**UNREVISED HANSARD**

**NATIONAL COUNCIL OF PROVINCES**

# TUESDAY, 02 JUNE 2020

***PROCEEDINGS OF THE NATIONAL COUNCIL OF PROVINCES***

The Council met at 14:04.

The Chairperson took the Chair and requested members to observe a moment of silence for prayers or meditation.

# COVID-19

(Statement)

The CHAIRPERSON OF THE NCOP: Hon members, as you all know that we meet under difficult circumstances where our country and the world is faced with the battle of the virus that we know very well that it respects no boundaries. A brief look at the statistics reveals the following. On 23 May 2020, confirmed cases globally stood at 5,1 million. In Africa 100 000 cases were confirmed.

In South Africa the figures stood at 20 125, with over

10 000 recoveries and the deaths stood at 397.

Today, 02 June, the confirmed cases are over 6 000 000 globally and over 35 812 as we speak today. In this context we must salute our health workers who continue to be on the frontline in the gallant battle against this invisible enemy. Our security forces are working tirelessly to ensure observance of measures to contain the spread of coronavirus. We have however in the process lost lives of our people to this virus. I therefore take this opportunity to request all of us to bow our heads and observe a moment of silence in memory of all those who lost their lives as a result of COVID-19 pandemic.

[Moment of silence observed.]

# HOUSE PROCEDURES

(Announcement)

The CHAIRPERSON OF THE NCOP: Hon members, I have been informed that there will be no notices of motion or

motions without notice. Before we proceed please note that virtual sitting constitutes sittings of the National Council of Provinces and the place of sitting is deemed to be in Cape Town where the NCOP sits. In addition to the rules of virtual sittings, the Rules of the National Council of Provinces include the Rules of debate.

Delegates enjoy the same powers and privileges that apply in a sitting of the National Council of Provinces.

For the purpose of the quorum all delegates who logged in shall be considered to be present. For the duration of the sittings delegates must mute their microphones unless if they wish to speak. Any delegate who wishes to speak should use the raise your hand function. Delegates must keep their video minimised. Voting will take place verbally. A delegate who cast a vote must identify herself or himself by a name as well as the province he or she represent. All votes shall be recorded accordingly.

# DIVISION OF REVENUE BILL

(Consideration of Bill and of Report thereon)

Ms D G MAHLANGU: Hon Chairperson, hon members, special delegates present and fellow South Africans, it is my honour and privilege to table before this House this report on behalf of the Select Committee on Appropriations. The committee adopted the Division of Revenue Bill, Bill B3–2020, without amendments. As you are aware, on 18 March 2020, the Bill was passed by the National Assembly and referred to the NCOP committee for consideration and report as per section 9(2) of the Money Bills Act. On 22 April 2020, the committee was briefed by the National Treasury. Owing to the COVID-19 pandemic the committee decided that all provincial portfolio committees on finance or treasury should be part of the meeting. The committee was empowered by the presentations from the Parliamentary Budget Office, PBO, Financial and Fiscal Commission's, FFC and SA Local Government Association, Salga.

Hon Chair and members, the committee has a responsibility to facilitate public participation when processing the Bill. To this end this report has been enriched by the submissions by various individuals and organisations. The committee considered the submitted provincial negotiating

mandates on 21 and 27 May 2020 in fulfilment of section 214(2) of the Constitution of the Republic that enjoins the comprehensive participation by provinces.

Today, 02 June, marks day 68 since the President of our country declared a national lockdown in terms of the Disaster Management Act in order to slow down the spread of coronavirus. Under normal circumstances we would be looking forward to our national activities of celebrating Youth Month and commemorating the 44th anniversary of 16 June. We have just emerged from celebrating Africa Month, Workers’ Month and 67th anniversary of the founding of the Organisation of African Unity, OAU.

We appreciate the leadership provided by the President and the executive during this time. Our country has vastly diverse opinion, racialised and gendered poverty, unemployed and inequality. However, more than ever we need unity and caring for the poor, the aged and the most vulnerable in our society. Our nation is founded on the values of ubuntu as articulated in Chapter 2 of the Constitution of the Republic of South Africa. Government, through the Division of the Revenue Bill, strives to

achieve social and economic justice. The Constitution demands that this Bill should determine the equitable division of revenue between national, provincial and local government. The economic growth in our country has been slow even before the COVID-19 crisis. We are all aware of that.

In this report the committee highlights that the 2020 national Budget allocation of R1,77 trillion is an increase of R83,7 billion or 5% from the 2019-20 adjusted allocation of R1,66 trillion. The Budget is expected to increase to R1,94 trillion over the 2021 Medium-Term Expenditure Framework, MTEF, financial year period at an average rate of 4,98%. Of the overall allocation the national government received R1,2 trillion in 2020-21 financial year, which is an increase of R44 billion or 4% from the 2019-20 adjusted allocation. The provinces received R538,5 billion and local governments received R74,7 billion in 2020-21 financial year. The much-talked about R160,1 billion reduction of the Public Service wage bill will be implemented in the 2020-21 adjusted budget and – listen - once agreed in the Public Service Co-

ordinating Bargaining Council, PSCBC. That will be determined by the PSCBC.

Hon members, the committee notes with concern the service delivery or implications of the reduction of the provincial equitable share allocation amounting to

R7,3 billion, and the reduction of the direct conditional grants to provinces amounting to R13,3 billion. The committee welcomes the prioritisation of funds including increasing the per child subsidy for early childhood development service over the next three financial years; addressing shortfalls in the funding of community outreach services in the health sector; supporting the continued roll-out of the free sanitary products to learners from low income households; and repairing waste water treatment infrastructure in the Vaal River system as per response to the previous committee’s recommendation. The committee also welcomes the several disaster provisions in the 2019 Division of Revenue Act which has already been activated to respond to the COVID-

19 pandemic.

