Report of the Select Committee on Trade and Industry, Economic Development, Small Business Development, Tourism, Employment and Labour on Budget Vote 31: Employment and Labour, Dated 14 June 2022

The Select Committee on Trade and Industry, Economic Development, Small Business Development, Tourism, Employment and Labour, having considered the budget vote of the Department of Employment and Labour as well as *Strategic Plan and the 2022/23 Annual Performance Plan* which were presented on 10 May 2022, reports as follows:

1. Introduction

From 2010 to date, South Africa economy has not performed according to expectations. Economic activity and employment remain a challenge. The Committee noted that labour market reports from *Stat-SA* indicate that unemployment has rose to 35,3 per cent in the fourth quarter of 2021 from 34.9 per cent in the third quarter due to job losses mainly in manufacturing and construction. The South African Reserve Bank, and the National Treasury reports highlight that unemployment including poverty and inequality are major risk that need to be tackled.

The role of the Department is crucial in the labour market, both from the regulatory and employment creation (contributing and coordination) perspective. Young people, women including Persons with disabilities remain vulnerable groups. Hence it is important that labour market intervention programmes need to tackle youth, women and Persons with disabilities unemployment.

The Department reported that the *2022/23 Budget and Spending Plans* seek to address socio-economic challenges in the labour market. Further, the Department highlighted that one of the government priorities is to address unemployment, thus the major focus is to accelerate economic growth, and create much needed jobs.

It was emphasised by the Department that partnership between government and the private sector remains a key priority. Both the public and private sector investment is pivotal in the creation of jobs. The role of SMMEs in accelerating economic growth, not just growth an inclusive growth is essential. Small businesses are generally regarded as engines of economic growth, and job creation. However, in South Africa most jobs are created by larger companies.

The Department advocated that its mission is to promote employment and regulate the South African labour market for sustainable economic growth. The Department highlighted that the financial position of the Compensation Fund (CF), and the Unemployment Insurance Fund 9uif) remain solid. In 2021, the UIF created the Covid-19 Ters to support workers and firms, which were affected by the Covid-19. The UIF has experienced a massive capital outflows towards the payment of Covid-19 Temporary Employee/Employer Relief Scheme (Covid-19 Ters), to date the UIF has paid out nearly R63.7 billion- Covid-19 Ters. The Department submitted that the disbursements on this scale came with the inevitable scams and fraudulent claims. In combatting this the Department with the support of the Special Investigating Unit (SIU)), the Auditor-General have crafted a plan to 'follow up on the money', auditing every claimant and recovering monies that were wrongly paid out.

It was highlighted that the CF continues to play a crucial part as one of the social protection institution in supporting workers injured or made ill in the workplace. Further, the Committee welcomed 6.9 per cent increase of the *National Minimum Wage* (NMW) to R23.19 per hour, effective from 1st March 2022. The Department reported that the NMW was last year extended to cover farm workers, and for the first time this year will fully cover domestic.

Over the medium term, the Department reported that it will focus on ensuring that both the Compensation Fund and the Unemployment Insurance Fund become resilient. It was noted that the Draft National Labour Migration Policy (NLMP) and the proposed Employment Services Amendment Bill to give effect to the policy was approved by Cabinet for public and social partners 'consultations until end of May 2022. The Department submitted that it will table the Bill in Parliament in 2023/24 financial year.

The Department reported that South Africa will be hosting the first African Country's 5th Global Conference on the Elimination of Child Labour, International Labour Organisation (ILO) on eradication

of labour starting from 15-20 May 2022. It was highlighted by the Department that the event is regarded as a tribute to South Africa's record in promoting healthy and robust labour relations. Further, it is an acknowledgement of the sound collective bargaining system that South Africa posits. In addition, it records the essential role that the *National Economic Development and Labour Council* (NEDLAC) plays in the labour market.

It was highlighted that the labour market was badly affected by the Covid-19 pandemic. Further, the Covid-19 pandemic has widened already high earnings inequalities. The current economic conditions present limited employment opportunities. The Committee emphasise that the *Public Employment Services* spending should be expanded to create jobs, and employment opportunities. Further, growth and expansion of SMMEs should be prioritised. Self-employment initiatives need to be promoted and supported. In addition, there is a need to strengthen and enhance labour market stability. The role of NEDLAC should be enhanced to promote and bolster social compact to help the economy to fully recover, and jobs to be created.

2. Governance and Spending

The Department administers the following legislation:

- Labour Relations Act, 66 of 1995 (LRA, as amended;
- Basic Conditions of Employment Act, 75 of 1997 (BCEA), as amended;
- Employment Equity Act, 55 of 1998 (EEA), as amended;
- Unemployment Insurance Act, 30 of 2001, as amended (UIA);
- Occupational Health and Safety Act, 85 of 1993 (OHSA);
- Compensation for Occupational Injuries and Diseases, Act 130 of 1993 (COIDA;
- National Economic Development and Labour Council Act, 35 of 1994 (NEDLAC);
- Employment Services Act 4 of 2014 Skills Development Act 97 of 1998 Sections 24– 26;
- Unemployment Insurance Contributions Act, 4 of 2002;
- National Minimum Wage Act, Act 9 of 2018.

