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PROCEEDINGS OF THE NATIONAL COUNCIL OF PROVINCES

The Council met at 10:00.

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

The DEPUTY CHAIRPERSON OF THE NCOP: Hon members, I have been informed that there will be no motions today except for the motion as printed on the Order Paper presented by the Chief Whip of the Council.

The CHIEF WHIP OF THE NCOP: Deputy Chairperson, I move that the Draft Resolution which provides inter alia that the consideration of a Bill may not commence before at least three working days have lapsed if the committee's report was tabled, be suspended for the purposes of consideration of the following Bills:

(a) **Division of Revenue Bill**

[B - 5 2019] (National Assembly Sec 76);

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(b) **Financial Matters Amendment Bill**

[B 1B - 2019] (National Assembly Sec 75); and

(c) **Public Audit Excess Fee Bill**

[B 7 -2019] (National Assembly Sec 77).

Question put. That the motion be agreed to.

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

Motion accordingly agreed to in accordance with section 65 of the Constitution.

CONSIDERATION OF REPORT OF SELECT COMMITTEE ON CO-OPERATIVE GOVERNANCE
AND TRADITIONAL AFFAIRS-TERMINATION OF THE NOTICE ON INTERVENTION IN
TERMS OF SECTION 139(1) (B) OF THE CONSTITUTION, 1996, IN EMADLANGENI
LOCAL MUNICIPALITY

AND

CONSIDERATION OF REPORT OF SELECT COMMITTEE ON CO-OPERATIVE GOVERNANCE
AND TRADITIONAL AFFAIRS-TERMINATION OF THE NOTICE ON INTERVENTION IN

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**TERMS OF SECTION 139(1) (B) OF THE CONSTITUTION, 1996, IN Dr NKOSAZANA
DLAMINI-ZUMA LOCAL MUNICIPALITY**

The DEPUTY CHAIRPERSON OF THE NCOP: Hon members will take note of the fact that the first and second orders were read. Hon Mthethwa will then present the Reports. The Council will then vote on both of the separately.

Mr J M MTHETHWA: Deputy Chairperson, hon members, I am presenting these two Reports simultaneously, the Termination of Intervention at Emandlangeni Local Municipality and the Termination of Intervention at Nkosazana-Dlamini Local Municipality Reports. The challenge of building a capable state will not be realised without the active participation of the local government sphere in complementing the work of our sovereign, democratic state. Equally, the goals of the National Development Plan remain a pipe dream if the local sphere of government is passively watching in the sidelines.

A capable State requires capable local government institutions that are leaders in the delivery of services for the benefit of local communities. Equally, this call for local government institutions, which are striving to maximise efficiency through good governance,

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performance compliance as well as readiness to embrace accountability and decisive action for wrongdoing is central for our system of local government, which is developmental.

The select committee continues to face the challenge of only dealing with Section 139 Constitutional intervention, a system of oversight, which is reactive and thus unable, per our mandate as the select committee to commence with our formal and original programme of oversight, which is essentially proactive. An attribute of the above is the growing number of municipalities whose state of performance, compliance and governance, service delivery and internal municipal instability has deteriorated to the extent of warranting intervention in terms of the provisions of Section 139 of the Constitution.

Chairperson, both Emadlangeni Local Municipality and Dr Nkosazana Dlamini-Zuma Local Municipalities are one such municipality which has been under Section 139 of the constitutional intervention.

Subsequently, the inception of intervention in the municipality, the Provincial Executive Council approved a set of Terms of Reference as focal areas of performance improvement. Based on these, a turn-around plan designed and approved to bring the municipality to normality in its operations as well progress.

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The MEC responsible for local government in the KwaZulu-Natal province has on 5 March 2019, briefed the select committee on the state of the progress in the municipality as well as the need and desirability to terminate this intervention.

Having regards to the progress made on service delivery challenges, financial management, organisational development, transformation and good governance in the administration of the municipality, as well as the Exit Report. The select committee accordingly recommends the approval of termination intervention invoked in terms of Section 139 (1) (b) of the Constitution in both municipalities.

The DEPUTY CHAIRPERSON OF THE NCOP: Thank you very much. That concludes the debate. I shall now put the Question. The Question is that the Report be agreed. I have observed that there has not been any movement of delegation heads so I will assume that they are all present in the House.

Question put. That the Report be adopted.

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

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Report accordingly agreed to in terms of section 65 of the Constitution.

CONSIDERATION OF REPORT OF SELECT COMMITTEE ON CO-OPERATIVE GOVERNANCE
AND TRADITIONAL AFFAIRS-TERMINATION OF THE NOTICE ON INTERVENTION IN
TERMS OF SECTION 139(1) (B) OF THE CONSTITUTION, 1996, IN Dr NKOSAZANA
DLAMINI-ZUMA LOCAL MUNICIPALITY

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 agreed to in terms of section 65 of the Constitution.

CONSIDERATION OF REPORT OF SELECT COMMITTEE ON COOPERATIVE GOVERNANCE
AND TRADITIONAL AFFAIRS IN LOCO INSPECTION ON THE NOTICE OF
INTERVENTION ISSUED IN TERMS OF SECTION 139 (1) (B) OF THE
CONSTITUTION, 1996, IN ABAQULUSI LOCAL MUNICIPALITY.

CONSIDERATION OF REPORT OF SELECT COMMITTEE ON COOPERATIVE GOVERNANCE
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**INTERVENTION ISSUED IN TERMS OF SECTION 139 (1) (B) OF THE
CONSTITUTION, 1996, IN ENDUMENI LOCAL MUNICIPALITY.**

Mr J M MTHETHWA: Hon Deputy Chairperson and hon members, the 2016 local government elections resulted in Abaqulusi Local municipality becoming a hung Municipal Council with 44 seats spread among our political parties; the ANC 21, IFP 19, DA 3 and EFF 1.

In March 2013, the municipality was placed under constitutional intervention by the KwaZulu-Natal Provincial Executive Council for failing to carry out its executive functions, which the Executive Council subsequently assumed as required in terms of sections 51, 54(a) and 56 of the Local Government Municipal Systems Act. This intervention was terminated in January 2015 based on the progress then realised in the implementation of an approved recovery plan.

Allow me to go to the committee observations and opinions. In terms of the constitutional and procedural matters, the select committee has observed that the national Minister of Co-operative Governance and Traditional Affairs, the NCOP, the KwaZulu-Natal provincial legislature and the municipality have been notified of the intervention including substantive aspects. It has also noted the concerns of stakeholders

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regarding lack of security and involvement of senior management of the municipality in business as well as lack of disclosure.

The select committee accordingly recommends that: the NCOP approves the intervention in Abaqulusi Local Municipality in terms of section 139(1)(b) of the Constitution of the Republic; the administrator fast-tracks the process of implementing the municipal turn around plan in accordance with the terms of reference approved by the Provincial Executive Council in KwaZulu-Natal; the administrator provides progress reports on the allegations of senior managers doing business with the municipality and ensure the implementation of consequent management; and the KwaZulu-Natal MEC for CoGTA tables quarterly progress reports to the NCOP on the status of the intervention in the municipality, including challenges encountered in the course of intervention and implementation of the turn around.

The Select Committee on Co-operative Governance and Traditional Affairs, in co-operation with the relevant portfolio Committee in the KwaZulu-Natal provincial legislature conducts a follow-up oversight visit to the municipality after the 2019 national and provincial elections in order to evaluate progress made in the municipality's turn around implementation efforts.

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Deputy Chairperson, allow me to go to Endumeni Municipality. Hon Deputy Chairperson and hon members of the National Council of Provinces, Endumeni Local Municipality in KwaZulu-Natal is one of the hung municipalities in this province with a total number of 13 councillors. For a period of 12 months, the municipality had some degree of instability, which affected its functionality, especially at the municipal political and administrative leadership levels. Moreover, the municipality is financially nonviable and weak with poor governance and lapses in service delivery implementation.

The select committee has observed that the national Minister for Co-operative Governance and Traditional Affairs, NCOP, KwaZulu-Natal Provincial Executive Council and Endumeni Local Municipality have been notified of the intervention as well as the substantive issues relating to the need to invoke section 139(1)(b) of the Constitution.

Equally, the select committee noted the concerns raised by the different stakeholders on the high levels of corruption, incitement of municipal employees to embark on strike and protests. It further noted with concern the allegation of nonco-operation by senior officials of the municipality with the audit team of the Office of the Auditor-General and the unacceptable practice of councillors unlawfully engaging in business with the municipality as well as their influence,

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participation and meddling with municipal tender and adjudication processes.

The NCOP approves the intervention at Endumeni Local Municipality in terms of section 139(1)(b) of the Constitution; the administrator fast-tracks the process of implementing the municipal turn around plan in accordance with the terms of reference assigned by the KwaZulu-Natal Provincial MEC for Co-operative Governance and Traditional Affairs; the administrator ensures the implementation of the Forensic Investigation Report conducted in terms of section 106 of the Local Government Municipal Systems Act 32 of 2000; the KwaZulu-Natal MEC for Co-operative Governance tables quarterly progress report to the NCOP select committee on the status of this intervention in the municipality as well as reflections on the challenges encountered in the course of implementation of the approved turn around plan per its terms of reference.

Deputy Chairperson, I table this Report.

Debate concluded.

Question Put.

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Declarations of vote:

Ms C LABUSCHAGNE: Deputy Chair, I just want to make sure that the declaration is on Third Order? There were two reports read. I am only declaring on one order.

The DEPUTY CHAIRPERSON OF THE NCOP: Yes. He read the Third and the Fourth Order. Now we are voting on the Third Order.

Ms C LABUSCHAGNE: Hon Deputy Chairperson, hon members and fellow South Africans, the Western Cape does not support the section 139(1)(b) intervention in the Abaqulusi Local Municipality in KwaZulu-Natal for the following reasons: the Legacy Report from the Fourth Parliament to the Fifth Parliament raised a serious concern that section 139 interventions were used to settle political scores as opposed to administrative failings.

Abaqulusi is an example of this concern as the MEC of KwaZulu-Natal is abusing his authority because Abaqulusi is run by a coalition of opposition parties. Since the coalition government took over, their debt book has been reduced; revenue collection has increased from 42% to 90%; a 100% of the Municipal Infrastructure Grant, MIG, funding has been spent as opposed to previous rollovers; section 56 and 57 managers

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have been appointed; and the Eskom debt has been reduced from R86 million to R36 million.

The ANC has tried to collect the full Council sitting due to a quorum misinterpretation by the MEC. It is important to note that all stakeholders objected to the intervention at the oversight meeting. Both the Offices of the Chair and the Chief Whip of the NCOP must also accept responsibility ... although they aren't here ... as only one member of the select committee from the ANC attended the oversight. And when the ANC members failed to attend the meeting, hon Cathy Dlamini was rather haphazardly sworn in to ensure this irregular recommendation be adopted.

The Western Cape objects to the intervention and calls upon the Minister of Co-operative Governance and Traditional Affairs, Dr Zweli Mkhize to investigate the actions of the MEC, Nomusa Dube-Ncube. I thank you

The DEPUTY CHAIRPERSON OF THE NCOP: Is there ... Order! Maybe just to remind members in terms of ... there is a ruling that was made. I don't need to make another ruling. A ruling was made in so far as the decorum of the House is concerned. It was presented in the House that the usage

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of the word 'shame' by members to other members is unparliamentary. May we please refrain from using the word? Go and read your rulings ma'am.

Order, hon members, the Eastern Cape ... Yes, you may continue.

IsiXhosa:

Nksk T WANA: Sekela Sihlalo, ndiphakamela ukuchaza ukuba le ngxelo ithiwa thaca apha phambi kwethu ayinanto nakwenza nale nto ithethwa lela lungu leDA. Phaya kuMasipala weNgingqi waseBaqulusini...

English:

... when we go for section 139 we had a report from the Auditor-General.

IsiXhosa:

Ingxaki esinayo yeyokuba kukho aba bantu sihamba nabo bathi, "mhla ndaphatha".

Ms B A ENGELBRECHT: On a point of order.

The DEPUTY CHAIRPERSON OF THE NCOP: Hon Engelbrecht, this is a declaration of a province. Hon Wana stood up on behalf of the Eastern Cape and not as a member of the committee or a delegation. Thank you

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very much. Hon member, can you proceed. Are you rising on what I have ruled just now?

Ms B ENGELBRECHT: Deputy Chairperson, yes.

The DEPUTY CHAIRPERSON OF THE NCOP: Are you challenging my ruling?

Ms B ENGELBRECHT: No, Deputy Chair, I am standing on a point of order.

The DEPUTY CHAIRPERSON OF THE NCOP: What is your point of order?

Ms B ENGELBRECHT: That this member wasn't even there even though she is a member of the committee. She wasn't even present. She wasn't even there at the oversight.

The DEPUTY CHAIRPERSON OF THE NCOP: You are out of order, hon member. Can you please take ... [Interjections.] ... we don't have to behave in a manner that we are behaving. It is not assisting anybody even if you want to play to the gallery. The issue is very simple, hon members. We are dealing with a declaration on a report. I have made it very clear that I am allowing provinces to make declarations of vote. Western Cape did it. Eastern Cape is on the floor not members of the committee. [Interjections.] Hon House Chair!

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The HOUSE CHAIRPERSON (Mr A J Nyambi): Hon Deputy Chairperson of the NCOP, it is a very important point. It will probably assist us. We know it is the last day. I want to bring to the attention of the House that when we were attentively listening to hon Labuschagne, it is because we were observing the decorum of the House. She also not a member of that committee but she was rightly doing the declaration on behalf of the province. Also, hon Wana must be respected as we have respected hon Labuschagne. That's my submission, Deputy Chair.

The DEPUTY CHAIRPERSON OF THE NCOP: Continue, hon Wana or Eastern Cape – not hon Wana.

IsiXhosa:

Nksk T WANA: Sekela Sihlalo, kulusizi ukuhlala nabeLungu abangasaziyo isiLungu. [Kwahlekwa.] Apha sinengxelo yophicotho zincwadi ethi makuhanjwe kuyiwe kuMasipala weNgingqi waseBaqulusi ukuze senze le nto yeSolotya we-139(1) (b). Le nto ndiyithetha apha ndinawo amaxwebhu asisikhokelo ngendlela imali esetyenziswa ngayo naxa iinkonzo zingayiyo ebantwini. Xa ucela ukuba kusetyenziswe eli Solotya sukube ufuna ukuba...

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Ms B A ENGELBRECHT: Deputy Chairperson, I do apologise but unfortunately I don't understand the vernacular and unfortunately I don't hear anything on this. Can I ask for interpretation please?

The DEPUTY CHAIRPERSON OF THE NCOP: Hon members, order!

[Interjections.]

Ms B A ENGELBRECHT: I think we are allowed 11 languages.

The DEPUTY CHAIRPERSON OF THE NCOP: Hon members, order! Firstly, the reference is wrong – the word vernacular. It is a language that the member spoke. She spoke in IsiXhosa not particularly vernacular; secondly, can I please ask the technical staff and interpreting to be on your feet with regard to interpreting.

Is there anybody who can assist me with channels? Hon member, Engelbrecht, there is assistance, it is channel three.

IsiXhosa:

USEKELA SIHLALO WENCOP: Ungaqhuba ke mama uWana.

Nksk T WANA: Sekela Sihlalo, uphicotho zincwadi zibonakalisa ukuba imali ebiyobelwe uMasipala weNgingqi waseBaqulusi...

