

The Commission noted the revisions in Clauses 21(1), (2) and (4) of the Bill on the in-year conversion of allocations and acknowledged that this aims to reduce inefficiencies in the management of conditional grants. However, the

Commission was concerned that the definition of thresholds for conditions under which direct grants are converted to indirect grants is not clear and may lead to partiality. The Commission was of the view that the use of indirect grants may have an unintended negative impact on the repairs and maintenance of infrastructure due to national departments delivering infrastructure on behalf of municipalities. National departments were encouraged to strengthen oversight and monitoring mechanisms instead of relying on indirect grants.

The Commission welcomed the removal of a sub-section under Clause 27(2)(d) and the addition of clause 35(5) and (6) to improve grant administration by allowing transferring officers to delegate powers and responsibilities subject to the same constraints allowed for the National Treasury and provincial treasuries. The Commission was of the view that this will prevent inconsistencies and accountability problems. The Commission also welcomed an addition to Clause 23(2)(b) which provides for the correction of under-payments to municipalities within ten days thus preventing disruptions in service delivery.

With regard to the division of revenue at national level, the Commission noted the R5 billion proposed increase in the MTEF outer year for higher education and also welcomed the pilot project for a mixed funding scheme to accommodate the missing middle. The Commission welcomed the sustained spending on infrastructure and the introduction of the new infrastructure budgeting facility which aims to address planning and execution challenges which undermine the effectiveness of infrastructure projects. It was of the view that the facility should be extended to infrastructure projects undertaken by local government and also aligned with the existing sub-national planning and co-ordination processes. It was highlighted that infrastructure investment is mainly driven by State Owned Entities with a share of 45 per cent whilst provinces and municipalities account for 20 per cent and 18 per cent respectively.

The Commission welcomed the fact that there were no total baseline adjustments to the provincial fiscal framework and noted that the provincial equitable share (PES) and conditional grants are expected to grow on average above the rate of inflation over the 2017 MTEF. The Commission indicated that although the real growth in PES and conditional grants was insufficient to address backlogs in education and health, provinces should still be able to marginally expand the delivery of constitutionally mandated basic services. The Commission welcomed the stabilisation of the provincial wage bill and felt that there is a need for linkages between wage increases and productivity through a framework for measuring public sector productivity. The Commission also welcomed the review of the PES formula which is expected to cover the funding burden of poorer schools, assessment of data reliability and the cost of service provision.

The Commission welcomed the strong growth in the local equitable share (LES) and in particular the addition for offsetting the increasing costs of basic services. The Commission viewed the effective spending of the LES as having significant redistributive effects in terms of service delivery to the poor. The Commission emphasised that municipalities can be compensated for the rising costs of basic service only if the true cost of municipal operating and maintenance services is used and reference was made to a model on true costs of basic services developed jointly with the South African Local Government Association. The Commission also welcomed the recognition of discrepancies in the funding of District Municipalities (DMs) and the interim measures for relieving funding bottlenecks faced by 13 DMs. The Commission was of the view that a long term sustainable funding model for DMs should be found and that this model should be based on a clear identification of the powers and functions of the DMs.

In terms of provincial conditional grants, the Commission noted with concern the reduction in the baseline of the Human Settlements Development grant and was of the view that this would negatively affect the performance of the sector in terms of housing units delivered and thus widen the gap between housing needs and delivery in the affordable housing market. With regard to the R3.6 billion ring-fenced for upgrading informal settlements in mining towns, the Commission re-iterated its recommendation for a rental tenure option or a balanced mix given that mining areas comprise mainly of migrant labour who may prefer rental over ownership. The Commission also encouraged government to partner with the mining sector for the upgrading of informal settlements in mining towns in a way that is less of a burden to the fiscus. The Commission supported the proposed devolving of the public transport contracting and regulatory function to metros and recommended that careful consideration be made to the baseline to ensure that metros are not disadvantaged. Furthermore, the Commission recommended that the decision to devolve be communicated soon to the affected metros to facilitate planning and contracting.

The Commission was concerned about the base line reductions in the Health Facility Revitalisation grant given its importance to the construction and maintenance of health infrastructure in line with the National Health Insurance reforms underway and HIV/AIDS and TB grant given the increased uptake of people on ARVs every year. With regard to the closure of the direct component of the National Health Insurance (NHI) grant, the Commission noted that the direct NHI grant has been plagued by poor spending problems due to poor supply chain management systems, weak human resource capacity and the lack of delegation powers at district levels. The Commission was of the view that this points to a need for far reaching reforms which also address pre-existing operational and institutional challenges at provincial level before the NHI is rolled out. The Commission proposed that the National Department of Health should use the indirect NHI grant to build the capacity of health district offices given their central role in the implemantation of the NHI programme. The Commission also encouraged government to implement the NHI reforms in a sequential manner and made reference to stewardship and governance, pooling, purchasing and benefits design.

In terms of education grants, the Commission welcomed the increase in the allocation for the National School Nutrition Programme (NSNP) which accommodates inflation and the expansion of access of nutrition to poor learners in public schools. However, there were concerns about the reduction in the Maths, Science and Technology grant given its critical role towards the improvement of educational outcomes. The Commission welcomed the introduction of the new grant for learners with profound intellectual disabilities in line with meeting international and local obligations of an inclusive society for all persons. The Commission indicated that the grant will address amongst other things issues of accessibility to public transport, the physical condition of schools as well as professional capacity.