The Department reported that over the medium term it would continue to focus of the following policy priorities:

- Priority 1: A capable, ethical and Developmental State;
- Priority 2: Economical transformation and job creation;
- Priority 3: Education, skills and health;
- Priority 4: Consolidating the social wage through reliable and basic services;
- Priority 6: Social cohesion and safer communities;
- Priority 7: A better Africa and a better world.

The Department delivers its legislative and policy mandate through core functional policy priorities constituted around crucial policy functional areas namely; *Programme 2: Inspection and Enforcement Services; Programme 3: Public Employment Services and Programme 4: Labour and Industrial Relations. Programme 1: Administration* providing overall core administrative support to enable the three functional policy areas to realise their legislative and policy functional requirements. The Department further play oversight role over the following entities: Commission for Conciliation, Mediation and Arbitration (CCMA); NEDLAC; Productivity of South Africa (PSA); UIF; CF; and Supported Employment Shelter (SEE).

Table 1: 2022 Medium Term Spending

Functional Policy	Column	Column	Column	Column	Column	Column	Column	Column	Column1	Column1	Column1
Programme	Audited outcome			Adjusted appropriation	Average growth rate (%)	Expenditure/ Total (%)	Medium-term expenditure estimate			Average growth rate (%)	Expenditure/ Total (%)
R million	2018/19	2019/20	2020/21	2021/22	2018/19 - 2021/22		2022/23	2023/24	2024/25	2021/22 - 2024/25	
1. Administration	804.9	871.1	854.0	1 026.0	8.4%	26.9%	1 044.0	1 030.4	1 076.7	1.6%	26.9%
2. Inspection and Enforcement Services	549.2	560.6	499.4	648.8	5.7%	17.1%	657.2	638.4	667.0	0.9%	16.8%
3. Public Employment Services	542.8	605.6	598.4	883.2	17.6%	19.9%	935.4	993.8	649.5	-9.7%	22.3%
4. Labour Policy and Industrial Relations	1 189.7	1 178.6	1 151.3	1 258.6	1.9%	36.1%	1 319.5	1 320.9	1 379.4	3.1%	34.0%
Total	**3 086.7**	**3 215.9**	**3 103.1**	**3 816.5**	**7.3%**	**100.0%**	**3 956.0**	**3 983.5**	**3 772.6**	**-0.4%**	**100.0%**
Change to 2021 Budget estimate				310.8			396.7	412.2	41.0		
Economic classification											
Current payments	**1 700.6**	**1 833.3**	**1 738.8**	**2 124.4**	**7.7%**	**55.9%**	**2 147.8**	**2 097.3**	**2 191.5**	**1.0%**	**55.1%**
Compensation of employees	1 149.7	1 253.3	1 224.3	1 440.1	7.8%	38.3%	1 430.8	1 378.6	1 440.6	0.0%	36.6%
Goods and services1	550.9	580.0	514.6	684.4	7.5%	17.6%	717.0	718.7	751.0	3.1%	18.5%
of which:											
Audit costs: External	*13.2*	*16.4*	*15.1*	*24.2*	*22.4%*	*0.5%*	*25.1*	*25.2*	*26.3*	*2.8%*	*0.6%*
Communication	*24.9*	*24.4*	*27.6*	*46.0*	*22.6%*	*0.9%*	*48.1*	*48.2*	*50.3*	*3.0%*	*1.2%*
Computer services	*55.9*	*88.3*	*87.8*	*132.2*	*33.2%*	*2.8%*	*134.0*	*134.1*	*140.1*	*1.9%*	*3.5%*
Operating leases	*132.5*	*141.4*	*156.8*	*162.6*	*7.1%*	*4.5%*	*168.0*	*168.6*	*176.2*	*2.7%*	*4.3%*
Property payments	*52.3*	*62.1*	*71.1*	*91.3*	*20.4%*	*2.1%*	*94.2*	*94.0*	*98.2*	*2.4%*	*2.4%*
Travel and subsistence	*110.3*	*109.7*	*29.4*	*73.8*	*-12.6%*	*2.4%*	*81.5*	*81.7*	*85.3*	*5.0%*	*2.1%*
Transfers and subsidies1	**1 296.8**	**1 338.3**	**1 305.2**	**1 609.9**	**7.5%**	**42.0%**	**1 737.0**	**1 811.7**	**1 503.3**	**-2.3%**	**42.9%**
Provinces and municipalities	0.8	0.9	0.8	0.7	-1.7%	0.0%	0.7	0.7	0.8	2.5%	0.0%
Departmental agencies and accounts	1 103.5	1 121.4	1 047.7	1 367.0	7.4%	35.1%	1 490.3	1 564.0	1 244.5	-3.1%	36.5%
Foreign governments and international organisations	20.3	17.6	19.6	28.5	12.0%	0.6%	29.2	29.3	30.6	2.5%	0.8%
Non-profit institutions	167.9	190.3	231.0	210.7	7.9%	6.0%	216.3	217.2	226.9	2.5%	5.6%
Households	4.3	8.1	6.1	3.1	-10.5%	0.2%	0.4	0.4	0.4	-47.5%	0.0%
Payments for capital assets	**87.9**	**43.1**	**59.0**	**82.1**	**-2.3%**	**2.1%**	**71.3**	**74.5**	**77.8**	**-1.8%**	**2.0%**
Buildings and other fixed structures	10.9	10.2	17.7	17.8	17.8%	0.4%	18.8	19.6	20.5	4.9%	0.5%
Machinery and equipment	77.0	32.9	31.2	64.3	-5.8%	1.6%	52.5	54.8	57.3	-3.8%	1.5%
Software and other intangible assets	–	–	10.1	–	0.0%	0.1%	–	–	–	0.0%	0.0%
Payments for financial assets	**1.4**	**1.1**	**0.1**	**–**	**-100.0%**	**0.0%**	**–**	**–**	**–**	**0.0%**	**0.0%**
Total	**3 086.7**	**3 215.9**	**3 103.1**	**3 816.5**	**7.3%**	**100.0%**	**3 956.0**	**3 983.5**	**3 772.6**	**-0.4%**	**100.0%**

