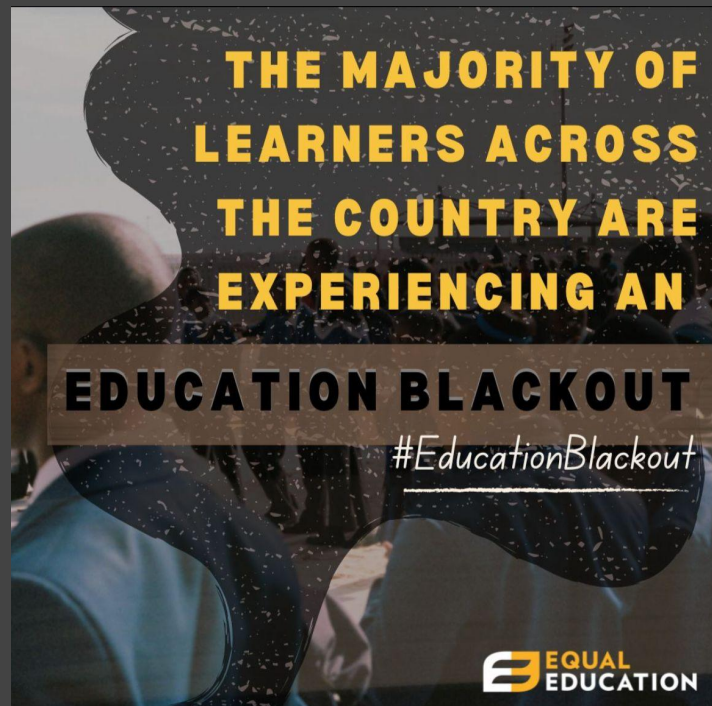




**EQUAL EDUCATION SUBMISSION TO THE STANDING AND SELECT COMMITTEES ON
APPROPRIATIONS ON THE 2023/24 APPROPRIATIONS BILL**

17 May 2023



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South Africa

Equal Education (“EE”) is a youth-led mass democratic movement of learners, post-school youth, parents, teachers and community members who use mobilisation and public action, supported by careful research, to empower young activists and ensure equality in South African education. Our campaigns are informed by the experiences of EE members and by policy analysis. At EE we build understanding of the education system, while drawing attention to problems faced by schools and communities. EE offers a new way to participate in the democratic system and bring change to education and society.

EE welcomes the opportunity to submit comments on the 2023/2024 Appropriations Bill (“Appropriations Bill”) to the Select and Standing Committees on Appropriations (“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 schools and learners, both now and in the long term.

EE would also like to remind the Committees that its role is not only in approving the budget but also in providing 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.

THE RIGHT TO BASIC EDUCATION

“I think education is important because it is the key to our success and employment. If education was ‘top grade’ we would have more graduates, and more entrepreneurs would create more businesses, and that would mean more jobs.”

- High School Equalizer

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 fulfill this right**. Unlike other socio-economic rights, basic education is an **immediately realisable right**¹. Therefore the Constitution emphasises the urgency with which 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, including, among others, safe and sufficient infrastructure, transport, as well as learning and teaching materials such as textbooks and furniture.²

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

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

² Tripartite Steering Committee and Another v Minister of Basic Education and Others 2015 (5) SA 107 (ECG) 3; Minister of Basic Education v Basic Education for All 2016 (4) SA 63 (SCA); Equal Education v Minister of Basic Education on infrastructure, Madzodzo v Minister of Basic Education on furniture, Minister for Basic Education v Basic Education for All on textbooks, and EquMadzodzo and Others v Minister of Basic Education and Others 2014 (3) SA 441 (ECM)al Education v MEC for Education; Minister of Basic Education v Basic Education for All 2016 (4) SA 63 (SCA);

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. The Committees’ work in light of this to seriously consider whether National Treasury is living up to its constitutional and legal obligations in the 2023/24 Budget not just in the case of basic education funding, but for all socio-economic rights.