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The DEPUTY CHAIRPERSON OF THE NCOP: Hon Wana, hold it, hon Engelbrecht is it the same problem?

Ms B A ENGELBRECHT: Deputy Chairperson, yes, I am on maximum volume and unfortunately I can hear no interpretation in this language.

The DEPUTY CHAIRPERSON OF THE NCOP: No, that's fine. I asked if it is the same problem. Fine, you raised the issue that it is the same problem ... [Interjections.]

Ms B A ENGELBRECHT: Can I suggest we have a break, Deputy Chairperson.

The DEPUTY CHAIRPERSON OF THE NCOP: Can I address your problem? Can you take your seat, ma'am? I am addressing your problem. And your problem is a question of interpreting and the feed from that channel. Isn't it so? And if that is the problem, can somebody assist this House in so far as ... don't worry hon Wana, your time is not affected. Table staff, can you assist me with this problem so that she doesn't come up repeatedly.

Hon members, whilst this thing is being looked into, check channel one ... Interpreting, can you please interpret on channel one? Can all

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members just check if channel one is functioning? So, you can hear me in IsiXhosa, IsiZulu and ... fine.

Channel two ... hon members, you are not assisting the process by behaving in this way. Channel two ... you must press the channel that interprets in English. Channel two ... I am told that channel one is Afrikaans. [Interjections.] Channel two is English. Now, let's just confirm that so that ...

Setswana:

... ga ke dule ka bothata bo re nang le bona gone jaanong jana.

English:

Channel one ... are you getting interpretation, hon member? Channel two ... [Interjections.] ... thank you very much. It is fine, that problem is then solved. Can we proceed with the business of the day? Hon Wana, can you continue with the declaration of the vote. Is it the same problem? [Interjections.] What point is that?

Mr F ESSACK: Deputy Chairperson, no, with due respect, I miss hon Motara so much. I confuse her. Is she from the Free State or Gauteng?

The DEPUTY CHAIRPERSON OF THE NCOP: No, that's not a point of order.

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Mr F ESSACK: The nice thing is that she sits next to honourable ...
[Inaudible.]

The DEPUTY CHAIRPERSON OF THE NCOP: Hon member, you are now out of order. You are disrupting the proceedings.

Mr F ESSACK: I apologise.

The DEPUTY CHAIRPERSON OF THE NCOP: Can we allow the Eastern Cape to continue with their declaration?

IsiXhosa:

Nksk T WANA: ... ayisetyenziswanga kakuhle kwaye neemfuno zabantu azizalisekwanga kakuhle. Yiyo loo nto ekubonkala ukuba makuyiwe kweli Solotya le-139(1)(b) ukulungisa izinto ezingqamane nochitho-mali nokuba abantu baseBaqulusini bafumane iimfuno zabo. Kaloku i-ANC yathi oomasipala bakufutshane ukunceda iimfuno zabantu abahluphekayo basezilalini.

Ayindothusi ke le nto Sekela Sihlalo, kuba apha safikela ebantwini abangabafuniyo abantu basezilalini ntonje bafuna bafuna ukubenza iileli zokunyuka ngabo. Bafuna ukusoloko behleli kwezi zitulo kuba ukucinizela

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abantu lulonwabo kubo. Ngaloo mazwi siyavumelana nengxelo
kwaneengcebiso ezithi aba bantu mabancedwe.

The DEPUTY CHAIRPERSON OF THE NCOP: Thank you very much, hon member.
Eastern Cape, your time has expired. Is there any province that wishes
to make a declaration?

Mr F ESSACK: On a point of order, with due respect to you. I don't mean
to disrupt the House whatsoever. You, sitting in that chair, will know
as well as I do that that was under no circumstances a declaration,
instead it was all a political rhetoric. Correct the member, please.
She is out of order.

The DEPUTY CHAIRPERSON OF THE NCOP: Hon member, we took a declaration
of the Eastern Cape. Is there any province that wishes to make a
declaration? KwaZulu-Natal?

Mr L P M NZIMANDE: Hon Deputy Chair, KwaZulu-Natal is committed to
fighting crime and corruption, to service delivery and to the needs of
the people in the province. Wherever there are any instances that
affect service delivery or be it governance matters or be it
municipality or entities that are meant to deliver to the people, the
ANC-led government of the province of KwaZulu-Natal doesn't hesitate to

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take action. This is a justifiable action when municipalities fail to deliver to the expectations of the people and the aspirations of the people.

Therefore as the KwaZulu-Natal province, representing the people of the province and the government, we support the interventions for as long as these interventions will bring the good that the people want and deserve. We do so because we are in compliance with the Constitution ... [Applause] ... that empowers the government of each province to do so - to take action when it is supposed to do. Thank you Deputy Chair. We support the intervention. [Applause.]

The DEPUTY CHAIRPERSON OF THE NCOP: Is there another province that wishes to make a declaration? In the absence of any, we shall then proceed with the voting.

Question put: That the Report be adopted.

[TAKE IN FROM MINUTES.]

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

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The DEPUTY CHAIRPERSON OF THE NCOP: Now, we shall proceed with the voting on the Fourth Order.

Question put: That the Report be adopted.

[TAKE IN FROM MINUTES.]

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

NOTING OF REPORT OF SELECT COMMITTEE ON CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS - INSPECTION IN LOCO ON NOTICE OF INTERVENTION IN TERMS OF SECTION 137 OF THE MUNICIPAL FINANCE MANAGEMENT ACT, 2003 (ACT NO. 56 OF 2003) IN NALEDI LOCAL MUNICIPALITY

NOTING OF REPORT OF THE SELECT COMMITTEE ON COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS - INSPECTION IN LOCO ON NOTICE OF INTERVENTION IN TERMS OF SECTION 137 OF THE MUNICIPAL FINANCE MANAGEMENT ACT, 2003 IN NGAKA MODIRI MOLEMA DISTRICT MUNICIPALITY

Mr J M MTHETHWA: Chairperson and hon members, the Select Committee on Co-operative Governance and Traditional Affairs, having considered the request by the National Council of Provinces, NCOP, to consider a

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report on the intervention notice invoked in Naledi Local Municipality in terms of section 137 of the Municipal Finance Management Act, the select committee reports as follows.

In terms of the NCOP Rule 101, the Office of the Chairperson of the NCOP referred the notice of intervention by the North West MEC for Co-operative Governance, Human Settlement and Traditional Affairs, Cogta, to the select committee for consideration and reporting. On 30 January 2019, the multiparty delegation of the select committee conducted a loco inspection in Naledi Local Municipality.

Chairperson, allow me take the observations of the committee. In terms of the constitutional and procedural matters, the select committee has observed that the national Minister for Cogta, the NCOP, the North West provincial legislature and the municipality were notified of the intervention about the substantive matters related to the invocation of section 137 of the Municipal Finance Management Act. The select committee has also noted that the planned protests at the Naledi Local Municipality and the change of venue have affected the participations of some of the stakeholders including organised labour, women and youth forums.

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In accordance with the terms of references, the select committee has noted that the administrator has made progress in developing the municipal financial recovery plan and the plan was tabled and adopted by the Council. The select committee has also noted that the administrator has assigned the municipality to develop the implementation plan dash board to assess the seriousness of the financial problems and develop audit action plan to deal with matters raised by the Auditor-General.

With regard to the recommendations, the NCOP notes the intervention in Naledi Local Municipality in terms of section 137 of the Municipal Finance Management Act. The administrator should fast-track the process of implementing the municipal turnaround plan in accordance with the terms of reference assigned by the North West MEC for Cogta. The administrator should provide progress report on municipal plan to pay Eskom debt, the review of organisational structure and the resuscitation of local labour forum. The North West MEC for Cogta must conduct forensic investigation on supply chain management in the local municipality and tabled the report to the National Council of Provinces. The North West MEC for Cogta should table quarterly progress report to the NCOP on the status of the intervention in the municipality, including challenges encountered. The Select Committee on Co-operative Governance and Traditional Affairs, in co-operation with

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the relevant portfolio committee in the North West Provincial Legislature, should in future conduct a follow-up oversight visit to the municipality in order to evaluate the progress made in respect of the intervention in the municipality.

Chairperson, allow me to move to the Ngaka Modiri Molema District Municipality. I will take the observations. In terms of the Constitution and procedural matters, the select committee acknowledged that the national Minister for Cogta, the NCOP, the North West provincial legislature and the municipality were notified of the intervention. The select committee further concurs that there are service delivery and financial management challenges relating to sanitation, water litigations, debt collection, contractors, property and valuation role, revenue collection, Eskom debt and billing system, data cleansing and money owed by government departments to the municipality.

Furthermore, the select committee has observed the inherent lack of institutional capability due to unfilled positions in key skills areas in the municipality.

The NCOP approved the intervention in Ngaka Modira Molema District Municipality in terms of section 137 of the Municipal Finance

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Management Act subject to the administrator fast-tracking the process of implementing the municipal financial recovery plan in accordance with the terms of reference approved by the North West provincial executive council; the North West MEC for Cogta tabling quarterly progress report to the NCOP on the status of the intervention in the municipality including challenges encountered; and the Select Committee on Co-operative Governance and Traditional Affairs, in co-operation with the relevant portfolio committee in the North West Provincial Legislature, in future conducting a follow-up oversight visit to the municipality in order to evaluate the progress made in respect of the intervention in the municipality.

Chairperson, I table this reports to you. Thanks!

Debate concluded.

Report on Inspection in Loco on Notice of Intervention in Terms of Section 137 of the Municipal Finance Management Act, 2003 (Act No. 56 Of 2003) in Naledi Local Municipality noted.

Report on Inspection in Loco on Notice of Intervention in Terms of Section 137 of the Municipal Finance Management Act, 2003 in Ngaka Modiri Molema District Municipality noted.

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CONSIDERATION OF REPORT OF SELECT COMMITTEE ON TRADE AND INTERNATIONAL
RELATIONS-WORLD INTELLECTUAL PROPERTY ORGANISATION COPYRIGHT TREATY,
WCT TABLED IN TERMS OF SECTION 231(2) OF THE CONSTITUTION, 1996 WITH
EXPLANATORY MEMORANDUM.

Mr E MAKUE: Hon Chairperson and members, on the 26 March, the Select Committee on Trade and International Relations considered four treaties. We are presenting to this House with your permission, three of them. The fourth one was the Marrakesh Agreement that we are not presenting here but we are merely noting it. Chairperson, I am glad to share with you that all nine members of the select committee, voted in favour of all three treaties that we will deal with individually.

It is therefore my honour and privilege, particularly in the presence of our young people from Elsies River and our masters students from University of Western Cape to present these treaties because it indicates what we as your servants in this Parliament are doing in order to ensure that your future can be better, particularly within the space of technology.

The treaties make provisions for the recognition and moral, economic rights as well as digital and technological advancements. The accession or ratification to these international treaties, are long overdue. This

step that we are taking as this House today is a big achievement for our performers, our authors and other rights holders in South Africa. The treaties will provide protection against economic exploitation for the creative. The treaties will also contribute towards a dynamic and thriving creative industry in South Africa - our country.

The treaties go hand in hand with the Copyright Amendment Bill and the Performers Protection Amendment Bill that we will present to this House later on. The WIPO Copyright Treaty is a special agreement that deals with the protection of works as well as the protection of authors, specifically within the digital platform. The World Copyright Treaty, WCT is in the best interest of South Africa, as it ensures that South African Copyright Law will keep pace with technological change thus affording important protection against piracy, protection that benefits rights holders in the areas of computer programmes and databases. The World Copyright Treaty, WTC grants authors the rights of distribution.

Our students of University of Western Cape when you right and distribute your thesis and your material, this allows you a right internationally so that your work is not exploited. The right also, is granted to rental of copyright material and a broader right of communication to the public. We know as a country how important communication is and knowledge that facilitate such communication.

Chairperson, it is therefore my singular honour on behalf of the select committee to present the World Copyright Treaty to this House for accession. [Applause.]

Debate concluded.

Question put: That the Report be adopted.

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

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

**CONSIDERATION OF REPORT OF SELECT COMMITTEE ON TRADE AND INTERNATIONAL
RELATIONS – WORLD INTELLECTUAL PROPERTY ORGANISATION PERFORMANCES AND
PHONOGRAMS TREATY, TABLED IN TERMS OF SECTION 231(2) OF THE
CONSTITUTION, 1996 WITH EXPLANATORY MEMORANDUM**

Mr E MAKUE: Hon Deputy Chairperson and members, I note with appreciation that on the programme that is before me, this is referred to as the "PHonourable ograms" Treaty – it is the Phonograms Treaty. The second treaty that I'm presenting is what we call the World

Intellectual Property Organisation, Wipo, Performances and Phonograms Treaty, WPPT, which deals with the rights of performance that singers and musicians and our country has many of them – young ones and bright ones. We also have producers of phonograms, persons or legal entities that take the initiatives and have the responsibility for the fixation of sounds and sounds recordings, specifically within the digital environment.

The Wipo Performances and Phonograms Treaty was adopted in December 1996, and came into force internationally in May 2002. The WPPT grants performance economic rights on their fixed or unfixed. Unfix means things that are alive – that is their performances but it also grants them economic rights with moral rights. Producers of phonograms are also granted the same economic rights in the phonograms. South Africa advocates for the sustainable and continued remuneration of performance given our country's economic context. The WPPT, hon members, is in the best interest of South Africa as it ensures that protection of South African performance and producers of phonograms will keep pace with technological change. That is affording protection and economic benefits in the digital environment. Hon Chair, it is my pleasure on behalf again of all members of the select committee who all welcome this particular treaty to present the treaty to the House for a session. Thank you, Deputy Chair. [Applause.]

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Debate concluded.

The DEPUTY CHAIRPERSON OF THE NCOP: Thank you very much, hon Makue. Of course, just to put it on record you are correct with that type of error on the Speaker's List, but on the Order Paper it is correct. Then we shall proceed and I'll do that by putting the question. The question is that the Report be agreed to in terms of Rule 71 I've observed that delegations are still present. Therefore we will proceed with the voting.

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 of section 65 of the Constitution.

CONSIDERATION OF REPORT OF SELECT COMMITTEE ON TRADE AND INTERNATIONAL RELATIONS - BEIJING TREATY ON AUDIOVISUAL PERFORMANCES TABLED IN TERMS OF SECTION 231(2) OF THE CONSTITUTION, 1996 WITH EXPLANATORY MEMORANDUM

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Mr E MAKUE: Chairperson and members, for the record, it is important to say that in the select committee we received thorough briefings by the Department of Trade and Industry and the memorandum that these treaties refer to. The staff people from the department who presented this to us are in the House and we want to thank them as well. [Applause.]

Chairperson, One of the most important treaties for actors is the Beijing Treaty, which acknowledges the intellectual property rights of performers, particularly actors, with regard to their audiovisual performances on films and television.

The DEPUTY CHAIRPERSON OF THE NCOP: Hon Makue, please take your seat. Hon Nyambi, on what point are you rising?

The HOUSE CHAIRPERSON (Mr A J Nyambi): Deputy Chairperson, I think what is being done by hon Smit is out of order. At the back of hon Makue, it is written the party that we must vote for and it shows on TV. That is the intention; that is what he is doing. [Interjections.] It is written the party that the public must vote for at the back of hon Makue so it is meant for the people that are watching what is happening here in Parliament, and that is out of order. [Interjections.]