Hon Chairperson, knowing the importance of education in addressing the challenges of unemployment, inequality and poverty and education infrastructure backlogs particularly in schools, the National Treasury should review the baseline reduction of the education infrastructure grant and the school infrastructure backlog grant in the MTEF period. The committee is also concerned about the baseline reduction in the provincial roads maintenance grant in the light of the accidents in our roads due to poor road maintenance. We are however encouraged by the ring-fenced R544 million within the human settlement development grant to upgrade human settlement in mining towns in six provinces.

With regard to the suspension of the public transport network grant for Buffalo City, Mbombela and Msunduzi, the committee believes that the Minister of Finance together with the Minister of Co-operative Governance and Traditional Affairs, Cogta, the Minister of Transport, relevant provincial treasuries and Salga should take drastic measures to ensure that adequate support and capacity development interventions are implemented in the

municipalities said above. The committee will continue to monitor progress in this regard.

The committee noted the views that the local government equitable share of 9% of the nationally raised revenue is not cost reflective while the sphere is responsible for 46% of constitutional functions. The committee is of the view that scientific evidence must inform the review of the... [Sound went off.]

The CHAIRPERSON OF THE NCOP: I am sure Adv Phindela’s team will do its best to assist in reconnecting hon Mahlangu.

[Connection went off for a minute.]

The CHAIRPERSON OF THE NCOP: Are we back? If so, let’s get back to hon Mahlangu.

Ms D G MAHLANGU: Hon Chairperson!

The CHAIRPERSON OF THE NCOP: Thanks very much you are back. Please proceed!

Ms D G MAHLANGU: Pardon!

The CHAIRPERSON OF THE NCOP: Please proceed!

Ms D G MAHLANGU: Thank you, Chairperson. Must I start afresh?

The CHAIRPERSON OF THE NCOP: No, more or less where you left off.

Ms D G MAHLANGU: I don’t remember, Chairperson.

The CHAIRPERSON OF THE NCOP: Look down the paragraphs. I am sure it is paragraph five or six.

Ms D G MAHLANGU: My apologies for the disconnection. The committee’s findings and observations in the report are as follows. The committees notes with concerned the service delivery implications of the reduction in the provincial equitable share allocation amounting to

R7,3 billion and the reduction to the direct conditional grants of provinces amounting to R13,3 billion. The committee welcomes the reprioritisation of funds

including increasing the per child subsidy for early childhood development service over the next three financial years; addressing shortfalls in the funding of community outreach services in the health sector; supporting the continued roll-out of sanitary products to learners from low income households; and repairing waste water treatment infrastructure in the Vaal River system as a response to the previous committee’s recommendation.

We also welcome that several disaster provisions in the 2019 Division of Revenue Act have already been activated to respond to the COVID-19 pandemic. Knowing the importance of education in addressing the challenges of unemployment, inequality and poverty and education infrastructure backlogs particularly in schools, the National Treasury should review the baseline reduction of the education infrastructure grant and the school infrastructure backlog grant in the MTEF period. The committee is also concerned about the baseline reduction in the provincial roads maintenance grant. We are however encouraged by the ring-fenced R544 million within the human settlement development grant to upgrade human settlement in mining towns in six provinces.

With regard to the suspension of the public transport network grant for Buffalo City, Mbombela and Msunduzi, the committee believes that the Minister of Finance together with the Minister of Cogta, the Minister of Transport, relevant provincial treasuries and Salga should take drastic measures to ensure that adequate support and capacity development interventions are implemented in these municipalities. The committee will continue to monitor progress in this regard.

The committee noted the views that the local government equitable share of 9% of the nationally raised revenue is not cost reflective while the sphere is responsible for 46% of the constitutional functions. The committee is of the view that scientific evidence must inform the review of the local government equitable share formula in a fair and equitable manner.

The committee believes that government should ensure that concrete steps are taken to address challenges that have led to underexpenditure and underperformance of conditional grants such as the maths, science and technology grant and the comprehensive agricultural

support programme grant. The national government, provincial treasuries and Salga should ensure that municipalities develop mechanisms in line with the COVID-

19 interventions for the additional R20 billion allocation as proposed by government for municipalities so as to avoid wasteful and fruitless expenditures.

The Minister of Finance should ensure that additional allocation for drought relieve for all provinces are considered during the 2020 adjustment Budget in light of the fact that the Minister of Cogta has declared South Africa a disaster drought area on 26 February 2020.

In conclusion, allow me to thank committee members, provincial committee members, committee stakeholders, members of the public who made written and oral submissions to the committee, as well as committee support staff. Without these role-players the process would not have been a success. The committee recommends to the House that the Bill be adopted without amendments. Thank you, Chairperson.

Debate concluded

*Declarations of vote*:

Ms C LABUSCHAGNE: Chairperson, I propose we can do it alphabetically we vote. We are not going to do it alphabetically like we vote?

Chairperson, I just asked because nobody wanted declaration until I put my hand up; but I’m so used to it, it’s fine.

Hon Chairperson, the report of the appropriation committee on the Division of Revenue Bill reflects the committee’s deliberations on the Bill which is designed to become irrelevant almost as soon as it is approved.

The reasons for this are well-known and understood; and this was, therefore, an opportunity to deliberate more deeply on the underlying principles of the Bill rather than the specifics.

Several provinces raised entirely valid concerns relating to the Bill, including the ballooning national debt and the need to contain this; the pressures of rapid

urbanisation on local and provincial governments; and the slow statistical response to population migrations.