II BASIC EDUCATION - OUR CURRENT CONTEXT

“We can’t afford budget cuts because we are not getting the school services. So if there will be a budget cut on education, I think it will be worse, maybe we won’t even get stationary, textbooks and access to computers”

- High School Equalizer

29 years after the end of Apartheid government has yet to deliver on adequate and equal education for all learners in South Africa. South Africa’s schooling system is 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. As a result our basic education system is in a continuous crisis. We are calling this crisis the #EducationBlackout, because learners do not have access to basic school resources needed to allow them to properly learn. The severity of the #EducationBlackout differs from province to province and even school to school with poor black learners living in rural areas being disproportionately affected.

With the #EducationBlackout campaign, we hope

to illustrate the difference in response between the crisis at Eskom and the schooling crisis. While government has rightly taken the crisis at Eskom very seriously and instituted a state of emergency, the crisis in the basic education sector is not seen as equally critical and there appears to be no political will



to tackle the issue. Year after year, school communities and learners are expected to accept government's refrain that they are 'doing the best they can' and that people must simply focus on the small gains made and be patient. This is not acceptable!

Unsafe and inadequate school infrastructure is one of the biggest issues perpetuating the #EducationBlackOut because without safe and proper school buildings, electricity, water, as well as sanitation facilities schools will not be conducive learning environments. The latest publicly available data from the Department of Basic Education's ("DBE") 2021 National Education Infrastructure Management System (NEIMS)³ indicate that 5 167 schools across the country still have plain pit toilets, while 2 130 schools still use plain pit toilets as their **only** form of sanitation. While this is already a cause for great concern, the DBE data seems at odds with the findings of a Report⁴ by the South African Human Rights Commission (SAHRC) which paints a much more dire picture. For example in the Eastern Cape, the NEIMS indicates that 1 473 schools in the province have plain pit toilets, and no schools are without some form of sanitation. However the SAHRC Report found that 2 236 schools are reliant on pit toilets in the Eastern Cape. The Report found that a further 199 schools in the province have no sanitation facilities at all.



Similarly regarding access to water, the NEIMS show that 5 386 schools across the country have unreliable water supplies but all schools had some form of water supply, even if the supply was unreliable.⁵ These figures again contradict that of the SAHRC Report which found that 121 schools in the Eastern Cape alone had no access to water. Regardless of which statistics you use, it is clear that the DBE and Provincial Education Departments (PEDs) have been unable to provide even the most basic

³ 2021 National Education Infrastructure Management System Available at: <https://www.education.gov.za/Portals/0/Documents/Reports/NEIMS%20STANDARD%20REPORT%202021.pdf?ver=2021-05-20-094532-570>

⁴ <https://www.sahrc.org.za/home/21/files/Water%20And%20Sanitation%20Report%20-%2028%20SeptemberPM.pdf>

⁵ <https://www.education.gov.za/Portals/0/Documents/Reports/NEIMS%20STANDARD%20REPORT%202021.pdf?ver=2021-05-20-094532-570>

infrastructure to schools. 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 such as the Trends in International Mathematics and Science Study (TIMSS), and Progress in International Reading Literacy Study (PIRLS).⁶

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.

EE calls on the Committees and all of government to acknowledge the #EducationBlackout as well as its profoundly damaging impact on learners' futures and society as a whole. Unfortunately, instead of acknowledging the #EducationBlackout, we are seeing the DBE attempt to erase accountability for their failures. The most egregious example of this is the DBE's proposed amendments to the Uniforms Norms and Standards for Public School Infrastructure, in which they attempt to remove the deadlines they created for themselves stipulating when they must ensure that basic school infrastructure elements are present in every public school. These deadlines create urgency for providing safe and proper school facilities and make it possible for school communities to hold the DBE and PEDs accountable for failing in their constitutional obligations. EE and the Equal Education Law Center have strongly condemned the proposed amendments.⁷

⁶ <https://iafrica.com/only-way-to-break-cycle-of-poverty-is-education-sterne/>

⁷ <https://equaleducation.org.za/wp-content/uploads/2022/08/Submission-Draft-Amended-Norms-EE-and-EELC.pdf>