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The DEPUTY CHAIRPERSON OF THE NCOP: Hon members, may I ... Order! Order! Hon members, we know the Rules are very clear with that. I don't even have to turn the House sitting into a Rules exercise. What we know, which is the convention and Rules of this House, is that we cannot allow even just memorabilia of parties in the House. To campaign or to demonstrate the name of your party is totally out of order. Let us not do that, you still have enough time until the seventh to do that. Not here. Let us just respect the House and maintain the order in the House. Hon Makue, can you continue.

Mr E MAKUE: Chairperson, when I am presenting one of the most important treaties for actors in this country, it is unacceptable that we have members of this House acting in the way that the hon Smit from the DA did.

Chairperson, we - the rest in this House - appreciate it because we are able to offer to many people in our country who are writers, students, learners, actors, photographers, people who are producing films and people who are producing television programmes the opportunity to have their rights protected. The Beijing Treaty stands at the pyramid of these things.

By strengthening the audiovisual performers' economic and moral rights, the Beijing Treaty grants performers greater control over the use of their performances. The Beijing Treaty also grants performers more opportunity to earn an income from their work as it provides performers safeguards that protects them against unauthorised use of their performances.

The Beijing Treaty also grants performers four kinds of economic rights: The right of reproduction; the right of distribution; the right of rental; and the right of making available. Such rights are protected internationally by this House acceding to these agreements.

[Interjections.]

Chairperson, that member that thinks he knows what's going on is a member of this committee and since he became a member he has attended a committee meeting once. [Interjections.] He must not come and talk here.

In terms of unfixed performances, this treaty grants performers three kinds of economic rights, being the right of broadcasting, the right of communication to the public; and the right of fixation.

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The DEPUTY CHAIRPERSON OF THE NCOP: Hon Makue, just hold. Hon Michalakis.

Mr G MICHALAKIS: Hon Deputy Chairperson, on a point of order. The hon member is casting aspersions on my integrity. I am serving on two clusters, both the security cluster and this one simultaneously - for the same reason that there are not ANC members to serve on that cluster and to govern their own clusters. That is why I can't divide my time between the two clusters. Why aren't your member ... [Interjections.]

The DEPUTY CHAIRPERSON OF THE NCOP: Hon members, I cannot be expected, as the presiding officer, to make a ruling on matters that have to do ... [Interjections.] Order! Order! Hon members, we are in a House sitting, when we make political statements that have to do with the proceedings of your committees it is not for me to neither confirm nor deny. It is not for me; it is a political statement that is made in a political House and therefore I cannot be dragged into making a ruling as to whether a member was there or not. Hon Makue, can you continue with the debate.

Mr E MAKUE: Chairperson, this member just said, in Afrikaans ...

Afrikaans:

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... moenie so lieg nie ...

English:

... which means, do not lie.

The DEPUTY CHAIRPERSON OF THE NCOP: Hon Makue, can you take your seat.
Is it true, hon Michalakis?

Mr G MICHALAKIS: Hon Deputy Chairperson, yes. He is misleading the
House and he did lie.

The DEPUTY CHAIRPERSON OF THE NCOP: Hon Michalakis, the issue raised is
that you said, in Afrikaans, the hon member "lieg". Roughly translated,
"lieg" is lying, not misrepresenting facts. So, are you confirming that
you said he is lying? Can you please withdraw that?

Mr G MICHALAKIS: Deputy Chairperson, I cannot withdraw the truth.

The DEPUTY CHAIRPERSON OF THE NCOP: Hon member, I am requesting you to
retract on the usage of a word that a member is lying.

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Mr G MICHALAKIS: Hon Deputy Chairperson, with the greatest respect towards you, I will suffer the consequences but I will not withdraw the truth.

The DEPUTY CHAIRPERSON OF THE NCOP: It is clear that the hon member is putting it to the House that he is going to disrespect this Chair, not me, but the authority of this Chair and therefore refusing to withdraw. I therefore order you from this Chair, not me, this Chair is ordering you to leave the House. [Applause.] Hon member ... oh! I thought you were seeking my attention by being on your feet. Okay, that's fine, let me not even get into that. Hon Makue.

Mr E MAKUE: Chairperson, I want to apologise to the listeners of this broadcast, particularly our performers, actors and those that can benefit that we are interrupting what is really significant for them with such peripherally things like these but also want them to know that ... [Interjections.]

The DEPUTY CHAIRPERSON OF THE NCOP: Hon Dlamini, on what point are rising?

Ms L C DLAMINI: On a point of order. Sorry hon Makue, we cannot leave that. When you asked hon Hattingh why he was standing, he said that he

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was giving respect to the member going out for pointing out a liar. Can you rule on that, Chair?

The DEPUTY CHAIRPERSON OF THE NCOP: No, in so far as ... hon members, I did check why the member was on his feet and he said that he wanted to show respect to his colleague. I didn't hear any other thing.

[Interjections.] So, hon members, I didn't hear any other thing and I made a ruling on that by dismissing that gesture. I dismissed the gesture. Can we continue, hon Makue.

Mr E MAKUE: Chairperson, having had the privilege in this fifth administration to Chair the Select Committee on Trade and International Relations, I want to use this time to also prove the truth by stating that all members on a nonpartisan basis within this select committee always demonstrated the greatest respect for each other. As chairperson, I am acknowledging that privately and want to say that these things that we have seen here never happened in the five years of the meetings of the select committee. We don't take it for granted as this is an expression of political tolerance and or political maturity that has been aptly demonstrated by all members of the select committee regarding their political affiliation.

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Chairperson, let me conclude by stating that the Beijing Treaty also grants performers moral rights on live performances and performances fixed in audiovisual fixations. That is the right to claim to be identified as the performer and the right to object to any distortion, mutilation and modification that would be prejudicial to the performer's reputation. The intention of granting moral rights is to protect the personality of the performer over and above his or her economic interests.

Therefore, you will understand why the hon members of this select committee are proud to present this third treaty to the House for assertion. Thank you very much, Chair.

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 of section 65 of the Constitution.

**OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE AND OTHER CRUEL,
INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT TABLED IN TERMS OF SECTION
231(2) OF THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA AND THE
EXPLANATORY MEMORANDUM TO THE OPTIONAL PROTOCOL TO THE CONVENTION
AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR
PUNISHMENT**

(Consideration of Report of Select Committee on Security and Justice)

Dr H E MATEME: Deputy Chairperson, thank you very, very much for this opportunity. The Optional Protocol to the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment, is briefly called OPCAT.

Chair and members of this august House, on 5 March 2019, the following papers were referred to the select committee for consideration and report. Firstly, the Optional Protocol to the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment, tabled in terms of section 231(2) of the Constitution, 1996; and secondly, the explanatory memorandum to the Optional Protocol to the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment. The rest of this report is reflected in the ATC. With your indulgence, may I move to recommendations?

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Having considered the Optional Protocol to the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment tabled in terms of section 231(2) of the Constitution, 1996, and the explanatory memorandum to the Optional Protocol to the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment, the committee recommends that the National Council of Provinces resolves to ratify the Optional Protocol to the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment, shortly called OPCAT. On behalf of the chair of the select committee, we so submit.

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.

**CONSIDERATION OF REPORT OF SELECT COMMITTEE ON LAND AND MINERAL
RESOURCE - RATIFICATION OF THE SADC PROTOCOL ON ENVIRONMENTAL
MANAGEMENT FOR SUSTAINABLE DEVELOPMENT WITH EXPLANATORY MEMORANDUM**

**CONSIDERATION OF REPORT OF SELECT COMMITTEE ON LAND AND MINERAL
RESOURCES - RATIFICATION OF THE KIGALI AMENDMENT TO THE MONTREAL
PROTOCOL ON SUBSTANCES THAT DEplete THE OZONE LAYER TO INCLUDE
HYDROFLUOROCARBONS (HFCS) WITH EXPLANATORY MEMORANDUM.**

Mr O J SEFAKO: Hon Chair, let me first thank you for the opportunity to present the Report of the Select Committee on Land and Mineral Resources on the ratification of Southern African Development Community, SADC, Protocol on Environmental Management for Sustainable Development with Explanatory Memorandum ... [Interjections.]

The DEPUTY CHAIRPERSON OF THE NCOP: Can you please speak to the microphone, hon member?

Mr O J SEFAKO: Hon Chairperson, let me thank you again for the opportunity to present the Report of the Select Committee on Land and Mineral Resources on the ratifications of the Kigali Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer to include hydrofluorocarbons, HFCS, dated 19 March 2019.

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The Select Committee on Land and Mineral Resources, having considered the request for approval by Parliament for the ratification of the Kigali Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer to include hydrofluorocarbons, HFCS, referred to it on 24 January 2019.

The committee recommends that the Council, in terms of section 231(2) of the Constitution of 1996 approve the said conventions. I therefore present the report for consideration. I will further present the second one on the Report of the Select Committee on Land and Mineral Resources on the ratification of the SADC Protocol on Environmental Management for Sustainable Development with Explanatory Memorandum dated 19 March 2019.

The Select Committee on Land and Mineral Resources, having considered the request for approval by Parliament for the ratification of the SADC protocol on Environmental Management for Sustainable Development with Explanatory Memorandum, referred to it on 24 January 2019 recommends that the Council, in terms of section 231(2) of the Constitution of 1996 approve the said conventions. I therefore move for the consideration of the two reports. Thank you. [Applause.]

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The DEPUTY CHAIRPERSON OF THE NCOP: Thank you. We shall proceed with the reports as presented by the hon member. I was just trying to reconcile the two reports in terms of the order. But that concludes the debate. I shall then put the question and the question is that the report be agreed to in so far as the Eleventh Order is concerned. We are dealing with the Eleventh Order. Is there any province that wishes to make a declaration of vote? In the absence of none we shall then proceed with voting in an alphabetical order.

[Take in from Minutes.]

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

The DEPUTY CHAIRPERSON OF THE NCOP: We shall then proceed in respect of the Twelfth Order. The question is that the report be agreed to in accordance with Rule 71. Is there any province that wishes to make a declaration of vote? In the absence of none we shall then proceed with voting in an alphabetical order.

[Take in from Minutes.]

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

CONSIDERATION OF REPORT OF SELECT COMMITTEE ON PETITIONS AND EXECUTIVE UNDERTAKINGS, HEARINGS OF THE SIGOGO PETITION, HELD ON 08 NOVEMBER 2018 AND 20 MARCH 2019 AT PARLIAMENT.

IsiXhosa:

Mnu D L XIMBI: Sekela Sihlalo ohloniphekileyo, ndiza kugqagqanisa okwengqege ikhonkotha, ndithi gqaba-gqaba apha naphaya.

English:

Hon Members of NCOP, hon Deputy Chair, I am humbled to present the Sigogo Petition on behalf of the Select Committee on Petitions and Executive Undertakings. The Select Committee on Petitions and Executive Undertakings having considered the Sigogo Petition, and referred to the committee by the Chair of the NCOP on 7 September 2018, reports as follows: Mr Olwethu Sigogo submitted the petition in his capacity as a representative of the National Education, Health and Allied Workers Union, Nehawu, of the Khayelitsha District Hospital Constituency. The complaints contained in the petition relate to the freezing of posts, irregular appointments, absence of Employment Equity, mismanagement of

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funds at the hospital and a number of irregularities relating to Occupational Health and Safety at the hospital.

The committee held a total of three hearings on the petition at Parliament. The primary purpose of these hearings was to afford the petitioner as well as the relevant stakeholders the opportunity to make first hand oral submissions, to the committee, on the petition. A number of affected parties attended the hearings including the Cape Metropolitan Health Forum, the Department of Labour, the Public Service Commission and a number of whistle-blowers who relayed their experiences of the Khayelitsha District Hospital in their capacity as staff at the hospital and former staff.

In highlighting aspects of the report, the testimony revealed that even though the hospital is not meant to function as a psychiatric ward, 35 beds are allocated on the first floor of the hospital to accommodate psychiatric patients. As recently as February 2019, there were 79 patients being accommodated in the psychiatric ward. This has led to a strain on maintenance management at the hospital. The safety of psychiatric patients is also compromised since the ward is located on the first floor and recently, a patient tried to jump from the first floor window.

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Hon Chair, in relation to the investigation conducted by the Public Service Commission, the committee found that the Public Service Commission did not hold interviews with staff members who were allegedly victimised by the management of the hospital. They only held interviews with the Nehawu leadership and the management of the hospital. This omission is glaring and further erodes the value of the investigation prejudicing the petitioner. It should also be strongly noted that, even though invitations were extended to the Western Cape MEC for Health, the Head of Department of Health of Western Cape, the Acting Chief Executive of Khayelitsha District Hospital, KDH, and Substructure Office of the KDH refused to attend all of the three hearings on the petition, alleging that the committee was acting outside of the powers afforded to it by the Constitution.

The Committee sought the assistance of Parliamentary Legal Services to provide advice. It was noted that while the committee...

The DEPUTY CHAIRPERSON OF THE NCOP: Hon Ximbi, can I just take a point..... On what point are you rising hon member?

Ms C LABUSCHAGNE: Hon Chair, I rise on point of order that hon Oliphant used the word shame on you [interjections] and you ruled that we should not use it.

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The DEPUTY CHAIRPERSON OF THE NCOP: No thank you, no, no no, hon members order. I am very happy that hon Labuschagne managed to observe that. Hon Oliphant, you are out of order, for using the word, shame on you, to another member.

Ms G G OLIPHANT: I withdraw.

The DEPUTY CHAIRPERSON OF THE NCOP: I have made a ruling hon members; consistent with the ruling that was made before and consistent with the ruling that I made earlier on. Thank you very much, can you continue hon Ximbi.

Mr D L XIMBI: It was noted that while the committee was able to continue its hearings, the issue of whether the committee has the necessary power to call upon the Department of Health to account is an issue that should be resolved via court processes. In this regard I must also mention that summons was issued for the relevant health care officials to present evidence to the committee, but was challenged by the officials from the Department of Health with an urgent interdict citing the alleged lack of power to be subpoenaed by the committee. The committee found that the Department of Labour should play a direct role in resolving two of the issues that were raised in the petition namely: Employment Equity and Occupational Health and Safety. The committee is

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also calling upon the Department of Labour, to assist the petitioners to bring the complaints relating to unfair labour practices on the part of the management of KDH to the Public Health and Social Development Sector Bargaining Council for their resolution.

The committee is also of the opinion that the Department of Health is to investigate the complaints raised in the petition, in particular the complaints relating to the mismanagement of funds and corruption on the part of the management of KDH and the harassment, victimisation, bullying and intimidation of staff members by the management. The committee also suggested that the Standing Committee on Public Accounts, Scopa, invite officials of KDH to come and account. Broadly speaking, the committee contends that the House assists the petitioners to refer the complaints relating to the poor provision of health care and treatment, the poor and unsatisfactory management of adverse incidents and the poor state of psychiatric care at the hospital to the Office of the Health Ombudsman for further investigation. In this regard, the Office of the Health Ombudsman is to commission a forensic investigation or commission of inquiry aimed at conclusively determining the number of children and adult patients who have died due to the negligence and use of...

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The DEPUTY CHAIPERSON OF THE NCOP: Hon Ximbi, can you just take your seat. Hon Engelbrecht, on what point are you rising?

Ms B A ENGELBRECHT: Hon Chair, on a point of order. I just like to remind this House of Life Esidimeni where 144 people [Interjections.] were killed by the ANC. [Interjections.]