Mandate creep and unfunded mandates that are at the thrust on local government; the difficulties of revenue collection, especially in a post COVID-19 environment; issues around grant funding and its management; the massive impact of the drought experienced in several provinces; and perhaps those consistently the failure of the current equitable share calculation methodology.

The National Treasury has commented on these points, however, their position on many issues appears quite rigid.

In the interest of balance, all these comments must also be interrogated through the lens of the shocking state of governance in local government. There appears, however, to be no consequences for poor governance.

Treasury must find a way to incentivise good governance and reward municipalities that perform well, both financially and operationally.

The need for a much more comprehensive Budget Lekgotla with Treasury and local government has been discussed and agreed upon; this must be approached in an open-minded fashion.

Government’s role in ensuring food security is going to become key factor in the survival of our country; expensive food import, past costs onto consumers. The impact of the drought and farming generally needs serious focus.

The Division of Revenue proposals were already flawed. In a post COVID-19 South Africa, revenue collection is going to be profoundly problematic and a total rethink of the funding of government as a whole, but particularly at the coal phase of delivery, will be required.

The Western Cape does support this report but does not support this Bill. I thank you.

The CHAIRPERSON OF THE NCOP: Hon members, just to indicate that Motlalepule Rosho from the North West is noted; so is Neo Maneng. But I’ll call you as I move on.

The next speaker is Premier Mabuyane; who will be leading from the frontline and we’re really grateful for that.

The PREMIER OF THE EASTERN CAPE (Mr O Mabuyane): Hon

Chairperson, members of the NCOP and special delegates from all the provinces. As the province of the Eastern Cape we support the Division of Revenue Bill as it has been done in the fulfilment of the section 214 of our Constitution.

We further appreciate and applaud the extensive consultation that has taken place between national, provincial and local government spheres; organised labour as well as the work of the Financial and Fiscal Commission, FFC, and the recommendations they have made of the Division of Revenue Bill.

The Eastern Cape will note the FFC recommendations and the response given by the government. However, we are concerned that the issues of our province that we had been raising with respect to the social infrastructure backlog are still not addressed.

We do, however, believe that this can be addressed to the current review of the provincial equitable share formula; which is an addition to the point highlighted above, should the [Inaudible.] context of service delivery especially in the rural areas and higher costs of service delivery due to vastness of the areas covered.

We, therefore, reiterate the call for the establishment of more rural bias conditional grants that are targeted for economic development in the rural hinterland.

We have also raised our concern that the existing funding model of the Provincial Roads Maintenance Grants does not take into account the reality of rural provinces such as the Eastern Cape which have a historical underexpenditure and underinvestment; leading to underdevelopment by the apartheid regime as the allocation for maintenance is based on the surface zones of which the province has only about 10% of surface zones; with the rest being unsurfaced. This means that the province is funded at a lower rate; a problem which needs to be urgently addressed.

Lastly, as the Eastern Cape we request the National Treasury to review its decision to suspend the Buffalo City Metropolitan Municipality from the Public Transport Network Grant. Rather the department should develop measures to capacitate the municipality. With the respect to the grant we commit that the Eastern Cape Provincial Government will provide [Inaudible.] from the grant will ultimately have adverse consequences on struggling communities in the metro as it is the rural metro; that are already suffering from what the National Treasury has itself been delivering services.

With a significance high unemployment rate and about

193 000 people who are not economically [Inaudible.] thousand discouraged work seekers; reliance on public transport network through, decision will be implemented at a time where there is a global fight against this [Inaudible.] coronavirus and the national strides to mitigate the impact of national lockdown, which amongst them include the improvement of public transport and network.

Hon Chairperson, despite the issues that we have highlighted above we believe that the Bill will provide an important legal framework for our province to continue carrying out its mandate and build the Eastern Cape we want.

As mentioned earlier, the Eastern Cape supports the Division of Revenue Bill. Thank you very much.

Ms N RALEHOKO (MEC – GAUTENG): Chairperson, on behalf of the Gauteng Provincial Government I take this opportunity to welcome and express our full support of the 2020 Division of Revenue Bill that was tabled in Parliament by Finance Minister, Tito Mboweni, in february this year.

Our view is that the Bill responds strategically to the broader context of the current fiscal environment which is characterised by stagnant economy, vinding the revenue streams and increasing demand of service delivery from our people.

As a result of this fiscal pressure the National Treasury revised the 2020 Medium Term Expenditure Framework, MTEF,

fiscal framework and implemented budget cuts across all allocations to different spheres of government.

As Gauteng we have adopted the Growing Gauteng Together 2030 Plan to grow the economy and create jobs. This plan is aligned to the National Development Plan 2020 and its key priorities are as follows: first, economy, jobs and infrastructure; second, education, skills and health care; third, sustainable human settlement, new cities and land release; fourth, safety, social cohesion and food security; fifth, sustainable future for all; sixth, building a capable, ethical and developmentsal state; lastly, building a better Africa and a better world.

In line with the spirit of the national beudget that in these challenging economic times we must do more with less. We, therefore, took tough decisions when we structured our 2020-21 Gauteng budget. We funded the priorities of the Sixth Admisitration as outlined in the Growing Gauteng Together 2030 Plan that was implemented baseline reductions and reprioritisation; while minimally impacting our service delivery and directed funding to

high growht sectors to stimulate the economy and create jobs.

After the declaration of the national state of the disastr by the President, Cyril Ramaphosa, and on advice by the National Treasury, we are working with departments to repurpose conditional grants to support efforts in fighting the COVID-19 pandemic.

