**WEDNESDAY, 6 MAY 2015**

\_\_\_\_

***PROCEEDINGS OF THE NATIONAL ASSEMBLY***

*\_\_\_\_*

The House met at 09:01.

The Deputy Speaker took the Chair and requested members to observe a moment of silence for prayer or meditation.

**HOURS OF SITTING ADJUSTED**

(Draft Resolution)

The DEPUTY CHIEF WHIP OF THE MAJORITY PARTY: Deputy Speaker, I move:

That, notwithstanding the hours of sitting of the House as provided for in Rule 23(2), the hours of sitting for today, Wednesday, 6 May 2015, shall be 09:00 to adjournment.

Agreed to.

**NEW MEMBERS**

(Announcement)

The DEPUTY SPEAKER: Order! Hon members, I wish to announce that the vacancies that occurred owing to the loss of membership of the National Assembly by Mr R P Ramakatsa and Mr J A Mngxitama in terms of section 47(3)(c) of the Constitution of the Republic of South Africa, 1996, have been filled by the nomination of Mr M M Dlamini and Ms M O Mokause, with effect from 16 April 2015.

I also wish to announce that the vacancy that occurred in the National Assembly due to the passing away of Ms Y R Botha has been filled by the nomination of Ms A Tuck, with effect from 30 March 2015.

The members have made and subscribed to the oath and affirmation in the Speaker’s Office. We welcome them. [Applause.]

**NOTICES OF MOTION**

Mr E J MARAIS: Deputy Speaker, I hereby give notice that on the next sitting day of the House I shall move on behalf of the DA:

That the House debates plans to be put into place in order to minimiseenergy supply risks for energy-intensive businesses such as Transnet, specifically in the new development to be erected at the industrial development zone in Saldanha Bay.

Mr A J WILLIAMS: Deputy Speaker, I hereby give notice that on the next sitting day of the House I shall move on behalf of the ANC:

That the House debates developing a strategy for economic co-operation that gives small producers greater collective market power in value chains.

Mrs M R M MOTHAPO: Deputy Speaker, I hereby give notice that on the next sitting day of the House I shall move on behalf of the ANC:

That the House debates the eviction from and demolition of council-owned properties by the City of Cape Town in order to build a dual carriageway, in the process leaving more than 100 residents homeless.

Ms S J NKOMO: Deputy Speaker, I hereby give notice that on the next sitting day of the House I shall move on behalf of the IFP:

That the House debates the horrifically high number of road traffic deaths per year that involve children under the age of five years and the immediate measures that can be put in place to ensure greater safety for children travelling on our roads.

Mr A G WHITFIELD: Deputy Speaker, I hereby give notice that on the next sitting day of the House I shall move on behalf of the DA:

That the House debates the exorbitant amount of money spent on catering costs at Eskom, the procurement processes for catering requirements, and which workers enjoy the subsidy offered by Eskom.

Ms M P MMOLA: Deputy Speaker, I hereby give notice that on the next sitting day of the House I shall move on behalf of the ANC:

That the House debates the building of a developmental state to effect sustainable programmes that address the challenges of unemployment, poverty and inequality.

Mrs V BAM-MUGWANYA: Deputy Speaker, I hereby give notice that on the next sitting day of the House I shall move on behalf of the ANC:

That the House debates the enhancement of border controls and the improvement of the capacity of our Defence Force and intelligence agencies to secure the integrity of our nation.

Ms Z JONGBLOED: Deputy Speaker, I hereby give notice that on the next sitting day of the House I shall move on behalf of the DA:

That the House debates the increasing levels of poaching of our ocean resources and the implications this has for the sustainability of both our resources and the fishing industry.

Mr D W MACPHERSON: Deputy Speaker, I hereby give notice that on the next sitting day of the House I shall move on behalf of the DA:

That the House debates the highly successful city race dialogue campaign launched by the City of Cape Town and how this can be rolled out to other municipalities to rid South Africa of the scourge of racism.

Dr P MAESELA: Deputy Speaker, I hereby give notice that on the next sitting day of the House I shall move on behalf of the ANC:

That the House debates the expanding and deepening of co-operation among law enforcement agencies in the region and further afield to curb the sophisticated network of crime syndicates that deal with money laundering, and human and drug trafficking and abuse.

Ms P E ADAMS: Deputy Speaker, I hereby give notice that on the next sitting day of the House I shall move on behalf of the ANC:

That the House debates the mixed economy in which the state, private capital, co-operatives and other forms of social ownership complement one another in an integrated way to eliminate poverty and to foster economic growth.

Mr M WATERS: Deputy Speaker, I hereby give notice that on the next sitting day of the House I shall move on behalf of the DA:

That the House debates the high prevalence of femicide in our country and measures to combat this scourge.

Mr A R MCLOUGHLIN: Deputy Speaker, I hereby give notice that on the next sitting day of the House I shall move on behalf of the DA:

That the House debates the correlation between the reduction of red tape in small business development and job creation.

Ms D KOHLER-BARNARD: Deputy Speaker, I hereby give notice that on the next sitting day of the House I shall move on behalf of the DA:

That the House debates the soaring rates of torture and murder of farmers and farm workers, and the decrease in the number of farmers in relation to national food security.

Mr K J MILEHAM: Deputy Speaker, I hereby give notice that on the next sitting day of the House I shall move on behalf of the DA:

That the House debates the withholding of equitable share funding from some 59 municipalities, its effect on service delivery in those municipalities, and whether this draconian action will achieve the stated objective of forcing those municipalities to pay their outstanding debts to Eskom.

Ms N P SONTI: Deputy Speaker, I hereby give notice that on the next sitting day of the House I shall move on behalf of the EFF:

That the House debates the impact of genetically modified organisms on our agricultural sector and future food security, and the potentially dangerous effect that these have on health.

Ms V KETABAHLE: Deputy Speaker, I hereby give notice that on the next sitting day of the House I shall move on behalf of the EFF:

That the House debates reaffirming the importance and independence of the Public Protector as an institution that deals with the concerns of our nation, protecting our nation from thieving and remorseless individuals and practices.

Ms N R MASHABELA: Deputy Speaker, I hereby give notice that on the next sitting day of the House I shall move on behalf of the EFF, the government in waiting:

That the House debates an across-the-board minimum wage of R4 500 for all full-time workers, to narrow the wage gap between executives and ordinary workers.

Mr P G MOTEKA: Deputy Speaker, I hereby give notice that on the next sitting day of the House I shall move on behalf of the EFF:

That the House notes the cowardly abuse of ...

The DEPUTY SPEAKER: Order! Hon member, we are not there yet. These are notices of motion. We will get there.

Ms N V NQWENISO: Deputy Speaker, I hereby give notice that on the next sitting day of the House I shall move on behalf of the EFF:

That the House debates the need for the establishment and capacitation of specialised courts to deal with public service corruption and maladministration, sexual offences, traffic offences, and domestic and marital matters.

**DEATH OF JOHN “SHOES” MOSHOEU**

(Draft Resolution)

Mr B A RADEBE: Deputy Speaker, I move without notice:

That the House —

1. notes with great sadness the passing on of John “Shoes” Moshoeu at the Morningside Clinic in Johannesburg, after losing his battle with cancer, on Tuesday, 21 April 2015;
2. further notes that “Shoes” was a former Bafana Bafana player and Kaizer Chiefs star, an outstanding sportsman and an icon of our football-loving nation;
3. remembers that “Shoes” was a key and influential player in the Bafana Bafana squad that won the African Cup of Nations in 1996;
4. further remembers that he won 73 caps for Bafana Bafana and scored eight goals;
5. acknowledges that his talent was seen worldwide, as he also played for various clubs in Turkey;
6. further acknowledges that “Shoes” was an exemplary man both on and off the football pitch;
7. believes that he has left a good legacy for our future football players;
8. further believes that he has played his part and made South Africa proud in the world of football by flying our flag high; and
9. conveys condolences to the Moshoeu family, the SA Football Association and the entire football fraternity.

Agreed to.

**DASO VICTORY IN FORT HARE SRC ELECTION**

(Draft Resolution)

Mrs Z B N BALINDLELA: Deputy Speaker, I move without notice:

That the House —

1. notes that on Thursday, 30 April 2015, the students of the University of Fort Hare in the Eastern Cape had the opportunity to elect a new student representative council;
2. acknowledges that the DA Student Organisation secured a majority, with 52,5% of the votes;
3. further acknowledges that the SA Students Congress received 37% of the vote; and
4. congratulates the university and its students on organising a peaceful, free and fair election.

[Applause.]

The DEPUTY SPEAKER: If there are no objections, I put the motion. [Interjections.] In the light of the objection, the motion without notice may not be proceeded with. The motion without notice now becomes a notice of motion on the Order Paper.

Ms S J NKOMO: Thank you very much, Deputy Speaker.

The DEPUTY SPEAKER: No, hon member. It is the turn of the hon member in front here.

**COMPLAINT LODGED OVER TREATMENT RECEIVED BY PUBLIC PROTECTOR AT HANDS OF PORTFOLIO COMMITTEE ON JUSTICE AND CORRECTIONAL SERVICES**

(Draft Resolution)

Mr N F SHIVAMBU: It can only be the Chief Whip of the government in waiting. [Interjections.] I move without notice:

That the House —

1. notes that the EFF has lodged a formal complaint with the Speaker of the National Assembly against the conduct of members of the Portfolio Committee on Justice and Correctional Services who, during the appearance of the Public Protector in the committee for the budget processes, abused and treated her in an unprofessional way;
2. calls on the Speaker to take appropriate action against the chairperson of the committee, hon Mathole Motshekga, and other members of the committee for their unparliamentary and unprofessional conduct;
3. recalls that the Public Protector was set up in terms of South Africa’s Constitution to investigate complaints again government agencies or officials, and attempts by members to undermine the office are a violation of our Constitution and accountable public representatives; and
4. condemns the unparliamentary conduct of members of the Portfolio Committee on Justice and Correctional Services.

The DEPUTY SPEAKER: If there are no objections, I put the motion. [Interjections.] In the light of the objection, the motion without notice may not be proceeded with. The motion without notice now becomes a notice of motion on the Order Paper.

**DEATH OF ADV ROBIN STRANSHAM-FORD**

(Draft Resolution)

Ms S J NKOMO: Deputy Speaker, I move without notice:

That the House —

1. notes with great sadness the passing away of cancer-stricken High Court Advocate, Robin Stransham-Ford;
2. further notes that Adv Stransham-Ford passed away after a valiant four-year battle with cancer;
3. recognises Adv Stransham-Ford’s great contribution and tireless efforts in campaigning for legislation concerning innovation in cancer treatment and dignity in dying;
4. acknowledges that these are issues that deserve our most urgent attention and debate; and
5. extends its deepest condolences to his family present in the gallery today, and to friends and colleagues of Adv Robin Stransham-Ford.

May his soul rest in peace.

Agreed to.

**POLICE BRUTALITY AGAINST AFRICAN AMERICANS**

(Draft Resolution)

Ms C N MAJEKE: Deputy Speaker, I move without notice:

That the House —

1. notes that it was reported on Sunday, 3 May 2015, that on Saturday, 2 May 2015, thousands of people called for justice in Baltimore in new demonstrations, a day after six police officers were charged in regard to the death of an African American in their custody;
2. further notes that the death of Freddie Gray, aged 25 years, at the hands of police has reignited resentment in the United States over law enforcement tactics, particularly in dealings with African Americans;
3. acknowledges that there have been many rallies in several other major American cities, including New York, Philadelphia and the capital, Washington, in echoes of the protests that broke out across the United States last year over the fatal police shooting of an unarmed black teenager in Ferguson, Missouri;
4. recognises that the actions by communities in the United States in the hope of restoring peace resonate strongly with South Africa;
5. conveys its sentiments against police brutality; and
6. calls for a resolution that addresses racial differences that seek to divide a country.

Agreed to.

**ANNIVERSARY OF INCARCERATION OF ROBERT SOBUKWE**

(Draft Resolution)

Mr N P KHOZA: Deputy Speaker, I move without notice:

That the House —

(1) notes —

1. the 55th anniversary of the incarceration of the Pan-African leader Robert Mangaliso Sobukwe in 1960;
2. that Sobukwe was a national executive member of the ANC Youth League in 1944 and was, together with A P Mda, the brain behind the 1949 programme of action of the ANC which, amongst other things, called for political and economic freedom for African people;
3. that after breaking from the ANC and forming the PAC in 1959, he led what would go down in history as a defining moment in the struggle for national liberation, the pass boycott, which resulted in the massacre of hundreds of black people in Sharpeville, Langa and elsewhere in the country;
4. that because the racist apartheid government was so afraid of his Africanist ideas, the white minority Parliament passed the Sobukwe Clause, empowering the then Minister of Justice to prolong his sentence by an additional six years beyond the first three that he served on Robben Island;
   1. remembers that he was kept incommunicado from the rest of the political prisoners and that it was even a crime to wave at him;
   2. further notes that no audio material of Robert Sobukwe is to be found and that he remains the only liberation struggle leader in South Africa of this importance whose voice has been erased completely from archives by the apartheid regime;
   3. acknowledges that his legacy remains incomplete until the land has been restored to the indigenous South Africans who have seen the greatest crimes against humanity: genocide, colonisation, and apartheid; and
   4. calls upon government to make available his audio material and all his writings.

The DEPUTY SPEAKER: If there are no objections, I put the motion. [Interjections.] In the light of the objection, the motion without notice may not be proceeded with. The motion without notice now becomes a notice of motion on the Order Paper.