Source: 2022 National Treasury Estimates of National Expenditure

The 2022 Estimates of National Expenditure outlined that over the medium term, the Department will focus on providing support to work seekers, increasing safety and fairness in the workplace, and regulating the workplace to establish minimum working conditions and fair labour practices. Over the medium term, in terms of economic composition, the Department is anticipated to spend approximately R4,6 billion (Compensation of Employees); R2,2 billion (Goods and Services); R5 billion (Transfers and Subsidies), and R224 million (Capital Payments). The Department is anticipated to spend approximately R11,7 billion, over the medium term, in order to realise government policy priorities.

Covid-19 has certainly had a negative effect on the economy and jobs. Public Employment Services as part of the spending in labour market initiative will play a pivotal role to support job seekers including retrenched workers. Over the medium term, *Public Employment Services* Programme is anticipated to spend R2.6 billion, and thus mark a decrease at an average annual rate of 9.7 per cent. Given the essential role of the *Public Employment Services* as pivotal programme that constitute public spending in the labour market, resource allocation and effectiveness should be prioritised. Private sector resources would need to be leveraged by the Department to meet policy priorities.

Over the medium term, the Department is expected to spend approximately R677.2 million for the pathway management network for supporting the presidential employment initiative. There is a need for the Department to exercise oversight for the implementation of this programme across government.

Covid-19 has had an effect on the increase in demand for services for the labour inspectorate since the start of lockdown. Inspection and Enforcement Services is anticipated to spend closely to R2 billion, over the medium term. Over the medium term the Department is expected to improve compliance with occupational health and safety standards for various sectors and as such, increase

fairness in the workplace, especially for young people, disabled people and women. In addition, the implementation of the case management system in 2022/23 is expected to ensure that the department's business processes are fully modernised, which will lead to, among other things, more focused inspections that ensure compliance and workplace safety.

The purpose of *Programme 4; Labour and Industrial Relations* is to facilitate the establishment of an equitable and sound labour relations environment. Further, to support institutions of social dialogue and promote South Africa's interests in international labour matters. The Programme is also responsible of conducting research and analysis, and evaluate labour policy, and also to provide statistical data on the labour market. Some of the major departmental entities such as CCMA and NEDLAC fall under this programme. Over the medium term, the Programme is expected to spend approximately R4 billion.

3. Issues which arose from Engagements

1. The Department noted that it is not anticipating any likelihood of virements amounting to R25 million towards salaries and benefits on the *Supported Employment Enterprises (SEEs)* in this current financial year. In the last financial year, there was a reason for R25 million to be shifted from other spending items to the SEEs. Initially, the SEEs projected to generate revenue through sales that was not realised.

2. The Department indicated that in the *2022/23 Annual Performance Plan* there are a number of agreements, contracts and *Memorandum of Understandings* that are going to be signed with the number of departments and SEEs to ensure that goods are being procured from the entity. The Department is going to monitor closely the performance of the SEEs.