In our province we believe that we must repurpose aspects of the following grants: the national school nutritional programme; educational infrastructure grant; public transport operations grant; health facility revitalisation grant; HIV, TB, malaria, community outreach grant; national tertiary services grant and early childhood development grant; and redirect these funds to COVID-19 related support within the respective sectors. I thank you, Chair.

Ms M Z ROSHO (NORTH WEST): Hon Chair and hon members, good afternoon. Let me appreciate this opportunity for one to participate on this sitting.

On behalf of the provincial government, as the North West we would wish also to support the report as well as the tabling of the Division of Revenue Bill.

One must welcome all the comments as made by Chair. However, hon Chair, we want, as the North West, to put it on record that the equitable share formula remains to be a challenge in our province in making sure that we are able to provide services to our people. That is, however, important that from time to time in the NCOP we need to continue to reflect on the provision of equitable share, especially for our rural provinces like the North West.

Coupled with that, one would want also to raise subtly the challenges that are confronting the North West, especially on water and sanitation challenges. It remains a daunting challenge within our province. We continue to be confronted by dissatisfaction from our communities as a result of water and sanitation challenges.

In response to COVID-19, I must indicate that the water challenges in our province, especially in the rural areas within the North West, remains an area of concern whereby

our communities raise them sharply in terms of how would they be able to comply with the rules and regulations in line with the COVID-19 regulations.

As a result of that I must also indicate and put on record within the NCOP that as we respond to COVID-19 as the North West Province, we’ve, of course, been supported by the Water and Sanitation Department by providing a number of trucks within our province.

But, with the budget challenges and budget cuts where we need to realign and repurpose our budget and reprioritise, it has become very difficult for us to continue to reflect in response to the priorities of the province in the Sixth Administration; whereby in response to the budget cuts and reprioritisation of the budget and repurposing of the grant, we, as the North West Province, have to contribute the R2,1 billion to the R30 billion in terms of what is required by the National Command Council, NCC. And in response to that we have engaged with various departments with budget cuts; which I must say that it’s a deep cut, it has serious implications for

the North West to be able to respond to issues of challenges within our province.

As we all know, North West is a rural province, we have far-flung areas where we are having challenges of even ground water. So, North West remains one of the provinces that as and when we do all these budget cuts, we are weakened in responding to our priorities in the province whereby water and sanitation is a priority as well as rural roads.

Hon Chair and hon members, I would also wish to record that as a province we are also worried about, in terms of, the equitable share of our rural municipalities whereby we are unable to respond to the delivery of services to our people.

Issues of ailing municipalities, municipalities that are not self-reliant in terms of finance and collecting revenue; we’ve done an assessment as a province and I must share with you that in terms of the assessment, the observation as the provincial treasury, which we have actually even discussed at the budget council, that

interventions in line with the Municipal Finance Management Act, MFMA, to support municipalities in line with the financial recovery plan becomes sacrosanct and important. We, therefore, would wish that in going forward we need to prioritise that as provinces.

As the North West we support the tabling of the budget, we support the report as tabled by the Chair and we would vote that the report must go through. I thank you, Chair.

The CHAIRPERSON OF THE PERSON: Just to remind members that the declaration time slot should not exceed, in terms of point contribution and speaking, more than three minutes. So, it’s a plea there.

The PREMIER OF MPUMALANGA (Ms R Mtsweni-Tsipane): Chairperson, Deputy Chairperson, permanent and non permanent delegates of the NCOP, I greet you all, on behalf of the Mpumalanga province we welcome and support for the Division of Revenue Bill.

We are of a firm belief that the Bill expression to our commitment to bring sustainable development to all our

communities whilst addressing the triple challenges of poverty, inequality and unemployment. Upon ... [Break in transmission.]

The CHAIRPERSON OF THE NCOP: We request the table and the technicians to attend to the break in transmission problem. Please do your best to get the Premier of Mpumalanga back.

The PREMIER OF MPUMALANGA (Ms R Mtsweni-Tsipane): It is the Premier of Mpumalanga not speaker. Chairperson, can you hear me?

The CHAIRPERSON OF THE NCOP: I was not referring to the position I meant the person speaking. But it is the Premier yes, I agree. Let us try and get the Premier back.

The PREMIER OF MPUMALANGA (Ms R Mtsweni-Tsipane): Chairperson, can you hear me?

The CHAIRPERSON OF THE NCOP: I can hear you now. But we were disconnected for a short while.

The PREMIER OF MPUMALANGA (Ms R Mtsweni-Tsipane): I was saying that on behalf of the Mpumalanga province we want to welcome and express our full support for the Division of Revenue Bill.

We are of the firm belief that the Bill gives expression to our commitments to bring sustainable development to all our communities whilst addressing the triple challenges of poverty, inequality and unemployment.

Upon its promulgation, the Bill will also allow us to continue to invest resources in key projects that will serve as catalysts for the stimulation of the provincial economy.

Through the apportionment of resources as a result of the Division of Revenue Bill, we shall allocate R35 million towards the operationalization of the Nkomazi Special Economic Zone, SEZ, as well as R357 million towards the construction of the Mpumalanga International Fresh Produce Market. Both these projects will create considerable and sustainable employment opportunities in

both the upstream and downstream sectors of the value- chain.

We shall further apportion R5 billion towards infrastructural investment which is a prerequisite towards the stimulation of the provincial economy, especially when one considers the effects of the Covid-19 pandemic on economies across the world.

As we commemorate the Youth Month, we, as the Mpumalanga Provincial Government, have put in place measures to develop Small, Medium and Micro Enterprises, SMMEs, and Co-operatives owned by young people through the apportionment of R50 million towards the Mpumalanga Youth Fund. This is consistent with the ethos of the Division of Revenue Bill which gives expression to the commitment undertaken by the ANC-led government to put measures in place to expedite the economic advancement of youth-owned enterprises.

