



**EQUAL EDUCATION SUBMISSION TO THE STANDING AND SELECT COMMITTEES ON  
APPROPRIATIONS ON THE 2022/23 ADJUSTMENTS APPROPRIATIONS BILL**

**18 NOVEMBER 2022**

**SUBMITTED BY:**

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Equal Education (“EE”) is a membership-based, democratic movement of learners, parents, teachers, and community members advocating for the provision of equal and quality education in South Africa. EE’s membership base spans five provinces, including the Western Cape, Eastern Cape, Gauteng, Limpopo, and Kwazulu-Natal.

EE welcomes the opportunity to submit comments on the 2022/2023 Adjustments Appropriations Bill (the “Adjustments Bill”) to the Select and Standing Committees on Appropriations (the “Committees”). In making this submission, we would like to draw the Committees’ attention to our concerns regarding the allocations to basic education and their consequences for the sector both now and in the long term.

EE would also like to draw the Committee's attention to its role not only in approving the budget but in the oversight of government spending across spheres and departments. In particular, we wish to bring attention to the critical role that the Committees must play in improving service delivery in basic education.

## I THE RIGHT TO BASIC EDUCATION

Under South Africa’s Constitution, basic education is a fundamental human right, not a privilege. As a constitutionally protected human right, basic education plays an important role in achieving equality, dignity, and freedom for all. This is because receiving an equal and quality basic education is key to helping all learners realise their full potential, providing all learners with the opportunity to rise out of poverty or their socio-economic status, and building a more engaged and healthy democracy.

The right to basic education places an obligation on government to **actively take steps to promote and fulfil this right**. Unlike other socio-economic rights, the right to basic education is an **immediately realisable right**<sup>1</sup>. This means that the Constitution emphasises the urgency with which the government must provide equal and quality education to all learners.

South African courts, including the Constitutional Court, have elaborated on the right to basic education by stating that it consists of certain core components. These include, among others, safe and sufficient infrastructure, transport, as well as learning and teaching materials such as textbooks and furniture.

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<sup>1</sup> Governing Body of the Juma Masjid Primary School v Essay NO 2011 (8) BCLR 761 (CC); 2011 ZACC 13 at para 37.

Socio-economic rights like the right to basic education have a direct impact on government's fiscal and economic policies. These implications stem from both the country's Constitution and international law. The International Covenant on Economic, Social and Cultural Rights (ICESCR), which South Africa has ratified, emphasises the need for governments to maximise available resources for the achievement of basic human rights. It also states that the government must meet an extremely high standard to justify taking "retrogressive measures" against constitutional rights such as funding cuts.

## **II BASIC EDUCATION - OUR CURRENT CONTEXT**

Although some important progress has been made since 1994, it is clear that government's plan over the past 28 years has not been working. South Africa's schooling system is in crisis, beset by persisting systemic inequalities that leave many schools with overcrowded classrooms, burnt-out teachers, unsafe and deteriorating school infrastructure, and a lack of basic services such as sanitation, water, and electricity. Who gets access to adequate schooling in the country is determined by criteria such as race, class, and geography, with poor black learners living in rural areas disproportionately disadvantaged.

The latest available statistics from the Department of Basic Education ("DBE") show that currently 2 130 schools still have plain pit toilets as their only form of sanitation, and 5 386 schools have an unreliable water supply.<sup>2</sup> Given the appalling conditions that most learners contend with, it is no wonder that South African children struggle with the basics of learning to read and write, consistently falling at the bottom of international metrics.<sup>3</sup>

The COVID-19 pandemic, which brought remote and rotational learning, has also set back gains in basic education, exposed the deep inequalities in our schooling system, and highlighted the critical need for safe and proper infrastructure in the sector. With schools struggling to overcome severe learning losses, the amount of investment and attention given to basic education now will be critical in determining whether we can mitigate these devastating teaching and learning setbacks.