The MTEF allocations of R1.3 billion for Early Childhood Development and R591.3 million for the new social worker employment grant were also welcomed by the Commission. The Commission proposed that government should clarify if provinces can use the social worker employment grant to fund Non-Government Organisations that are in need of social workers as the grant framework was not clear on this. Furthermore, the Commission was of the view that departments should be discouraged from designing scholarship programs linked to guaranteed employment as this could lead to financial mismanagement especially if the graduates were not budgeted for in compensation budgets of the departments.

In terms of local government conditional grants, the Commission was overall concerned about the baseline reductions to the Municipal Infrastructure Grant (MIG), the Water Services Infrastructure Grant (WSIG), the Urban Settlements Development Grant (USDG) and the Public Transport Operations grant. The Commission highlighted that it has repeatedly recommended that reductions should target underperforming grants however the MIG and USDG were amongst the best performing grants. The Commission was concerned that the reductions affect key municipal deliverables. In addition, it was highlighted that the WSIG was affected the most by the reductions despite the increase in its scope for the inclusion of sanitation and the Commission contrasted this to sanitation backlogs which remain high especially in rural areas and the government target of universal access to sanitation by 2014.

The Commission also welcomed government's focus areas to turnaround the local government, namely, the Municipal Standard Charts of Accounts for improving financial management; supply chain improvements for minimising irregular expenditure and corruption; guidelines for setting tariffs to minimise disparities in costs of services and tariffs; and improved asset management and asset maintenance. The Commission also alluded to the issue of escalating consumer debt which affects the fiscal viability and financial health of municipalities as well as municipal debt affecting the operations of public entities owed large sums of money by municipalities. The Commission indicated that currently ESKOM is owed R10 billion by municipalities whilst municipalities are owed R113 billion as of June 2016 by national and provincial spheres, businesses and households. In this regard, the Commission implored the task team examining inter-governmental debt to speedily resolve the issue.

3.2 South African Local Government Association

The South African Local Government Association (SALGA) in its submission acknowledged the work done by National Treasury in drafting the 2017 budget in difficult conditions and stated that it supported the theme of transformation for inclusive growth. It further stated that the theme of the 2017 budget resonates with some of the analysis and resolutions taken at its National Executive Conference which was held in November 2016. The resolutions taken at the said conference included the following:

- Finding alternative revenue instruments to enhance the financial viability and health of municipalities;
- Finding measures to deal with the increasing debt currently standing at R117 billion;

- Building municipal capacity to manage both debtors and creditors;
- Finding suitable measures to resolve Eskom issues;
- Working with National Treasury and the South African Revenue Service (SARS) in better profiling municipal clients and better manage their payment records;
- Lobbying for increased allocations to the sector in line with the Cost of Basic Service Study recommendations; and
- Providing differentiated support to small struggling municipalities and districts.

SALGA in its submission on the Bill stated that the division of revenue achieved a substantial redistribution of revenue raised through taxes in relatively wealthy (mainly urban) areas to areas where demand for subsidized public services is the highest. Thus, most rural municipalities receive twice the allocation per household than what is transferred to metropolitan municipalities. SALGA submitted that it supported the general thrust of the 2017 budget however it would continue engaging with the relevant stakeholders on the following areas:

- The consideration by National Treasury of the recommendations of the study conducted by SALGA and the FFC on the Cost of Basic Services so that the Equitable Share review process factors some of the recommendations made;
- Of continuous concern is the allocation to local government which amounts to 9.1 per cent of the overall budget with (5 per cent Equitable Share, 3 per cent grants, 1 per cent indirect transfers, and 1 per cent of the fuel levy);
- There is a need for a continuous review of the allocation methods to address the fact that a number of municipalities are economically and financially unviable. The challenges faced by these municipalities cannot be addressed through the demarcation instrument;
- SALGA will engage with National Treasury on the cost of traded services and the tariff increases granted by the National Energy Regulator South Africa (NERSA); and

- The increasing debt to municipalities has to be resolved as a matter of urgency otherwise it undermines the financial stability of local government.

3.3 Equal Education

Equal Education (EE) in its submission on the 2017 Division of Revenue Bill highlighted concerns around the Equitable Share Formula with specific focus on redress, rurality and scholar transport within the basic education sector. It further commented on the progress by National Treasury on the recommendations made by the Committee regarding the possible introduction of a conditional grant for scholar transport.

EE submitted that the cost of providing quality education in rural provinces was substantially higher due to its historic underfunding and dire economic circumstances, as well as the geographic, infrastructural and demographic characteristics. EE further stated that while the 2017/18 budget should be lauded for taking some steps towards meeting the pressing needs in the Early Childhood Development and Higher Education Sectors, it however fails to comprehensively address the funding in education and other social services in a pro-poor manner across provinces, i.e. the link between poverty and rurality. EE further submitted that in the exercise of revising the Equitable Share Formula, National Treasury should consider the true cost of providing adequate rural education, so as to ensure that those most in need receive most aid.

Ordinary public schools in South Africa are organised in a system ranging from 1 to 5, with 5 being the most affluent and 1 being the poorest. Schools in quintile 1 to 3 are no fee schools therefore their funding comes from the state. EE submitted that a disproportionately high number of quintile 1 to 3 schools were located in rural provinces thus rendering the cost of education substantially higher than in urban provinces.

With regard to the schools transport system, EE submitted that the challenges were still prevalent despite the fact that it had made recommendations to the Committee in its submission on the 2016 Division of Revenue Bill. EE further reiterated the following key issues which impacted on effective funding and planning for scholar transport:

- Ineffective coordination between the Departments of Transport and the Department of Basic Education;
- Inaccurate and inconsistent data on the number of learners in need of scholar transport;
- Consistent under-funding and under-budgeting for scholar transport by provinces, particularly rural provinces.