**SUSPECTED HUMAN TRAFFICKER ARRESTED IN POLOKWANE**

(Draft Resolution)

Mr M L W FILTANE: Deputy Speaker, I move without notice:

That the House —

1. notesthat a 27-year-old man was arrested on Monday, 4 May 2015, in Mentz village near Mankweng in Polokwane;
2. further notes that his arrest is in connection with alleged human trafficking;
3. acknowledges that the report says 19 men suspected of being foreign nationals were found locked in a storeroom;
4. commends the swift action by the members of SA Police Service; and
5. calls on the judicial system to act decisively and set an example to other people who in future might think of committing such acts.

Agreed to.

**ABUSE OF POWER BY ETHEKWINI METROPOLITAN MUNICIPALITY IN CANCELLING EFF RALLY VENUE**

(Draft Resolution)

Mr P G MOTEKA: Deputy Speaker, I move without notice:

That the House —

(1) notes —

1. the cowardly abuse of power by the eThekwini Metropolitan Municipality in its malicious withdrawal and cancelling of the offer of the John Dube Stadium three days before the EFF’s Freedom Day rally;
2. that despite these attempts the EFF had a successful rally, addressing thousands of members and supporters as planned;
3. that this is failed political sabotage aimed at undermining the progress and growth that the EFF is making in KwaZulu-Natal and that the people of KwaZulu-Natal came in large numbers to listen to Commander-in-Chief Julius Malema’s message of economic freedom in our lifetime;
4. that this was an attempt to undermine not only the growth of the EFF in KwaZulu-Natal but also the basic constitutional rights of freedom of assembly and association;
5. that the EFF yet again gathered dozens of supporters in Port Elizabeth in the Eastern Cape to commemorate International Workers’ Day;
   1. acknowledges that the decline of the ruling party from 66,5% in 2006 to 52,1% in 2011 and, for the first time, below 50% to 40,8% in the 2014 national election is a clear indication that government is failing to provide for our people and that the EFF will govern the Nelson Mandela Bay Metropolitan Municipality after next year’s election;
   2. further notes that the growth of the EFF across all provinces in the country is an indication that it is, indeed, a government in waiting and will implement a radical economic programme for the benefit of our people; and
   3. condemns the abuse of power by the eThekwini Metropolitan Municipality in its attempt to stop the message of economic freedom three days before the planned rally.

The DEPUTY SPEAKER: If there are no objections, I put the motion. [Interjections.] In the light of the objection, the motion without notice may not be proceeded with. The motion without notice now becomes a notice of motion on the Order Paper.

**DEADLY EARTHQUAKE IN NEPAL**

(Draft Resolution)

Mr M P SIBANDE: Deputy Speaker, I move without notice:

That the House —

1. notes with great sadness the death of more than 7 000 people following a massive earthquake that hit the Federal Democratic Republic of Nepal on Saturday, 25 April 2015;
2. further notes that this horrific disaster also left thousands of people homeless and injured, destroyed irreplaceable heritage sites and stranded hundreds of climbers on Mount Everest;
3. recalls that this massive and most powerful earthquake, which measured 7,9 on the Richter scale, was of a magnitude last experienced in Nepal 81 years ago;
4. commends the rescue teams who braved the cold weather to offer assistance to Nepal’s affected communities;
5. further commends South African charity nongovernmental organisation Gift of the Givers who ha lent a helping hand and joined other international aid agencies in dealing with the aftermath of the disaster;
6. conveys its condolences to the government and people of the Federal Democratic Republic of Nepal, particularly to the families and friends of those killed and injured; and
7. calls on South Africans and the people of the world to show solidarity with the people of Nepal and give the necessary support that will be needed when the Nepalese rebuild their affected communities.

Agreed to.

**SA-RUN HOSPITAL BOMBED IN SYRIA**

(Draft Resolution)

Mr S MOKGALAPA: Hon Deputy Speaker, I move without notice:

That the House —

1. notes that yesterday, 5 May 2015, a field hospital in Syria was bombed in a deadly air strike;
2. further notes that the hospital is run by the South African charity, Gift of the Givers;
3. also notes that it is reported that government warplanes were responsible for firing missiles at the hospital;
4. acknowledges that the hospital, run by Gift of the Givers, which is led by Dr Imtiaz Sooliman, provides vital medical care to an average of 10 000 people per month who have been displaced by the country’s civil war;
5. condemns in the harshest possible terms the air strike that injured dozens of innocent civilians and South African volunteers;
6. calls on the Department of International Relations and Co-operation to urgently investigate this incident and provide feedback to the South African people as soon as possible; and
7. conveys its sincere message of gratitude and appreciation to the Gift of the Givers and the countless South African men and women who risk their lives to save and assist thousands of innocent civilians.

Agreed to.

**EFF PREVENTED FROM ASSISTING DISPLACED PEOPLE IN ISIPINGO, KWAZULU-NATAL**

(Draft Resolution)

Mr M M DLAMINI: Deputy Speaker, I move without notice:

That the House —

1. takes note of and condemns officials of KwaZulu-Natal Home Affairs and the Minister of Social Development, Bathabile Dlamini, for preventing the EFF from visiting and assisting people in Isipingo in KwaZulu-Natal, displaced due to the violence against foreign nationals;
2. further notes that in a clear and cowardly attempt to disrupt the peaceful EFF visit to the displaced, government and ANC officials of the eThekwini Municipality announced through a microphone that the displaced people should not listen to the EFF’s Commander in Chief, Julius Malema;
3. further condemns Minister Dlamini and Home Affairs officials for using the pain and suffering of those who have been displaced for their own political ends;
4. calls on all South Africans to assist those who were displaced through violence to be integrated into our communities, regardless of whether we agree with them politically or not;
5. acknowledges that South Africa does not exist in isolation and that xenophobia must be rooted out, as must political intolerance; and
6. commends all South Africans who took a stand against xenophobia, and urges all South Africans to integrate all African brothers and sisters into their communities.

The DEPUTY SPEAKER: If there are no objections, I put the motion. [Interjections.] In the light of the objection, the motion without notice may not be proceeded with. The motion without notice now becomes a notice of motion on the Order Paper.

**DURBAN TOURISM INDABA STARTS ON 9 MAY 2015**

(Draft Resolution)

Mr N SINGH: Hon Deputy Speaker, I move without notice:

That the House —

1. notes that the Durban Tourism Indaba, which is to start this Saturday, 9 May 2015, will be going ahead in spite of the anxiety and scepticism of the tourism market towards the City of Durban, considering the recent xenophobic attacks;
2. acknowledges that the Durban Tourism Indaba generates millions of rand for the city and is considered one of Africa’s largest marketing events;
3. further acknowledges that this could be an opportune moment to restore the city’s dented and tattered image as a tourism destination;
4. further noteswith regret that delegates from the USA, UK and some African countries cancelled their bookings after the unrest broke out;
5. applauds efforts by the Durban Tourism Indaba officials who are in damage control mode and, armed with optimism, will be taking delegates, including journalists, on tours to various parts of the city to show that calm has indeed returned; and
6. calls on all departmental officials to take a leaf out of the book of the Indaba officials and have a positive mindset in moving forward in an effort to re-establish this nation as a world-class tourism destination.

Agreed to.

**CONDEMNATION OF RETRENCHMENTS AT ANGLO AMERICAN PLATINUM**

(Draft Resolution)

Ms N V NQWENISO: Deputy Speaker, I move without notice:

That the House —

1. notes and condemns Anglo American Platinum’s decision to retrench 474 workers last week as part of its plans to cut about 60 000 jobs by 2017;
2. considers this act a serious undermining of the Labour Relations Act and a human rights violation issue that needs urgent attention;
3. further notes that since the massacre of 34 miners, whose crime was to demand a living wage, at the hands of the ANC government police, mineworkers remain overworked and underpaid while ... [Inaudible.] ... mining companies get away with profit shifting, tax evasion and transfer pricing;
4. also notes that the government refuses to expose those involved in the cold-hearted massacre of 34 men, as they are high-class ANC officials who sacrificed the lives of our people to protect the interests of white monopoly capital;
5. acknowledges that almost three years later the conditions against which these men were protesting are still very much there and worse than before;
6. further acknowledges that mining communities whose minerals are being extracted for the benefit of foreign multinational corporations are still characterised by the worst kinds of poverty, without access to even the most basic services such as clean water, decent sanitation and adequate shelter;
7. also acknowledges that miners are still overworked, underpaid and exposed to dangerous environments, and are forced to live in overcrowded and unhygienic hostels;
8. pledges its support to the Association of Mineworkers and Construction Union, Amcu, should they decide to resume strike action against such inhumane and exploitative conditions;
9. calls on the President to release and make public the report by the Marikana Commission of Inquiry, and for the perpetrators involved in the murder of our people to be brought to book, including government officials;
10. further calls on the Minister to immediately place a moratorium on the retrenchment of mineworkers;
11. also calls on this House to pass legislation for mineworkers’ minimum living wage to be R12 500;
12. acknowledges that white miners working for the same companies in Australia get far more than the R12 500 that workers are demanding; and
13. calls on mineworkers to take courage from the strength of Mambush, and to continue the struggle for a living wage and better working conditions.

The DEPUTY SPEAKER: If there are no objections, I put the motion. [Interjections.] In the light of the objection, the motion without notice may not be proceeded with. The motion without notice now becomes a notice of motion on the Order Paper.

**KAY PHUNWASI AWARDED SA ECD TEACHER AWARD**

(Draft Resolution)

Ms S V KALYAN: Deputy Speaker, I move without notice:

That the House —

1. notes that in April 2015 Ms Kay Phunwasi from Silverglen was awarded the South African Early Childhood Development Teacher Award;
2. also notes that Ms Phunwasi beat 4 500 teachers from across the country to walk away with this coveted award;
3. acknowledges that she is the training manager and a facilitator at the New Beginnings Training and Development Organisation in Chatsworth;
4. further acknowledges that this award is a validation of the hard work that she has done over many years in early childhood development;
5. thanks her for her hard work and dedication to programmes and initiatives for young South Africans; and
6. congratulates Ms Phunwasi on this remarkable achievement and wishes her well in her future endeavours.

Agreed to.

**FORMER WITS SRC PRESIDENT CONDEMNED FOR EXPRESSING ADMIRATION FOR ADOLF HITLER**

(Draft Resolution)

Mr D W MACPHERSON: Deputy Speaker, I move without notice:

That the House —

1. condemns the racist remarks made by Mr Dlamini, former president of the Student Representative Council at the University of the Witwatersrand;
2. further condemns Mr Dlamini’s appalling expression of admiration for German dictator Adolf Hitler and his leadership;
3. welcomes the removal of Mr Dlamini as SRC president for misconduct;
4. believes that the so-called leadership of Adolf Hitler is in direct contravention of and an insult to our constitutional values of freedom, equality and human dignity;
5. reiterates its condemnation of the deaths of millions of Jewish, gay, lesbian, Romani and other minority groups during the Holocaust; and
6. calls on all young leaders and student political leaders to embody the values of our Constitution and the Bill of Rights, and to contribute positively to a united, prosperous, nonracial and nonsexist South Africa through word and deed. [Applause.]

The DEPUTY SPEAKER: If there are no objections, I put the motion. [Interjections.] In the light of the objection, the motion without notice may not be proceeded with. The motion without notice now becomes a notice of motion on the Order Paper.

**ESKOM THREATENS TO CUT ELECTRICITY SUPPLY TO CERTAIN FREE STATE MUNICIPALITIES**

(Draft Resolution)

Mr M L W FILTANE: Deputy Speaker, I move without notice:

That the House —

1. notesthat no fewer than 20 municipalities across the country continue to owe Eskom money, as reported;
2. further notes that in the Free State Eskom has revived notices to cut the electricity supply to Matjhabeng, Maluti-a-Phofung and Ngwathe Local Municipalities;
3. acknowledges that if Eskom cuts the electricity supply, this will negatively affect the socioeconomic situation of these municipalities; and
4. calls on all government authorities to move with speed to resolve this crisis by getting right to the bottom of the problem and resolving it.

Agreed to.

**WORLD PRESS FREEDOM DAY ON 3 MAY**

(Draft Resolution)

Mr M P SIBANDE: Deputy Speaker, I move without notice:

That the House —

1. notes that 3 May is annually celebrated internationally asWorld Press Freedom Day, which was established by the UN General Assembly in 1993;
2. further notes that this year's theme, “Let journalism thrive!”,advocates for quality journalism, the tackling of gender imbalances in the media and digital safety;
3. recalls that the day is designated as an opportunity for the international community to celebrate worldwide the fundamental principles of press freedom, assess the state of press freedom throughout the world, defend the media from attacks on their independence and pay tribute to journalists who have lost their lives in the line of duty;
4. believes that press freedom is critical to the successful implementation of good governance and human rights around the world, as well as allowing citizens to make informed decisions on issues that affect them;
5. further believes in a vibrant, creative and flourishing media that reflects the needs of all South Africans;
6. encourages a media environment that allows everyone the freedom to seek, receive and impart knowledge and information in all media fora;
7. supports responsible, factual, balanced and diverse media that are accessible to all; and
8. calls on all citizens to commemorate this day.

Agreed to.