The DEPUTY CHAIPERSON OF THE NCOP: Hon members, I have not even heard what is the point of order. Can I hear what the member wants to say? Hon members, can I hear what the member wants to say, it is within her right. I will make the ruling.

Ms B A ENGELBRECHT: Hon Chair, I am reminding this House that the ANC was the cause of a 144 people killed in Life Esidimeni. Thank you. [Interjections]

The DEPUTY CHAIPERSON OF THE NCOP: Hon members, I think we need to be very careful. We are dealing with a very important issue here which resides at a very strategic position in so far as our work as the NCOP and Members of Parliament in particular, petitions of members of the public. These are the people who have petitioned the NCOP, and are saying to the NCOP as Parliament, here we have got a problem, come and

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assist us as a last resort of public representative. If we are going to play,...

Hon member: Politics.

The DEPUTY CHAIRPERSON OF THE NCOP: ... whatever, I have not said it. If we are not going to respect what the public has brought us, I can imagine if the children from the Kuils River Technical High School should submit a petition and we behave like this in dealing with their petition in this House. Can we just please respect the petition and hon Ximbi can you continue with the petition?

Mr D L XIMBI: Hon Chair, let me repeat that in this regard the Office of the Health Ombudsman is to commission a fore...

The DEPUTY CHAIRPERSON OF THE NCOP: Hon Ximbi, can you just take your seat. Hon Dlamini, on what point are you rising?

Ms L C DLAMINI: Hon Deputy Chair, on a point of order: Is it fair to justify the death of Khayelitsha people using the unfortunate incident of Life Esidimeni? Can we justify the death of people referring to another unfortunate incident? That is what she is doing.

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The DEPUTY CHAIRPERSON OF THE NCOP: I dismissed the order, I did not carry it in the House therefore, let us not entertain whatever that was raised because the order was not even carried. That was ruled as out of order. Hon Ximbi.

Mr D L XIMBI: In this regard the Office of the Health Ombudsman is to commission a forensic investigation or commission of inquiry aimed at conclusively determining the number of children and adult patients who have died due to negligence and use of inexperienced staff within the hospital. While, the South African Human Rights Commission, must investigate the allegations of human rights abuse that have been levelled against hospital management. The Department of Health must take over the KDH whilst it is under investigation. The Department of Labour and Health Ombudsman is to provide the commission with the progress report on recommendations within 60 days of the tabling of this report.

In conclusion, the report of the high level panel on key Legislation, found that the services at public sector primary health care facilities and district hospitals are most widely used by lower socioeconomic groups. Promoting equitable access to quality health care therefore, requires a particular emphasis on ensuring quality within these facilities. The report highlights numerous challenges within the health

care sector. This has ultimately compromised the quality of health care provision for people who access the facility and created unacceptable working conditions for those who provide health care. I so move hon Chair.

Debate concluded.

Question put.

Declarations of vote:

Ms C LABUSCHAGNE: Hon Chairperson, hon members, fellow South African, the petitions and the executive overtaking select committee guidelines, state clearly that the petition must not concern a matter depending on a court of law, a tribunal or a forum and investigative institution or any other body contemplated within the Constitution. Such hearings will unnecessarily prolong the petition process, costing taxpayer's money and frustrating the process for the petitioner. Despite the above, the Chairperson of this committee decided to consider this petition which has already been heard extensively by both the Department of Labour and the Public Service Commission.

Despite the rulings and against our own substantive requirements, the Chair decided to continue with the hearing, which most probably because

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there is conflict of interest, because one of the petitioners by hearsay is his girlfriend. Wasting thousands of rands in taxpayer's money in three days of wasted working hour, as well as airfare and the accommodation for those call to attend the hearings... [Interjection.]

The DEPUTY CHAIRPERSON OF THE NCOP: Hon member I am struggling to follow the declaration, can you please allow me to.

Ms C LABUSCHAGNE: ... and to this, the first two hearings were held on party caucus days, ensuring that none of the three days a member could attend the hearings. The third hearing has only three has three ANC members present, preventing a quorum to adopt the report...

[Interjection.]

The DEPUTY CHAIRPERSON OF THE NCOP: Hon Labuschagne, can you please just hold. Hon Nyambi?

The HOUSE CHAIRPERSON (Mr A J Nyambi): I don't know Chair whether I will be assisting but probably the desk will assist. I hear hon Labuschagne alleging that the person is a girlfriend of hon Ximbi and casting aspersion ... that's what she said, I heard that, she said that. It's casting aspersion on the report by attacking the integrity of hon Ximbi.

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The DEPUTY CHAIRPERSON OF THE NCOP: Hon members I did really struggle to follow, because of the audio that was coming through. hon Labuschagne did you really say that?

Ms C LABUSCHAGNE: Hon Chair, I said and I will read it to you; despite the rulings and against our own substantive requirements the Chair decide to continue with hearings and I said probably because there could be a conflict of interest, that is what I said and by hearsay one of the petitioners is the hon Ximbi's girlfriend, that is what I said.

The DEPUTY CHAIRPERSON OF THE NCOP: Hon members, let me make a ruling hon Oliphant. Hon members, order! The hon member quoting herself says by hearsay and by hearsay can not be a matter for us to really entertain, because...and you know my worry is just that ordinarily I should have said, we will then have to refer the matter for another sitting. Hon members, the two of you ... I am still making a ruling, hon Ximbi can you please be in order, can you be in order hon members and allow make a ruling on this matter! It's a very sensitive issue; we are not going to have another sitting to deal with this matter, and therefore I will rule as follows: I will definitely report the matter because we are still on, even if it's our last sitting, but constitutionally we will still be operationally, as NCOP.

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I will refer the matter to the Chairperson for a decision then to be taken based on the investigation as to whether a hearsay that has got a serious, serious implication on the character of a Member of Parliament can therefore be. And I am happy that I made the ruling in the absence of the Chair, in the House because it's a matter that I'm going to refer to her and a decision then will have to be communicated to the said member ... who said that particular matter. I think that is the best way to deal with, because say that in the next sitting of the House we might not have a next sitting until the sixth sitting which will be the first sitting as a matter of urgency, but we will refer the matter to the Chair for a decision. Can you continue hon member.

Ms C LABUSCHAGNE: The Western Cape stands firm and we will not allow irrational decisions of the Chairperson to go unchallenged, where he has made a complete mockery of every Constitution regulation on which Parliament operates and has violated very Rule of Parliament and the functions of Security Council. He has decided to take law into his hands and has gone completely rogue; ignoring all parliamentary Rules and creating his own kingdom, whereas he has clearly abused this power. This petition has become a political powerball where the ANC so desperately wants to find fault with the Western Cape government that he is prepared to discredit Parliament by ignoring the recommendations

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made by both the Labour Court and the PSC, abusing his power ...

[Interjection.]

Ms G G OLIPHANT: Point of order Chair, I don't understand ...

[Interjection.]

The DEPUTY CHAIRPERSON OF THE NCOP: How would you know what is point of order, if you don't listen to the point of order. You will know, now allow her to speak, so that we hear whether if it's a point of order or not. Can I hear your point of order hon Oliphant?

Ms G G OLIPHANT: Chair, the thing is ...the hon member is saying, the hon member has taking the law into his own hands, where as ...does this committee of the Parliament take the law on its own hands...because we even have legal team in our committee ...is that the way it must have...because it's a hearsay... the hon, DA never attended any meeting.

The DEPUTY CHAIRPERSON OF THE NCOP: Hon members, I would not carry the order because it is not the point of order, but rather political statement. Hon Labuschagne or Western Cape. Are rising on my ruling.

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Ms B A ENGELBRECHT: Just a point of order, the hon member was...

[Interjection.]

The DEPUTY CHAIRPERSON OF THE NCOP:...is what you are saying relevant to my ruling?

Ms B A ENGELBRECHT: Chairperson, it is relevant to the aspersion passed against my cast against my name.

The DEPUTY CHAIRPERSON OF THE NCOP ...No, no I disregarded the ruling, the point of order, now I don't know why you rising on that. I made a ruling on it. We are not going to entertain that hon Engelbrecht, because I have a ruling on that matter. Can you take your seat hon member? Hon Labuschagne.

Ms C LABUSCHAGNE: The government, ignoring the recommendations made by both the Labour Court and the PSC, abusing his powers as the Chairperson to drive an agenda against the DA Western Cape Government. Member of Parliament or any committee in Parliament should ever be misused to exploit sentences for political agendas. I thank you.

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Ms T WANA: Deputy Chairperson, as the Eastern Cape we have a problem with regard to what we are hearing from the statement because even the MEC never attended the aforesaid - if you listen to the report.

IsiXhosa:

IsiZulu:

Nk L L ZWANE: Egameni lesifundazwe sakwa Zulu Natali Sihlalo ngiyafisa ukuphakamisa ukuthi ...

English:

The DEPUTY CHAIRPERSON OF THE NCOP: You know I have got ... sorry hon Zwane. I have members here on my left, very close to me, who are very destructive and I do not know why. Can you be in order. Hon Ximbi, I have no option but to call you by name. Can you please be in order. No, do not do that! Do not justify whatever you are doing. You are destructing me. I want to listen; I was not there; I was not part of the hearings, and you would be expecting me to make certain rulings on what said. Hon Zwane?

IsiZulu:

Nk L L ZWANE: Ngibonge Sihlalo, ngiyafisa ukudlulisa egameni lesifundazwe sakwaZulu-Natali ukuthi lo mbiko othuliwe yilungu

elihloniphekile uXimbi uyashaqisa. Nanokuthi siyafuna ukuthi abavoti balapha kulelizwe laseNingizimu Afrika babuke isimo sokuphathwa kwabantu eWestern Cape ikakhulukazi kulesi sibhedlela.

Isimo sibi ngeke sifike la kule Ndlu sizopolitika ngokufa kwabantu ngoba khona abantu la abazele ukuzopolitika ngaloludaba lokuthi bayafa abantu laphaya kulesiyasibhedlela ngenxa yokungaphathwa kahle. Abasebenzi abaphathekile kahle ngobanje lesibhedlela sisendaweni yabantu abamnyama. Sifuna ke ukuthi abavoti abalumuke bababuke abantu abafuna ukusebenzisa amandla omuntu omnyama ukuthola ivoti bebe bengenandaba nokuthi umuntu omnyama uphila kanjani la ekhona -okokuqala loko.

Okwesibili, uSihlalo ohloniphekile uXimbi ...

English:

The DEPUTY CHAIRPERSON OF THE NCOP: Hon Zwane, can you take your seat. Hon Mpambo-Sibhukwana, on what point are you rising? [Interjections.] I am recognising you.

Ms T G MPAMBO-SIBHUKWANA: Hon Deputy Chair, I just want to bring to your attention the oncology department...

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IsiXhosa:

... yakwaZulu-Natal ebulala abantu yonke imihla akuthethwa ngayo...

English:

The DEPUTY CHAIRPERSON OF THE NCOP: I deliberately switched off that microphone because it is not relevant to the petition we are dealing with. This is a provincial declaration. Hon Zwane, can you continue.

IsiZulu:

Nk L L ZWANE: Bengisathi ke Sihlalo ohloniphekile siyacela ukuthi impela uMnyango Wezempilo kaZwelonke ungenelele ngoba umbuso kakhongolose ukhonela lokho ukuthi ubahlangule abantu abasosizini. Awungenelele uMnyango Wezempilo kaZwelonke kulesiya simo. Ngiyacabanga ukuthi iKomidi loMkhandlu kaZwelonke Wezifundazwe nalo lizoluqhubekisa loludaba. La kuthulwa umbiko wekomidi lePhalamende akuthulwa umbiko kaSihlalo. Ngakho ke ...

English:

... casting aspersions to the chairperson is very irrelevant because this is a committee report and not a chairperson's report. Thank you, Deputy Chair.

Sepedi:

Ng H E MATEME: Modulasetulo, ba re tlogatloga e tloga kgale, modiši wa kgomo o tšwa nayo šakeng. Go tloga ka ngwaga wa 1994, ge temokrasi e tsena mo, bao ba bušago kua Khayelitsha ga ba kwešiši, ga ba bontšhe go kwešiša gore ...

English:

South Africa is a unitary state. We are a unitary state.

Sepedi:

Ba tlatša mašata, ba re bona mo ba bušago ...

English:

In everything, they are the best governors, Deputy Chairperson ...

Sepedi:

... kganthe kua Khayelitsha go buša mang?

English:

Who is governing that part of this province? Secondly ...

Sepedi:

... re ka se ke ra dula mo re le baemedi ba batho ...

English:

... and overlook the violation of human rights of the people of Khayelitsha. We will be failing in our responsibility.

Sepedi:

Laboraro, e bolela ka Tšhata ya Tokologo. Tšhata ya Tokologo e re ...

English:

South Africa belongs to all who live in it.

Sepedi:

Bjale ba ba iphorile ka go hlama wa bona Molaotheo ba lebala gore ...

English:

... the supreme law of this country is Act 108 of 1996.

Sepedi:

Ke molao wa godimodimo wa go buša batho kamoka. Bjale, re re mmušo wo o tlogo buša ka moso ...

English:

... in the Sixth Parliament, forensic ... [Interjections.] ... I am not campaigning, I am stating facts. I am not campaigning.

Sepedi:

Re re taba ye e swerego ke komiti ya kgetho, e tle e lebelelwe ke Palamente ya Boselela ...

English:

... forensic investigations ...

Sepedi:

... tša go tsenelela a di dirwe, gore batho ba Khayelitsha le bona ba itemogele bophelo bjo bokaone la mathomo. Ditokelo tša bona di swanetše di hlomphiwe.

English:

The human rights culture must also prevail in Khayelitsha. I thank you.

The DEPUTY CHAIRPERSON OF THE NCOP: Okay, thank you very much. On what point were you rising, hon member?

Mr W F FABER: Deputy Chairperson, I was just concerned. Can someone just bring the ex-Chief Whip some water, it seems she needs water ...
[Interjections.]

The DEPUTY CHAIRPERSON OF THE NCOP: That is not a point of order. On behalf of Gauteng, let me recognise hon Motara. I saw your hand was up. Okay, if it is a mistake, it is fine. [Interjections.] Oh, Mpumalanga?

Ms L C DLAMINI: Deputy Chair, before anything, that poster which states that we should vote for a particular party is up now, again.

[Interjections.]

The DEPUTY CHAIRPERSON OF THE NCOP: Now I can see it. Hon member, you are out of order. Hon member, you are out of order, and I am ordering you to stand up and apologise to this House.

Ms B A ENGELBRECHT: Deputy Chairperson, I apologise to the people of South Africa for the behaviour of the ANC.

The DEPUTY CHAIRPERSON OF THE NCOP: Hon member, I am saying that I am instructing you to apologise to this House.

Ms B A ENGELBRECHT: Chairperson, I will apologise to this House for the behaviour of the ANC. Thank you. [Interjections.]

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The DEPUTY CHAIRPERSON OF THE NCOP: Hon member, for the last time. For the last time, I am ordering you - without conditions, to apologise to this House.

Ms B A ENGELBRECHT: What do I apologise for, Deputy Chairperson? Should I apologise for holding a piece of paper. [Interjections.] What must I apologise for?