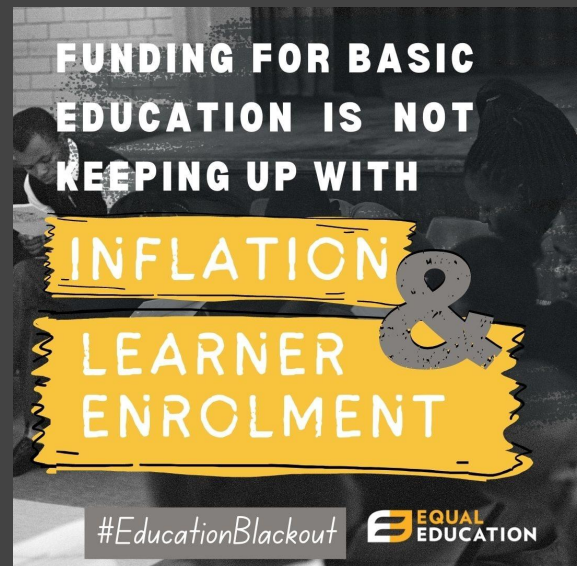
II BASIC EDUCATION FUNDING

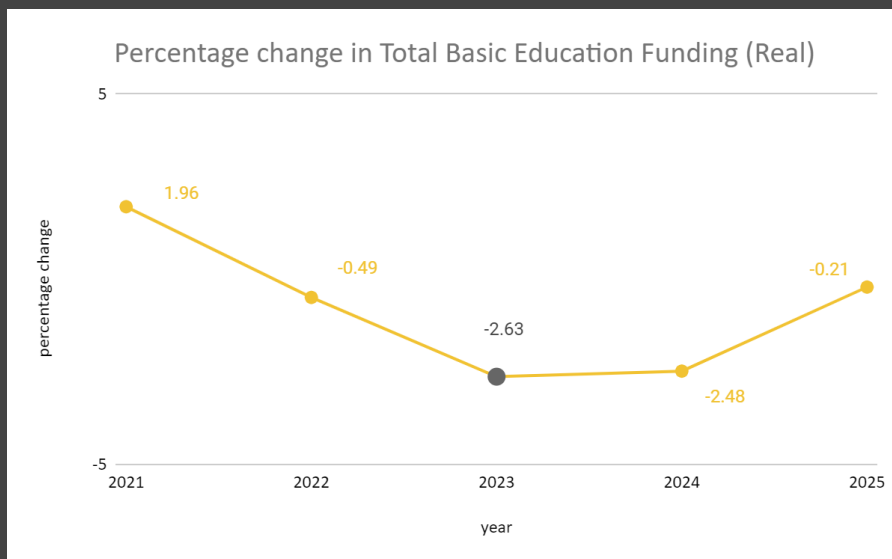
“The budget can have an astronomical impact on mine and other students across the country. Should there be a budget cut in the sector that could negatively impact the national matric pass rate, potentially causing it to plummet because the resources provided to public schools will decrease, thus affecting our ability as students to learn.”

- High School Equalizer

Government’s ability to realise the right to basic education for all learners cannot be achieved without adequate funding for the DBE, PEDs, and schools themselves. Adequate funding for South Africa’s basic education sector must address increasing inflation, increasing learner enrollment, systemic inequalities in the school system, as well as the evolving needs of the sector. The funding allocated to basic education for 2023/24 does not meet this criteria.

The 2023/24 budget allocation was almost a billion rand higher than projected in the 2022/23 MTEF. Despite this additional allocation, higher than expected interest rates have left the basic education sector with less funding than was projected once inflation is taken into account. The decrease in real terms of 2.63% is lower than anticipated in the 2022/23 MTEF which projected a decrease in funding of 1.7% for this financial year.