Equal Education made the following recommendations on the 2017 Division of Revenue Bill:

- That National Treasury makes a solid commitment to revising the Equitable Share Formula (ESF) to:
  - Take into account the costs of education provisioning in rural areas,
  - Increasing the poverty component of the formula;
- The timeframe for the Equitable Share review be made public;
- The Review should include a period of public consultation on proposed models for the new ESF;
- EE recommends that the Committee reiterate its previous recommendation on the 2015 Division of Revenue Bill that a conditional grant should be properly considered for scholar transport; and
- EE recommends that the Committee call National Treasury to account on all the steps taken toward the design and implementation of a conditional grant, including steps to engage relevant stakeholders.

3.4 Rural Health Advocacy Project

The submission by Rural Health Advocacy Project (RHAP) focused on aspects of the budget that relate to the health of rural communities. RHAP noted that health expenditure has grown in real terms by about 1.3 per cent between 2012/13 and 2018/19 and that expenditure is driven by the expansion of ART programmes and increased drug prices. RHAP also observed that there is continued pressure on health budgets due to high drug prices and cost of employment increases. They also highlighted that there is a rising burden of non-communicable diseases and unless this is planned for it could result in massive downstream costs to the health systems.

RHAP made reference to the Minister of Finance’s announcement that rural provinces will continue to receive a higher per capita proportion of the equitable share allocation and questioned the adequacy and effectiveness of the PES. RHAP argued the inadequacy of allocations by citing rural population data related to levels of inequity and people who live below the poverty line in rural areas as well as statistics related to understaffing in rural health care. They also highlighted the higher costs of service delivery in rural areas due to poor road infrastructure and distances due to geographic remoteness. Nonetheless, RHAP welcomed the announcement for the exploration of adding rural-focused indicators to the PES formula to further strengthen the equity of intergovernmental transfers. They also indicated that more clarity was needed on the risk equalization component of the PES formula.

With regard to the effectiveness of the PES, RHAP was of the view that there are serious flaws in the way health is funded and alluded to provinces having full discretion on how the PES is allocated within the province. RHAP was of the view that some provinces allocate far smaller portions of PES towards health which thus results in poor health facilities. They were concerned that the allocation process at the provincial level is non-transparent and vulnerable to priority-setting that is out of tune with the national goals of equity and transformation. Furthermore, they were of the view that health allocations to those most in need are further complicated by another layer of decision-making at provincial departments of health. RHAP also cautioned against ill-considered cost-cutting measures and cited that rural health care facilities serving the most impoverished communities have been cut to skeleton staffing levels whilst outreach services to clinics and households have also come to a halt. RHAP purported that whilst National Treasury's call for cutting costs came with a proviso for protecting frontline health professionals, there have been instances of post rationalisation and organogram reviews occurring outside of the public domain with little or no consultation of communities and that this has affected health care delivery to the most vulnerable.

RHAP argued for targeted funding to address historical inequities and unmet need and highlighted changes in disease patterns supported by a Statistics South Africa report which alluded to 60 per cent of deaths being due to non-communicable diseases. RHAP was of the view that the current funding system with its gaps and inefficiencies highlighted above caters little for rural communities with regard to diabetes, hypertension, cancer and mental health illness. They alluded to the predicament that rural citizens often face in spending their own scarce resources on travel to reach a facility that may not have medicine in stock, a doctor on call, or an allied health professional on the organogram. Although RHAP welcomed the launch of the NHI and hoped that it would address these challenges they were concerned about the lack of clarity about the NHI and the role of provinces and district health services in its implementation. RHAP highlighted potential risks to a single purchaser model where the fund purchases services from health care providers and alluded to the possibility of expenditure over runs as patients abandon under resourced district health services. In summary RHAP emphasised that radical transformation includes how health care is funded and maintained, and that rural communities need a reliable, functional, accessible, and comprehensive health care service.

4. Findings and Observations

4.1 The Committee notes that the 2017 Budget lowers the spending ceiling by R10.2 billion in 2017/18 and R15.9 billion in 2018/19. This will be achieved through reduced national department operating budgets; lower transfers to entities, provinces and local government; and reallocations.

4.2 The Committee acknowledges the utilisation of incentive grants in improving spending performance for provinces and municipalities. In addition, the incentives now also explicitly include performance measures as part of their allocation criteria following the Committee's previous recommendations. The Committee is of the view that provinces and municipalities currently scoring lower in incentives frameworks should be supported so that they are not unfairly disadvantaged in future resource allocations.

4.3 The Committee notes work underway in reforming and consolidating conditional grants including baseline reductions in a number of conditional grants. The Committee views the provision of continued support to provinces and local government with regards to the reforms and budget reductions in conditional grants as critical in ensuring the sustainable provision of basic services.

4.4 The Committee notes work underway in introducing a new funding model for District Municipalities and supports the Financial and Fiscal Commission's view that a long term sustainable funding model for district municipalities should be found based on a clear identification of the powers and functions of the district municipalities

4.5 The Committee welcomes new conditional grants, namely, the social workers employment grant, the early childhood development grant, and a learners with profound intellectual disabilities grant and views these as positive contributions in enhancing government's social support package and calls for close monitoring of these grants to ensure their success. Whilst the Committee welcomes the new early childhood development grant, it emphasises that there should be close collaboration between the Departments of Social Development, Basic Education and Health in this regard.