The DEPUTY CHAIRPERSON OF THE NCOP: Service officer ... Service officer, because I want ... [Interjections.] ... Order, hon members. Order! [Interjections.] Service officer, please can I get assistance here because I am dealing with issues that need to turn the whole sitting of a House into a political game ... Can you go to the hon Engelbrecht. Hon Engelbrecht, give him what I saw - that paper you are having in your hand. I want to show the House what I am ordering you to apologise for.

Ms B A ENGELBRECHT: I can also show the House if you want me to do so, Deputy Chairperson.

The DEPUTY CHAIRPERSON OF THE NCOP: No, no, no! I ordered you to apologise.

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Ms B A ENGELBRECHT: I did! I apologised to this House, and I apologised to you Deputy Chairperson - but I don't know what for.

The DEPUTY CHAIRPERSON OF THE NCOP: Okay, it is fine. Thank you very much. Hon members, the member has apologised, and it is because it was raised earlier on and an order was given that the member responsible be warned. The member was warned but the poster is up again. May it not come up again, please? I have observed that there are other members who are trying to show their posters but they are being taken away. I have observed some, on both sides. [Interjections.] I have observed some of the posters. May you please refrain from doing that. Hon members, we were still on declarations. I had Mpumalanga, followed by Northern Cape. Is that a point of order, hon Wana?

Ms T WANA: Thank you, Deputy Chairperson. I wanted to put it clearly that the hon Terblanche has those placards and she must forward them to you, hon Deputy Chair. [Interjections.]

The DEPUTY CHAIRPERSON OF THE NCOP: No, no, my order is clear. Should I see any member doing what I have ordered against the behaviour of hon Terblanche, I would ask that member to recuse himself or herself from this House. [Interjections.]

An HON MEMBER: Terblanche?

The DEPUTY CHAIRPERSON OF THE NCOP: I would not make any other different order on that. We are done with this issue of demonstrations and placards that are being put up in this House. Is it on the same order?

Mr O S TERBLANCHE: Deputy Chairperson, I just want to say to you that you can come and inspect my desk here, I don't have any placards.

Setswana:

MOTLATSAMODULASETILO WA NCOP: Nyaya, o se ke wa dira gore letswalo le le molato le ikatlhole, rraetsho. Ke kopa gore o se ke wa ikatlhola, nna fatshe.

English:

I said I have observed. I never pointed at anybody. The ruling was that I don't want to see that happen. [Interjections.] Hon member, are you standing on the same order?

Ms B A ENGELBRECHT: Deputy Chairperson, I want to just confirm that my surname is Engelbrecht and not Terblanche. [Interjections.]

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The DEPUTY CHAIRPERSON OF THE NCOP: Okay. I apologise on behalf of this House, including myself, for having referred to you by the surname that is not yours. I do it unreservedly with no conditions. It is fine.

Siswati:

Mk L C DLAMINI: Ngiyabonga kakhulu Lisekela laSihlalo ... kuyafanana letintfo leti. Ngiyabonga litfuba lekutsi ngikhulumele Impumalanga Provinsi kulesishukumiso.

English:

Chairperson, I want to put to this House that, these issues that were raised during the public hearings of the petition were not for the first time, in the select committee they were forwarded too. The issue of a girlfriend or no girlfriend is here or no there. Those issues are there. I do want to say ...

Siswati:

... kubuhlungu kakhulu kutsi sidlala ngetimpilo tebantfu, yona kanye lenhlangano letsi bantfu bayivotele, ngiyo lephetse lana Enshonalanga Kapa. Lokuvisa buhlungu kutsi ke, lenhlangano letsi ayivotelwe yetama kukhankasa lapha eNdlini, angayi kuyokwenta kuyongena indlu ngendlu. Yalile kutewulale kutsi bantfu baseNshonalanga Kapa, ikakhulukati lapha

esibhedlela batsini ngetimpilo tabo nekutsi lesibhedlela siphatseke kanjani ...

English:

...being people who were voted by the people of Western Cape, Khayelitsha in particular, they refused to come and listen to the issues of those people.

Siswati:

Umbuto lesiba nawoke tsina siyiMpumalanga, sibuta uma ngabe bantfu labaphetse labantfu baseKhayelitsha, baveta tinkinga bangeti kutobalalela, batsi abalalelwe ngubani?

English:

Does it mean that they only need their votes, not to look after them, not with their money, money that is coming from national government?

Siswati:

Sinalombuto lowo ke Liskela laSihlalo. EKhayelitsha, lapha esibhedlela sicabanga kutsi [Laughter.] kwenteka loku ngoba kuhlala bantfu labamnyama. Uma ulalela iDA sikhatsi lesinyenti, itsi yona lapha iphetse khona bebasho nanyalo, baphatsa kakhulu konkhe kuhle, umbuto wami ke utsi eKhayelitsha, kuletindzaba letiphakanyiswe bantfu

baseKhayelitsha, ingabe nguye lo" all is well" (konkhe kuhle)
labakhuluma ngaye?

English:

Is it because they don't care about those people? Should have things happened at Grooter Schuur, will they be saying the same? Should these things have happened at Tygerberg, will be saying the same? Why are they treating people Western Cape differently, just because of the colour of their skin. We are prompted by Mpumalanga that with this behaviour of Western Cape Provincial government, for refusing to listen to people of Khayelitsha ...

Siswati:

... sinembono wekutsi akuhlolwe tonkhe letibhedlela, kubukwe kutsi ...

English:

... what is happening in each and every hospital? How are people treated? Is it the same care or is it only happening at Khayelitshab ...

Siswati:

... ngolokoke siyiMpumalanga sitsi siyawusekela lombiko lowetfuliwe namuhla ...

English:

... recommendations my be taken.

Ms G G OLIPHANT:

*** Language spoken has changed to Setswana ***

The DEPUTY CHAIRPERSON OF THE NCOP: Order hon members ... hon Oliphant, I don't want to repeat what I said earlier on. The timing of members of Parliament, timing a very strategic moment, very important moment, dealing petitions of our people and we behave in manner in which you, rising issues that are not relevant, to the petitions. This is the moment of us members of Parliament, to be looking at ourselves and say I we really serving our people. If they cry to us, not the department, not to a member of executive or what so ever, to us as public representatives, who have taken an oath or affirmation, but we behave like this instead of saying, what is it that our people that our people are struggling about. Can we respect petition please ...

[Interjection.]

Ms G G OLIPHANT: Chair, you in DA, there is a story that says, you put the black face upfront. You are our black face upfront, while whites come at the back, but more in the issue of Khayelitsha, petitioners were crying when they gave out their statement, so I am appealing to

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this House at Northern Cape, take Khayelitsha District Hospital very serious because ...

*** Language spoken has changed to Setswana ***

Sesotho:

Mof K PHUKUNTSE (FREISTATA): Motlatsa Modulasetulo, re a leboha re le profense ya Foreistata. Re batla hore ho Ntlo e kgabane, ka nnete maitshwaro a etsuwang ke Mmuso wa Profense ya Kapa Bophirima bakeng sa baahi ba Afrika Borwa le baahi ba Kapa Bophirima ka ho qollwa, ha se maemo a matle. Re bua sena hobane matsatsing a mmalwa a fetileng re ne re keteka ditokelo tsa botho. Hona ho hlakisa ntho e le nngwe ya hore, ka hara Kapa Bophirima, ha ho na motho ya nang le ditokelo ha a le e motsho, empa ditokelo ke tsa bana ba nang le mmala o mosweu.

Ntho eo re e buwang ke hore: Re batla ho nka taba ena ya Khayelitsha re e kopanye le dipolao tse kileng tsa etsahala mane Langa; hore ka nnete ditshebeletso tsa Kapa Bophirima di tla dula di fuwa bana ba fellang ka hara seatla sa ka; ebile, ntho eo re tlamehileng re e buwe ho baahi ba Afrika Borwa ke hore re sebetsa ka ditletlebo kapa dikopo tsa setjhaba - tshebeletso e buwang ka maphelo a baahi ba rona, e leng batho ba re beileng ditulong kajeno.

Ho a bontsha hore ka hara Kapa Bophirima, le ba emetseng DA ka hara Ntlo ena e kgabane, ba khathalla fela divoutu tsa batho bana; ha ba ba hlomphe, ebile ha ba hlomphe le tokomane ena eo ho buuwang ka yona hona jwale. [Mahofi.] Ntho eo ba nang le kgahleho ho yona e nngwe fela: Ke divoutu tsa bona! Re batla hore ho baahi ba Langa, Khayelitsha le bohle ba Afrika Borwa ba se ke be ba lebala moo ANC e ba ntshitseng teng.

Re eme mona le bona bana ba keneng ka hare e le bo mmme; ba ne ba se na ditokelo. Ke bua jwalo hobane le yona kgwedi ena e behetswe ka thoko ka hore ...

English:

... it is an international month for women.

Sesotho:

Bomme ba ne ba se na ditokelo ka hara matlo a masweu; ba ne ba behellwa ka thoko. Re batla hore ho bona: Ba se ke ba fela pelo hobane ka tlasa puso e etelletseng pele ke ANC ka hara Palamente, re tlo etsa bonnete ba hore Lefapha Bophelo la naha le tlo nka maemo, le a nkele hlooko.

[Puo hanong.] Mme hape nnete e a baba; le ho ingwaya e lokgwekgwe.

Batla dula ba entse lerata leo fela jwalo hobane ha ho na ntho eo ba ka fanang ka yona: Ha bana lenaneo la tshebetso; ntho eo ba e tsebang ke ho bua ka ANC ...

English:

... because there is nothing that they can offer to South Africans.

Sesotho:

Enwa o etswa ke hobane ke ngwana, o sa ntsane a tletse lebese ka mpeng.
Ke a leboha. [Mahofi.]

The DEPUTY CHAIRPERSON OF THE NCOP: Thank you very, hon members, that was the last Province. Hon Khawula, on what Province on which Province are you rising?

Mr M KHAWULA: Chairperson, point of privilege.

The DEPUTY CHAIRPERSON OF THE NCOP: Hon member, that one I don't need Hansard, ho members order, order, order ...I don't need Hansard on that. Can you just stand up and withdraw the statement of referring to a member as a puppet.

Mr W F FABER: Chairperson, I withdraw that I said a member of this House is a puppet.

The DEPUTY CHAIRPERSON OF THE NCOP: Thank you very, hon Khawula on what point were you rising.

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Mr M KHAWULA: Thanks Chairperson, point of privilege, ever since we started this morning, it's been very hot, can we have some air conditioner switched on.

The DEPUTY CHAIRPERSON OF THE NCOP: Point noted, the need for our air conditioner.

VOTING:

Question put: That the Report be adopted.

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

AGAINST: Western Cape.

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

Mr C HATTINGH: Point of order, you have now repeatedly, addressed members and the House on the use of the word "same on you", now since then this member ... [Interjection.]

The DEPUTY CHAIRPERSON OF THE NCOP: Hon members, order.

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Mr C HATTINGH: This member not only disregarded ... when you were addressed there directly, she repeated it afterwards and now again. My I remind you that ... [Interjection].

The DEPUTY CHAIRPERSON OF THE NCOP: Are you allowing me to make a ruling?

Mr C HATTINGH: Can I just complete before you do that? I am still on my feet. You addressed hon Michalakakis and forced him to withdraw, when he refused to, you chase him out. You didn't do this with the same member, please apply the same rules to every member.

The DEPUTY CHAIRPERSON OF THE NCOP: Hon ...no, I will assist you and I will assist the table staff, because I will constantly say, I will never allow a situation where in which I go to be pushed a sitting of a House into an election rule workshop. I am not going to allow that ... by so doing, I am saying, I know that with reference to a member of the House, like shame on you an hon member ... there is constancy in so far as our rulings are concerned. Now, if it is reference to a party ... we recognise the fact that this is a political environment but ... hon members, therefore, my ruling is as follows: the order is not carried. Hon members, can we continue.

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**CONSIDERATION OF REPORT OF SELECT COMMITTEE ON PETITIONS AND EXECUTIVE
UNDERTAKINGS - HEARING OF THE ELDER CARE LEAVE PETITION HELD ON 10
OCTOBER 2018 AT PARLIAMENT, AS ADOPTED ON 13 FEBRUARY 2019**

Mr D L XIMBI: Chairperson, the Select Committee on Petitions and Executive Undertakings, having considered the Elder Care Leave Petition, received by the office of the Chairperson of the National Council of Provinces on 6 November 2017 and subsequently referred to the committee on 7 November 2017, reports as follows: The Elder Care Leave Petition, dated 30 July 2018, is submitted to the NCOP by Mr Hendri Petrus Terblanche. In the petition, Mr Terblanche requests the intervention of the NCOP in amending the Basic Conditions of Employment Act 75 of 1997, to include or provide for elder care leave.

On 10 October 2018, the committee held a hearing on the petition at Parliament. The purpose of the hearing was to afford the petitioner and other relevant stakeholders the opportunity to make first hand oral submissions on the subject matter of petitions. Following extensive deliberations on the submissions made during the hearings on the petition, the committee recommends as follows: The subject matter of the petition is to be referred to the Portfolio Committee on Labour for its exhaustive consideration and ultimate resolution

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Further, in its consideration of the subject matter of the petition, the Portfolio Committee on Labour is to take into consideration the international best practice on the provision of Elder Care Leaves, including the approach taken by developing countries like South Africa. I hereby present this report for your consideration. Thank you.

Debate concluded.

Question put: That the Report be agreed to.

There were no declarations of vote.

Voting.

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

Report accordingly adopted in accordance of section 65 of the Constitution

CONSIDERATION OF REPORT OF SELECT COMMITTEE ON PETITIONS AND EXECUTIVE UNDERTAKINGS – HEARING OF THE CAKWEBE PETITION HELD ON 3 AUGUST 2018 AT PREMIER HOTEL REGENT, EAST LONDON AS ADOPTED ON 13 FEBRUARY 2019

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Mr D L XIMBI: Chairperson, the Select Committee on Petitions and Executive Undertakings, having considered the Cakwebe Petition, received by the office of the Chairperson of the National Council of Provinces on 6 November 2017 and subsequently referred to the committee on 7 November 2017, reports as follows: The Cakwebe Petition was submitted to the Chairperson of the National Council of Provinces, on behalf of the Eastern Cape Black Fishers Association, by the chairperson of the association and the secretary of the association, Mr Mzamo Cakwebe.

On 3 August 2018, the committee held a hearing on the petition at Premier Hotel Regent, East London. The purpose of the hearing was to afford the petitioner as well as other relevant stakeholders the opportunity to make oral submissions to the committee on the subject matter of the petition submitted to the NCOP.

Following extensive deliberations on the submissions made during the hearings on the petition, the committee recommends as follows: Department of Agriculture, Forestry and Fisheries, the DTI and Department of Labour are to establish an interdepartmental task team aimed at investigating and ultimately addressing the issues raised in the petition, including but not limited to the issues of the working conditions of chokka or squid fishers; the allocation of fishing rights

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to black fishers in the squid industry; the amount that fishers get paid per tank of chokka or squid caught; and the amount that fishing companies get per tank of chokka or squid exported.

Department of Agriculture, Forestry and Fisheries, Department of Labour, the DTI and Department of Transport are to appear before the committee within six months of the tabling of this report in the House and report to the committee on the progress made in implementing recommendations, except 5,1 to 5,5 above. [Interjections.] I put this report to be considered. Thank you

The DEPUTY CHAIRPERSON OF THE NCOP: Thank you very much. That concludes the debate.