## **III BASIC EDUCATION FUNDING**

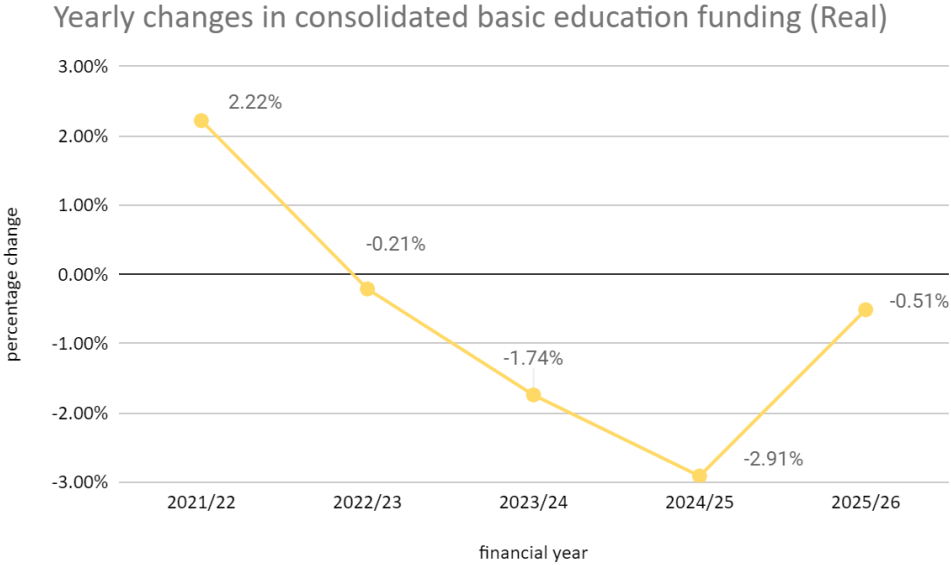
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<sup>2</sup><https://www.education.gov.za/Portals/0/Documents/Reports/NEIMS%20STANDARD%20REPORT%202021.pdf?ver=2021-05-20-094532-570>

<sup>3</sup> <https://iafrica.com/only-way-to-break-cycle-of-poverty-is-education-sterne/>

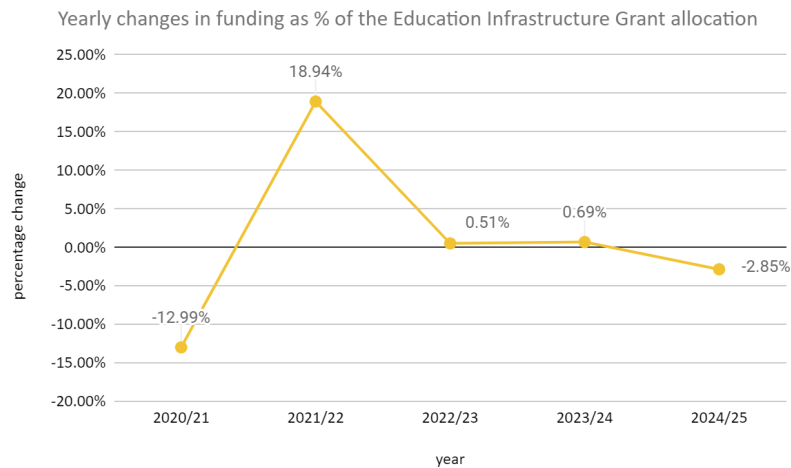
Despite the sector facing a resource, infrastructure, and learning crises, the 2022/23 Medium Term Expenditure Framework (“MTEF”) shows a continuation of existing trends in basic education. Basic education funding does not keep pace with inflation, growing learner enrollment, and the real costs of providing education services across the provinces.

While the 2022/23 MTEF saw an additional allocation of R3.7 billion to basic education for this financial year, as well as increased medium-term estimates, all gains from these increased allocations are erased by higher-than-expected interest rates because funding levels still do not keep up with inflation over the medium term. As shown in the graph below, real consolidated basic education funding is anticipated to experience negative growth from 2022/23 until 2025/26. When rising learner enrollment is factored in, about 1.4% per year, spending per learner declines even more sharply over the next three years.