**MR GAY WORLD 2015 CONTEST IN SOUTH AFRICA**

(Draft Resolution)

Mr Z N MBHELE: Deputy Speaker, I move without notice:

That the House -

1. notes that South Africa played host to the 2015 Mr Gay World contest in Cape Town and Knysna, from 27 April to 3 May;
2. further notes that Mr Gay World programme included a visit to and tour of this Parliament on Tuesday, 28 April;
3. acknowledges the importance of Mr Gay World as a platform for identifying role models and brand ambassadors to champion equal rights for lesbian, gay, bisexual, transgender and intersex, LGBTI, people;
4. condemns ongoing prejudice, homophobia and transphobia against LGBTI people in our country and around the world, as shown by the fact that the Mr Gay India contestant was forced to withdraw from this year’s competition due to threats against him and his family;
5. congratulates the only two representatives from the African continent, Craig Maggs and Siyathokoza Khumalo, for being placed in the top 10;
6. further congratulates the organisers of the Mr Gay World contest for a successful event; and
7. affirms that the Mr Gay World contest should return to this country in future as a symbol of defiance against efforts to make LGBTI people and their issues invisible in Africa.

The DEPUTY SPEAKER: If there are no objections, I put the motion. [Interjections.] In the light of the objection, the motion without notice may not be proceeded with. The motion without notice now becomes a notice of motion on the Order Paper.

**SUSPECTS ARRESTED FOR KILLING JAYDE PANAYIOTOU**

(Draft Resolution)

Mr J J MAAKE: Deputy Speaker, on behalf of the Chief Whip I move without notice:

That the House –

1. welcomes the arrest of three suspects for the killing of Jayde Panayiotou in Port Elizabeth last month;
2. notes that on Monday, 4 May 2015, Panayiotou’s husband, Christopher Panayiotou, was charged with murder, conspiracy to commit murder, kidnapping and robbery with aggravating circumstances, and stands accused with the first accomplice, Thando Siyoli;
3. remembers that Jayde Panayiotou, an elementary teacher at Riebeek College Girls’ High School, was abducted from outside her Kabega Park home in Port Elizabeth on 21 April 2015, as she waited for transport to work in the morning and was discovered shot dead the next day;
4. acknowledges that a third suspect, who is also close to the deceased, has been arrested and will appear in court soon;
5. congratulates the SA Police for the investigation and swift arrest of the three suspects; and
6. conveys heartfelt condolences to Mrs Panayiotou’s family, friends and colleagues.

Agreed to.

**SA TOURISM RANKED NUMBER ONE INTERNATIONALLY**

(Draft Resolution)

Mr J VOS: Deputy Speaker, on behalf of the DA I move without notice:

That the House –

1. notes that last month, Responsible Travel, an on-line platform connecting consumers to the world’s best small holiday companies, published their ranking of tourist boards from around the world;
2. further notes that South African Tourism was ranked number one in the world, sharing this spot with England and Sweden after all three countries received a perfect score;
3. acknowledges that this is fantastic news for South Africa, as it will advance our international standing and attract new and positive interest in our country;
4. further acknowledges that with the Tourism Indaba taking place this weekend, this must be the perfect opportunity for the country to further build on our progress and give real effect to sustainable and responsible tourism because, by doing so, we will create more employment opportunities and locally sourced products; and
5. congratulates the tourism industry for making this possible.

Agreed to.

**STELLENBOSCH UNIVERSITY SUSPENDS RACIST LECTURER**

(Draft Resolution)

Mr J J MAAKE: Deputy Speaker, I move without notice:

That the House –

1. welcomes Stellenbosch University’s swift action to suspend a lecturer who allegedly sent a racist SMS to a student;
2. recalls that the suspension of the lecturer follows a complaint of racism by a sociology student, Sikhulekile Duma, who received an SMS that read, “Jou swart moer van die wit boer”, which translates as “You black bastard from the white farmer”;
3. commends the university for viewing this matter in a very serious light, as such remarks are unacceptable in our society and anywhere in the world;
4. believes that racism is rearing its ugly head in our society and that it should be condemned by all South Africans, both black and white; and
5. calls for the speedy investigation of this matter and the appropriate decisive sanction.

Agreed to.

**COMMITTEE TO INVESTIGATE VIOLENCE AGAINST FOREIGN NATIONALS**

(Draft Resolution)

THE DEPUTY CHIEF WHIP OF THE MAJORITY PARTY: Deputy Speaker, I move without notice:

That the House –

1. notes the recently reported incidents of violence against foreign nationals in KwaZulu-Natal, Gauteng and other areas;
2. further notes the report and recommendations of the Task Team of Members of Parliament Probing Violence and Attacks on Foreign Nationals, which was established in 2008 (see Announcements, Tablings and Committee Reports of 12 June 2008);
3. subject to the concurrence of the National Council of Provinces, establishes an ad hoc joint committee to –
   1. inquire into the incidence of violence against foreign nationals and related matters while incorporating into its work the report and recommendations of the previous Task Team of Members of Parliament Probing Violence and Attacks on Foreign Nationals;
   2. make recommendations where applicable;
   3. exercise those powers as set out in Joint Rule 32 that may assist it in carrying out its task; and
   4. consist of 11 members of the National Assembly, as follows: African National Congress 6, Democratic Alliance 2, Economic Freedom Fighters 1 and other parties 2; and 9 members of the National Council of Provinces; and
4. sets the deadline by which the committee is to report as 30 August 2015.

Agreed to.

**CONSIDERATION OF REPORT OF STANDING COMMITTEE ON FINANCE - BANKS AMENDMENT BILL**

There was no debate.

The DEPUTY CHIEF WHIP OF THE MAJORITY PARTY: Deputy Speaker, I move:

That the Report be adopted.

Motion agreed to.

Report accordingly adopted.

**BANKS AMENDMENT BILL**

(Second Reading debate)

Dr M B KHOZA: Hon Deputy Speaker, thank you for allowing me, on behalf of the Standing Committee on Finance, to table the amendments to the Banks Act of 1990 for adoption and approval.

Deputy Speaker, these amendments have global and domestic contexts. This was well captured by Zeti Akhtar Aziz, who has more than 30 years’ experience in central banking and has experienced three financial crises, namely the exchange rate mechanism crisis in the early 1990s, the Asian crisis in the late 1990s and the 2008 global financial crisis. Delivering a lecture on 29 June 2014, she had this to say, and I quote:

... the manifestation of a financial crisis is highly dynamic, evolving not only with the changes in the financial landscape but also with the changes in the circumstances during different stages of the crisis. ... each phase (demands) ... a different policy solution.

We live in an interconnected world and are not immune to the effects of financial crisis elsewhere in the world. There is a need to anticipate tidal waves and be ready to act appropriately when confronted with a financial crisis.

It is gratifying to note that South Africa has been applauded by international bodies for the manner in which we dealt with the crisis of African Bank Investments Limited, following the events of 6 August 2014, when it made an announcement forecasting a loss of at least R6,4 billion during the 2014 financial year. Subsequently its CEO resigned. It also became apparent that it needed to raise at least R8,5 billion in additional capital. This raised questions about the bank’s liquidity and its future. The market responded with a share price drop from R6,86 at the close of business on 5 August 2014 to only 31c at the close of business on Friday, 8 August 2014.

On 10 August 2014 the SA Reserve Bank placed the African Bank under curatorship to minimise the negative impact such a collapse would have had on the entire financial sector of South Africa.

The current slow economic growth and the fact that we cannot afford to shed more jobs also played a critical role in our consideration of these amendments. These amendments are much broader than the challenges associated with African Bank. Hence, we did not call this Bill the African Bank Bill, because we are actually amending the Banks Act.

No one anticipated the global financial crisis of 2008 and we had not provided for a crisis of the magnitude of African Bank. Hence, these amendments represent South Africa’s policy actions beyond the conditions in distressed financial markets and institutions to those that address the broader conditions of the affected asset markets and distressed borrowers. These amendments draw from the best world practice and seek to achieve the following.

Firstly, the amendments must enable the application of the provisions regarding arrangements and compromises in the Companies Act of 2008 to banks under curatorship. Secondly, they confer certain powers and functions on the Minister of Finance, the Registrar of Banks and the curator, consistent with international norms and standards, thus enabling a speedy recovery process and mitigating risks associated with such a financial crisis.

Thirdly, the amendments expand the basis on which a curator may dispose of all or part of the business of a bank to enable an effective resolution of a bank under curatorship.

Finally, they make provision for the application of the Promotion of Administrative Justice Act to any administrative action taken in terms of the Banks Act and matters connected therewith.

The urgency of these amendments cannot be overemphasised. The delay in finalising this Bill is costing millions with each day that passes.

It has to be appreciated that there were only two options, namely liquidation or curatorship. Liquidation would have been disastrous, as it would have undermined South Africa’s ability to handle a financial crisis of massive proportions. It would have created serious reputational risks with the global market, given the interconnectedness of our world economy. It would also have resulted in everyone affected being impacted negatively or even losing everything.

Through these amendments, we believe that the South African financial sector will retain its respectability on the global financial playing platform and will strengthen its resilience, as has been demonstrated on previous occasions.

Consistent with international norms, we had to avoid as much as possible using taxpayers’ money to bail out a financial institution in distress. For this reason the creation of a new good bank meant that the SA Reserve Bank ring-fenced R7 billion for the purpose of enabling the process of creating a good bank. This was done after ascertaining the net loan book of African Bank to be about R17 billion. Therefore, this means that it is part of the role of the curator to collect the outstanding loans and deal with issues associated with assets.

We commend the commercial banks who supported the establishment of the good bank by making commitments of R10 billion. We also commend all parties for pursuing a commercial resolution over and above this legislative process. This will prevent potential litigation going forward. This has been a collaborative and extensive consultative process.

On this note, I wish to express our appreciation to all those who participated during the process of these amendments, especially to the Senior Creditors Committee, Tier II Debt Holders Committee, the curator, the Banking Association South Africa and all the banks and individuals who participated in this process. I also thank the SA Reserve Bank, National Treasury, Parliamentary Budget Office, Parliamentary Research Unit and parliamentary legal advisory unit.

Finally, I also want to personally thank our chairperson, Yunus Carrim, for trusting us as the subcommittee to process this Bill. I also recognise the role played by hon Ross, because during the recess both of us were busy working on this Bill. Thank you for that. I also thank all members of the committee for having entrusted us with this responsibility. The Standing Committee on Finance tables this report for adoption. I thank you. [Applause.]

Dr D T GEORGE: Thank you, Deputy Speaker. The problem at African Bank resulted from a flawed business model, regulatory failure and a toxic political climate.

At the outset the African Bank business model was not sustainable. It operated aggressively in the unsecured lending market, with many of its customers already on the breadline, and charged high rates of interest that initially boosted its profits significantly.

Through its holding company, it was linked to Ellerines, the furniture store. In a reckless and greedy structure, customers who were unable to fund the purchase of furniture were offered loans from African Bank. Ellerines got into financial trouble anyway and started draining the holding company. Customers were unable to pay their loans and a liquidity crisis threatened to crash the bank. The directors who were responsible for operating in this way must be held to account and prosecuted, because it is clear that the provisions of the National Credit Act were ignored. Offering loans to those who cannot afford to repay them enriched a few directors before the scheme came crashing down.

After the 2008 global financial crisis, which resulted from behaviour similar to what was perpetrated by African Bank, regulators across the world scrambled to enact emergency legislation to prevent a collapse of the entire banking system. Although South African banks were not severely impacted then, our regulatory process in response to the crisis remains in progress. The so-called “twin peaks” model has not yet been implemented and neither has there been any enabling legislation. We are told that an omnibus of legislation is in progress.

We should not have the African Bank problem to deal with now. It reflects a regulatory failure. When I pointed this out, I was informed that it was in fact a regulatory success because the Reserve Bank intervened to craft a rescue package that would prevent African Bank’s liquidation and contagion across the entire South African banking sector. That rescue package, as we now see reflected in this urgent emergency amendment before us, was not supported in law and the curator is not legally permitted to transfer and dispose of assets to create the so-called good bank and bad bank, as announced by the now former Governor of the Reserve Bank, Gill Marcus.

The far-reaching implications of this amendment, which will also apply to all other banks, must now be considered in isolation from the promised omnibus legislation and under a possible Constitutional Court challenge to the constitutionality of the Bill. This is not regulatory success; neither is the political problem experienced by the Reserve Bank in the lead-up to the crisis.

The Reserve Bank was aware of the looming crisis and the failing business model well in advance of African Bank’s actual failure. It met with directors at the bank, placed it under close scrutiny and issued a fine. Undaunted, the bank continued to offer unsecured loans to those who were clearly unable to repay them, such as miners on strike, including those at Marikana. Without pay, they were unable to service the loans, but without loans they would have faced starvation.

That vicious cycle continues now with other banks who have offered enormous amounts in unsecured loans. Borrowers struggle to repay the loans and thus demand higher wage increases. This leads to strikes, unrest and loans not being paid at all. This is a significant political and economic risk. Appropriate regulation and rigorous implementation of existing legislation would have avoided this problem from the outset.

From discussion with the Reserve Bank and the Johannesburg Stock Exchange, it is clear that the liquidation of African Bank does present some possible contagion risk and would injure the reputation of the South African banking sector. It would also hurt many poor investors and the pensions of millions of hardworking South Africans. For that reason, we will support this Bill. Thank you. [Applause.]

Ms E N LOUW: Hon Chair, it would be disingenuous to come here and suggest that the collapse of African Bank has been a surprise to us all. These are the very contradictions of capitalism. Banks at the centre of capitalism continue to entrench exploitation and South Africa continues to base its fiscal and macroeconomic policies on it.

While we sit here and debate among ourselves what appear to be straightforward administrative and legal solutions through the Banks Amendment Bill to strengthen the banking sector, the truth is that we are debating this Bill in order to save African Bank, which collapsed as a consequence of the greed of its executives and the exploitation of the working class.