Mr F ESSACK: Chairperson, sorry that you were preoccupied while I was standing with my hand up trying to get your attention. [Interjections.]

The DEPUTY CHAIRPERSON OF THE NCOP: You should have sought my attention.

Mr F ESSACK: Yes, but you were otherwise occupied and I respect it when you are occupied - always.

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The DEPUTY CHAIRPERSON OF THE NCOP: Can I hear on what point you stood up?

Mr F ESSACK: Chairperson, maybe you did not understand or couldn't hear the entire declaration of hon Ximbi. So through you perhaps you can just get in to quantify: If he is talking about fishes and fishing; then he refers fishing men. [Laughter.] Now, we are just trying to grasp: Were you referring to fishes, fishers or fishermen because like the previous declaration, he talks five times about the subject matter and then he talks again about the subject matter and the subject matter. Can he just quantify because really I don't understand fishes, fishing and fishermen. [Interjections.] What was it all about? That is why I need clarity.

The DEPUTY CHAIRPERSON OF THE NCOP: Hon members, the hon member presented a petition. If there was anything that the member did not understand, you should have raised it whilst the member was on the podium. The minute he had to explain whether he meant fishes, fisheries and fishermen or women for that matter. Then it is all as saying represent the petition, which we cannot do.

Debate concluded.

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Question put: That the Report be adopted.

Voting:

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

Report accordingly adopted in accordance of section 65 of the Constitution

CONSIDERATION OF REPORT OF SELECT COMMITTEE ON APPROPRIATIONS - EASTERN CAPE PROVINCE'S EARLY CHILDHOOD DEVELOPMENT GRANT PROGRESS REPORT AND EXPENDITURE AS AT THE THIRD QUARTER OF 2018/19 FINANCIAL YEAR.

Mr D M MONAKEDI: Hon Deputy Chairperson, hon members and fellow South Africans, it is my honour and privilege to make few remarks as I table before this House the report on the Eastern Cape Early Childhood Development Grant Expenditure on behalf of the Select Committee on Appropriations.

Having conducted hearings on 16th May and 15th August 2018, on the Early Childhood Development Grant Expenditure by the Eastern Cape Department of Social Development, the committee had a follow-up

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engagement with the province on 13th February 2019 which main focus was to assess the progress report and expenditure for the third quarter of 2018-2019 financial year.

Having considered submissions made by the national Department of Social Development, the Eastern Cape provincial Department of Social Development and the National Treasury, the committee observed and noted the following: even though the allocation of the maintenance components is expected to increase each year, the committee noted the reduction of the maintenance components of the grant from R12 million to R3,3 million for the financial year 2018-2019.

The committee welcomed the approval of the National Integrated Early Childhood Development Policy in 2015 by the Cabinet to broaden access to the service, especially for the less privileged children. This is an indication that we are a caring government indeed.

The committee was concerned with the poor expenditure trends for the period under review which were significantly below the 25% expenditure benchmark as in the expenditure of 0% for the maintenance components that suddenly increase to 30% at the end of the third quarter.

The expenditure of 23% for the subsidy component in the second quarter has suddenly increased to 66% at the end of the third quarter, the expenditure of 22% for administration at the end of the third quarter.

The committee also observed the following challenges which contributed to the delays in the grant expenditure, late signing of service level agreements between provincial department and ECD centres, delays in the supply chain management processes for the appointment of contractors, because some projects were experiencing delays due to lack of connections for services such as water and sanitations, noncompliance with the conditional grant framework on the implementation of 264 days.

The committee raised concerns about the R22, 6 million in the ECD grant funds which was rendered by the province after a rollover of R6,3 million was approved. The committee observed the slow progress in the maintenance components of the grant in which 26 projects were set for completion by 31 March 2019 and only nine of these were completed by February 2019.

The committee was concerned about the visibility of completing all remaining projects within one month and whether this was not going to amount to fiscal dumping.

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The committee noted the support provided by the national department which continues to monitor the implementation of the project and the resultant improvement in performance from 0% to the projected 61% after the intervention by the national department.

The committee made the following recommendations: given the year on year increase of the maintenance components allocations, the committee recommends that the increase should be properly managed and be aligned to a realistic annual performance targets which are clearly defined, achievable and time bound. The Eastern Cape Provincial Legislature and the NCOP should monitor progress in this regard.

The National and Provincial Departments of Social Development should ensure the implementation of the National Integrated early Childhood Development Policy and the provincial legislature and NCOP should monitor progress.

The National Department of Social Development together with the provincial department should develop an exit strategy for a smooth hand over of the provincial departments once the intervention comes to an end, so that the provincial department can continue to maintain the same level of improvements.

The national department and provincial department should ensure the improvement grant expenditure and performance on quarterly basis in order to avoid fiscal dumping or surrendering of funds at the end of the financial year.

The national department together with the provincial department should ensure the following challenges are resolved: delays in signing service level agreements with the centres, delays in the supply chain management processes that delay the appointment of contractors, project s delays due to lack of connections for services such water and sanitations.

The national department together with its counter part in the province should ensure that completion of the 8th outstanding maintenance projects without incurring fiscal dumping or wasteful and fruitless expenditure.

Even though the national Department of Social Development is monitoring the intervention and supporting it, the provincial legislature and the NCOP should follow-up on this matter until there is 100% expenditure with the total achievement of planned targets. I tabled this report for consideration by this House. I thank you.

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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 of section 65 of the Constitution

The DEPUTY CHAIRPERSON OF THE NCOP: Hon members I have been receiving a lot of nukes and of course I concurred with the Chair that we take a break and come back after 45 minutes.

DIVISION OF REVENUE BILL

(Consideration of Bill and the Report thereon)

Mr C J DE BEER: [Hon Chairperson and hon members, we welcome the appointment of the new SA Revenue Service, Sars, commissioner, Mr Edward Kieswetter and wish him well in his ... rebuilding Sars. The Minister of Finance, Mr Tito Mboweni, tabled the 2019 annual national Budget including the Division of Revenue Bill in the National Assembly on 20 February 2019. The purpose of the Bill is to] (*Audio interrupted; preceding paragraph transcribed from member's speech notes.*)

... provide for;

The share for each sphere of government of the revenue raised for the relevant financial year;

Each province's share of the provincial share of that revenue; and

Any other allocations to the provinces, local government or municipalities from the national government's share of that revenue, and any conditions on which those allocations are or must be made.

The conditions are very important. The 2019 Budget has been reprioritise in response to the weaker than expected economic and fiscal environment. In order to remain within the revised expenditure ceiling, the government's policy priorities for the 2019 Medium-Term Expenditure Framework, MTEF, period that are funded through reprioritisation in the division of revenue includes the following:

Improving the implementation of the upgrading of informal settlements by ring-fencing funds within conditional grants;

Eradicating pit latrines in schools; and supporting the roll-out of free sanitary products to learners from low-income households. It is

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important to note that 68% of the Budget is allocated to social commitments. The division of revenue is distributive and developmental. The reprioritisations complement baselines that provide R1,97 trillion to provinces over the MTEF period and R414,7 billion to local government in transfers. These transfers will fund basic education, health, social development, roads, housing and municipal services. The Bill was the outcome of an extensive consultative process between the three spheres of government which culminated in the tabling, for consideration and adoption, of the Division of Revenue Bill. Over the MTEF period, after budgeting for debt-service costs - which are high - the contingency reserve and provisional allocations, 49,9% of the nationally-raised funds are allocated to national government, 43% to provinces and 9,1% to local government. All the allocations are captured in the report that was in the Announcements, Tablings and Committee Reports, ATC. The Select Committee on Appropriations jointly with the Standing Committee on Appropriations received its briefing from the National Treasury on 8 March 2019, held public hearings on 9 March and went to provinces on 14 and 15 March to brief each provincial legislator on the Division of Revenue Bill and public hearings were held in the nine provinces.

On 20 March, the negotiating mandates were tabled by provinces where eight provinces voted in favour of the Bill and the Western Cape did

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not support the Bill but provided reasons. On 27 March the final mandates were submitted to the committee by the nine provinces. We received Limpopo's final mandate this morning, and I am tabling it now that is official. Eight provinces voted in favour in the final mandate, the Western Cape voted against. I will go immediately to the recommendations ... [Inaudible.] The Select Committee on Appropriations, having considered the 2019 Division of Revenue Bill recommends as follows: - you will hear "monitoring" and "evaluation" consistently - In order to ensure that the new and additional provincial conditional grants are utilised and monitored according to the conditions of the Bill -

The Minister of Finance, the provincial treasuries - and that includes MECs - the Minister of Health and provincial health departments should ensure that measures, including proper monitoring and evaluation systems, are put in place to ensure that the new R2,8 billion for the human resources capacitation grant is utilised as required by the framework conditions to fill critical posts in health facilities. Why? Because there was an outcry for this ... This monitoring should include the new components which are added to the comprehensive HIV, Aids and TB grant. The National Council of Provinces, NCOP, will monitor progress on a regular basis. What does it mean? On a quarterly basis and that will be in the Sixth Parliament for the next five years;

The Minister of Finance and the Minister of Basic Education should ensure that measures, including monitoring and evaluation systems, are put in place to effectively spend the additional R2,8 billion for the school infrastructure backlogs grant to provide for safe and appropriate sanitation at schools as required by the conditions in the framework, do we hear the words "required by the conditions in the framework" consistently. This monitoring should include the R200,3 million ring-fenced for the rehabilitation of schools in KwaZulu-Natal;

The Minister of Finance, the Minister of Agriculture, Forestry and Fisheries should ensure that the provincial departments of agriculture and those MECs and the Land Bank put measures, including proper monitoring and evaluation systems, in place, to ensure that the funds reprioritised from the comprehensive agricultural support programme grant, which will be used for the implementation - listen here - of a new blended finance mechanism to extend more affordable credit to black farmers, are effectively spent as required by the framework;

The Minister of Finance and the Minister of Human Settlements should ensure that measures and proper monitoring and evaluation systems are put in place for the ring-fenced R2,5 billion for the human settlements development grant to be effectively used as required by the conditions;

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The Minister and the Minister of Human Settlements should ensure that the National Housing Finance Corporation develops a realistic implementation and monitoring plan for the Finance Linked Individual Subsidy Programme to increase the qualifying beneficiary uptake, and this should be monitored quarterly.

With regard to the new additional conditions to the local government sphere -

The Minister of Finance and the Minister of Co-operative Governance and Traditional Affairs should ensure that a new integrated urban development grant is administered and implemented as required as required by the framework conditions without compromising service delivery;

The Minister of Finance and the Minister of Transport should ensure that the R2,8 billion which is added to the public transport grant for the City of Cape Town's new phase of the MyCiti public transport network is administered and implemented as required by the framework conditions without compromising service delivery;

The Minister of Finance and the Minister of Co-operative Governance and Traditional Affairs and provincial treasuries - including those MECs -

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should ensure that provincial departments of the Department of Co-operative Governance and Traditional Affairs have the requisite capacity to support and monitor municipalities. This will reduce the prevalent instances of underspending and poor performance of conditional grants.

With regard to local government in general -

The committee further emphasises the need for municipalities to improve their revenue management mechanisms, billing and debt collection systems, and to ensure that their budgets are aligned to their Integrated Development Plans, IDP;

The Minister of Co-operative Governance and Traditional Affairs, in consultation with the SA Local Government Association, Salga, and National Treasury, should investigate whether there is still a need for the existence of district municipalities, given their heavy reliance on conditional grants and their lack of capacity to effectively support local municipalities. The Department of Co-operative Governance and Traditional Affairs should finalise its study on where there is a need for two tiers of municipalities. [Time expired.] Hon Chair, I table this report. The committee supports and voted in favour of the division

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of revenue, eight provinces voted in favour and the Western Cape voted against. Thank you, Chair.

Debate concluded.

Declarations of Vote:

Mr D GEORGE (Western Cape): Hon House Chairperson, hon members and fellow South Africans, we are budgeting in a time of austerity and severe state capture; state capture which was brought to us by an ANC government.

The Division of Revenue Bill makes this abundantly clear. The Auditor-General's 2018 report shows that irregular expenditure arising from the abuse of procurement of management policies rose to R58 billion while provincial health and education departments have growing deficits amounting to R8 billion. Ask yourself; is this a government you should trust with the people of South Africa's money?

We are very concerned that the Child Support Grant of R425,00 is below the value of the extreme poverty line of R547,00 per person per month. The ANC leaves people with children in poverty. The DA will lift them out of it. [Interjections.]

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The Medium-Term Budget Policy Statement phased out the Title Deeds Restoration Grant, even though there is still a backlog in the issuing of title deeds to beneficiaries of Reconstruction and Development Programme, RDP, houses. To balance the books, the Minister of Finance has decided to further reduce the Human Settlements Development Grant, which is a national competency, by another R3 billion over the ...

[Inuadible.]

The HOUSE CHAIRPERSON (Mr A J Nyambi): Order members!

Mr D GEORGE (Western Cape): At approximately R80 000 for an RDP house, that means 158 000 planned RDP houses will not get built. At an average of five people per family, that means 790 000 South Africans who hoped to get an RDP house at last will again be bitterly disappointed by this ANC-led government. The ANC has failed. The evidence is everywhere, in every department, in every municipality and in every province that is run by the ANC.

The DA has a plan to fix South Africa, just as we have fixed the Western Cape province ... [Interjections.] ... and the municipalities that we currently govern. We plan to fix the whole of South Africa for all South Africans. Therefore, the Western Cape cannot support this Bill. Thank you. [Applause.] [Interjections.]

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An HON MEMBER: Shame on you, ANC!

[Interjections.]

Ms G G OLIPHANT (Northern Cape): Can you protect me, Chair?

The HOUSE CHAIRPERSON (Mr A J Nyambi): Order hon members! You are protected, hon Oliphant.

Ms G G OLIPHANT (Northern Cape): Chair, the Division of Revenue Bill is a Bill that changes lives and I don't know why the DA is always against that. We all get salaries and don't return the salaries. The Division of Revenue for 2019 is propoor and developmental. Sixty-eight per cent of the budget is allocated to social commitments. R1,2 trillion goes to learning and culture and R7,17 billion for the National Health Insurance, NHI, and health as a whole. [Interjections.] The Northern Cape is allocated an equitable share of R4483 billion.

Afrikaans:

Niemand praat nie. Ek praat nou van my provinsie. [Gelag.] Jy moet stil bly daar agter.

'n AGB LID: Awe!

English:

In conditional grants, for the total of R17,907 billion, the local government's equitable share for the Northern Cape totals R1,840628 billion.

An HON MEMBER: And still the hospital is not finished.

Ms G G OLIPHANT (Northern Cape): The local government conditional grant allocation totals R1,703 billion. [Interjections.] The grant allocation for the regional bank infrastructure totals R189,141 million over the Medium-Term Expenditure Framework, MTEF, period.

The Northern Cape is grateful ... [Interjections.]

Afrikaans:

Bly stil man! [Gelag.]

English:

The Northern Cape is grateful and thanks national government for the allocated money, seeing that the Northern Cape's own revenue is only around R340 million per annum. The Northern Cape supports the Division of Revenue Bill for 2019. I thank you, Chair. [Applause.]

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Ms S SHAHIDABIBI (Limpopo): Hon House Chairperson, members of the NCOP, special delegates ...

The HOUSE CHAIRPERSON (Mr A J Nyambi): Order members!