Regarding school infrastructure, the Education Infrastructure Grant (“EIG”) received an additional allocation of R116.8 million “for repairs to schools affected by natural disasters in KwaZulu-Natal and the Eastern Cape.” While additional funding is welcomed, it still falls short of the current infrastructure backlog’s funding needs. In April this year, the DBE stated that it would need R442 million just to address the flood damage to schools in KwaZulu Natal (“KZN”). The DBE has also stated that an additional R5

billion would be needed to address the overcrowding crisis crippling schools across the country.<sup>4</sup> These figures do not factor in the building maintenance crisis, whereby existing functional school infrastructure across the country risks falling into disrepair, further deepening the existing school infrastructure crisis.



EE is also deeply concerned that these levels of funding are impeding the DBE and provincial education departments' ability to meet their annual goals and broader constitutional mandates. It is clear from the 2022/23 MTEF that many targets under the school infrastructure grants are not being met, further delaying the provision of adequate and safe school infrastructure. In the first half of 2022/23 financial year,

- only 6 out of the targeted 30 schools for the year had been built through School Infrastructure Backlogs Grant (“SIBG”);
- only 149 out of the targeted 450 schools had been provided with sanitation facilities; and
- only 19 out of the targeted 50 schools had been provided with water.

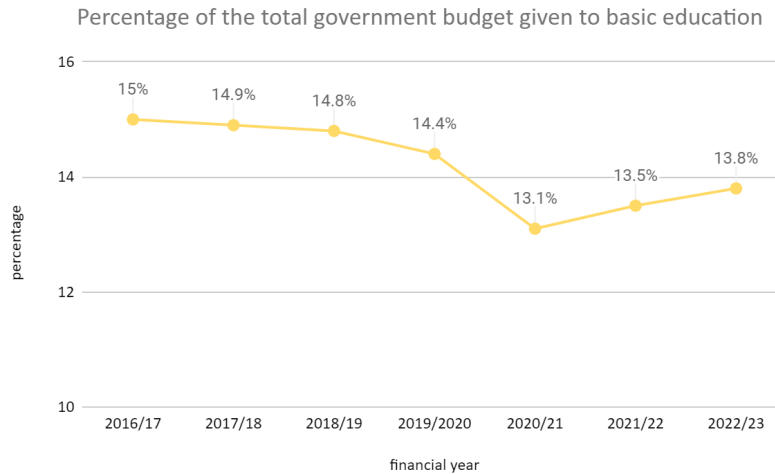
An additional concern is that while education continues to be one of government’s largest<sup>5</sup> spending items, between 2016 and 2020, basic education got an increasingly smaller share of government’s overall spending<sup>6</sup>. While we are relieved to see that since 2021 the percentage has begun to increase, we have still not seen a return to the pre-COVID division of revenue.

<sup>4</sup> Minister Motshekga’s reply to a Parliamentary Question, available at:

<https://pmg.org.za/committee-question/19058/>

<sup>5</sup> <http://www.treasury.gov.za/documents/national%20budget/2022/default.aspx>

<sup>6</sup> <http://www.treasury.gov.za/documents/national%20budget/2022/review/FullBR.pdf>



EE is calling for the basic education sector to receive adequate and progressive government funding now. This means funding that keeps up with inflation, the cost of providing educational services, and growing learner enrollment. Because South Africa's schools are still deeply unequal and have yet to collectively meet the basic infrastructure standards as outlined in school infrastructure law, we will also need more and targeted investments in certain schools and communities. Without this type of funding, we will not be able to provide all learners with an equal and quality basic education or break the cycle of poverty that millions of families face in our country.

#### IV ISSUES IN EXPENDITURE

When considering the current crisis in basic education, the funding allocation is only part of the picture. The basic education system, from the DBE to school level, suffers from endemic underspending, irregular expenditure, and fruitless and wasteful expenditure. This is part of a bigger national problem facing the South African government. However, the basic education system, which relies heavily on public procurement for the delivery of expansive, nationwide, and decentralised education services and infrastructure, is particularly plagued by these spending issues.

##### ***Underspending***

Underspending occurs when the national and provincial education departments fail to use all the money allocated to them for the year or for certain projects. This money cannot be rolled over and is therefore lost. The reason for underspending is often a lack of capacity to effectively plan and implement projects within education departments. This has particularly been an issue with school infrastructure provisioning.