4.6 The Committee notes the concerns raised by the Financial and Fiscal Commission on the impact of the downward revision of allocations for the Human Settlements Development Grant (HSDG) and Water Services Infrastructure Grant (WSIG) which negatively affects houses delivered per allocation and efforts at addressing sanitation backlogs and eradicating the bucket system. However, the Committee views the complete eradication of the bucket system as urgent and wants clear timeframes on the completion of this programme.

4.7 The Committee further notes the Financial and Fiscal Commission's submission that the use of indirect grants may have an unintended negative impact on the repairs and maintenance of infrastructure due to national departments delivering infrastructure on behalf of municipalities. The Committee is of the view that there should be proper transfer of ownership of completed infrastructure by national departments to municipalities.

4.8 The Committee remains concerned about consumer debt owed to municipalities including national and provincial spheres of government and is of the view that this undermines the financial viability of municipalities' especially rural and poor municipalities. The Committee is also very concerned about intergovernmental debt whereby municipalities also owe significant amounts to state entities such as ESKOM and the Water Trading Entity and is of the view that this jeopardises the operations of public entities. The Committee notes the work underway by the inter-ministerial committee in dealing with the issue including reviving best practices in debt management however it is of the view that this process should be expedited as a matter of urgency.

4.9 The Committee notes the initiatives undertaken by South African Local Government Association that point to improvements in municipal operations. However, the Committee calls for stricter application of consequence management in municipalities, the need to elevate the role of municipalities in economic development, enforcement of municipal by-laws and formulating innovative technology solutions and other legal mechanisms in dealing with municipal debt and revenue collection.

4.10 The Committee notes concerns raised by the Rural Health Advocacy Project around the lack of transparent resource allocation in the health sector at provincial level and concerns around the effectiveness of budget allocations vis-à-vis the health needs of rural communities. The Committee will be holding meetings with the national and provincial health departments on the effective co-ordination and alignment of national and provincial spheres of government in the delivery of health services so as to ensure value for money, efficient planning and resource allocation. The Committee will invite the Rural Health Advocacy Project to form part of these discussions.

4.11 The Committee notes Equal Education's submission that the cost of providing quality education in rural provinces is substantially higher due to their history of underfunding and their continued challenging economic conditions including infrastructure backlogs and high unemployment. The Committee also notes National Treasury's submission that work is underway in addressing issues on funding services in rural areas through the review of the provincial equitable share formula.

4.12 The Committee notes with concern Equal Education's submission with regard to the schools' transport system wherein it highlights ineffective coordination between the Departments of Transport and the Department of Basic Education; inaccurate and inconsistent data on the number of learners in need of scholar transport and under-funding and under-budgeting for scholar transport by provinces, particularly rural provinces. The Committee notes government's response that the Departments of Basic Education and Transport still need to finalise the assignment of the scholar transport function.

4.13 The Committee notes Equal Education's submission that a disproportionately high number of quintile 1 to 3 schools were located in rural provinces thus rendering the cost of education substantially higher than in urban provinces. The Committee is the view that the quintile system needs to be significantly improved so that it does not disadvantage poor learner's who reside in urban areas.

4.14 The Committee notes that there is a technical error in the Bill. National Treasury indicated that the error resulted in the zero being omitted from all the municipal codes in Schedule 3 of the Bill and the Annexures and Appendixes to the Bill. The Committee agreed that this be corrected by the Minister of Finance in the National Assembly as per Section 14 of the Money Bills Act which provides that the House may consider amendments proposed by Minister to make technical corrections.

5. Recommendations

The Standing Committee on Appropriations having considered the 2017 Division of Revenue Bill recommends as follows:

5.1 That the Minister of Finance should ensure the following:

5.1.1 That the National Treasury in partnership with the Department of Planning, Monitoring and Evaluation, civil society and relevant stakeholders develop systems to enhance monitoring and implementation effectiveness including value for money principles in all conditional grants whose baselines have been reduced.

5.1.2 That the National Treasury strengthen budget formulation and planning in provinces with specific reference to the principles of openness, transparency and public participation. This should include public outreach and education programmes on the review and finalisation of the provincial equitable share formulas.

5.1.3 That the National Treasury in partnership with the Financial and Fiscal Commission research and develop instruments and mechanisms that will allow for the ring fencing of budget allocations for government departments and entities to pay their outstanding municipal debts and municipal services.

5.1.4 That the Minister of Finance should ensure that National Treasury effects corrections to the technical error in Schedule 3 of the Bill.

5.2 That the Ministers of Finance, Basic Education, and Transport should ensure the following:

- That the scholar transport function within provinces is clearly assigned with defined sector roles for the Departments of Basic Education and Transport.
- That there is effective coordination between the Department of Transport and the Department of Basic Education;
- That there is reliable, accurate and consistent data on the number of learners in need of scholar transport; and
- That budget allocations are responsive and aligned to scholar transport needs and requirements in provinces.

5.3 That the Minister of Finance and Minister of Cooperative Governance should ensure that the National Treasury and Department of Cooperative Governance develop systems and mechanisms to ensure that cost reflective tariffs are sufficiently communicated to communities and phased in with due consideration to the ability of household to absorb these costs.

6 Committee's Recommendation on the Bill

The Standing Committee on Appropriations having considered the ***Division of Revenue Bill*** [B4—2017] (National Assembly) referred to it and classified by the JTM as a section 76 Bill, reports that it has agreed to the Bill without amendments.

7 Conclusion

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

Report to be considered.

Ms YN Phosa, MP **Date**
Chairperson: Standing Committee on Appropriations

2. Interim Report of the Portfolio Committee on Public Works on the Expropriation Bill, dated 14 March 2017

The Portfolio Committee on Public Works, having noted the President's reservations about the constitutionality of the ***Expropriation Bill*** [***B 4D – 2015***] (National Assembly – sec 76) (Announcements, Tablings and Committee Reports, 20 February 2017), recommends that the Bill be referred to the National House of Traditional Leaders for comment in terms of section 18(1) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003).