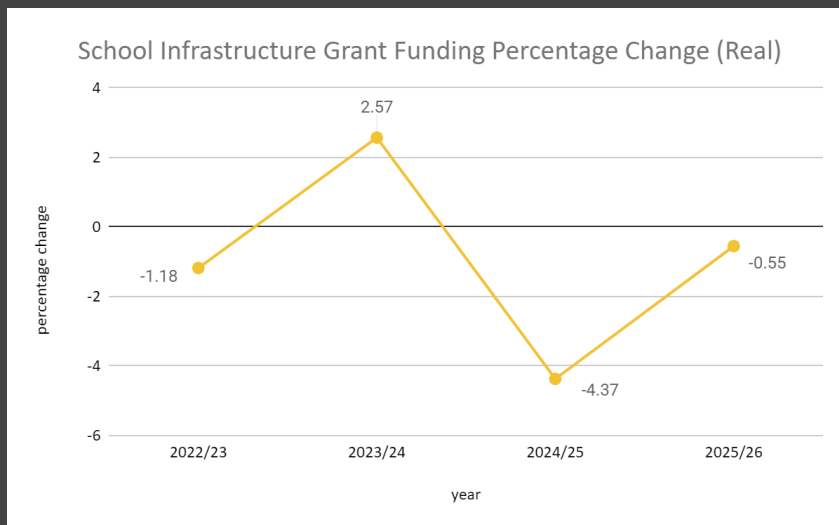


Source: National Treasury budget documents and own calculations

Therefore, in the 2023/24 Budget, basic education funding does not keep pace with inflation, let alone growing learner enrollment and the real costs of providing education services across the provinces. This is unfortunately a continuation of existing trends in basic education funding, the impact of which is borne by learners attending public schools across the country who rely entirely on government funding. According to Section27, per learner funding will sit at R21 630 for 2023/24. This is a drop from R22 552 per learner in 2022/23. According to funding projections, Section27 has calculated that in 2024/25 per learning funding will further fall to R20 800.⁸ With learners already struggling to get the basic resources needed to complete their education, this funding drop is devastating.

Regarding school infrastructure, the budget provides an additional R1.5 billion for overcrowding over the next 3 years and R283 million for the 2023/24 financial year for repairing flood damaged schools in the Eastern Cape and KwaZulu-Natal. The impact of this additional funding has meant infrastructure funding will increase above inflation for 2023/24, growing by 2.57% in real terms. However, as illustrated by the graph below, funding for school infrastructure will not keep up with inflation over the medium term, most drastically decreasing in 2024/25 by 4.37%.

⁸ Section27 media statement, available at: <https://section27.org.za/2023/02/media-statement-treasury-inflicts-more-pain-on-health-and-basic-education-sect-ors-reducing-funding-for-the-sectors-by-4-9-and-2-5-in-the-coming-financial-year/>



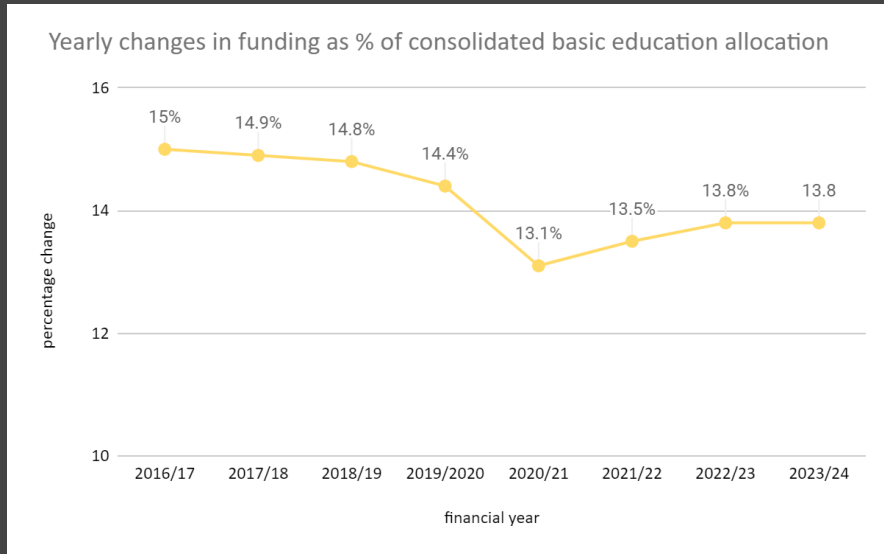
Source: National Treasury budget documents and own calculations

EE is pleased that infrastructure issues such as overcrowding and flood damaged schools are getting renewed attention, and the additional funding will have a positive impact. However, due to the size and nature of infrastructure backlogs in schools, and the lack of maintenance of existing school infrastructure, we will need to see a sustained long term commitment to increased school infrastructure funding if government wants to create a more lasting difference. The 2023/24 budget and its medium term projections will not do that.