In a briefing to parliament in 2022, the Auditor-General stated that 18% of the SIBG had not been spent in the 2020/21 financial year. Although COVID-19 did impact infrastructure delivery, this 18% comes from the already adjusted budget allocation made in June 2020, which would have factored in the COVID-19 context into budget allocation, and Treasury would not have allocated basic education more money than it should be capable of spending.<sup>7</sup>

The Financial and Fiscal Commission (FFC) has also highlighted the challenge of underspending in basic education, stating that, on average, only 70% of funds allocated to the Accelerated Schools Infrastructure Delivery Initiative (ASIDI) have been spent between 2011 and 2019.

### ***Irregular expenditure***

Irregular spending occurs when departments spend money in ways they are not permitted or authorised to. This includes money spent for a legitimate purpose but in an illegitimate way. According to the Auditor General's 2020/21 Annual Report on Public Finance Management, the DBE is one of the "*Top 10 contributors*" to irregular expenditure across the whole of government. In 2019/2020 alone, the basic education sector, including the DBE and all PEDs, incurred R5.9 billion in irregular expenditure.<sup>8</sup> According to the DBE's Budget Review and Recommendation Report (BRRR), it incurred irregular expenditure of R1.5 billion in 2021/22 mainly due to non-compliance with Supply Chain Management (SCM) regulations.<sup>9</sup> In breakdowns of irregular expenditure per province, provincial basic education departments are consistently listed as the top three contributing provincial departments.

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<sup>7</sup> [https://static.pmg.org.za/220826SCOA\\_presentation\\_from\\_AGSA\\_26\\_August\\_2022\\_2.pdf](https://static.pmg.org.za/220826SCOA_presentation_from_AGSA_26_August_2022_2.pdf)

<sup>8</sup> <https://www.agsa.co.za/Portals/0/Reports/PFMA/202021/Consolidated%20PFMA%20General%20Report%202020-21%20-%20FINAL%20interactive%208%20December.pdf?ver=2021-12-08-114514-663>

<sup>9</sup> [https://static.pmg.org.za/221011Presentation\\_-\\_AGSA\\_1.pdf](https://static.pmg.org.za/221011Presentation_-_AGSA_1.pdf)

According to the 2021/22 BRRR, the DBE is yet to implement some of the outcomes of the investigations of irregular expenditure. The current outstanding balance of identified irregular expenditure that has not been dealt with totals R6.6 billion.<sup>10</sup>

### ***Fruitless and wasteful expenditure***

Fruitless and wasteful expenditure refers to spending that was made in vain and could have been avoided had reasonable care been exercised. Fruitless and wasteful expenditure is often the result of poor planning and oversight. At a briefing to Parliament by the Auditor-General of South Africa, the DBE was named as the government department with the third highest wasteful spending.<sup>11</sup> The Free State Department of Education alone made the list of the top 10 national and provincial government departments contributing to fruitless and wasteful expenditure in 2020/21.<sup>12</sup>

There are countless examples of how this plays out in school infrastructure projects. Two examples will suffice to highlight the egregious nature of the issue. At the Julius Sebolai Primary School site in Gauteng, poor planning resulted in additional costs of 35% (R27,04 million) more than the original contract value. At the Jubilee Primary School in the Eastern Cape, infrastructure projects were delayed by more than four years, and learners had to be accommodated in temporary classrooms. The project cost was 37% higher than the original contract value.<sup>13</sup>

Underspending, irregular expenditure, and fruitless and wasteful expenditure impede government's ability to provide an equal and quality basic education for all learners. These expenditure issues also impact the ability of basic education to advocate for additional funding from National Treasury. National Treasury, when discussing social spending in the 2022/23 MTEF, stated that it is not the quantity of the spending that needs changing but the quality of it. Over the years, National Treasury has reiterated the refrain that "basic education departments are bad at spending their money and that throwing money at the problem won't help."