Report to be considered.

3. Report of the Portfolio Committee on Justice and Correctional Services on the Provisional Suspension of Magistrate SR Monaledi, dated 14 March 2017

The Portfolio Committee on Justice and Correctional Services, having considered the report on the provisional suspension of Magistrate SR Monaledi, a Regional Court President in North West, reports as follows:

1. Ms Monaledi was appointed as Regional Court President, North West, on 2 June 2003.

2. On 5 March 2015, the Commission received a letter, which alleged that Ms Monaledi had submitted excessive transport claims; was seldom in the office and performed no work in the Regional Court; and was never available to the public, prosecutors, attorneys and the clerical staff.

3. On 23 July 2015, the matter was referred to the Commission's Ethics Committee, which resolved that a preliminary investigation be conducted into the allegations. Subsequently, two Senior Magistrates were appointed in terms of Regulation 26(1) of the Regulations for Judicial Officers in the Lower Courts, 1994, to "*to obtain evidence with regard to the allegations and all matters connected with or incidental thereto in order to determine whether there are any grounds for a charge of misconduct against Regional Court President Ms S R Monaledi*."

4. From the evidence obtained, it would appear that there is sufficient evidence available to prove on a balance of probabilities that Ms S R Monaledi made herself guilty of misconduct. There is also *prima facie* evidence that Ms Monaledi on numerous occasions submitted false subsistence, travel and transport claims and therefore committed fraud. Among others:

4.1. Ms Monaledi was constantly absent from her office. During the past three years (2013 – October 2015) she spent an average of 71.49% of the available work days away from her office and it was unclear whether or not she indeed was at her office on the other available court days (28.51%). Ms Monaledi does not render any court work in the regional courts.

4.2. Ms Monaledi seemed to have created a second salary for herself by means of monthly subsistence and travel claims. During the past three years she claimed a total of R 953 838.56 but the Commission identified a number of discrepancies regarding the claims, including that in 41 instances, she claimed to have had attended meetings held by the Commission or one of its Committees while, in fact, no such meetings were held on the days she claimed they took place.

4.3. Ms Monaledi, in contravention of section15 of the Magistrates Act, No. 90 of 1993, was an incorporator and an active director of a private company BOITHA TOURS AND CONSTRUCTION. She was also a founding member and an active director of KWA-LITHO AGRICULTURAL.

4.4. Ms Monaledi obtained a certificate of good standing from the Secretary of the Magistrates Commission in which it was indicated that there were no pending investigations against her despite the fact that she had been informed of the decision to conduct a preliminary investigation against her. It was confirmed by the Office of the Chief Justice that this certificate of good standing was indeed used as motivation when she applied to be appointed as a Judge in the High Court.

5. In a letter dated 28 September 2016, the Commission requested Ms Monaledi to show cause why the Commission should not recommend to the Minister that she be provisionally suspended from office pending the outcome of the investigation into her fitness to hold the Office of Magistrate. The letter was served on her on 18 October 2016. Despite a reminder having been sent to her on 12 November 2016, she did not furnish the Commission with any response.

6. At its meeting held on 25 November 2016, the Commission deliberated on the matter and agreed that:

6.1. The evidence against Ms Monaledi was of such a serious nature as to make it inappropriate for her to perform the functions of a magistrate or regional court president while the allegations are being investigated.

6.2. Her alleged conduct tarnished the good name, dignity and esteem of the Office of Magistrate and the administration of justice.

6.3. Without anticipating the outcome of the investigation into her fitness to hold the Office of Magistrate, the available evidence against Ms Monaledi was of such a serious nature that it would justify her removal from office, should she be found guilty of the misconduct charges which were preferred against her.

6.4. The available evidence justified that Ms Monaledi be criminally charged on numerous counts of fraud.

Recommendation

7. Having considered the Commission's report on the provisional suspension from office of Ms SR Monaledi and the Minister's request, the Committee recommends that the National Assembly confirms the provisional suspension.

Report to be considered

4. Report of the Portfolio Committee on Justice and Correctional Services on the Draft Notice and Schedule determining the rate, with effect from 1 April 2016, at which salaries, allowances and benefits are payable to Constitutional Court judges and judges annually, dated 14 March 2017

The Portfolio Committee on Justice and Correctional Services, having considered the request for approval by Parliament of the Draft Notice and Schedule determining the rate at which salaries are payable to Constitutional Court judges and judges annually, with effect from 1 April 2016, referred to it on 24 January 2017, recommends that the House approves the Notice and Schedule.

Report to be considered

5. Report of the Portfolio Committee on Communications on the appointment of an interim Board of the South African Broadcasting Corporation, dated 14 March 2017

The Portfolio Committee on Communications (the Committee), having considered the resolution of the National Assembly (NA) to dissolve the South African Broadcasting Corporation (SABC) Board, reports as follows:

On 5 October 2016, the Committee resolved that an inquiry into the fitness of the SABC Board to hold office in terms of Section 15A of the Broadcasting Act, 4 of 1999 was necessary. Subsequent to the resolution of the Committee, the NA established an ad hoc Committee on the SABC Board Inquiry to inquire *inter alia* into the fitness of the SABC Board to discharge its duties as described in the Broadcasting Act, No 4 of 1999, and any other applicable legislation.

The ad hoc Committee on the SABC Board Inquiry recommended to the NA that the SABC Board be dissolved and that an interim Board be appointed. On 7 March 2017, the NA adopted the recommendation of the ad hoc Committee on the SABC Board Inquiry.