An additional concern is that while education continues to be one of government's largest spending items⁹, between 2016 and 2020, basic education has been getting an increasingly smaller share of government's overall spending¹⁰. 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. This is concerning as it shows that basic education has fallen on government's priority list while issues in the sector have only increased.

⁹ <http://www.treasury.gov.za/documents/national%20budget/2022/default.aspx>

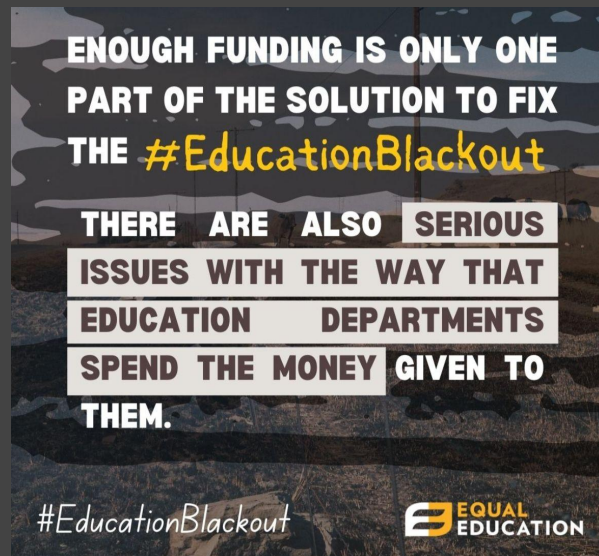
¹⁰ <http://www.treasury.gov.za/documents/national%20budget/2022/review/FullBR.pdf>



Source: National Treasury budget documents and own calculations

Overall, EE is also deeply concerned that the levels of funding discussed above are impeding the ability of the DBE and PEDs to meet their annual goals and broader constitutional mandates. 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 norms and standards for school infrastructure, we will also need more 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 schooling 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 spending, 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, appears regularly in lists of top departments plagued by spending issues .

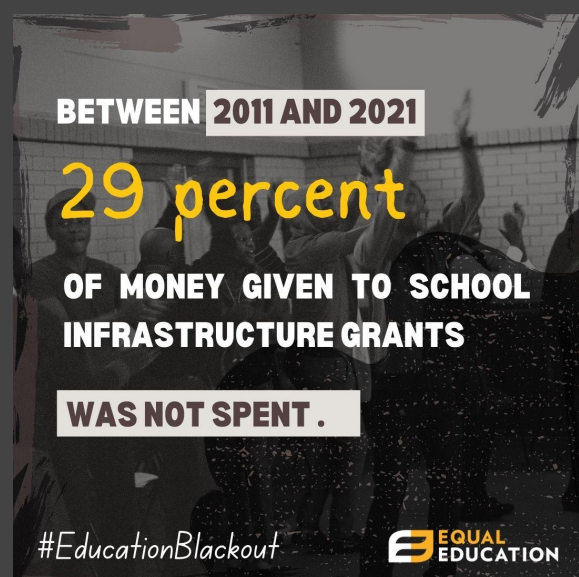
Underspending

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.

The high levels of underspending in the sector have been continuously highlighted by numerous government bodies. The Parliamentary Budget Office (PBO) identified that the Basic education sector underspent R1.3 billion of its budget in the 2021/22



financial year.¹¹ The PBO noted that this led to slow realisation of education outcomes “resulting in increased illiteracy rates amongst Grade 4 children, and furthering unemployment rates”.