3. On the issue of Social Cohesion, regarding the inclusion of women in the planned targets, there are two ways in which one can look at it. The first is the internal focus approach, which is set to achieve 45 percent target. The Department cannot indicate that it will reach 50 percent this financial year due to the number of people that have already occupied the positions. Currently, women constitute 40-46 percent, but when the vacancy occurred at the SMS level, women will be prioritised in order to reach the target of 50 percent.

4. In terms of outward outlook, the DG review report covers issues relating on social cohesion. The reviews inspections unpack the representation of women in the workplace. The presentation reflected the number of inspections the Department wants to obtain to ensure the representation of women and men. It was emphasised that women representation will be covered in the employment equity inspections planned the current reporting period.

5. In term of determining the outcome on inspection and reporting. The Department reported the process to be followed with regard to the outcome. The inspection will be provided by the inspectors who will report whether there is compliance with all pieces of legislation. If there is non-compliance, the inspector is duty-bound to issue a notice of non- compliance. If the notice is not complied with, the notice is referred to the statutory services so that it can refer the matter for prosecution to the CCMA and Labour Court. Part of the reports generate a reflection on different pieces of legislation that is to administer the level of compliance with each legislation per province. The quarterly reports will be provided to the Committee in this regard.

6. In terms of the report on structural reforms and on how they plan to create jobs, the Department indicated that the reason the President wanted a social compact was to deal with the issue of unemployment, poverty and inequality. Additionally, the social partners and government agreed on an economic recovery plan to advance economic recovery. They are all working hard to ensure the commitments made are realised. More than R11 billion has been made available by the President to support Public Employment Services. Those are jobs that are not sustainable but they are initiatives that will induce jobs in areas with no jobs and keep the youth engaged through the job opportunities offered by the programmes. Another way they plan to create jobs is through the pathway management network, which will provide young people with access to job opportunities.

7. With regard to the concern raised about the teacher's assistants that are in the process of signing their contracts for the third and more time. The Department responded by highlighting that the teacher's assistants programme is a public employment programme with a stipulated duration. The deeming provision states when there is a clear timeframe of when the contract will start and end, then they would not apply the provisions as they would in ordinary circumstances where the contracts did not have a specific ending date. Secondly, there is a justification to expect that teacher' assistants will be employed on a full-time basis because it is in the interest of all of them to be employed full-time. However, it is a matter of public interest whether they can take the test at the CCMA or Labour Court. The programme is not any different from the Expanded Public Works Programme, it is a skill-based programme. The issue is that skill-based programmes are viewed as employment because people get paid and regard it as remuneration.

8. On the impact of the *Labour Market Policy and Industrial Relations* (LP&IR) reports on market intelligence produced as it relates to policy development, and Industrial Action. The report by the Department tells how the market players, employers and organised labour work. What the Department can do to reduce instability in the labour market. CCMA has a programme to prevent disputes before they occur. The intelligence they use comes from the information generated by the Department. Additionally, the information helps them develop evidence-based policies. Moreover, some of the administrative data generated are sometimes used by Stats-SA to generate the quarterly labour force survey.

9. In terms of the issue relating to the effect of the *Compensation for Occupational Injuries and Diseas*es (COID) to the domestic workers. The Department advanced that he Constitutional Court has ruled that domestic workers are now eligible to claim for work-related injuries, illness and death under COIDA. The Department agreed on the prospectively ruling in relation to the coverage, and the Compensation Fund has set funds aside to deal with claims related to the matter.

10. With regard to the concern regarding the inspectors that prefer to have some good relations with employers without interaction with the Unions, the Department confirmed that the Inspection and Enforcement Services has a code of conduct. Every inspector has to comply with the code of conduct. In the instance where a Member is aware of a particular inspector that did not comply with the code of conduct, the Department would want to know those inspectors. Such inspectors would be transgressing the code of conduct they have been trained, and operating out governance prescripts. The matter is taken very seriously by the Department, since such behaviour would bring the organisation into disrepute.

4. Recommendations

1. The Minister working closely with the Ministers of *Finance, and of Trade, Industry and Competition, and of Higher Education, Training, Science and Innovation* should work on a mechanism that would ensure that business operations of the *Supported Employment Enterprises* (SEEs) are sustainable. The Committee reiterated that over the medium term both *the Minister of Finance* (through *National Treasury)* and the Minister, through the Department, should explore alternative funding and financing sources to support growth and expansion of the SEEs.
2. Over the 2023 medium term budget process, the Minister should engage the *Minister of Finance* to consider additional resource allocation to scale-up spending in labour market intervention programmes to address unemployment, poverty and inequality.
3. It should be recognised that labour market intervention programmes cannot be solely placed in the public sector. Government should work together with the private sector, and *Post-secondary institutions* to identify how to leverage labour and product markets. Over the 2023 medium term, the Minister through the Department should consider of

establishing a *policy, monitoring, evaluation and reporting unit* to coordinate and provide strategic management of employment creation programmes across government and the private sector.

Report to be considered.