The Committee had begun with its deliberations on the interim Board of the SABC on 24 January 2017 and agreed that: (i) candidates should, among other things, possess in-depth knowledge of the Broadcasting Act, legal expertise and experience in dealing with human resources; and (ii) since the process of appointing an interim Board does not require advertising and interviews, different parties must submit names to the Committee for consideration.

On 14 February 2017, the Committee met and parties submitted the names of proposed candidates as follows: the African National Congress (ANC) submitted the names of Mr Mathatha Tsedu, Ms Rachel Kalidass, Mr David Nidri, Mr Krish Naidoo, Ms Febbe Potgieter-Gqubule, Ms Sulungeka Dazana, Ms Khanyisile Kweyama and Mr Steve Mothale.

The Democratic Alliance (DA) submitted the following names: Mr John Matisson, Ms Tanya Bosch, Mr Mpumelelo Mkhabela, Mr Jack Devnarain and Mr Michael Markovitz.

The Congress of the People (Cope), on behalf of smaller parties, submitted the following names: Mr Moses Moraladi, Mr Xolisa Mbeqeka, Mr Dumile Mateza and Ms Pearl Luthuli.

The Committee agreed to afford the Economic Freedom Fighters (EFF) an opportunity to submit names through the Committee Secretary. On 8 March 2017, the EFF submitted the following names: Mr Thabo Kwinana, Adv Mojanku Gumbi and Mr Mathatha Tsedu.

On 14 March 2017, the Committee deliberated on the names and recommends to the NA that the following candidates be recommended for appointment to the interim Board of the SABC: Mr John Matisonn, Mr Mathatha Tsedu, Mrs Febbe Potgieter-Gqubule, Ms Khanyisile Kweyama and Mr Krish Naidoo.

Furthermore, the Committee recommends that Ms Khanyisile Kweyama be appointed Chairperson and Mr Mathatha Tsedu be appointed Deputy Chairperson of the interim Board of the SABC.

Report to be considered.

National Council of Provinces

1. REPORT OF THE SELECT COMMITTEE ON APPROPRIATIONS ON THE OVERSIGHT VISIT TO MUNICIPAL INFRASTRUCTURE GRANT PROJECTS IN SALDANHA BAY LOCAL MUNICIPALITY, WESTERN CAPE, DATED 14 MARCH 2017

2. Background

The Municipal Infrastructure Grant (MIG) is a conditional grant transfer to municipalities and is administered by the Department of Cooperative Governance and Traditional Affairs (CoGTA). Its purpose is to provide specific capital finance for eradicating basic municipal infrastructure backlogs for poor households, micro enterprises and social institutions servicing poor communities. The Grant funds various basic services such as water and sanitation; municipal roads; solid waste disposal; sport and recreation facilities; street lighting and other public facilities such as community centres.

CoGTA conducted a policy review of MIG during 2014, focusing on its future direction, which resulted in some proposals being introduced in the 2016 Budget. The 2015 Budget introduced a new condition allowing MIG funding to be used for refurbishment projects, subject to proof of the proper maintenance of assets, and clarifying that MIG funds could also be used to upgrade informal settlements.

3. Terms of Reference

The Select Committee on Appropriations (the Committee) was established in terms of section 4(3) of the Money Bills Amendment Procedure and Related Matters Act, No 9 of 2009. In terms of section 4(4) of this Act, the Committee has the powers and functions conferred to it by the Constitution, legislation, the standing rules or a resolution of a House, including considering and reporting on:

(a) Spending issues;

(b) Amendments to the Division of Revenue Bill, the Appropriation Bill, Supplementary Appropriations Bill and Adjustment Appropriations Bill;

(c) Recommendations of the Financial and Fiscal Commission, including those referred to in the Intergovernmental Fiscal Relations Act, No. 97 of 1997;

(d) Reports on actual expenditure published by the National Treasury; and

(e) Any other related matter set out in this Act.

Furthermore, the mandate of the Committee encompasses the Committee's functions to legislate, conduct oversight of the Executive; promote public participation, facilitate international agreements and review matters of public interest in relation to the National Treasury.

The Committee monitors conditional grant spending as part of its oversight mandate and, since the beginning of the Fifth Parliament, has conducted similar oversight visits to KwaZulu-Natal and Limpopo to report on the performance of conditional grants, including the Municipal Infrastructure Grant.

4. Objectives

The objectives of the oversight visit were as follows:

4.1 Assess the appropriateness of the infrastructure built – if it is fit for purpose, functional and operational.

4.2 Assess whether the projects have met the objective of increased access and delivery of basic services to poor households.

4.3 Elicit whether the MIG funding was complemented by any other grant funding such as the Expanded Public Works Programme Integrated Grant for Municipalities. And if so, the number of people from the community who benefited from working on the infrastructure project.

4.4 Assess whether municipalities have maintenance plans in place for the infrastructure delivered to ensure that its lifespan is extended to its optimum.

5. Methodology

During a meeting at Parliament on 10 May 2016, the Committee received a joint presentation from the Western Cape Department of Local Government and the Provincial Treasury on the second and the third quarter MIG performance of the Western Cape in the 2015/16 financial year. On 31 January 2017, the Department of Local Government and Provincial Treasury briefed the Committee on the status of the MIG expenditure in the province as at December 2016, with a special focus on the Saldanha Bay

Local Municipality. This hearing was followed by an oversight visit to four MIG projects in the Saldanha Bay Local Municipality on 2 February 2017. National Treasury, the Municipal Infrastructure Support Agent (MISA), the Financial and Fiscal Commission (FFC) and the South African Local Government Association (Salga) were also invited to the hearing and the subsequent site visits to take part in the deliberations.