We are being asked to pass legislation that allows banks, which refuse to finance the small businesses of poor South Africans, to possibly be bailed out by taxpayers. In future big banks, like Nedbank, ABSA, FNB or Standard Bank, whose executives behave no differently to those of African Bank, will demand that we use taxpayers’ funds to bail them out too. We cannot, with a clear conscience, want to save the investments of wealthy bank shareholders who have been refusing to help uplift the poor from their miserable economic circumstances.

Moreover, when African Bank was being mismanaged, where was the SA Reserve Bank? We should not attempt to address administrative failure in banking supervision through legislation. The Bill seeks to empower the curator, appointed by the Governor of the Reserve Bank, who will not hesitate to put the interest of white monopoly capital before that of the poor and the working class.

Until the government has the courage to nationalise these banks, we will sit here again in the future and debate how to save - with taxpayers’ money - those who steal from the poor, who exploit the poor and who continue to lock the poor out of the mainstream economy.

Let African Bank collapse; let the wealthy shareholders save it. Let the state intervene to save state-owned banks. The EFF rejects this Bill. [Applause.]

Ms S J NKOMO: Thank you very much, Deputy Speaker. The recent collapse of African Bank had a direct impact on approximately 7 million pensioners. These citizens saw their life savings evaporate in a collapse orchestrated by the bank’s own mismanagement and reckless trading practices.

Current legislation, which empowers a bank to enter curatorship, has proved to contain barriersto successful and decisive action by the curator. The amendment Bill seeks to provide a curator with the power to effect the transfer of assets in circumstances where there exists a reasonable probability that the transferee entity would be able to meet the transferred liabilities, and that the bank’s creditors would not incur a greater loss as a result of such transfer than if the bank had been wound up under liquidation. In essence, it provides greater powers under which a curator “may dispose of all or part of the business of a bank to enable an effective resolution of a bank under curatorship”. The removal of the constraints on a curator, within reason and subject to checks and balances, would assist the curator in being more decisive in making decisions aimed at restoring the bank.

The IFP agrees that the proposed amendments are aimed at enabling the more effective resolution of a bank under curatorship and supports the Bill, subject to all the necessary checks and balances being put in place and adhered to. The IFP supports this amendment Bill. I thank you. [Applause.]

Mr M L SHELEMBE: Hon Deputy Speaker and members of the honourable House, the NFP welcomes the Banks Amendment Bill. [Applause.] In its current form, section 69 of the Banks Act of 1990 presents substantial barriers to successful and decisive action by the curator of a distressed bank. The existing provision, that a curator may dispose of the assets of a failed bank only to the extent that such disposal will result in the bank being able “to pay its debts or meet its obligations and become a successful concern”, is both illogical and unnecessarily restrictive.

The first major proposed amendment, which will enable the curator to dispose of or transfer both assets and liabilities where there is a reasonable probability that the entity taking possession of such assets and liabilities will be able to meet the demands of the creditors of the distressed bank, is to be welcomed. The NFP believes that this amendment will substantially “expand the basis on which a curator may dispose of all or part of the business of a bank to enable an effective resolution of a bank under curatorship”.

We are also of the view that the second major proposed amendment, which extends the powers of the curator to make decisions affecting not only ordinary shareholders but also corporate shareholders, will allow the curator to make less restrictive decisions on the best course of action for the bank under his or her management. Such diminished restrictions are of the utmost importance if the functions of a curator are to be realised to his or her full capacity in the best interest of both the bank in distress and all shareholders affected.

The other amendments contained in the Banks Amendment Bill are, in the view of the NFP, both reasonable and necessary. The tenure of these amendments, which are aimed at removing the constraints on a curator, will assist the curator to be more decisive in making decisions aimed at restoring the bank.

In conclusion, the NFP is in support of the Banks Amendment Bill. I thank you.

Mr W M MADISHA: Hon Deputy Speaker, no law can make provision for every eventuality. Even where statutes make the necessary provision, it may in some instances be too loose. In other instances, it may be too inhibiting. We can understand that, Minister. Getting it 100% right involves some degree of trial and error. That is the predicament this Bill is attempting to deal with.

In our country, and elsewhere in the world, banks are failing. When they do, a curator has the responsibility of determining whether or not the bank can be rescued. If not, how should the assets be disposed of without adversely affecting any party beyond what is reasonable under the circumstances? This is a test case for the world at large.

The Bill provides for the curator to search for an alternative where recovery is not an option. If the failed bank existed inside a corporate entity, it might be possible to transfer it to such an entity to reduce the loss. Such a transfer will now be able to take place under section 54 of the Banks Act. This is what the curators were waiting for.

We do, however, have a problem with section 69(2C)(b)(ii) of the Banks Act. This section requires that the assets should be disposed of in such a way that the failed bank can pay off its debts or meet its obligations and become a successful concern again. However, if the bank is a failed bank and that is the end of the road for it, still trying to revive it is a lost cause. Cope agrees that section 69(2C) of the Banks Act should be amended so that the curators can transfer assets in part or as a whole to get the best deal for the bank’s creditors.

Cope also agrees that the regulation and supervision of a bank must match international standards and best practice.

The only concern is the honesty and integrity of the curators. To give or not give curators the right to take decisions on behalf of corporate shareholders is a difficult decision. If the curators are persons of integrity and experience, whose bona fides are beyond question ... [Time expired.]

Mr S N SWART: Hon Speaker, the ACDP will support this Bill.

Clearly, a sound banking system and financial stability are key to ensuring long-term sustainable economic growth. Failed banks, as we know, have the potential to cause substantial disruption to a financial system and impact on the lives of ordinary South Africans. They also disrupt the ability of companies to function and they reduce the savings of depositors in banks. This can result in hardship for millions. It was also largely systemic weaknesses in the banking system in America, with the subprime mortgages, that resulted in the 2008-09 global financial and economic crisis.

It is clear from the objects of this Bill that it is intended to assist the curator in saving part of African Bank Investments Limited - the good bank as opposed to the bad bank part.

What happened with that bank? Its management team, quite simply, lent too much money to too many customers who didn’t pay back these unsecured loans, as Dr George pointed out very eloquently when he gave that history.

The Reserve Bank’s intervention plan for African Bank is awaiting these amendments, with the creation of this new entity, the good bank, raising of capital and the saving of, hopefully, 4 500 jobs. This will enable the curator to raise approximately R10 billion in capital to continue and avoid the winding up of this institution. Of course, this will be dependent on the curator being able to dispose of assets and liabilities into this new entity.

Now, we as South Africa have largely been spared the effects of failed banks, with, if I understand it correctly, Saambou being the last failed bank. We understand, as well, that there is still litigation arising from that failed bank. We have not seen a run on bank deposits, as has been witnessed in other countries experiencing banking crises. This is largely due to the regulatory framework governing our financial institutions, which is to be further improved with the “twin peaks” Bill.

Concerns have been expressed that the powers granted to the Minister and curator are too wide, and that prior credit approval should be obtained. Further arguments were presented that the Promotion of Administrative Justice Act, the Constitution and the Promotion of Access to Information Act are sufficient, and that these were sufficient constraints on the Minister.

Other concerns expressed were about the constitutionality of powers granted to the Minister, including subordinating certain classes of creditors. While this may appear discriminatory, it must be borne in mind that such creditors purchased subordinated instruments at a higher yield. Why then should they enjoy increased protection when there is difficulty with that bank? On the other hand, it is interesting that African Bank had an investment grade rating until two months before it was put into curatorship. The ACDP agrees that, possibly, the Constitutional Court should look into it and give clarity.

We do appreciate that this is an interim measure awaiting the comprehensive “twin peaks” Bill. The ACDP, as I said, will support this Bill. Thank you, Minister.

Ms P S KEKANA: Hon Speaker, hon Ministers and Deputy Ministers, and hon members of this august House, the Banks Act, Act No 94 of 1990, provides for the regulation and supervision of banks and bank-controlling companies in South Africa.

Owing to the peculiar circumstances of African Bank, the fairly recent appointment of a curator to that bank indicated a need for the amendment of certain provisions of section 69 of the Banks Act, which provides for the appointment of the curator to a bank. Evidently it contains certain legal impediments to the successful implementation of resolute measures to address the difficulties experienced by a bank while it is under the legal structure of curatorship. As a result, the Minister of Finance proposed the Banks Amendment Bill, which seeks to address those impediments in section 69 of the Banks Act.

The Bill seeks to enhance the powers of the curatorship by providing an alternative to the recovery of the bank within the existing corporate entity - by facilitating the transfer of all or part of the bank’s business to a successor entity, pursuant to a transfer under section 54 of the Banks Act, and facilitating the implementation of the above steps by a curator.

These proposed amendments provide both the South African financial sector and the global financial sector with an important example of the capacity of the ANC government to intervene in the financial sector when dealing with the objective reality of banks or financial institutions that are no longer in a position to carry out their responsibilities in terms of the Banks Act. The ANC appreciates that what we are dealing with here are gaps in financial sector legislation and the need to militate against existing risks in the financial system.

What must underpin our approach is that the rights of creditors must be balanced against broader public policy interest. When there are a financial crisis and bank or financial institution failures, speedy and decisive action is required to prevent broader economic problems emerging that would have massive social and economic costs, especially for the working class and the poor. This debate is steeped in vested interests. The ANC government and the state have to be seized with the bigger picture and the greater responsibility when any bank goes into distress.

Hon Speaker, liquidation will mean that those defined as creditors - your working class and the poor - stand to lose the most of all. They have no economic base to fall back on and going the route of liquidation can literally result in their savings going down with the financial institution that is affected. What a liquidator is interested in is to realise the assets, discharge the liabilities and distribute the surplus, if any, to shareholders of the company. Where creditors may be paid out in a liquidation process, those who are most vulnerable and have least savings stand to get nothing and the ANC government cannot in such situations add to the current poverty levels of the country.

Hon Speaker, curatorship allows for stability of a bank in distress and is aimed at restoring a bank to operational status - unlike liquidation. In the context of the African Bank, curatorship provides a legal framework within which a resolution plan can be implemented to ensure that the business of African Bank gains the best possible chance of a successful future. The consequences of liquidation would have had a negative impact on the South African economy and the financial system as a whole.

By the way, African Bank has made a significant contribution in the lives of South Africans in the form of financial inclusion, as shown by the number of branches and the number of clients the bank has. African Bank provides access to finance to about 3 million clients in the form of loans. Given the South African legacy of financial exclusion, the progress made towards improved inclusion and the contribution made by unsecured lending in this regard, it was considered important not to exclude these clients again from the regulated banking system by liquidating the bank; hence the curatorship was considered.

The lessons that can be drawn from international experience are varied. As the ANC, we are sure that the lessons of 2008 must underpin any option taken. The problems of banks in distress cannot be resolved through normal insolvency laws and those governing liquidation. International experience shows us that in almost every country where there has been financial institution failure, reorganisation backed by newly introduced legislation has had to follow.

While this amendment Bill addresses banks and other financial institutions, we cannot be oblivious to the fact that a set of particular circumstances led to this amendment Bill. It raises the debate about how the poor and the working class can access credit without becoming vulnerable to practices that take them into greater financial debt through the bad practice of unsecured lending.

With regard to the role of trustees, they have a fiduciary responsibility and duty, which has to be carried out in the context of accountability and transparency. All of this takes place in a particular context and the trustees have to bear the responsibility that for the poor there are huge consequences.

It brings to the fore the need for the ANC government to proceed with haste with Postbank and other forms of co-operative banking that do not leave the most vulnerable in society at the mercy of financial practices that lead them to greater destitution. The Banks Amendment Bill will go a long way in ensuring that protection.

It is fitting to acknowledge the intervention made by the SA Reserve Bank, the National Treasury and the Financial Services Board. The Registrar and his team, referred to as the Bank Supervision Department, BSD, intensified their active engagement with the management of the bank by late 2012. The BSD continuously expressed its concerns regarding African Bank’s liquidity, its impairment and provisioning policy, the level of regulatory capital, the rapid credit growth and the need for a strategic rethink of the business model. This is the kind of capacity and proactiveness that you can find in an ANC-led government. The ANC fully supports these amendments. I thank you. [Applause.]

Mr D C ROSS: Hon Speaker, I noted the inputs from the previous speakers. I also just want to note that the demise of African Bank really represents the biggest destruction of value in the financial services sector since the collapse of Saambou in earlier years. An analyst recently indicated that the demise of African Bank was entirely predictable and the Reserve Bank intervention was far too late. Although previous speakers commended the Reserve Bank, we must note that, indeed, in regard to this intervention in 2012, it was far too late in terms of the oversight authority that is entrusted to the Reserve Bank.

It is well known that the African Bank business model failed because it extended too many unsecured loans. This Bill that we are now dealing with has been initiated to resolve the problem at African Bank - to prevent its bankruptcy. It is also important to note that the bank is, in fact, bankrupt, but that there was a need to limit implosion across the total banking sector, as my colleague, Dr George, indicated. The rescue package entails the separation of the bank into a “good bank” and a “bad bank” and it needs to be recaptalised.

The importance of this Bill, however, cannot be overstated, as the Bill will give effect to the recapitalisation of the good bank via a consortium of banks that will present the rescue package. In this regard, we have to note that that will entail the involvement of the Public Investment Corporation, PIC, which, of course, manages the Government Employees Pension Fund, GEPF, and ultimately it will be a consortium of people that will have to recapitalise the bank, which is not the taxpayers, but the pension funds.

The PIC is responsible for the investments of the GEPF, and they will ultimately come to the rescue. The bad bank would keep the impaired assets and the Reserve Bank would attempt to collect the arrears.

With regard to the important sections in the Bill, section 69 of the principal Act would be amended to expand the actions the bank curator could take to include the transfer of the bank’s liabilities and the disposal of its assets.