Hon Chair, with these few words, allow me to join the people of Mpumalanga and all stakeholders in our province in welcoming the Division of Revenue Bill, as a decisive

expression of our will to work tirelessly to improve the lives of the people of Mpumalanga. Thank you.

Mr S S NKOSI (KwaZulu-Natal): Chairperson as the KwaZulu- Natal province, we would like to appreciate this opportunity to take part in this important discussion. We would want to indicate that we are in full support of the Division of Revenue Bill of 2020, as articulated by the chairperson of the portfolio committee.

We want to indicate that the Portfolio Committee on Finance in KwaZulu-Natal scrutinized the Bill and even engaged with National Treasury and other stakeholders including our municipalities as well as the academics of all universities of our own province. We requested them to make submissions which we didn’t receive but they were part of the engagement when we were passing the Bill.

The reasons for supporting the Bill are as follows. Firstly, KwaZulu-Natal has been dealing with the budget cuts for eight consecutive years as you know that we experienced the cuts of Census 2011, but service delivery has always been protected in terms of that.

What we have been able to do in the past eight years was to cut the frills in order to ensure that service delivery for our own people is delivered on the ground. We have been covered by other rural provinces around issues of concern. There is no point for us to mention that particular area.

We want to indicate that we welcome the allocation of R22 billion for the conditional grants as you also know that we are one of the provinces that are spending the conditional grants in line with the demands of the National Treasury.

We also want to indicate that we are very much concerned about the exclusion of Msunduzi Municipality in terms of the road infrastructure grant but we have to take a decision to indicate that if there are challenges down there in Msunduzi, we, as the Finance Portfolio Committee of KwaZulu-Natal would have to work with our counterparts so that they rejoin other municipalities that are enjoying that grant.

Chairperson, without wasting time, we would want to indicate that we are ready to support the amendments that might be effected in terms of this Bill as per the demands of Covid-19 because we are convinced that Covid-

19 has to be defeated using all the resources that we have. Thank you very much, Chairperson.

Mr N MANENG (NORTHERN CAPE): Chairperson, Deputy Chairperson of the NCOP, hon members, special delegates, the Northen Cape wants to commence by declaring that it fully supports the Division Of Revenue Bill, we want to say as the province we wish express our confidence in the national government for its response to the Covid-19 pandemic.

We further wish to thank our frontline workers and all the other organisations in leading from the front to fight this pandemic. Our hearts goes out to the victims and casualties of the hidden enemy.

As a country we find ourselves in an unfavourable position in our quest to deliver services to the masses. This pandemic wrecked havoc in the economy and responding

to it by taking extra ordinary measures. One of which required the reprioritisation of the budget. For sure, that will impact all provinces.

The Division of Revenue Bill (B3-2020), in line with section 214(1) of the Constitution of the Republic of South Africa, requires that the Bill determines the equitable division of the nationally raised revenue between national, provinces and municipalities.

Our province wants to join the other provinces in saying that the current formula in determining the equitable share is a contentious issue. The delivery of service to far-flung pockets of human settlement remains a challenge in the Northern Cape. The Financial and Fiscal Commission, with the National Treasury should speed up the process of reviewing the current formula. As the rural province, we have adopted a modern grow and successful trajectory and we will continue to do more with less.

Hon Chair, we are happy with the consultative processes in determining the equitable share and we want to also

emphasise that as the province we call all stakeholders, our leaders nationally that this process must be – because it affects the rural province negatively.

In conclusion, as the Northern Cape province, we support the Bill. Thank you very much.

Mr M S CWAILE (NORTH WEST): Hon Chair, on behalf of the North West Provincial Legislature Portfolio Committee on Finance, we are supporting the Bill in its present form as it is. We have also taken note that no matter what we say or the concerns of the communities - the challenge that we have on and around issues of finances and funding is the funding model. But who is at the centre of this challenge? It is a Financial and Fiscal Commission, FFC, which is responsible for amongst others to deal with issues of Division of Revenue Act, DoRA, and determine the particular model on how the institutions of the state are funded and the present form in its shape makes provision for a more regulatory environment and less developmental capacity.

We would require that the NCOP might have to consider engaging the FFC on a need to review the model. Because the funding model only deals with matters of population and not matters on and around developmental backlogs, developmental gaps, modernisation need. So the way it is they are using the model called the Malmquist Productivity Index assessment model which is measuring spending efficiency and it is not necessarily looking into the impact.

Now, we want to deal with this matter because we have had an interaction with the FFC and the level of North West Provincial Legislature, NWPL. Because theirs is about defining the functionality. And it is as per audit line - not impact concern. It is not driven by a view of the beneficiaries. It is determined on a around issues of their own key performance indicators.

So, we might have to look into the framework especially because amongst others, in the context of their mandate, they are supposed to provide influential advice for an equitable, efficient and sustainable intergovernmental fiscal rendition system. But they have not achieved that.

They are far from that. That is why where we are even having functions devolved like the issue of the health inspection, one of the very important functions that we must be seen happening and it is not happening. It is devolved to the municipality but they cannot do it because even our own allocations is not necessary responding to the devolutions of the responsibility from provincial to a local municipality. So we make a submission as North West provincial legislature portfolio committee on how we think there must be changes on the considerations of the funding model to help this matter.

It is constructing the index that reflects the relative performance of a branch in four regions, through the aggregation production function, but it is not necessarily directly responsive to the needs of the people. We support the Bill in its form. Thank you.