6. Western Cape Municipal Infrastructure Grant Performance

6.1 Financial performance

For the previous six financial years, the MIG expenditure by Western Cape municipalities on average amounted to 99.85 per cent in 2010/11, 99.3 per cent in 2011/12, 100 per cent in 2012/13, 96.3 per cent in 2013/14, 97.44 per cent in 2014/15 and 94.4 per cent in 2015/16. The Western Cape municipalities' average MIG expenditure compares favourably with the national average for this period.

The provincial MIG budget amounted to about R501.2 million in the 2016/17 financial year. By December 2016, there was an overall expenditure of 41.58 per cent of the total provincial allocation. A total of 13 municipalities had spent above the 40 per cent benchmark set by the Department of Cooperative Governance and Traditional Affairs, while 11 municipalities had spent below this benchmark and would be assisted by the provincial Department of Local Government.

Reasons for under-expenditure in these municipalities included the following:

- Due to limited funds, municipalities planned "under-expenditure" to accommodate multi-year projects;
- Invoices were received after the claims period deadline;
- Supply Chain Management delays in the appointment of contractors;
- Delays in appraising ring-fenced sport projects; and
- A municipality having to re-prioritise its Detailed Project Implementation Plan (DPIP) due to high water losses.

6.2 Non-financial performance

With respect to non-financial performance, the province reported the following progress in the 2016/17 financial year in terms of poor households benefitting:

- Water: 81.7 per cent (19 490 out of a planned 23 853);
- Sanitation: 19 per cent (17 496 out of a planned 91 864);
- Sport: 7.8 per cent (14 550 out of a planned 186 426);

- Solid waste: 6.7 per cent (311 out of a planned 4 675);
- Public transport: 0 per cent (0 out of a planned 1 958); and
- Emergency services: 25 per cent (469 out of a planned 1 874).

With regard to employment created through the MIG the province reported that, during the 2015/16 financial year, a total of 143 540 person days was achieved. This included 6 341 for people with disabilities and 75 324 for young people. At the end of the second quarter of the 2016/17 financial year a total of 37 243 person days was reported, including 6 620 for persons with disabilities and 16 914 for young people.

7. Saldanha Bay Local Municipality Municipal Infrastructure Grant Performance

With regard to the Saldanha Bay Municipality's financial performance, the Municipality reported that it had been consistent in spending its MIG allocation over the period 2012/13 to 2015/16 at 100 per cent expenditure. The Municipality's MIG expenditure was reported to be above the average MIG expenditure registered by the other municipalities in the Western Cape. At the time of the public hearings and oversight visit to the Municipality, it was reported to be one of the top performing municipalities in the province with regard to MIG expenditure. In the 2016/17 financial year, the MIG funding (R18.5 million) as a share of government capital transfers to the municipality (R31.4 million) amounted to 58.9 per cent.

Site visits

7.1 Upgrading of Vredenburg Wastewater Treatment Works

This project was reportedly necessitated by the poor condition of the existing infrastructure and its insufficient capacity to accommodate future developments. This was a multi-year project that was implemented in phases. The scope of works included the installation of rotary screens; provision of vacuum tanker access; modification of return activated sludge (RAS); fixing of cracked columns of the existing aerators structure; rehabilitation of the chlorination building and equipment; the installation of handrails and walkways and the construction of a boundary wall.

On financial matters, the project was reported to cost R15 million in total, of which R8 million was funded from MIG and the balance of R7 million was funded through the Municipality's own contribution. The intended beneficiaries of this project were reported to be 38 028 people from 12 099 households, including 30 530 people from 6 106 poor households.

At the time of the visit, the project, as per the project registration, had been completed and the next phase – construction of a new reactor – which was funded by the Municipality, was 90 per cent complete with electrical installations outstanding. Further phases, like the construction of a clarifier, would also be funded by the Municipality itself.

With regard to challenges, it was reported that excessive underground seepage water had considerately delayed the construction progress. This was resolved by hiring pumping equipment with a much bigger capacity to discharge large volumes of water.

7.2 Vredenburg main sewer outfall - additional upgrades, phase 5

The Vredenburg main sewer outfall was being upgraded in phases. At the time of the oversight visit the project was at phase 5, which was the last phase of the project. The objective of this project was to replace the approximately 30 year-old existing infrastructure, due to the poor condition of the pipeline. The project would ensure that there was sufficient capacity to accommodate future developments. The length of the pipeline was reported to be 1 650 metres, with a diameter of 450 millimetres. Upon completion, the Municipality would be able to alternate between the existing and new pipelines when maintenance is required.

With respect to budget information, the project was projected to cost R13.5 million, of which R6.3 million was funded from the MIG and R7.2 million was supplemented by the Municipality. The project was estimated to be completed at the end of May 2017. At the time of the oversight visit, the project was 80 per cent complete and R5.2 million of MIG funds had been spent. The intended beneficiaries were estimated to be 42 961 people from 12 813 households. The poor beneficiaries were reported to be 32 969 people from 8 795 households.

The project had experienced some challenges. This included the termination of the contract of the appointed main contractor due to non-performance and an attempt to amend project specifications, which were rejected by the Saldanha Bay Municipality. Another challenge was that a court case had existed between the Municipality and the contractor who had scored the second highest in the procurement process, emanating from another project. This led to a delay in the construction of four to five months. The Municipality also reported a lack of additional funding approved by the Council to complete outstanding work.