It is crucial to note that the subordinate creditors in this regard are of the view that the Bill is unconstitutional and that this will be open to a constitutional challenge. Also, this will have an impact on the premise of retrospectivity and would permit the curator of the bank to transfer and dispose of assets and liabilities to their detriment. They argue that because the bank is not being liquidated, they should enjoy a higher preference than what they are receiving under the rescue package. The DA has noted the possible constitutional challenge from the subordinate creditors and their concerns, which are legitimate.

It also raises some questions regarding excessive powers for the Minister and regarding public confidence.

In this regard, the Treasury indicated that a Minister would be subject to the Promotion of Administrative Justice Act, Paja, with regard to procedural unfairness and arbitrary action by the Minister, and we were concerned that that would not protect subordinate creditors adequately.

Now, we are also concerned that the senior creditors, who hold R40 billion of debt, stand to lose only 90c in the rand while the subordinate creditors will receive almost nothing. We know that they will also receive nothing if it is liquidated, but in terms of the current dispensation, this will put them in a very bad position.

This is not only with regard to section 69, but also with regard to the very important section 25 of the Constitution. There is an impasse as to whether the Bill infringes on the constitutionally protected property rights that we find in section 25 of the Constitution. Two legal opinions indicate that subsection 1 of section 25 is applicable and this allows the deprivation of property if it is in terms of the law of general application. This law does not provide for arbitrary deprivation, however. Adv Jenkins indicates that the above is consistent with the Constitution and is subject to the Paja requirements.

We also proposed that the amendment Bill be limited in its application to African Bank only. This unfortunately was not accepted and a precedent for all banking curatorship is being set.

It is common knowledge that the liquidation of African Bank would present significant reputational damage to the South African banking sector. I think that is the key point that we need to take into consideration. Noting the different legal opinions presented to the committee, the DA is aware, however, that we need urgent legislation to give effect to the restructuring of the new bank.

We noted the curator’s view that the company or bank is insolvent and that section 69(3)(b) is the existing power in the Act. The amendments are merely bringing curatorship up to date.

Certainly, the curator stated that the only answer is the consortium with the banks to restructure a financial solution, noting that liquidation should be avoided at all costs as the reputation of the banking sector and the economy of South Africa should be protected.

Now, we note that African Bank should not be liquidated. Taxpayers should not fund the bailout. Alternatives to the “good bank and bad bank” rescue proposal should be considered if no viable alternative existed. For example, we were hoping for a commercial deal. I think the Deputy Governor of the Reserve Bank played a major role in working hard to try to find this deal, but it could not be reached. It is unfortunate.

In this broad overview and this complex situation, we support the Bill, but we will be mindful of the fact that the Bill may struggle to pass constitutional muster. I thank you. [Time expired.] [Applause.]

Mr Y I CARRIM: Madam Speaker, comrades and friends, both the EFF and the DA spoke about regulatory failure, but is it regulatory failure? No, it is basically market failure, actually. Once again the state has to come to the rescue of the free market that the DA loves so much. [Interjections.]

The EFF is as confused as ever. On the one hand they ask for state intervention and claim that if they were ever to be the government – of course, they never used the word “ever” as they claim they will be the government – they will have more state intervention in a free-market economy. But here, where we are intervening, we are being told that we actually should not. The main victims, were we not to pass this Bill, would be the working class and the poor, who do not have access to the big banks. [Interjections.] This is the constituency that the EFF claims to represent. Of course it does show whose class and elite interests the EFF ultimately and really represent, because they are the same interests as the people who run these banks. [Interjections.]

Now, what we must also talk about is the fact that you cannot, as the hon Madisha said, have a law that caters for every eventuality. It is trial and error. Well, in our case, it is very little trial and very little error actually. If you look at our financial system, it is regarded globally as one of the better systems. In fact, we weathered the post-2008 global crisis much better than many developed countries and other developing countries.

What I also want to say, DA, is that if you look at the Financial Stability Board at the *Financial Times*, and in fact at the International Monetary Fund, which you so unconditionally support, all of them say that the way South Africa has managed the crisis of African Bank has actually been remarkable. Most of them, if not all three of them, welcome the Banks Amendment Bill.

However, as has been pointed out by the ACDP, this is the precursor, if you like, to the coming “twin peaks” legislation, as we call it. It is not simply about African Bank; it is about any bank that serves the poor and the disadvantaged that might suffer a similar failure - and hopefully there won’t be any others before the law comes into being, the “twin peaks” law. It is very clear with this approach - unlike what is being suggested by some of the members – that the taxpayer is not going to bear the cost. In fact, this law is meant to ensure that the prospects that the taxpayer will have to pay are reduced substantially, which is why it is puzzling to me that the EFF will not support this Bill, even if it may have some reservations about it.

I think all of us in the Standing Committee on Finance - and indeed, I am sure, the Minister and the Treasury too - are aware that African Bank management must be held responsible for its share of the current crisis that we have in regard to African Bank. In fact, it is not as if government and other authorities in the country are folding their arms and looking to this Bill to solve all the problems. The Reserve Bank is looking at an internal inquiry to find out if there were indeed things that the Reserve Bank could have managed better when we got the first signs that African Bank was beginning to totter.

Secondly, there is Mr John Myburgh’s review. This is an examination of whether the African Bank management operated recklessly or fraudulently or just mismanaged. Indeed, we hope that when the “twin peaks” legislation comes to us, Minister, there will be clearer and more precise sanctions to be imposed against bank managers who fail in the way that African Bank is assumed to have done. The curators are auditing, of course, and several audits of the Reserve Bank are being undertaken. All of these measures are designed to see whether we can decide on a precise set of sanctions against African Bank managers.

We also say, as the ANC component of this committee, that it is true that African Bank provides for people who would otherwise not get access to loans. Here again, the DA needs to ask itself why it is that the poor and disadvantaged do not get access to loans from the big banks - the banks they identify with. Now, it is true that a bank that gives people loans on an unsecured basis – there is no collateral - obviously has higher risks. Therefore, it has to have a reasonably increased percentage of interest. However, the question we have to ask is this: Did African Bank not perhaps make its interest rates too high, even when it is understood that it was directing itself to a constituency that otherwise did not in fact get access to bank loans.

What I also want to say is that we consulted rigorously and vigorously with the second-tier creditors. We cannot sacrifice the taxpayer and the pensioners, who are primarily in the first tier of debt holders, to accommodate the second tier. If you invest and you can get higher yields – it is a free market principle – you take higher risks. Now, we entertained the second-tier creditors 48 hours before we voted on the Bill. This was not just allowing stakeholders to come and make representations at a public hearing. We had a subcommittee, which Dr Makhosi Khoza and her team actually steered - very well, I might add - who also met separately with the stakeholders. We had a second set of public hearings and we engaged with them repeatedly.

Yes, there are questions about whether the Bill is constitutional or not. Adv Jenkins reports to us that it is constitutionally sound. In fact, all the legal submissions that we received suggested the same, but, interestingly, those lawyers who represented the second tier - surprise, surprise - said the Bill was unconstitutional.

We would like to urge that, given the consultation that we had and given the commercial agreement - it seems at this stage that it may not work out but we are about to reach some measure of consensus very soon - they accept, and let the second-tier creditors do the deal that has been arrived at, both through the law and, hopefully, the commercial agreement that one of the speakers before me mentioned.

Every time people come to Parliament and say they do not like something, they say it is unconstitutional. It is like the boy crying wolf. Nobody believes them. We have been through this for years and years and 99% of the time, let me tell you, in the committees that I have served in it has not been found by the Constitutional Court to be unsound.

Now, here it is. We actually have to plead with the second-tier creditors. Given the significance of the contagion effect if we had not managed African Bank in the way we did and we had not brought you the Banks Amendment Bill, it is in the interest of the whole financial system, not least themselves, that they should accept what has happened and they should be more prudent in the way they invest in the future. They must also be aware that the “twin peaks” legislation is coming, in which they have had quite a big say. Minister, no doubt you will gazette it if there is yet another version of the Bill for them to comment on.

In short, I want to thank everybody, not least the National Treasury and the DA, who for once – for once - were sensible and voted for this Bill. Thank you very much. [Applause.]

The MINISTER OF FINANCE: Madam Speaker, hon members, let me start by thanking the chairman of the committee. Chair, there is a threat from this side that you are still going to need this vote. Where is the chairman? [Interjections.] [Laughter.]

Let me thank the Standing Committee on Finance, under the leadership of the hon Carrim, for their rigorous and careful consideration of the Banks Amendment Bill. All parties involved actually played a critical role.

The committee held numerous meetings on the Bill, including during the recess, to work through its complexities. I think the House can be assured that they applied their minds to the Bill carefully.

Moreover, the Bill brought to the fore some complex legal questions. The committee considered arguments from four senior counsel and I am informed that something in the order of 25 lawyers participated in the hearings. The parliamentary legal counsel, under the leadership of Adv Jenkins, summarised the issues, and we have looked at all the issues raised. On the basis of our legal advice, the standing committee and this House can be assured that this Bill is appropriate and desirable, and meets all the constitutional tests.

We have a strong regulatory system in South Africa. However, we will never be complacent and we should therefore continue to ensure that the system is among the best, as it continues to be, in the world.

This Bill takes adequate steps to improve our approach to resolving the issue of banks that are in distress. It will assist us in finalising the curatorship of a bank, among other things, but this is not its sole purpose. It is meant to strengthen the institutional legal framework.

It follows international best practice. A number of members, including the hon Mr Madisha, raised this. This best practice is also part of the G20 Leaders’ Summit, where we are represented by our President. This was endorsed and is known as the Key Attributes of Effective Resolution Regimes for Financial Institutions. These Key Attributes were followed during the course of drafting this Bill.

Among the issues that were raised was that it gives the Minister too much discretion. A number of members have clarified this and indicated that it actually prescribes a detailed process that the Minister must follow before making a decision or exercising his powers. First, the curator must submit a report to the Minister, detailing how the curator believes the proposal affects the creditors. Then, the Minister cannot deviate too far from the proposal of the curator. The Minister will also have to follow a carefully crafted procedure to approve or reject the proposal from the curator.

During a financial crisis, or during bank failures, speedy, decisive action is required to prevent more generalised economic problems and systemic contagion.

The other matter is that the Bill is retrospective. This talks to the constitutionality of the matter. As I have indicated, we think it does pass constitutional muster. There is only one way of testing whether it does, and I hope that the tier-two creditors will perhaps take that route. We are convinced, however, that after all the legal advice ... [Interjections.] Oh, there is only one. [Interjections.] All right.

The other issue that was raised was that this is only intended to protect the African Bank. I would submit that this is a misunderstanding, because the curatorship of the bank was intended, actually, to save and protect mainly the creditors and the investors. If it is liquidated – and most members have raised this – pensioners in particular will lose about R40 billion of their savings. Members of union pension funds and of the Government Employees Pension Fund, and many ordinary South Africans will actually lose a lot of money, running into billions.

Some investors who have invested in high-yielding and high-risk instruments are ones that, unfortunately, will lose some of their money. We cannot bail everyone out in this process. The process was intended to save the most vulnerable in this instance. There are those who have invested in high-risk income funds and actually, when we say that they are high risk, we mean that at times they might be faced with this eventuality.

The passing of the Bill was urgent because it was costing us money in the process. We trust that the curator will now be enabled to bring this matter to an end, and we will be able to proceed, with our financial institutions being protected.

However, the lessons we have learnt, as I have said, are quite valuable to us, and we will indeed take them into account. The taxpayer has been protected in this process, and I also still want to submit that the intervention by the Reserve Bank was timeous. However, as the chairperson has indicated, if there was any failure – and I believe that the inquiry that is under way will also reveal that – we will deal with it as it comes along.

Again, let us remind ourselves that the objectives of the Bill were to “provide an alternative to the recovery of a bank within the existing corporate entity”, and also to “facilitate the transfer of all or part of a bank’s business to a successor entity pursuant to a transfer under section 54 of the Banks Act”, and to “facilitate the implementation of the above steps by a curator”.

Once again, thank you very much for having processed this Bill. I want to say to all parties, even those that have indicated they will not support this, that in the interests of the constituency that we are protecting, it would be good for all of us to support this Bill. Thank you very much, hon Speaker. [Applause.]

Debate concluded.

Question put: That the Bill be read a second time.

The SPEAKER: Order! There is an objection and I think, hon members, we should indeed note the objection. You would like the objection of the EFF to be on record?

Mr N F SHIVAMBU: Yes, hon Speaker, but we also want to make a declaration on why we object. [Interjections.] I know the proposed Rules say that we must ... [Interjections.]

The SPEAKER: Hon member, this issue has been debated and you have put your views.

Mr N F SHIVAMBU: Yes. I know the proposed new Rules state that once an issue has been debated, there cannot be declarations, but the existing Rules allow for declarations to be made after a debate has taken place. [Interjections.] Those new Rules of the National Assembly have not been adopted yet.

The SPEAKER: Hon member, indeed, we have had a debate. In other words, the views of the EFF have been declared here, through the debate. [Interjections.] Therefore, we have noted the objection.

Mr N F SHIVAMBU: However, prior to voting, hon Speaker, ... [Interjections.] ... we deserve the right, in terms of the existing Rules, to make a declaration as to why our objection ...

The SPEAKER: When there is no objection by the majority, why is there a need to vote? We note your objection.

Mr N F SHIVAMBU: The process, hon Speaker, ... [Interjections.] ... is that we object and call for a division, but also that we must make a declaration.

The SPEAKER: No, you did not say that you were calling for a division. If you are calling for a division, that is a different matter, and we have not got into that.