Ms S SHAHIDABIBI (Limpopo): ... as Limpopo we agree with the thrust of this Bill. Over the five-year term we have consistently engaged National Treasury to revise the equitable share formula in order to accommodate the urban-rural divide and to address poverty. Indeed, as we speak the equitable share formula accommodates this and also allocates a higher per capita per household amount to rural municipalities.

The equitable share allocation to Limpopo grows by 6,9% in the 2019-20 financial year. However, it shows a decline in the outer years and this is largely due to the continued net outward migration of the Limpopo population. Despite this, the province has been able to improve and change the face of the economy. Economic growth in Limpopo has been consistent over the ... [Inaudible.]

The HOUSE CHAIRPERSON (Mr A J Nyambi): Hon members, it's her maiden speech. You can't be doing what you are doing. It's out of order. You are protected, hon member.

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Ms S SHAHIDABIBI (Limpopo): Economic growth in Limpopo has been consistent over the past ... [Inaudible.] ... years and the province's performance has in fact exceeded national growth. The province recorded growth of 1,8% in 2017 and is expected to continue to perform even better. These improvements in Limpopo's gross domestic product, GDP, are largely driven by mining and agriculture.

Through the equitable share, Limpopo has also been able to drive the economy through various other programmes. Amongst this is the Musina-Makhado special economic zone, SEZ, as well as initiatives to speed up the designation of the Tubatse SEZ. These SEZs will ensure increased investments and jobs, and improve the lives of the people of Limpopo in general and then the Sekhukhune district in particular.

Through this Bill we see even greater contributions from agriculture to economic growth in Limpopo. The funding from the Comprehensive Agriculture Support Programme grant has been reprioritised to subsidise Land Bank loans to emerging commercial farmers so that they can enter the loan market at a cheaper rate and expand production. This will surely create jobs and contribute to food security.

Furthermore, the allocation for the upgrading of Moloto Road, the R37 that connects the rest of the province to Burgersfort where platinum is

being mined, will surely ensure job creation as well in the province. [Interjections.] We appeal to national government to prioritise this ... [Inaudible.] [Interjections.] As Limpopo we support this Bill. [Applause.]

Mr T C MOTLASHUPING (North West): Hon Chair and hon members of this House, since 1994 the democratic government faced a series of challenges, including spatial, economic and social transformation, economic growth and economic inclusion in order to move South Africa forward.

At the core are interventions aimed at addressing poverty and inequality, as well as the overall adverse legacy of apartheid. It was the apartheid system that had created pit latrines that people are lamenting about. It is this people's budget that tries to address the legacy that was intentionally created by people to deny other people and other races a chance to live like human beings with dignity. The ANC government is bringing back the dignity of people to where it should be. [Interjections.]

On the issue of housing, it is the ANC, through its RDP, that has brought houses to the people. [Interjections.] It is the ANC government. People of South Africa must know; pensioners must also know

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that when we talk about the increase of their pension fund, which is equal in South Africa for now, that it is the DA that doesn't want their money to be increased. It is the DA that says ... [Applause.] ... children must not receive equal education in South Africa and there should not be any free education. Again, it is the DA that is refusing to accept this people's budget.

The HOUSE CHAIRPERSON (Mr A J Nyambi): Sorry, hon Motlashuping. Let me take hon Essack. Hon Essack, why are you standing?

Mr F ESSACK: Obviously you would understand hon Chairperson. With due respect, the member from the North West province who is doing his declaration now is misleading South Africans and speaking absolute, absolute incorrect ... [Inaudible.]

The HOUSE CHAIRPERSON (Mr A J Nyambi): Hon Essack! Hon Essack! Hon Essack!

Mr F ESSACK: In fact, they are blatant lies because the DA does not say what he says. He is playing politics and it isn't going to work.

The HOUSE CHAIRPERSON (Mr A J Nyambi): Hon Essack, you can't debate with the person doing a declaration. You can't do that.

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[Interjections.] Can you take your seat? That is not a point of order.
Hon Faber?

Mr W F FABER: Chairperson, on a point of clarity: I would like to ask
the speaker ... [Inaudible.]

The HOUSE CHAIRPERSON (Mr A J Nyambi): No, no, no, you can't ...
There's no clarity. Take your seat.

Mr W F FABER: I want to seek clarity. The free education ...

The HOUSE CHAIRPERSON (Mr A J Nyambi): Hon Faber, can you take your
seat?

Mr W F FABER: Is he speaking about hon Supra's son's free education?

The HOUSE CHAIRPERSON (Mr A J Nyambi): Hon Faber, take your seat.
Continue hon Motlashuping and conclude.

Mr T C MOTLASHUPING (North West): Again, it is the ANC that is
providing learners from a very early stage ... providing meals to the
underprivileged, subsidising households that are not able to afford to

pay for electricity and water. That is given by the ANC for free to South Africans who are poor. [Applause.]

The DA is rejecting, and it must be put into context that they are rejecting the Division of Revenue. And when you reject the Division of Revenue you are saying whatever is proposed in the Division of Revenue should not be provided. We should not provide for pensioners; we should not provide for learners; we should not provide for early childhood development, ECDs; we should not build schools; we should not build clinics; we should not build hospitals. The ANC government says, let's continue to ... [Inaudible.] Let's continue.

Mr F ESSACK: Chairperson, on a point of order. Chairperson, a point of order! You know ...

The HOUSE CHAIRPERSON (Mr A J Nyambi): Hon Essack, I've warned you to refrain from what you are doing.

Mr F ESSACK: Hon Chairperson ...

The HOUSE CHAIRPERSON (Mr A J Nyambi): Take your seat! You are not recognised.

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Mr F ESSACK: But it's a point of order Chairperson. The speaker is misleading South Africans and you're allowing him to blatantly lie. The Division of Revenue Bill is not ... [Inaudible.] ... towards the poor. He knows that; I know that. [Interjections.]

The HOUSE CHAIRPERSON (Mr A J Nyambi): You are not recognised, hon Essack. Free State?

Mr T C MOTLASHUPING (North West): {Inaudible.}

The HOUSE CHAIRPERSON (Mr A J Nyambi): No, your time has expired, hon ...

Mr T C MOTLASHUPING (North West): I wanted to continue.

The HOUSE CHAIRPERSON (Mr A J Nyambi): Ja, no. [Laughter.] [Interjections.] Free State?

Ms K PHUKUNTSI (Free State): Chair, as the Free State we support this Division of Revenue precisely because it addresses the triple challenge of unemployment, inequality and poverty that all spheres and arms of government are facing, including the Western Cape. Maybe the wisdom that we need to share with members of the DA is that as and when we

appropriate the budget, we don't only appropriate for eight provinces but we also include the Western Cape. And, as and when they reject, they are also saying that the Western Cape must not be in a position to further develop whatever that they are doing. However, I'm not there; I'm here.

They are speaking about ... [Interjections.] ... the Child Support Grant. Maybe we need to go down memory lane with regard to the Child Support Grant and say that in the past the Child Support Grant was only ...

The HOUSE CHAIRPERSON (Mr A J Nyambi): Sorry, hon member. Hon Smit, why are you standing?

Mr C F B SMIT: Hon House Chair, the hon member next to the speaker has just told me to shut up. [Laughter.]

The HOUSE CHAIRPERSON (Mr A J Nyambi): Hon members! Hon members, let me appeal to all of you to refrain from anything that will compromise the decorum of the House. We are dealing with something very important. Let's allow the Free State to do the declaration. [Interjections.]

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Ms K PHUKUNTSI (Free State): Chair, as I continue; the Child Support Grant was only given to a few in the country and it was given to kids of white people. When their daughters and sons gave birth to these children, they would say they were orphans and they would be taken from their families, and the government of that day actually supported them. When we come to the grant for the elderly, it was 150 quarterly for our elderly. Today everybody gets that, equally so. [Interjections.] [Applause.]

Let me also speak about the informal human settlements in the country. The problem that we are sitting with is because our people are evicted illegally from farms by white farmers, they are dumped in our local municipalities and these municipalities are expected to render services to those people who have actually been evicted illegally. This is a violation of their human rights.

We are also saying that, in terms of the title deeds grant, we are supporting that as the Free State because it is going to actually address the imbalances, because our people never had any title deeds. The dignity of a black person; of Africans is actually being restored and that's what they have a problem with.

Let me also raise this thing. Every day and every evening we are told that the governance of the Western Cape is so good. In the two past consecutive years they were unable to deliver a water quality report. I don't know what good governance is that. Now this is very, very bad for the people of South Africa and the people of the Western Cape because the very same water that is actually from sanitation goes into the sea.

Let me speak about electricity. They forget that the only people that benefitted from having electricity in the past ... Our people used fire wood to cook and do everything. When it comes to water, our people never had any water. It is only the ANC that said, all of us are equal. All of us will have water; water in our yard and clean running water ... [Inaudible.]

The HOUSE CHAIRPERSON (Mr A J Nyambi): As you conclude, thank you.

Ms K PHUKUNTSI (Free State): Sir, as I conclude, as the Free State we actually support ... [Inaudible.] ... people of South Africa must not be fooled by the wolves that are in the cow ... sheepskins. [Applause.] [Interjections.]

Question put: That the Bill be agreed to.

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

AGAINST: Western Cape.

Bill accordingly agreed to in accordance with section 65 of the Constitution.

CARBON TAX BILL

(Consideration of Bill and of Report thereon)

Mr C J DE BEER: Hon Chairperson, hon Deputy Minister of Finance Gungubele and hon members, welcome. Carbon Tax will play a role in achieving the objectives set out in the National Climate Change Response Policy of 2011 and contribute towards meeting South Africa's commitments to reduce greenhouse gas emissions. Reducing the impacts of climate change through facilitating a viable and fair transition to a low-carbon economy is essential to ensure an environmentally sustainable economic growth path for South Africa.

The Bill gives effect to the polluter-pays principle, prices greenhouse gas emissions and aims to ensure that businesses and households take

these costs into account in their production, consumption and investment decisions. The tax will assist in reducing emissions and ensuring South Africa meets its commitments under the 2015 Paris Climate Agreement. It will be reviewed after three years. The SA Revenue Service, Sars, and the National Department of Environmental Affairs will jointly administer the tax. The Carbon Tax Bill includes the detailed and revised carbon tax design features as per the Carbon Tax Policy Paper of 2013 and the Carbon Offsets Paper of 2014 and takes into account public comments received following extensive stakeholder consultation since 2011. The Carbon Tax Bill provides for the introduction of the carbon tax in a phased manner.

The gradual approach takes cognisance of the developmental challenges facing South Africa and South Africa's Nationally Determined Contribution commitments made under the Paris Agreement to reduce greenhouse gas emissions. This will also help encourage investments in and uptake of more energy efficient and low carbon technologies.

The Select Committee on finance received its briefing on 6 March and held public hearings on 12 March 2019. The submissions on the Bill which we received came from 14 stakeholders. During the public hearings, the National Treasury and Sars responded to the issues raised by the stakeholders.

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The amendments made to the Bill take into account comments of stakeholders, namely, section 6, section 17 and schedule 2 referring to transport, domestic aviation and waste incineration.

The implementation date of the carbon tax has been changed from 1 January 2019 to 1 June 2019. To ensure an effective carbon tax policy, a review of the impact of the tax will have to be conducted after as I said three years of implementation of the tax and will have to take into account the progress made to reduce these gas emissions.

The Select Committee on Finance, having considered the Carbon Tax Bill [B 46Bf2018] (National Assembly – section 77), referred to it, and classified by the JTM as a section 77 Bill, reports that it has agreed to the Bill without amendments. The DA reserved their position on the Bill. I table this report for consideration by the House. Thank you, Chair.

Debate concluded.

Declarations of vote:

Mr F ESSACK: Hon Chairperson and fellow South Africans, the DA accept the reality of greenhouse gas emissions, climate change and of course the associated consequences thereof. As the DA, we have consistently

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held the view that there should be no increases in taxation and that instead, there should be decreases in taxation in order of course to stimulate the economy for those that you can then comprehend.

This Carbon Tax Bill does not consider the country's state of economic development as well as its global contribution to greenhouse emissions. Eskom's coal-fired power stations remain the single biggest carbon emitter and while they will largely be exempted from this tax, Eskom cannot even in the medium term afford any additional costs whatsoever.

We believe the first period until 2022 should then be considered a trial, not only to adjust risen tax-free thresholds, but to re-evaluate the need for the carbon tax in South Africa's carbon reduction strategy.

We remain very concerned indeed that the revenue from carbon tax will also not necessarily be channelled back for specific environmental use. Who knows colleagues? Who knows? Perhaps it will also be used to bailout Eskom again, ANC's style. It should be noted that the corporations and businesses are opposed to the Carbon Tax Bill because of the negative impact it will have on how businesses operate and their abilities to create jobs. This Bill does not allow for companies to

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achieve 100% tax free status. The DA therefore does not support the Bill. I thank you, Chair.

Mr E MAKUE: Hon Chairperson, we in the ANC who are governing this country knows all too well that climate change is inextricably linked to almost all facets of our society particularly socioeconomic progression as resources such as water, fish stock in a form of food, fiber, biodiversity, amongst others, determined the production potential of many sectors of the economy which in turn affect human development aspirations of the country because we take a responsibility for all people of this country.

The South African economy is dependent upon primary sectors such as agriculture particularly mineral extractives which are natural resources dependent and energy intensive with the energy generation being very important as it also subject us to the challenges of climate change.

The National Development Plan developed by this government which is a vision for the future, includes excess to affordable food, safe and reliable water supply also for people here in Western Cape where they don't have water. We are saying this approach of the NDP cannot only be based on an economic model or assumptions or infinite availability of

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these and other resources. This Carbon Tax Bill helps us as a ruling party, helps us as a country to deal with the challenges that we are confronting as South Africans committed to working together. The Carbon Tax Bill will assist in at least a cost effective manner in reducing carbon taxes and strong carbon emissions and ensuring that South Africa will meet the NDC commitments as part of our ratification of the Paris Agreement. The Paris Agreement emphasises common but differentiated responsibilities in the sky.

The President of South Africa, hon Cyril Ramaphosa, emphasised during the state of the nation address 2019, the impotence of dealing with climate change to protect the poor and vulnerable people of our society. Therefore, this Act is a way of the ANC and this government taking action to look at what we have committed to and also in our manifesto which is being sensitive to the plight of poor and vulnerable people of South Africa. The main aim of the Carbon Tax Bill is to put the price ... [Inaudible.] Thank you, Chair. [Time expired.]

Question put: That the Bill be agreed to.

Bill accordingly agreed to, in accordance with section 75 of the Constitution.

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CUSTOMS AND EXCISE AMENDMENT BILL

(Consideration of Bill and of Report thereon)

Mr C J DE BEER: Hon Chairperson, the proposed amendment to the Customs and Excise Bill inserts a new provision for the purpose of the administration and limitation of allowances in relation to the Carbon Tax Act. The provision facilitates the administering of those allowances and the limiting of allowances as rebates, refunds or drawbacks.

The proposed provision further requires that the taxpayer, as defined in the Carbon Tax Act, must license premises as may be prescribed by rule. The provision also regulates actions pertaining to submission and verification of accounts, collection and payment of the carbon tax. The proposed amendment also allows the commissioner to make rules in so far as it is necessary to regulate duties, powers and rights not regulated by the Carbon Tax Act in relation to the collection and payment of the carbon tax.