The CHAIRPERSON OF THE NCOP: Thank you very much and you time is up. Let us please note that we should have one declaration per province. ... [Inaudible] ... could have noted by now that ... [Interjections.]

Ms M G MAKHURUPETJE (Limpopo): Chairperson, sorry!

The CHAIRPERSON OF THE NCOP: ... yes.

Ms M G MAKHURUPETJE (Limpopo): I know you have been struggling to find hon Sekoati to speak on behalf of Limpopo. But I am here so can I speak on behalf of Limpopo?

The CHAIRPERSON OF THE NCOP: Who are you, hon member?

Ms M G MAKHURUPETJE (Limpopo): I am Makoma Makhurupetje, a member of the Portfolio Committee on Treasury in Limpopo.

The CHAIRPERSON OF THE NCOP: Before you proceed, can I find out which province hon Neo represents?

Ms M G MAKHURUPETJE (Limpopo): Indeed as the Limpopo province we were part of the discussion we were part of the discussion of the Bill during the NCOP when the Bill was discussed and presented by National Treasury.

Members from other provinces have raised some of the issues relating to how the allocations are done, because you would remember that Limpopo is one of the rural provinces. We take note that we might not say much in this Bill because once we pass the Bill in the next few months, obviously it would be going to the budget adjustment.

There are key issues that we want to indicate that while we are supporting the Bill as is, we want to continue to raise concerns that the provincial government of Limpopo is experiencing. That due to the infrastructural backlogs, Covid-19 exposed us in a bad way because on the issues relating to school infrastructure that relates to water and sanitation, Limpopo is still behind in terms of the backlog. We want to make an input that says when we go to the budget adjustments we must go back to say what are the implications of the backlogs that have been there before. That for us to be able to be at the level of other provinces, issues relating to infrastructure in schools need to be taken into consideration.

Another matter that we are worried about as a province is that everybody must just reduce conditional grants especially on the roads. Limpopo is one of the provinces that has a huge backlog on roads infrastructure. We want to recommend that on the issue of road infrastructure Limpopo be allowed not to have budget cuts on roads infrastructure towards Covid-19.

I also want to raise the matter of water services. In terms of the water infrastructure we need a lot of support when we reconsider the budget. We those few words we want to say we do support the Bill. Thank you.

Mr T P MEEKO (Free State): Chair, the Free State requests to speak!

The CHAIRPERSON OF THE NCOP: Free State!

Mr T P MEEKO (Free State): Thank you very much, Chair!

The CHAIRPERSON OF THE NCOP: No, I am just checking whether anyone has spoken from the Free State.

Mr T P MEEKO (Free State): I am not aware Chair.

Ms M G MAKHURUPETJE: No one has spoken, Chair.

The CHAIRPERSON OF THE NCOP: Okay, let’s then have the Free State speaking. Free State, you are the last!

Mr T P MEEKO (Free State): Chair, we welcome the opportunity. Indeed, we must appreciate that the majority of issues that we are equally representing have been shared by other provinces and we will try then to summarise our input. Chair, our understanding is that the Division of Revenue Act provides for equitable division of revenue raised nationally, provincially and in a local sphere.

Our understanding and our view as a province is that, indeed, the allocations to provinces must reflect this philosophy. As a province, we have got strong views that there must be a strategic shift, or a strategic shift must be arrived at, in order to achieve the purpose for which the Division of Revenue Act is attempting to help us.

We have embarked on an extensive public consultation process on the Bill and indeed, our people have raised concerns. I mean, various concerns were raised regarding the impact of the Bill on our province. The following represents our concerns – that’s in short.

We are saying as point number one that the withholding of Conditional Grants is inappropriate, even if there have been ... [Inaudible.] ... in terms of the conditions of Conditional Grants. Our view is that it is the victims that are suffering, who are supposed to be beneficiaries, for which these things are intended, as opposed to either municipalities or any other person who are receiving these Conditional Grants. [Interjections.]

Our point number two is that our municipalities in the province are rural municipalities, and indeed, they are not economically viable. There is just no way that they will be, because the high levels of unemployment and many social challenges facing these municipalities. That is why we think that as a result thereof, it is imperative that the allocation must increase if they are to deliver the desired service.

On point number three, we are saying that the formula for allocation – in joining and supporting – in agreeing with other provinces, the allocation of funds must b€ reviewed to take into cognisance the issue of poverty index. We know that at the centre of the determination of the allocation is the issue of the population. However, we are saying well and good: Those populations’ analyses must also go deeper and also capture and integrate poverty index as per province. We think that that our province is amongst the poorest in the country.

The other issue is that we are considering that there should be a special purpose grant focusing on the strengthening of district services model municipalities to ensure that the sustainability of category C municipalities where all trading functions are assigned to category B municipality.

On the last point, we are arguing that our province is at the centre of about three to four provinces, including Lesotho, which is another country. As a result this puts a strain on the infrastructure as well as the [Time expired.] Thank you very much, Chair. The Free State is

moving to support the Bill. We vote in favour of the Bill. Thank you.

The CHAIRPERSON OF THE NCOP: Thank you very much. I see there is a hand up from on Dangor. Gauteng has already spoken ... Eer, yes ... [Interjections.]

Mr M DANGOR: Chairperson, this is just to say it is one declaration per province. I saw people raising their hands. I was just trying to assist you, Chair.

The CHAIRPERSON OF THE NCOP: Hon Dangor, can you please repeat what you just said, please?

Mr M DANGOR: I was saying that it is only one declaration per province. [Interjections.] [Inaudible.] ... their hands.

The CHAIRPERSON OF THE NCOP: Ooh, thank you very much. Long live, hon Dangor! [Laughter.] That’s the spirit! Thank you very much. Hon members, we will now proceed to voting on the question.