Mr N F SHIVAMBU: We are not calling for a division but we want to make a declaration as to why we are objecting to the adoption of the Banks Amendment Bill. [Interjections.]

The SPEAKER: Hon Shivambu, I now put the question.

Mr N F SHIVAMBU: Yes.

The SPEAKER: Those in favour will say, “Aye.”

HON MEMBERS: Aye!

The SPEAKER: Those opposed will say, “No.”

HON MEMBERS: No!

The SPEAKER: I think the ayes have it. [Interjections.] So, we will note the objection of the EFF.

Mr N F SHIVAMBU: Can we make a declaration and then call for a division of the House? [Interjections.]

The SPEAKER: No, hon member. Using the discretion of the Chair, we are not calling for declarations.

Mr N F SHIVAMBU: All right. I am calling for a division of the House then. [Interjections.]

Division demanded.

The SPEAKER: [Inaudible.] ... below the “Yes” button or “No” button, or if you want to abstain, you can press the “Abstain” button. If you have pressed the wrong button, you can then press the correct button, and the correct button will be the one that is recorded.

Mr N F SHIVAMBU: Hon Speaker, ...

The SPEAKER: I am in the middle of making ...

Mr N F SHIVAMBU: We need clarity. We have two new Members of Parliament, who have not yet been uploaded onto the system. So, perhaps they can vote by a show of hands, or what?

The SPEAKER: Hon Shivambu, I appeal to you not to interrupt the Chair. You can always say whatever you want to say at the point when you are recognised. We will make sure those members are not left out of the voting. We will capture their votes technically.

Mr N F SHIVAMBU: That was not an interruption; it was just an issue of clarity. [Interjections.] You must keep quiet, man! I am speaking! [Interjections.]

The SPEAKER: Order, hon members! Order! [Interjections.]

The House divided.

The SPEAKER: Have all members voted?

HON MEMBERS: Yes!

The SPEAKER: The Table staff will pay attention to the two hon members who do not yet have their names recorded on the electronic system.

AYES - 243: Abrahams, B L; Adams, P E; Adams, F; America, D; Atkinson, P G; Baker, T E; Balindlela, Z B N; Bam-Mugwanya, V; Basson, J V; Bergman, D; Beukman, F; Bhanga, B M; Bhengu, P; Bhengu, N R; Bhengu, F; Bilankulu, N K; Bogopane-Zulu, H I; Bongo, B T; Booi, M S; Boroto, M G; Boshielo, S P; Bozzoli, B; Breytenbach, G; Capa, R N; Capa, N; Cardo, M J; Carrim, Y I; Cele, M A; Chance, R W T; Chueu, M P; Coleman, E M; Cronin, J P; De Freitas, M S F; De Kock, K; Dlakude, D E; Dlamini-Dubazana, Z S; Dlodlo, A; Dlomo, B J; Dreyer, A M; Dunjwa, M L; Ebrahim, E S; Esau, S; Esterhuizen, J A; Figg, M J; Figlan, A M; Filtane, M L W; Frolick, C T; Fubbs, J L; Gamede, D D; Gana, S M; Gcwabaza, N E; George, D T; Gina, N; Godi, N T; Goqwana, M B; Gumede, D M; Hadebe, T Z; Hill-Lewis, G G; Hoosen, M H; Horn, W; Hunsinger, C H H; Jafta, S M; James, L V; James, W G; Jeffery, J H; Jongbloed, Z; Kalako, M U; Kalyan, S V; Kekana, E; Kekana, C D; Kekana, H B; Kekana, P S; Kenye, T E; Khoarai, L P; Khosa, D H; Khoza, M B; Khoza, T Z M; Khunou, N P; Kilian, J D; Kohler, D; Koornhof, G W; Landers, L T; Lees, R A; Lesoma, R M M; Loliwe, F S; Lorimer, J R B; Lovemore, A T; Luyenge, Z; Luzipo, S; Maake, J J; Mabasa, X; Mabe, B P; Mabe, P P; Mabija, L; Mabika, M S; Mabilo, S P; Mackenzie, C; Macpherson, D W; Madella, A F; Maesela, P; Mafolo, M V; Mafu, N N; Magadla, N W; Magadzi, D P; Mahambehlala, T; Mahlangu, D G; Mahlangu, J L; Majeke, C N; Majola, T R; Makhubela-Mashele, L S; Makhubele, Z S; Makondo, T; Malatsi, M S; Maluleke, J M; Manana, D P; Manana, M N S; Mandela, Z M D; Mantashe, P T; Mapulane, M P; Marais, S J F; Marais, E J; Martins, B A D; Masango, S J; Masehela, E K M; Mashatile, S P; Mashego-Dlamini, K C; Mashile, B L; Masina, M C; Masuku, M B; Mathale, C C; Mathebe, D H; Matlala, M H; Matsepe, C D; Matshoba, M O; Matsimbi, C; Mavunda, R T; Maxegwana, C H M; Maynier, D J; Mbhele, Z N; Mbinda, L R; Mc Gluwa, J J; Mchunu, S; Mcloughlin, A R; Mdakane, M R; Meshoe, K R J; Mhlongo, T W; Mileham, K J; Mjobo, L N; Mkongi, B M; Mmemezi, H M Z; Mmola, M P; Mmusi, S G; Mnganga - Gcabashe, L A; Mnguni, D; Mnguni, P J; Mogotsi, V P; Mokgalapa, S; Molebatsi, M A; Moloi-Moropa, J C; Mosala, I; Motau, S C; Mothapo, M R M; Motimele, M S; Mpumlwana, L K B; Mthembu, J M; Mthethwa, E M; Mubu, K S; Mudau, A M; Nchabeleng, M E; Ndaba, C N; Ndongeni, N; Nene, N M; Ngcobo, B T; Ngwenya-Mabila, P C; Nkadimeng, M F; Nkomo, S J; Nobanda, G N; November, N T; Ntombela, M L D; Ntshayisa, L M; Nyalungu, R E; Nyambi, H V; Oliphant, G G; Ollis, I M; Oosthuizen, G C; Phosa, Y N; Pikinini, I A; Pilane-Majake, M C C; Qikani, A D N; Radebe, B A; Radebe, G S; Ralegoma, S M; Ramatlakane, L; Ramokhoase, T R J E; Rantho, D Z; Raphuti, D D; Redelinghuys, M H; Ross, D C; Semenya, M R; Shelembe, M L; Shinn, M R; Shope-Sithole, S C N; Sibande, M P; Singh, N; Sithole, K P; Siwela, E K; Skosana, J J; Smith, V G; Sotyu, M M; Stander, T; Steenhuisen, J H; Steenkamp, J; Steyn, A; Stubbe, D J; Surty, M E; Swart, S N; Thabethe, E; Tleane, S A; Tobias, T V; Tom, X S; Tongwane, T M A; Tseke, G K; Tseli, R M; Tsenoli, S L; Tshwete, P; Tsoleli, S P; Tsotetsi, D R; Tuck, A; v R Koornhof, N J J; Van Damme, P T; Van Der Walt, D; Van Der Westhuizen, A P; Van Dyk, V; Van Rooyen, D D D; Van Schalkwyk, S R; Vos, J; Walters, T C R; Waters, M; Whitfield, A G; Williams, A J; Wilson, E R; Xasa, T; Xego-Sovita, S T.

NOES - 16: Dlamini, M M; Ketabahle, V; Khawula, M S; Khoza, N P; Louw, E N; Mashabela, N R; Matlhoko, A M; Maxon, H O; Mbatha, M S; Mokause, M O; Morapela, K Z; Moteka, P G; Mulaudzi, T E; Nqweniso, N V; Shivambu, N F; Sonti, N P.

Question agreed to.

Bill accordingly read a second time.

**CONSIDERATION OF REPORT OF STANDING COMMITTEE ON FINANCE -FINANCIAL AND FISCAL COMMISSION AMENDMENT BILL**

There was no debate.

The DEPUTY CHIEF WHIP OF THE MAJORITY PARTY: Speaker, I move:

That the Report be adopted.

The SPEAKER: The motion is that the report be adopted. Are there any objections?

The CHIEF WHIP OF THE OPPOSITION: Madam Speaker, we have no objection, but we would like to make a declaration on the committee report.

*Declarations of vote:*

Mr D C ROSS: Hon Speaker, the Financial and Fiscal Commission was established under the Constitution, which states that the FFC must function in terms of an Act of Parliament. This Act of Parliament is the Financial and Fiscal Commission Act, Act 99 of 1997, which was enacted for this purpose.

The current position is that there are a chairperson and commissioners. Their appointment at this point is part-time. The proposed amendment provides for a full-time chairperson and shifts the functions of the chief executive officer and accounting officer from the chairperson to a newly created position of CEO.

The DA finds it extremely disappointing that the commission has not yet clearly defined the roles and complementary roles of the chairperson and the CEO of the FFC. The standing committee of Parliament, however, proceeded in its recommendations with regard to this, and appointed a full-time chairperson. The appointment, in our view, is premature and not appropriate.

The committee report justifies the appointment of the chairperson, although not clearly defined, by indicating that the committee will also monitor the performance of a full-time chairperson. We are not sure how the committee will monitor this performance.

The committee report further indicates the need for a review of the role of the FFC over time. Now, this is very interesting. The review should have been done by Parliament, government, FFC civil society stakeholders, experts and others, but the review does not give us any indication of what they will do with regard to underperformance of the FFC in this regard. This is a huge concern to the DA. Furthermore, we find it rather strange that the committee recommends the establishment of the office of a full-time chairperson even before this review has been done or there has been any publication with regard to the review.

The DA policy is that the bloated public sector wage bill must be contained, and I think the Minister has indicated this on many occasions. The public must receive value for taxpayers’ money.

The quality of the FFC inputs is of further concern to us. Inputs to Parliament on the budget have been weak for several years and the newly established Budget Office has largely taken over this role. Here we see a duplication of roles, with the bloated public sector increasing even further.

The committee noted that, given the constraints on the national budget, the FFC needs to be prudent in managing the cost of the office of the full-time chairperson. The financial implications of the Bill for the public sector wage bill were not calculated.

Rather than expand the FFC secretariat, the national legislation can more clearly define the functions of the FFC to ensure that it plays a meaningful role in advising Parliament and the legislature. The amendment does not do that, and therefore we propose that it should not be supported. I thank you.

Ms E N LOUW: Hon Speaker, we have seen in the past how the mandates of public institutions, government departments and entities have been chopped and changed in the name of strengthening organisational capacity, improving service delivery and ensuring that they deliver on their mandate. So, even when Bills that appear to be necessary are presented to the House, one cannot help but wonder.

An example is what the ANC has done with our bloated Cabinet, one of the most expensive in the world, to reward President Zuma loyalists, like Ben Ngubane at Eskom, corrupt Pansy Tlakula at the IEC and Ellen Tshabalala at the SABC, even when they know, or knew, that their comrades carried around fake qualifications. What a shame!

Public servants are told today that our fiscus cannot afford anything more than 4,8%, yet we are here today to consider an amendment Bill that does nothing but increase the already ballooning public sector wage bill. To many it may appear that the R1,5 million financial implication will not make a dent in the overall fiscus, but it is the principle that counts.

As the EFF we warned government not to engage in legislative amendments for motives that are nothing more than to appoint President Zuma loyalists as chief executive officers. The EFF rejects the report on Financial and Fiscal Commission Amendment Bill. [Interjections.]

The SPEAKER: There being no objection, except for those declarations ... [Interjections.] I see a member of the ANC. Hon Carrim, you may proceed.

Mr Y I CARRIM: Hon Speaker, basically this Bill is long overdue, yet most welcome. You cannot have a situation where you have the same person as CEO and chairperson of a board or a commission. It is untenable. In fact, it is peculiar that this Bill did not come earlier. But it is here now, it is necessary and I cannot see what the problem is.

The only issue we really engaged with was whether we should put into the Bill that the chairperson of the FFC should be full time. There were many reasons we decided on that, after careful deliberation. Firstly, this is a constitutional institution and most of them have a full-time chair.

Secondly, there has been a call for a review of the powers and functions, both by government, and the ANC in its Mangaung resolutions, and that means the responsibility of the Financial and Fiscal Commission increases because it has to look at the financial implications of any review of the number of provinces and the powers and functions of the respective spheres.

Thirdly, a full-time chair is consistent with the Bill. You are providing for it to recommend, not just advise, as is required by the Constitution. So you should have a full-time chairperson.

Fourthly, there was a review of the workload. We looked at it and we noticed that in the last financial year there were many, many committees and other institutions that the chair of the FFC had to address. So, we were looking at the role of the FFC in the last financial year and we agreed on that.

Fifthly, in key activities there is a fast turnaround time, such as five days in the case of the Division of Revenue Bill. You need a full-time person. Sixthly, we said that if you look at the FFC, you will see that it often engages with the heads of institutions who do not normally accept a CEO addressing them. They want the political head of the institution to do so.

Seventhly, it is difficult to have a full-time CEO and no full-time chair. The question is: How do you then hold the full-time CEO to account? Eighthly, there is the financial cost, yes, but given the budget of the FFC as a whole, it is a minor thing given the value in return.

I know we are concerned about certain things. We say in our report, firstly, that the commission needs to clearly define the respective roles of the CEO and the chair. Secondly, given the constraints on the budget, the office of the new full-time chairperson must be managed prudently, taking financial constraints into account. [Interjections.] The committee will monitor this, as it will also monitor the performance of the FFC. [Interjections.] Finally, we said that the review of the role of the FFC ...

The CHIEF WHIP OF THE OPPOSITION: Speaker, I rise on a point of order.