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<sup>10</sup> BRRR

<sup>11</sup> [https://static.pmg.org.za/220826SCOA\\_presentation\\_from\\_AGSA\\_26\\_August\\_2022\\_2.pdf](https://static.pmg.org.za/220826SCOA_presentation_from_AGSA_26_August_2022_2.pdf)

<sup>12</sup> <https://www.agsa.co.za/Portals/0/Reports/PFMA/202021/Consolidated%20PFMA%20General%20Report%202020-21%20-%20FINAL%20interactive%208%20December.pdf?ver=2021-12-08-114514-663>

<sup>13</sup> <https://www.agsa.co.za/Portals/0/Reports/PFMA/202021/Consolidated%20PFMA%20General%20Report%202020-21%20-%20FINAL%20interactive%208%20December.pdf?ver=2021-12-08-114514-663>



Therefore, although there are clearly some changes needed to basic education funding, the state of our schools would be drastically improved if the money education departments do have was spent judiciously. The Appropriations Committees have an essential role in this regard.

## **V THE ROLE OF THE APPROPRIATIONS COMMITTEES**

Section 55(2) of the Constitution clearly outlines the oversight powers of the National Assembly, stating that it:

*“must provide for mechanisms to*

*(a) to ensure that all executive organs of state in the national sphere of government are accountable to it; and*

*(b) to maintain oversight of*

*(i) the exercise of national executive authority, including the implementation of legislation; and*

*(ii) any organ of state.”*

The Committees’ mandate, also derived from legislation and parliamentary policy, cuts across different government spheres and departments and must consider and report on, among others:

- spending issues;
- amendments to the Division of Revenue Bill, Appropriations Bill, Supplementary Appropriations Bill & the Adjustment Appropriations Bill;
- reports on actual expenditure published by the National Treasury; and
- any other related matters set out in the Money Bills Amendment Procedures and Related Matters Act, 2009 (“Money Bills Act”).

In terms of the MTEF, the Money Bills Act highlights the mandate of the Committees to review national and provincial departments’ expenditure between April and September of the current financial year.

The Committees, therefore, have a clear mandate from the Constitution and other legislation to take an active role in monitoring departmental expenditures and intervening where necessary. It is precisely the fact that the Appropriations Committees sit at the juncture of economic and fiscal policymaking as well as expenditure oversight that makes their role so critical to ensuring the realisation of all socio economic rights, including the right to basic education.

Despite this, there is widespread criticism—most notably the State Capture Commission Report’s finding that Parliament was a bystander to the “State Capture”—that Parliament is not fulfilling its constitutional mandate and is continuously unable or unwilling to properly hold government accountable for its misuse of public money.

EE echoes the current public concerns that Parliament, in particular these Committees, are falling short of their duties in key areas. Concerns include that:

- the Committees rely too heavily on the departments they watch over for information regarding their spending;
- Committees’ rubber stamp executive decisions;
- public participation, most notably in the budget where no amendments by parliament have ever been made, remains a tick-box exercise;
- where Committees do provide recommendations to government, they rarely hold the departments accountable if the recommendations are not instituted.

EE calls on the Committees to fulfill their constitutional mandate by working with the people who elect them to hold government accountable for how it spends taxpayer money.

## **VI RECOMMENDATIONS**

EE demands that, this year, parliament's MTEF deliberations are not just business as usual but that schools get the money needed to tackle the many challenges they experience.

Therefore, EE calls on the Committees to:

- reject the 2022/23 MTEF, and call for a budget for basic education that grows in line with inflation and learner enrollment;
- call on National Treasury to adopt a human rights-based budgeting approach that prioritises socio-economic rights like quality basic education;
- take its oversight responsibilities seriously, by actively engaging the departments on how they spend its money, in particular basic education. EE calls on Parliament to institute public hearings for the BRRRs, create consequences for departments that do not follow its recommendations,

and seek increased consultation with civil society and the public on their findings on government spending;

- ensure that the DBE and provincial education departments use their money efficiently and effectively; and
- work in the public's interest by implementing the Zondo Commission Recommendations on parliamentary practice.

Basic education is an “immediately realisable” constitutional right and should remain government’s top priority. This means that National Treasury **must** ensure that enough money is given to the schooling system so that all children in the country are given the opportunity to receive an equal and quality basic education now. We have waited 28 years; we cannot wait any longer!