Question put: That the Bill be agreed to.

Voting on First Order:

IN FAVOUR: Eastern Cape, Free State, Gauteng, KwaZulu- Natal, Limpopo, Mpumalanga, Northern Cape and North West.

AGAINST: Western Cape.

# CONSIDERATION OF REPORT OF SELECT COMMITTEE ON SECURITY AND JUSTICE - SUSPENSION/REMOVAL FROM THE OFFICE OF MAGISTRATE I MEYBURGH, AN ADDITIONAL MAGISTRATE AT JOHANNESBURG, IN TERMS OF SECTION 13(4)(B) OF THE MAGISTRATES ACT 90 OF 1993, DATED 13 MARCH 2020.

**CONSIDERATION OF REPORT OF SELECT COMMITTEE ON SECURITY AND JUSTICE - PROVISIONAL SUSPENSION FROM OFFICE OF MAGISTRATE D NAIR, CHIEF MAGISTRATE, PRETORIA, TABLED IN TERMS OF SECTION 13(3)(B) OF THE MAGISTRATES ACT 90 OF 1993, DATED 13 MARCH 2020.**

Ms S SHAIKH: Hon Chairperson and hon members, on a matter of ... [Interjections.]

The CHAIRPERSON OF THE NCOP: Hon members, can I please call you to order. Let’s now listen to hon Shaikh.

Ms S SHAIKH: Once again, thank you and good afternoon, hon Chairperson and hon members. On the matter of Ms I Meyburgh, the Select Committee on Security and Justice, having considered the Minister’s reports tabled on 27 November 2019 and referred to the committee, informing Parliament of the suspension or removal from office of Ms I Meyburgh, an additional magistrate at Johannesburg, pending consideration by Parliament of the recommendation of the Magistrates Commission for her removal from office in terms of section 13(4)(a)(2) of the Magistrates Act 90 of 1993 reports as follows.

Since her appointment on 1 October 2015, Ms Meyburgh has largely been absent from office due to continued ill health. On 14 March 2018, Ms Meyburgh’s attention was drawn to the provisions of Regulation 29 of the Regulations and Judicial Officers in Lower Courts, setting out the procedure that is followed, where a magistrate is removed from office due to continued ill health.

Ms Meyburgh was afforded an opportunity to comment and state her case in response, with specific reference as to whether her illness was not as serious as to justify her removal from office or to suggest alternatives to removal from office.

On 18 may 20218, the Magistrates Commission considered the documentation presented to it regarding Ms Meyburgh’s continued ill health in order that an investigation be held regarding her fitness to continue to hold office on account of ill health. Ms Meyburgh was informed of the investigation and was requested to submit a multiple report from a medical practitioner of the choice to the commission.

Ms Meyburgh’s representative submitted the required medical report dated 21 October 2018, which found that at the time, Ms Meyburgh was completely impaired and unable to function in any context. The medical report found her unable to return to work.

In a letter dated 18 April 2019, the commission gave Ms Meyburgh an opportunity to comment. Ms Meyburgh’s

representative provided the commission with the comments but the response did not address the commission’s opinion that she is not fit to hold an office as a magistrate any longer due to continued ill health, and that the recommendation to suspend her from office would be justified.

Further, the response did not show course as to why the commission should not determine to withhold her remuneration forth ward. Neither Ms Meyburgh nor her representative responded to the commission’s subsequent verifying letter.

On 2 August 2019, the commission met and resolved to recommend that Ms Meyburgh be suspended from office due to continued ill health and determined that her remuneration be withheld with effect from the date in which the Minister suspends her from office. On the recommendation of the commission, the Minister duly suspended Ms Meyburgh from office and on 26 November 2019 tabled the report for consideration at Parliament.

Having considered the report tabled on 27 November 2019 by the Minister of Justice and Correctional Services, on the suspension from office of Ms I Meyburgh, the committee recommends that the NCOP resolves not to restore Ms I Meyburgh as magistrate.

On the matter of Magistrate D Nair, the Select Committee on Security and Justice, having considered the Minister’s report tabled on 25 February 2020, and referred to the committee, informing Parliament of the provisional suspension of Mr D Nair, the chief magistrate at Pretoria, pending the outcome of investigation into his fitness to hold the office as magistrate, as required by section 13 (3) (b) of the Magistrates Act 90 of 1993 reports as follows.

Mr D Nair is the chief magistrate additional head of office in Pretoria and the head of Gauteng B cluster. Mr Nair was appointed to the lower court bench on 1 April 1996 and was appointed as a senior magistrate on 1 December 1999 and chief magistrate in the Gauteng B cluster at Pretoria on 14 November 2006.

After conducting a preliminary investigation and having considered the preliminary investigation report, the Magistrates Commission resolved to charge Mr Nair with misconduct. A charge sheet dated 29 November 2019 containing two counts of misconduct was served on Mr Nair and his representative.

In a letter dated 27 November 2019, Mr Nair was invited to show course why the commission should not recommend that he be provisionally suspended from office. Mr Nair responded and furnished the commission with representation dated 6 December 2019. On 12 December 2019, having considered Mr Nair’s representations, the commission resolved to recommend that he be provisionally suspended from office in terms of section 13 (3)(a) of the Magistrates Act 90 of 1993.

The commission is of the view that the allegations against Mr Nair are of such a serious nature as to make it inappropriate for him to perform the functions of a magistrate while the allegations are being investigated. On 24 February 2020, the Minister, on the advice of the commission, decided to provisionally suspend Mr Nair with

immediate effect, pending the finalisation of an inquiry into his fitness to hold office as magistrate. In terms of the Act, he has submitted the report for consideration at Parliament.