The SPEAKER: Order! The hon member still has 31 seconds.

Mr Y I CARRIM: There you are! [Laughter.] That is objective; there is nothing ideological about time, Mr Steenhuisen.

Finally we want to say that we think that over time the role of the FFC needs to be reviewed, because what we anticipated in 1994 and 1996 might not necessarily have been realised. We have the experience of over 18 years now and we need to review that role. We asked for it in our report last year. Thank you indeed.

The SPEAKER: Order! Hon members, we are noting that hon members, in their content and in what they have been commenting on, have been dealing with both the Third and Fourth Orders. They are related, but we were supposed to be talking only about the report, not about the Bill - although they are related. Therefore, I note now that hon Carrim has spoken, so when we get to the Fourth Order, it is done. We are taking it as that you have already spoken, hon Carrim.

Mr Y I CARRIM: Madam Speaker, would the House kindly applaud me for saving time? It is a very rare thing for a politician! Thank you very much. [Applause.]

The SPEAKER: Hon Carrim, just take your seat. [Laughter.] Hon members, you were making declarations on the Third Order, which is the report on the Bill referred to in the Fourth Order. I now again put the question relating to the adoption of the report. I believe the House has no objection, except for the declarations by the DA and EFF that have been made and noted. [Interjections.] No, you said you had no objection, but you made a declaration. Are you now objecting? [Interjections.] Okay, we note your objection.

The CHIEF WHIP OF THE OPPOSITION: Madam Speaker, based on the contribution of hon Carrim, we would like to object. [Interjections.]

The SPEAKER: All right. [Interjections.] Yes, hon member of the EFF?

Ms E N LOUW: Hon Speaker, I did say at the end of my speech that we object.

The SPEAKER: Order! I’m saying we are talking about the report. We are not at the point of the Bill. So the point is that the report be adopted, noting the objection of the DA and EFF. The secretary will read the Fourth Order of the day.

**FINANCIAL AND FISCAL COMMISSION AMENDMENT BILL**

(Second Reading debate)

There was no debate.

Question put: That the Financial and Fiscal Commission Amendment Bill be read a second time.

Division demanded.

The SPEAKER: Order! The votes of the two new members who have not been loaded on to the system yet will be recorded by the Table staff.

Mr B A RADEBE: Hon Speaker! Hon Speaker, I have a point of order. [Interjections.]

THE SPEAKER: Yes, hon member. Proceed.

Mr B A RADEBE: Hon McGluwa has referred to hon Nzimande as “Blade”. [Interjections.] I think hon Nzimande must be referred to as “hon”. Can you please make a ruling on that? [Interjections.]

The SPEAKER: Order! No hon member may be referred to by their first name. They must be referred to as the hon whatever their name is.

The House divided.

AYES - 193: Abrahams, B L; Adams, F; Adams, P E; Bam-Mugwanya, V; Basson, J V; Beukman, F; Bhengu, F; Bhengu, P; Bilankulu, N K; Bogopane-Zulu, H I; Bongo, B T; Booi, M S; Boroto, M G; Boshielo, S P; Brown, L; Capa, R N; Capa, N; Carrim, Y I; Cele, M A; Chueu, M P; Coleman, E M; Cronin, J P; Dlakude, D E; Dlamini, B O; Dlamini-Dubazana, Z S; Dlodlo, A; Dlomo, B J; Dunjwa, M L; Ebrahim, E S; Esterhuizen, J A; Filtane, M L W; Frolick, C T; Fubbs, J L; Gamede, D D; Gcwabaza, N E; Gina, N; Godi, N T; Goqwana, M B; Gordhan, P J; Gumede, D M; Holomisa, S P; Jafta, S M; Jeffery, J H; Joemat-Pettersson, T M; Kalako, M U; Kekana, H B; Kekana, P S; Kekana, C D; Kekana, E; Kenye, T E; Khoarai, L P; Khosa, D H; Khoza, M B; Khunou, N P; Kilian, J D; Koornhof, G W; Landers, L T; Lesoma, R M M; Loliwe, F S; Luyenge, Z; Luzipo, S; Maake, J J; Mabe, B P; Mabe, P P; Mabija, L; Mabika, M S; Mabilo, S P; Madella, A F; Maesela, P; Mafolo, M V; Mafu, N N; Magadla, N W; Magadzi, D P; Mahambehlala, T; Mahlangu, D G; Mahlangu, J L; Mahlobo, M D; Majeke, C N; Makhubela-Mashele, L S; Makhubele, Z S; Makondo, T; Maluleke, J M; Manamela, K B; Manana, M N S; Manana, D P; Mandela, Z M D; Mantashe, P T; Mapulane, M P; Martins, B A D; Masango, M S A; Masehela, E K M; Mashatile, S P; Mashego-Dlamini, K C; Mashile, B L; Masina, M C; Masuku, M B; Mathale, C C; Mathebe, D H; Matlala, M H; Matshoba, M O; Matsimbi, C; Mavunda, R T; Maxegwana, C H M; Mchunu, S; Mdakane, M R; Mkhize, H B; Mkongi, B M; Mmemezi, H M Z; Mmola, M P; Mmusi, S G; Mnganga - Gcabashe, L A; Mnguni, D; Mogotsi, V P; Molebatsi, M A; Molewa, B E E; Moloi-Moropa, J C; Mosala, I; Mothapo, M R M; Motimele, M S; Motshekga, M A; Motshekga, M S; Mpumlwana, L K B; Mthembu, J M; Mthethwa, E N; Mthethwa, E M; Mudau, A M; Nchabeleng, M E; Ndaba, C N; Ndongeni, N; Nene, N M; Ngcobo, B T; Ngwenya-Mabila, P C; Nkadimeng, M F; Nkoana-Mashabane, M E; Nkomo, S J; Nkwinti, G E; Nobanda, G N; Ntombela, M L D; Ntshayisa, L M; Nxesi, T W; Nyalungu, R E; Nyambi, H V; Nzimande, B E; Oliphant, M N; Oliphant, G G; Oosthuizen, G C; Pandor, G N M; Patel, E; Phosa, Y N; Pikinini, I A; Pilane-Majake, M C C; Qikani, A D N; Radebe, J T; Radebe, B A; Radebe, G S; Ralegoma, S M; Ramaphosa, M C; Ramatlakane, L; Ramatlhodi, N A; Ramokhoase, T R J E; Rantho, D Z; Raphuti, D D; Semenya, M R; Shelembe, M L; Shope-Sithole, S C N; Sibande, M P; Singh, N; Sithole, K P; Siwela, E K; Skosana, J J; Smith, V G; Sotyu, M M; Surty, M E; Tleane, S A; Tobias, T V; Tom, X S; Tongwane, T M A; Tseke, G K; Tseli, R M; Tsenoli, S L; Tshwete, P; Tsoleli, S P; Tsotetsi, D R; Tuck, A; v R Koornhof, N J J; Van Rooyen, D D D; Van Schalkwyk, S R; Williams, A J; Xasa, T; Xego-Sovita, S T; Yengeni, L E; Zokwana, S; Zulu, L D.

NOES - 76: America, D; Atkinson, P G; Baker, T E; Balindlela, Z B N; Bergman, D; Bhanga, B M; Bozzoli, B; Breytenbach, G; Cardo, M J; Davis, G R; De Freitas, M S F; De Kock, K; Dlamini, M M; Dreyer, A M; Esau, S; Figg, M J; Figlan, A M; George, D T; Hadebe, T Z; Hill-Lewis, G G; Hoosen, M H; Horn, W; Hunsinger, C H H; James, L V; James, W G; Jongbloed, Z; Kalyan, S V; Ketabahle, V; Khawula, M S; Khoza, N P; Kohler, D; Lees, R A; Lorimer, J R B; Louw, E N; Lovemore, A T; Mackenzie, C; Macpherson, D W; Majola, T R; Malatsi, M S; Marais, S J F; Masango, S J; Matlhoko, A M; Matsepe, C D; Maxon, H O; Maynier, D J; Mbatha, M S; Mbhele, Z N; Mbinda, L R; Mc Gluwa, J J; Mcloughlin, A R; Mhlongo, T W; Mileham, K J; Mokause, M O; Mokgalapa, S; Morapela, K Z; Motau, S C; Moteka, P G; Mubu, K S; Nqweniso, N V; Ollis, I M; Redelinghuys, M H; Ross, D C; Shinn, M R; Shivambu, N F; Sonti, N P; Stander, T; Steenhuisen, J H; Steenkamp, J; Steyn, A; Stubbe, D J; Van Damme, P T; Van Der Westhuizen, A P; Vos, J; Walters, T C R; Waters, M; Wilson, E R.

ABSTAIN - 2: Meshoe, K R J; Swart, S N.

Question agreed to.

Bill accordingly read a second time.

The SPEAKER: Order! [Interjections.] For the information of those watching, the Cabinet is currently sitting. The members of the executive simply came so that they could vote, but they are now going back to the Cabinet meeting. [Interjections.]

**CONSIDERATION OF REPORT OF PORTFOLIO COMMITTEE ON TRADE AND INDUSTRY ON OVERSIGHT VISIT TO GAUTENG, EASTERN CAPE AND WESTERN CAPE FROM 27 JANUARY TO 5 FEBRUARY 2015**

Ms J L FUBBS: Hon Speaker, this is the report of the Portfolio Committee on Trade and Industry on their oversight visits to Gauteng, the Eastern Cape and the Western Cape, made between 27 January and 5 February this year.

The portfolio committee embarked on a series of oversight visits to a number of entities and businesses operating in the Coega and Saldanha Bay Industrial Development Zones. We were also able to examine the working relationships to see how these entities were operating. Our oversight visits were able to unpack some of the standards, quality andmetrology, noting that technical institutions play a valuable role, not only here, in keeping consumers safe, but also in ensuring the standard and quality of our goods for export as well.

Among the notable innovations the committee learned about and engaged with were some of the inventions at the Design Institute located in the SA Bureau of Standards. We were very impressed that there were so many young inventors there and that the SA Bureau of Standards was able to offer them support. Indeed, this landscape offers us a great opportunity to create decent work.

Then, in Coega, and also Saldanha Bay, we were able to see how some companies were overcoming the energy shortage by establishing and constructing their own power plants, like the Dedisa Peaking Power Plant. Indeed, this is something that other industries of that magnitude could consider doing. The other thing is that there were wind towers. A lot of the green industries were there.

What was very important for us was how, on the agro side, Coega had opened the Coega dairy. This is offering jobs and the opportunity to those who have never had the opportunity to get their milk to a dairy to now establish such a dairy. Also, there is a processing plant for cheese, which has created much needed work and exports.

The other issue we looked at was, as I said, the technical infrastructure institutions – the SA Bureau of Standards, SABS; the National Metrology Institute of SA, NMISA; the SA National Accreditation System, Sanas; and the National Regulator for Compulsory Specifications, NRCS. We do not realise the valuable role they play. We also noted and were able to see - in the working environment - the challenges that faced the Companies and Intellectual Property Commission, CIPC, the National Lotteries Board and the National Gambling Board. Indeed we welcome some of the initiatives taken in that regard.

However, we also note that it is very important for us to implement the recommendations regarding governance issues that have been put forward. These apply to the CIPC in particular. We welcome learning from the Minister and the Director-General recently that they have begun to implement the changes that the committee indicated were essential in this regard, especially in the enquiry area - what some people may call a call centre, although it extends beyond that. This would expedite the integrity of the registration of companies.

The other thing was the tertiary institutions that Saldanha Bay requested. There it is, a major oil and gas situation, but there are no tertiary institutions located nearby that would give people skills or upgrade skills, especially for the youth, in this regard.

A review of the pharmaceutical industry’s designation to close loopholes and make local public procurement more effective is one of our important recommendations. We believe that, if necessary, a premium should be factored into the procurement process that would promote local manufacturing and the creation and retention of jobs.

We are also looking forward to the fast-tracking of the commissioning of the oil and gas industries in Saldanha Bay and the other areas.

I wish to commend this Report to the House for adoption. Thank you. [Applause.]

There was no debate.

The DEPUTY CHIEF WHIP OF THE MAJORITY PARTY: Speaker, I move:

That the Report be adopted.

*Declarations of vote:*

Mr G G HILL-LEWIS: Hon Speaker and hon members, you will often hear the Minister in the government speaking from this podium about its commitment to reinvigorating manufacturing in South Africa and its commitment to using the natural resources found in South Africa and beneficiating them in this country. But this oversight visit provided a fascinating insight into the reality on the ground level.

So, let us start with the Coega Industrial Development Zone, where we visited a steel plant. There, an investor from India spent R200 million to start a steel plant, beneficiating South African iron ore, in spite of the problem that every three months he has to go back to India to get another visa to come back to South Africa for another 90 days. This is all because, even after building his factory two years ago, he still does not have the right visa to be in South Africa.

If we go to DCD Wind Towers, the company building the wind turbines for the Port Elizabeth wind farms, we find that they would love to expand their factory and spend millions of rands more on expanding their facility and hiring more people - except that the Department of Energy is not able to offer them any security regarding the next renewable energy procurement programme. As a result, DCD Wind Towers is staying stagnated at its current capacity and it is not investing anything because of the lack of policy clarity from - once again - a government department.

Then, the following day, we went to the Companies and Intellectual Property Commission, the CIPC, in Pretoria, where we saw an organisation that is, frankly, on its knees. The chairperson of the committee has given a ridiculously rosy report of the condition of that organisation. However, it is now without a senior head, a CEO, who resigned in protest just weeks ago, shortly after we visited there.