In a presentation to the Committees on 15 February 2023¹² regarding spending for Quarter 3 of 2022/23, National Treasury stated that the basic education sector was one of the top five underspending departments, not spending R766.5 million in that quarter alone. Most of this underspending (R564.3 million) came from school infrastructure grants, which are often the source of spending problems in the sector. This is, however, not a new issue. The Auditor General’s Reports show that more than a quarter (29%) of the money, amounting to roughly R8.3 billion, allocated to school infrastructure grants between 2011 and 2021 was not spent.¹³

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 2019/20 alone, the basic education sector, including the DBE and all PEDs, incurred R5.9 billion in irregular expenditure.¹⁴ According to the DBE’s Budget Review and Recommendation



¹¹The Parliamentary Budget Office, Government Underspending Analysis Report Available at: https://static.pmg.org.za/2300308March_2023_Government_underspending_analysis_2011_-_2021_the_case_studies_of_the_Departments_of_Health_and_Social_Development.pdf

¹² Appropriations Committee meeting, 15 February 2023 Available at: <https://pmg.org.za/committee-meeting/36320/>

¹³ Auditor General’s 2020/21 Annual Report on Public Finance Management, Available at: <https://pmg.org.za/committee-meeting/35698/>

¹⁴ <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>

Report (BRRR), R5.7 billion was irregularly spent by the DBE alone between 2018 and 2021¹⁵.

In breakdowns of irregular expenditure per province, provincial education departments are consistently listed as the top three contributing provincial departments. In the Eastern Cape alone, the Auditor General reported that R38 million was irregularly spent on just one school.

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.¹⁶ 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 2020/21.¹⁷

There are countless examples of how this plays out in school infrastructure projects. 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.¹⁸

Underspending, irregular, fruitless, and wasteful expenditures 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."

¹⁵ Available at: https://static.pmg.org.za/221011Presentation_-_AGSA_1.pdf

¹⁶ https://static.pmg.org.za/220826SCOA_presentation_from_AGSA_26_August_2022_2.pdf

¹⁷ <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>

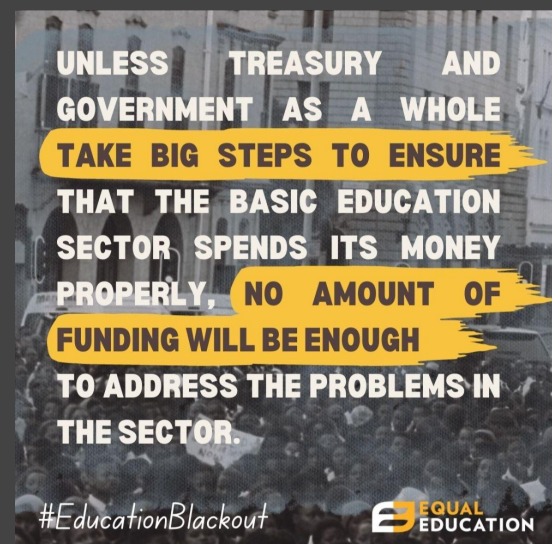
¹⁸ <https://www.agsa.co.za/Portals/0/Reports/PFMA/202021/Consolidated%20PFMA%20General%20Report%202020-21%20-%20FINAL%20interactive%208%20December.pdf?ver=2021-12-08-114514-663>

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

One of the main functions of parliament is to analyse, pass, and monitor the budget as part of its oversight responsibilities. This responsibility does not begin and end with approving the February budget and the Mid-Term Expenditure Framework (MTEF). Section 55(2) of the Constitution clearly outlines the broader 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”).

The Committees, therefore, have a clear legislative mandate 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 quality 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;
- the 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 implemented.

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

“My hopes are that government will prioritise the youth, ensuring that we receive the resources we need to excel and make our countries proud”

- High School Equalizer

EE demands that, this year, parliament acknowledge the #EducationBlackout and ensure that schools get the money needed to tackle the many challenges they experience.

Therefore, EE calls on:

- the Committees to reject the 2023/24 Budget and call for a budget for basic education that grows in line with inflation and learner enrollment;
- National Treasury to adopt a human rights-based budgeting approach that prioritises socio-economic rights like quality basic education;
- the Committees to take its oversight responsibilities seriously, by actively engaging the departments on how they spend its money, in particular basic education.
- 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;
- the Committees to ensure that the DBE and provincial education departments use their money efficiently and effectively; and
- the Committees to work in the public's interest by implementing the Zondo Commission recommendations on parliamentary practice.
- the Committees to ensure that proper oversight is provided if and when the Norms and standards get brought to parliament for amendment.

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

sector so that all children in the country are given the opportunity to receive quality basic education now. We need to end the #EducationBlackout now!