7.3 Saldanha White City: New Multipurpose Hall

This project is a new multipurpose hall which at the time of the oversight visit was being constructed in Saldanha Bay. Upon completion, the venue will be made available to rent for functions ranging from community gatherings, indoor sports events and festivals. The size of the multipurpose hall was reported to be approximately 3000 m^2 and the hall specifications included a stage, gallery seating, changing rooms, offices, kitchenette and storage, a parking area with 100 bays, as well as an area to house the caretaker. The estimated beneficiaries were reported to be 48 961 people, from 28 835 households. The poor beneficiaries were reported to be 51 572 people from 17 855 households.

With respect to expenditure, the total project was estimated to cost R39.8 million, of which R21.1 million was funded from MIG, with the Municipality contributing R18.7 million from its own funds. At the time of the inspection, the project was approximately 40 per cent complete and expenditure of the MIG funds was at R8.3 million. The project was anticipated to be completed at the end of September 2017. At the time of the oversight visit, no challenges were reported.

7.4 Construction of new pavilion and grand stand in Saldanha Bay

The purpose of this project was to address the need for a facility that was capable of hosting major sport events. The project was being implemented in phases and the construction of the pavilion was the first phase of the project. Phase 2 of the project would be funded by the Saldanha Bay Municipality. Upon completion, the facility would serve the broader community of Saldanha Bay. Phase 1 of the project included construction of the pavilion accommodating 1000 seats for spectators; ablution facilities; change rooms for players and referees; a kitchen/bar facility and control room. Phase 2 would include the construction of rugby fields; flood lights; fencing and soft landscaping.

With respect to expenditure, R28.1 million had been spent on phase 1 of the project. Of that amount, R12.7 million was funded from MIG and R14.3 million was from the Municipality's own funding. These funds were topped up by a R1.1 million grant from the Western Cape Department of Culture, Arts and Sports. The Saldanha Bay Municipality also reported that phase 2 would be funded by the Municipality and a donation from Transnet.

On non-financial issues, the Municipality reported that a total of 38 394 people from 6 399 households would benefit from this facility. Out of these, 27 327 were poor beneficiaries from 4 554 households. The first phase of the project had been completed and phase 2 was under construction at the time of the visit. This phase was estimated to be completed in June 2017. The Municipality further reported that phase 3 would involve the construction of an athletics track and parking lots. The only challenge reported was the late start to the construction work due to delays in securing additional funding from Transnet.

8. Observations and findings

During the interaction with relevant stakeholders and site visits, the Committee made the following observations and findings:

8.1 The Saldanha Bay Municipality's Project Management Unit appeared to be managing project implementation within the project time-frames, as the projects were on schedule and within the allocated budget.

8.2 The multi-purpose hall and the stadium were situated in town and were earmarked to serve the whole Saldanha Bay community. The Committee was, however, concerned about the accessibility of the sports ground to poor households, who are mostly situated far from the facility.

8.3 The Saldanha Bay Municipality supplemented its MIG allocation with its own funding and, in the case of the new pavilion and grand stand, with donations from Transnet and the Western Cape Provincial Department of Culture, Arts and Sports.

8.4 The Committee was concerned about the apparent lack of occupational health and safety measures at the Vredenburg Wastewater Treatment Works project as well as possible long term effects on the health of employees permanently stationed at wastewater treatment works plants.

8.5 During the second quarter a total of 13 municipalities in the Western Cape had spent above the 40 per cent benchmark set by the Department of Cooperative Governance and Traditional Affairs, while 11 municipalities had spent below this benchmark.

8.6 Some of the factors that contributed to under-spending were late submission of invoices, delays in supply chain management, reprioritisation of projects and delays in appraising ring-fenced sport projects.

8.7 During the period under review, the following numbers of poor households reportedly benefitted from the MIG projects in the province:

- On water, 19 490 out of a planned 23 853 (about 81.7 per cent of the target);
- On sanitation, 17 496 out of a planned 91 864 (only 19 per cent of the target);
- On sports, 14 550 out of a planned 186 426 (only 7.8 per cent of the target); and
- On solid waste, 311 out of a planned 4 675 (only 6.7 per cent of the target).

9. Recommendations

9.1 The provincial Department of Local Government and Provincial Treasury should strengthen their monitoring and support to Municipal Infrastructure Grant projects in the province, especially within the 11 under-spending municipalities.

9.2 The provincial Department of Local Government should ensure that Municipal Infrastructure Grant-funded infrastructure is in line with the objectives of the Grant. That is, making basic services accessible to the poor communities as well as unlocking the economic growth opportunities within the poor communities.

9.3 The provincial Department of Local Government should ensure that the funding mechanisms of the Municipal Infrastructure Grant projects are consistent with the planning processes of local, provincial and national government, especially with regard to sporting infrastructure.

9.4 Saldanha Bay Local Municipality should ensure that all community infrastructure projects are compliant with public participation principles through their Integrated Development Plan (IDP) priority processes and that community infrastructure is located in a manner that makes it easily accessible to all community members (that is spatially inclusive).

9.5 The Saldanha Bay Local Municipality should ensure that employees stationed at wastewater treatment plants are at all times wearing safety clothing such as face masks, goggles and appropriate gloves.

9.6 The provincial Department of Local Government and the Saldanha Bay Local Municipality should, within three months after the adoption of this Report by the House, provide the Committee with a progress report with regard to the recommendations made.

9.7 The Department of Labour should, within three months after adoption of this Report by the House, report to the Committee on how the departmental inspectors monitor compliance with safety measures in wastewater treatment plants within municipalities.

Report to be considered.