When we visited, we saw that there was exactly one person - hon members, only one person - answering all the telephone calls from every business person in the country who needs to get hold of the CIPC. They have zero chance of getting through. There is no one answering the phones and it takes holding on for an average of about 90 minutes on the phone to get an answer from the CIPC. [Interjections.]

So, that is the reality of what this government calls its industrial policy. It is a great effort to get industry and manufacturing and business up and running in this country. Government says many high-sounding things from this podium, but unfortunately is incapable of getting even the basics right - even a visa for a foreign investor on the ground. That is the reality and that is what we saw, and heard loudly and clearly, on this oversight visit. Thank you.

Mr N F SHIVAMBU: Hon Speaker, we formed part of the visits but we were not on all of them because of other engagements resulting from building the EFF.

One of the observations we made, particularly during the visit to the SA National Accreditation System, Sanas, an entity under the Department of Trade and Industry, is that one of its responsibilities is to accredit the agencies that give BEE accreditation. BEE companies apply for certificates from those agencies, for instance. These are private agencies and most of them are owned by white people. There is no formula for who can accredit with BEE status. So, you have a lot of white companies, hon Mzwandile, that are accrediting people with BEE status. That is what creates the space for fronting and the wrong accreditation of BEE companies. Only 50 companies have been given accreditation powers and the majority of them are white-owned. There must be some sort of intervention in that regard.

The other issue that we looked into is the Companies and Intellectual Property Commission, CIPC. The CIPC is in Pretoria, maybe with a satellite office here in Cape Town and one in Johannesburg. It does not exist in any other province. If someone wanted to register a company or NGO in Stutterheim, in the Amathole region of the Eastern Cape, they are unable to have access to the CIPC and have to rely on mediating agencies who are not accredited to register companies. They operate with their own fees and their own systems. They do not have a sense of legitimate links with the CIPC. So, we have a situation where an absolute majority of South Africans do not have direct access to the CIPC.

An argument that was made by the CEO who has now resigned was that they can apply on the Internet, but the majority of our people do not have access to the Internet in the rural provinces. There should be an urgent intervention in regard to broadening the space in which those who want to register – nongovernmental organisations and companies – can have access to the CIPC. As it stands, there is no clear, convincing programme to deal with that aspect.

There should also be closer examination of the activities that are taking place in Coega because some of the corporations there seem to have imported skills, yes, but there is lots of labour as well. Lots of people have been working there. There is no clarity regarding the skills transfer programme, which is necessary to continue with some of the activities that there are there. Those are some of the observations that we made during the visit. Thank you very much. [Applause.]

Motion agreed to.

Report accordingly adopted (Democratic Alliance dissenting).

**CONSIDERATION OF REPORT OF PORTFOLIO COMMITTEE ON MINERAL RESOURCES - OVERSIGHT VISIT TO NORTH WEST PROVINCE FROM 23 TO 26 NOVEMBER 2014**

Mr S LUZIPO: Hon Speaker, the report is in relation to the oversight visit to the North West from 23 to 26 November 2014.

It is common knowledge that the North West is the leading mining province in South Africa. It has more mines that are operating legally than any other province, at 301. It has more mineworkers than any other province – they constitute one third of the employed, at 170 000 people.

Mining remains a national competency in terms of the Constitution, which means that there are no MECs responsible for mining in the provinces. The committee’s oversight was in relation to the mandate given to it and an understanding that it would look at how the legislation works, and also provide clarity on the work that is supposed to be done in terms of the oversight responsibilities of the committee. Part of that exercise was to ensure that there was a site-seeing experience, and also to listen to the challenges that are faced by stakeholders in the North West, in particular around operations.

The strongest points that emerged from the visit were issues that relate to housing for mineworkers and the need to transform the migrant labour system. Efforts in this regard were under way and companies made presentations on how much work was being done to address some of those issues, in particular the restoration of the dignity of workers and also the issue of families that live close to the mines. Clearly, not enough has been done but, yes, efforts are under way. There are still mineworkers and mine communities that live in unacceptable conditions.

The portfolio committee also met with the provincial government, the Department of Mineral Resources and the National House of Traditional Leaders. It emerged that mining creates conflict when it occurs on land that is owned or occupied by communities or traditional leadership.

The Department of Mineral Resources follows the letter of the law and it needs to educate communities on what their rights are when prospectors want to come onto their land. It also needs to give more information on what is intended by possible new mines. Communities were clearly unaware of what the law means for them. This creates huge difficulties and intense disputes with traditional leaders, and the province is left to deal with such problems. There is a need for partnership and co-operation in order to resolve such issues.

The North West has huge mineral wealth and mines can be a catalyst for economic development. There is great potential for local procurement of mine supplies and also for skills.

The portfolio committee was encouraged to see that all the mines were working with stakeholders, in particular with the trade unions, as well as with communities, to move beyond the difficult and tragic period, as well as the strike. Some of the companies presented a very rosy view of the situation. Others admitted more openly that they were struggling to find new ways of operation, although they did concede that progress was being made but remained uneven, based on the challenges that required to be addressed.

We need, therefore, to ensure that the mining sector reflects the best features of our new democracy, and is not just bound to the problems of the past. We therefore table this report for consideration and adoption. Thank you very much.

There was no debate.

The DEPUTY CHIEF WHIP OF THE MAJORITY PARTY: Hon Speaker, I move:

That the Report be adopted.

[Interjections.]

The CHIEF WHIP OF THE OPPOSITION: Sorry, Madam Speaker. We have a speaker who would like to speak about the report.

The SPEAKER: Hon member, you are at liberty to address us on the report.

*Declarations of vote:*

Mr J R B LORIMER: Madam Speaker, on balance the report is good, and that is why we are going to support it, but it is not entirely good. Let us start with the good bits.

It does draw attention to some key concerns in the mining industry, for example, the continuing vexed question of migrant labour and the importance of building liveable mining communities.

It makes a very good point that the Department of Mineral Resources needs to be much better at the facilitation of the flow of information between mines and local communities, so as to explain what the social labour plans entail. We like the idea that local communities should be treated as real stakeholders rather than just as obstacles to be overcome.

The report considers problems that need to be urgently addressed. One is the very unsatisfactory situation where traditional leaders are automatically assumed to represent communities. Traditional leadership structures are in a mess, particularly in the North West province, and this makes it very difficult for miners to get consent and at the same time for communities to ensure that their rights are protected. This points to a failure in both the current mineral rights ownership model and the model of traditional leadership. Both these failures are making it more difficult for communities and miners. That is the good bit.

At the end of the recommendations, though, this report descends into paranoid foolishness when it rails against companies that hand over 26% of ownership to communities to fulfil the Mining Charter ownership requirement. It says these community owners are then exposed to risk.

Well, I suggest the ANC makes up its mind. Is it going to insist on 26% BEE ownership, even if this exposes the owners to business risk? Or does it accept that sometimes benefits are better distributed through mechanisms other than ownership? You cannot insist on ownership and then complain about risk. I know that the Marxist dinosaurs in the House, and not only on the government side, struggle to understand the concept of free enterprise, but I would urge them to study it hard. It has pulled hundreds of millions of people on this planet out of poverty in the past generation and it may be worth emulating.

Mr N F SHIVAMBU: Speaker, before the Fourth Democratic Parliament came to an end, some of the last legislation to be adopted was the Mineral and Petroleum Resources Development Amendment Bill. In the Fifth Democratic Parliament, the only legislation that was referred back to this Parliament by the President was the Mineral and Petroleum Resources Development Amendment Bill.

Tomorrow is 7 May, and we will have reached 365 days since this Parliament was elected. We have not done anything yet with the Mineral and Petroleum Resources Development Amendment Bill. There is uncertainty in the industry in regard to what the directives and directions are on some of the issues that have been dealt with, what has to happen, and what has to be done on certain questions.

I think our incapacity as Parliament, and the obvious incapacity of government, are not assisting the situation, because there are certain things that the Act gives direction on, which are not being complied with. Most of them say, no, they can’t comply with this or that for one reason or the other, but the fact of the matter is that the mining industry is operating in a lawless environment, even though the Act is in place.

Most of them are not compliant with the Mining Charter, which expired last year. There is no cogent process to say what happens now. There is no mine in South Africa which is compliant with the Mining Charter.

In regard to the residential conversion of the existing hostels into family units, with one person, one bedroom, this is not the case. In most instances the mines give out the living allowances, which workers then use for other purposes and choose to stay in shacks closer to the mines where there is no sanitation, water or electricity.

So, we have a crisis, because even when there is legislation and a charter that states what should happen, nothing gets done in mining. It is like a state of anarchy and lawlessness. They do as and when they wish. They do not comply with anything the law says should happen in the mining communities and nothing is done about those who do not comply with the law.

There should be some sense of urgency and decisive action in giving direction to the mining sector because it constitutes the backbone of South African society - not just of the economy. The history of South Africa is the history of mining. South Africa is what it is today because of the discovery of mineral resources and it is those mineral resources that can change a discourse to a far more sustainable future. However, if we as Parliament do not have the capacity to provide direction and implement the laws that we pass, it is a sad situation.

I am happy the Deputy Minister - I thought he was a member of the Cabinet - is here and listening so that he will go back to tell those other members of Cabinet what we think. Thank you. [Time expired.] [Applause.]

Mr J A ESTERHUIZEN: Madam Speaker, a great deal has been done by mining companies in the North West in respect of greater wealth for employees and in contributing to the economic growth of the province. For example, Lonmin employs 48 000 people and by extension 300 000 people depend on Lonmin for their livelihoods.

There is still a concern regarding the social impact on communities in the areas immediately surrounding the mines, especially with the huge numbers of migrant and foreign labour available, and regarding the continued failure of the mines to adequately recognise mining-affected communities as stakeholders with a legitimate interest in their operation.

Sometimes it seems as if the Department of Rural Development and Land Reform does not know to whom or where in the North West province the Department of Mineral Resources has granted mining licences. The question in our mind is why the mining-affected communities are excluded from the discussions on the Draft Framework Agreement for a Sustainable Mining Industry. It became clearly evident from the portfolio committee meetings with the traditional leaders that mining companies are not being transparent by not involving the affected communities in the discussions regarding the opening of new mines. The Department of Mineral Resources cannot simply ignore amakhosi in such discussions, as this will only serve to divide the communities. It could also lead to conflict between the communities and the Department of Rural Development and Land Reform. As always, the situation seems to favour the wealthy elite at the expense of the poor.

If you look at the mining companies themselves, their concerns centre around the regulation and not intervention, as the government decision to re-open the debate around the pricing of mineral sales can only create mistrust and further place our country’s credibility at risk.

Lastly, to take one of the bedrocks of the economy and subsidise another is impossible; for our mining operation to subsidise downstream operation is insanity and should not be allowed. Thank you.

Mr S LUZIPO: Thank you, hon Speaker. Firstly, my understanding was that we were submitting a report on an oversight visit. We respect the opinions of individuals, but they are not talking to the report.

Secondly, I will avoid assisting people who do not want to use their capacity to read, and then start interpreting the report for them because they did not read the report. Obviously, they had pre-thought what was going to be said.

Thirdly, the problem with Parliament is that it cannot continue to operate like an institution of pop stars, who are only interested in being seen on TV and do not go where activities are taking place. [Applause.] This report is a reflection of what the committee went to do on an oversight visit. Regrettably, on that oversight visit ... [Interjections.] We have no intention of saying who was on that oversight visit but you can see from those who submitted their own arguments here that surely they do not constitute those who were part of the oversight. Anyway, we have a responsibility to respond to and assist with embryonic ideas. [Interjections.] No, I can spell it out for you because I understand that when it is cold, some of us suffer from load shedding - our minds don’t work. Ingqondo iyoma. [The mind gets frozen.] Sizokuncedisa. [We are going to help you.] [Laughter.]

The first issue is the traditional leader of the East Rand. I do not think it is correct; it is an assumption. In fact, nowhere in the report is recognition given only to traditional leaders; it also gives recognition to communities. The second issue is that it would be very dangerous to project things onto traditional leaders - except if you don’t fall in the category that recognises traditional leadership - or label all of them as useless institutions or institutions that are in a state of chaos.

We will finish the issue, hon Lorimer, of the 26% in the debate on the Budget. But what is said in the report about the risk is quite clear. The risk on the 26% is based on the fact that it is an inherent beneficiation that must be accrued to the communities. The argument, then, is that if you subject that to shareholding, it could create problems for communities in regard to the risk factors. It has nothing to do with any of the other elements you were raising here.

I take the point that was raised in relation to the Mineral and Petroleum Resources Development Amendment Bill, and I think we must agree that that is why the report is raising the conditions. However, I think it is absolutely incorrect to suggest that ... [Interjections.] Anyway, I don’t know whether to respond to that issue because it seems that where we saw 1 750 houses that had been built for mineworkers who spoke for themselves, we were in the wrong place. Maybe they were not mineworkers; they were other people. But it does not change in the North West. [Interjections.] That is the problem. You don’t want to read. In the North West, under Anglo American Platinum, there are 1 750 houses and that is where we were. That is why I said it is not my responsibility to assist laxity in thinking.

Lastly, we have submitted a report on the issue of the Mining Charter and the steps that are being taken to address that question. So, the issue is that the report, unfortunately, is being contested by individuals who are only interested in coming here and being seen acting as *Generations* stars. [Laughter.] Thank you.

Motion agreed to.

Report accordingly adopted (Economic Freedom Fighters dissenting).

The SPEAKER: Order! Hon members, I would like to remind you that the Extended Public Committees on Vote No 14 – Basic Education and Vote No 11 - Public Works will start at 15:00 in the National Assembly and the Old Assembly Chamber respectively.

The House adjourned at 11:52.