Having considered the reports tabled on 25 February 2020 by the Minister of Justice and Correctional Services, on the provision of suspension from office of Mr D Nair, pending the outcome of an investigation into his fitness to hold the office of magistrate, the committee recommends that the NCOP confirm Mr D Nair’s provisional suspension from the office of magistrate. Hon Chair, I thank you.

Debate concluded.

The CHAIRPERSON OF THE NCOP (Mr A Masondo): I shall now allow provinces the opportunity to make their declarations of vote on the Second Order in terms of Rule

71 if they so wish. Please be reminded that the declaration should not take more that three minutes. Is there anyone who wishes to make a declaration on the

Second Order? An indication if anyone wanting to speak? No! We shall now proceed to the voting on the question.

Question put: That the Report be adopted. Voting on Second Order:

IN FAVOUR: Eastern Cape, Free State, Gauteng, KwaZulu- Natal, Limpopo, Mpumalanga, Northern Cape, North West and Western Cape.

Report accordingly adopted in accordance with section 65 of the Constitution.

Debate concluded.

Question put: That the Report be adopted.

Voting on Third Order:

IN FAVOUR: Eastern Cape, Free State, Gauteng, KwaZulu- Natal, Limpopo, Mpumalanga, Northern Cape, North West, Western Cape.

Report accordingly adopted in accordance with section 65 of the Constitution.

# CONSIDERATION OF REPORT OF SELECT COMMITTEE ON SECURITY AND JUSTICE – TREATY AND THE EXPLANATORY MEMORANDUM TO THE TREATY BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA AND THE GOVERNMENT OF THE REPUBLIC OF BANGLADESH ON EXTRADITION, TABLED IN TERMS OF SECTION 231(2) OF THE CONSTITUTION, 1996, DATED 11 MARCH 2020.

**And**

**CONSIDERATION OF REPORT OF SELECT COMMITTEE ON SECURITY AND JUSTICE - TREATY AND THE EXPLANATORY MEMORANDUM TO THE TREATY, BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA AND THE GOVERNMENT OF THE REPUBLIC OF BANGLADESH ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS, TABLED IN TERMS OF SECTION 231(2) OF THE CONSTITUTION, 1996, DATED 11 MARCH 2020.**

Ms S SHAIKH: Hon Chairperson and hon members, once again, thank you and good afternoon. On 13 January 2020, the Extradition Treaty and the Treaty on Mutual Legal Assistance in Criminal Matters between South Africa and Bangladesh were referred to the committee for

consideration and Report. The committee was briefed on both treaties on 11 March 2020. Section 231(2) of the Constitution provides that an international agreement only becomes binding after it has been approved by the resolution in both the National Assembly and the National Council of Provinces.

Furthermore, section 2 subsection 3(a) of the Extradition Act, provides that no agreement is of enforced unless it is ratified by Parliament. In the case of mutual legal assistance, section 27(2) of the International Co- operation in Criminal Matters Act, 1996, contains a similar provision. At present, no extradition treaty or treaty from mutual legal assistance exist between South Africa and Bangladesh. However, the treaties were preceded by the declaration of intent that was concluded between the countries in 1997.

Extradition is the physical surrender of an accused or convicted individual to the state where he or she is accused or convicted of a crime by the state in which territory she happens to be. However, a legal process is needed so that the state in which the crime took place

and the request to another state to hand over a person accused or convicted of committing a crime to it. The mutual legal assistance between states becomes necessary in the context of transnational crime. As there is no agreement in place, it is often difficult to investigate and prosecute crime if the suspects’ key evidence, witnesses and experts or the proceeds of the crime do not fall under the authority of the state concerned.

Section 2 1(a) of the Extradition Act, 1962, empowers the President to enter into an agreement with any foreign state, providing for the surrender on a reciprocal basis of persons accused or convicted of committing an extraditable or specified offence within the jurisdiction of the Republic of the foreign state. In respect of the provision of mutual legal assistance, section 27(1) of the International Co-operation and Criminal Matters Act, 1996, empowers the President similarly.

President Ramaphosa authorised the Minister of Justice and Correctional Services to sign the treaties on behalf of the government of South Africa. The Minister signed both treaties on 01 October 2019 in Dakar, Bangladesh.

Hon Chairperson, the committee having considered the request that Parliament approves the ratification of the Extradition Treaty between the government of the Republic of South Africa and the government of the People’s Republic of Bangladesh signed on 01 October 2019, recommends that the National Council of Provinces approves the ratification of the treaty in terms of section 231(2) of the Constitution, 1996.

Hon Chair, the committee having considered the request that Parliament approves the ratification of the treaty on which mutual legal assistance in criminal matters between the government of the Republic of South Africa and the government of the People’s Republic of Bangladesh signed on 01 October 2019, recommends that the National Council of Provinces approves the ratification of the treaty in terms of section 231(2) of the Constitution of the Republic of South Africa. I thank you, hon Chair.

Debate concluded.

Question put: That the Report be adopted.

(VOTING ON FOURTH ORDER)

In Favour**:** Eastern Cape, Free State, Gauteng, KwaZulu- Natal, Limpopo, Mpumalanga, Northern Cape, North West, Western Cape.

Report accordingly adopted in accordance with section 65 of the Constitution.

(VOTING ON FIFTH ORDER)

Debate concluded.

Question put: That the Report be adopted.

In Favour**:** Eastern Cape, Free State, Gauteng, KwaZulu- Natal, Limpopo, Mpumalanga, Northern Cape, North West, Western Cape.

Report accordingly adopted in accordance with section 65 of the Constitution.

The Council adjourned at 15:37.