The National Council of Provinces referred this Bill to the Select Committee on Finance on 26 February 2019, the National Treasury briefed

the committee on 6 March 2019, and public hearings were held on 12 March 2019. Two stakeholders made written inputs on the Bill.

The Select Committee on Finance considered the Customs and Excise Amendment Bill, B3 of 2019 - National Assembly: section 75, classified by the joint tagging mechanism as a section-75 Bill - and reports that it has agreed to the Bill without amendments. The DA reserved its position on the Bill. Thank you, Chair.

Debate concluded.

Question put: That the Bill be agreed to.

Bill accordingly agreed to in accordance with section 75 of the Constitution.

PUBLIC INVESTMENT CORPORATION AMENDMENT BILL

(Consideration of Bill and of Report thereon)

Mr C J DE BEER: Hon Chairperson, the Public Investment Corporation, the PIC, is a key component of the financial services sector and as a financial services provider for the government of the Republic and

bodies, councils, funds or accounts established by law, plays an important role in the financial security of South Africa.

The Public Investment Corporation oversees over R2 trillion as an asset manager. The Public Investment Corporation Amendment Bill, which is a committee Bill, amends the Public Investment Corporation Act of 2004 in order to promote transparency and good governance within the PIC. The Bill also amends the Act to require the PIC to invest in accordance with the instructions of the depositors; and, in doing so, the PIC must seek investments that will meet certain guidelines.

The Bill further provides for greater transparency in operations of the PIC through the publication or tabling of various directives, regulations and reports.

The Bill seeks to provide greater transparency and better governance in the PIC as follows. The Minister must appoint 10 nonexecutive board members, including a representative of the National Treasury, two representatives from the largest depositor and one representative of any depositor whose assets under management by the PIC are at least 10%; and two representatives of the trade union whose members are the majority of the members in the Government Employees Pension Fund; and one representative from another trade union as decided by the Public

Service Co-ordinating Bargaining Council, based upon proportional representation.

The Minister of Finance must designate the Deputy Minister of Finance or, in consultation with Cabinet, any other Deputy Minister within the economic cluster to chair the PIC board. The board must include two executive members, one of which must be the CEO, or of a similar designation. All board members should have the necessary knowledge and expertise, including those representing the unions. The Minister must progressively comply with the appointment of board members according to these requirements, taking into account the rights of current members of the board.

[Inaudible.] ... the PIC must invest in projects that will benefit the beneficiaries of the depositors and act in accordance with the instructions of the depositors, and, in doing so, seek to invest according to certain guidelines. The PIC's investment policies must also consider these guidelines. The Minister must table a report annually to Parliament on all investments of deposits ... and request approval of any significant transactions in terms of the Public Finance Management Act and must table regulations on the PIC in Parliament.

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On 26 February 2019, the NCOP referred the Public Investment Corporation Amendment Bill to the Select Committee on Finance for consideration and report. The committee called for public submissions on the amending Bill, and, on 6 March, the committee received a briefing on the amending Bill by the chairperson of the Standing Committee on Finance, the hon Yunus Carrim. Public hearings on the Bill were held on 12 March, and eight written and oral submissions were tabled in the public hearing.

Hon Chairperson, His Excellency President Ramaphosa, during the state of the nation address, called upon us to restore the integrity of state institutions. As the Select Committee on Finance we have acted in synergy with this injunction. The PIC is a state-owned asset manager which oversees about R2 trillion mostly on behalf of government workers. This Bill is a transitional Bill. We look forward to the Bill the Minister of Finance will introduce in 2019. We want to congratulate the commission. Three experts serve on this commission, which is led by Judge Mpati. The commission is doing wonderful work and we appreciate this.

Lastly, the Minister and the PIC must report to Parliament in various ways. That is the balance. The chairperson of the PIC board must act in terms of the norms, values and principles of the PIC. Parliament must

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play its oversight role over the PIC including the Minister and Deputy Minister of Finance.

Yes, we must all fight corruption. We must take our measure of responsibility just in doing that. We cannot afford for the PIC to fail. The Select Committee on Finance, having considered the Public Investment Corporation Amendment Bill, B4 of 2019, reports that it has agreed to the Bill without amendments. The DA did not support the Bill. Thank you, Chair.

Debate concluded.

Declarations of vote:

Mr F ESSACK: ... [Inaudible.] ... strategic, but nevertheless. We welcome the EFF and the IFP to the House. Perhaps it would be good if your voters realised that you don't participate, but nevertheless ... [Interjections.]

Hon Chairperson and my fellow South Africans, allow me to point out that the members of the Government Employees Pension Fund, especially the pensioner members, are wise people. The pensioner members of the Government Employees Pension Fund have spent their working lives wisely saving up for their twilight years. If these are the wise people, my

dear colleagues, I must then ask you: Who then are the fools? The fools are the ones who want to use the money, wisely saved up by working and pensioner members, to gulp it down on wasteful projects, such as investments in AYO Technology Solutions, amongst other projects.

We welcome the ruling by the Companies and Intellectual Property Commission that the PIC must recover the R4,3 billion plus interest irregularly invested in AYO Technology Solutions. The offending clause in the Public Investment Corporation Amendment Bill states that the PIC must seek to invest in what on the surface would seem to be nice, heart-warming projects, such as those that create and protect jobs, and those that industrialise the economy, amongst other things. Yes, that is what it says.

The real danger of this clause is that it is an initial step towards the introduction of prescribed assets. That is an ANC position that was apparently slipped into the ANC 2019 election manifesto, for those of you who might not even know that. [Interjections.] The ANC manifesto states that the ANC will investigate the introduction of prescribed assets of financial institutions ... funds to unlock resources for investments in socioeconomic development.

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It is exactly this political pressure that has got the PIC into such trouble about the so-called developmental projects, such as investments in AYO Technology Solutions, that bring no returns and simply do not have the value of the massive amount of money that has been poured into them by the PIC.

Now listen to this, in conclusion, Chairperson, the latest indication of the real intention of the ANC is through the statement hidden in the 2019 Budget that states: "The PIC will consider swapping its Eskom loan debt for equity in Eskom." I mean, can you digest that, my fellow South Africans? The Minister of Finance had even written a letter to the Select Committee on Finance regarding the Bill, a letter that is being withheld from the members of this committee by my colleague the hon chairperson De Beer. Despite the DA's ... [Inaudible.] ... of the PIC Amendment Bill, the DA will not support the Bill with the inclusion by stealth of prescribed assets and the entrenchment of political control by the PIC board. I thank you, Chair.

Mr T C MOTLASHUPING: Hon Chairperson ...

IsiXhosa:

Malungu ahloniphekileyo e-NCOP, Sekela Mphathiswa.

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English:

I'm trying! [Laughter.]

You know, I appreciate the fundamental shift of the DA from building a single country which was really propagated by the ANC in providing a unitary state. And fortunately there's a fundamental shift from their policy to the policy of the ANC. They can't copy anything; they've got to copy the ANC! [Interjections.]

The Public Investment Corporation Bill seeks to strengthen governance and oversight. No politician will then have ...

Mr F ESSACK: Chairperson, on a point of order!

The HOUSE CHAIRPERSON (Mr A J Nyambi): What's your point of order?

Mr F ESSACK: The member on the podium is saying that the DA is copying the ANC. [Inaudible.] ... example of what the DA is ... [Inaudible.] [Interjections.]

The HOUSE CHAIRPERSON (Mr A J Nyambi): Hon Essack... [Interjections.] Hon Essack ... [Interjections.] Hon Essack ... [Interjections.] Right

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from the morning we have been warned ... [Interjections.] That is not a point of order. Sorry, honourable ...

[Interjections.]

Mr F ESSACK: Chairperson, with due respect ...

The HOUSE CHAIRPERSON (Mr A J Nyambi): Hon Essack, you are not recognised. [Interjections.]

An HON MEMBER: Last warning! Last warning!

The HOUSE CHAIRPERSON (Mr A J Nyambi): Hon Essack, when you had the floor, you were respected, and the hon members listened to you. Why can't you do the same? Let's allow hon Motlashuping to continue. [Interjections.]

Mr T C MOTLASHUPING: These are so-called clever people, and clever people are sitting on my right. They are not fools, because they understand the manifesto of the ANC.

The Public Investment Corporation, PIC, is a significant player in the South African economy, managing assets of over R2,083 trillion, and still growing. The PIC's principles of environmental and social

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governance are in many ways aligned to South Africa's commitment to the realisation of the sustainable development goals.

President Cyril Ramaphosa, in delivering the ANC's January 8 statement, the ANC's manifesto, and the state of the nation address, has made a commitment to turn South Africa's economy around for the benefit of all citizens, not only those of the Western Cape. In the past year, President Ramaphosa, as promised, focused government's efforts on accelerating inclusive growth and significantly increasing levels of investment and putting in place measures to create more jobs. He presented an economic stimulus and recovery plan that redirected public funding to areas with the greatest potential for growth and job creation. He also introduced a range of measures to ignite economic activity, restore investor confidence, support employment, and address the urgent challenges that affect the lives of vulnerable members of our society.

It is this Public Investment Corporation Bill which gives us an opportunity to co-invest directly in the economy, in sectors that can create much-needed jobs. The PIC is mostly interested in the economic growth of South Africa. If people reject the economic growth of South Africa, where do you want to take this country?

The growth of the assets under its management is directly linked to that of the economy.

The 2018 PIC annual report demonstrates that there was investment growth of assets under management into the real economy. Continued investment in sectors with socioeconomic impact linked to the National Development Plan through unlisted investments amounted to a total R18,55 billion.

Most of these were in health care, manufacturing, affordable housing, energy and student accommodation. [Time expired.]

The HOUSE CHAIRPERSON (Mr A J Nyambi): Hon members, we shall now proceed to the manual voting on the question. I would like to request hon members to vote by raising their hands ... [Interjections.]

Sorry, hon members. [Interjections.] I thought ... Honourable ... Can you have it on?

Ms C LABUSCHAGNE: Hon Chair, I call for a division. [Interjections.]

The HOUSE CHAIRPERSON (Mr A J Nyambi): Hon Labuschagne, we are going to vote. Then you can do that. We are going to vote and then you can call

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for a division. There's nothing wrong with it. Let's allow the process of voting first.

Ms C LABUSCHAGNE: The whole idea is to vote after the division, not to ...

The HOUSE CHAIRPERSON (Mr A J Nyambi): No. The Rules are very clear. Can you check Rule 65?

[TAKE IN FROM MINUTES.]

Bill agreed to in accordance with section 75 of the Constitution.

Division demanded.

The HOUSE CHAIRPERSON (Mr A J Nyambi): Hon Labuschagne, I don't want to make a mistake and jump you. Are you still ...

Ms C LABUSCHAGNE: Chair, I call for a division, yes.

The HOUSE CHAIRPERSON (Mr A J Nyambi): Let me ascertain whether you do have the numbers in terms of support.

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Thank you. The numbers are fine. As a division has been called, we shall now proceed to do the manual voting. [Interjections.]

No, we have done that ... [Inaudible.] ... again. [Interjections.]

Hon members!

Ms C LABUSCHAGNE: Hon Chair, with all due respect, I didn't want to argue, but the whole idea of a division is to ring the bell, then lock the doors, then divide, then vote. But, let it be. [Interjections.]

The HOUSE CHAIRPERSON (Mr A J Nyambi): Hon members, let's have the bells ringing for two minutes.

During division:

Mr E MAKUE: Chair, the DA is calling the slave owners now!

[TAKE IN FROM MINUTES.]

Bill agreed to.

**CONSIDERATION OF FINANCIAL MATTERS AMENDMENT BILL AND REPORT OF SELECT
COMMITTEE ON FINANCE**

Mr C J DE BEER: Hon House Chairperson, the Financial Matters Amendment Bill proposes amendments to the Insolvency Act of 1976, the Military Pensions Act of 1976, the Banks Act of 1990 and the Government Employees Pension Law of 1996. I will deal with each one individually. The Insolvency Act is to be amended for a process to be followed when a creditor realises his or her security and also to provide for a power for the Master of the High Court to deal with disputes regarding preferences by trustees.

When we look at the amendments to the Military Pensions Act, section 9(1) of the Constitution of South Africa 1996 provides that everyone is equal before the law and has a right to equal protection and benefit of the law. In terms of section 9(3) of the Constitution of South Africa 1996, the state may not unfairly discriminate directly or indirectly against anyone on one or more grounds including race, gender, sex, pregnancy, marital status, ethnic or socio-origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.

Under the Companies Act of 2008, state-owned companies are no longer classified as public companies. Currently the Banks Act of 1990 only allows for the public companies to establish a bank. As a result, state-owned companies meeting the prudentially and other requirements of the Banks Act are unable to apply for authorisation to establish the bank.

The Amendments to the Government Employees Pension Law is regulating the Government Employment Pension Fund. Non-member spouses were denied the enjoyment of their share of the pension benefit immediately upon divorce or on dissolution of a customary marriage. Instead they had to wait until their former spouses become entitled to their own benefit whereas the Pension Funds Act of 1996 entitles non-member spouses to immediate enjoyment of their pension interest in other forms governed by the Pension Funds Act upon divorce or dissolution of a customary marriage.

On 13 March 2019 the NCOP referred the Financial Matters Amendment Bill [B1B-2019] to the Select Committee on Finance for consideration and report. The committee called for public submissions on the Bill. On 19 March, the committee received a briefing on the Financial Matters Amendment Bill from the Treasury. Public hearings were held on 26 March 2019 and the committee received written and oral submissions from

Cosatu and written submission from Mr Mali and George Buthelezi from KwaZulu-Natal.

Cosatu made several submissions on the Bill which are captured in our report that is on the desks in front of the members. Hon Chairperson, the committee will continuously engage with the Treasury to ensure effective monitoring after implementation of the Financial Matters Amendment Bill. This is an approach that should facilitate and envisage phase approach and to ensure government's commitment to transformation of the financial sector. I take members back to the Financial Sector Regulation Bill that became an Act.

Having considered the Financial Matters Amendment Bill referred to and classified by the Joint Tagging Mechanism, JTM, as the section 75 Bill, a report that it has agreed to the Bill without amendments. The DA supported the Bill except for the Banks Act part of the Bill. I hereby table this report for consideration. Thank you, Chair.

Debate concluded.

Declarations of vote:

Mr F ESSACK: Hon Chair, I would make it very clear that the DA supports amendments to the Insolvency Act as well as amendments to the Military Pensions Act of 1976. These amendments are necessary to recognise that

all types of relationships including life partnerships to qualify for benefits and also to ensure gender neutrality in accordance with our Constitution.

The DA further supports amendments to the Government Employees Pension Law. These amendments address the prejudices that have been suffered by the divorced public servants through the current debt approach. The reduction of pensionable service is the approach then adopted by most pension funds in the country currently and results in a more predictable outcome for the member that is going on pension or retiring.

The Amendments to the Bank Act is where we have a problem. It provides for state-owned companies meeting the prudential and other requirements of the Banks Act to apply for authorisation to establish a bank. If you listen and apply your mind you will be able to digest. [Interjections.] This amendment was prompted by the view that the post bank should be registered and licensed as a bank. I point out that if there was a case to be made for the post bank then a Bill dealing only with a post bank should have been introduced in order to prevent the possibility of a plethora of state banks being established. The DA in conclusion is opposed to state-owned banks in principle and this amendment will allow any state-owned company to apply for the permission of the Minister

concerned in concurrence with the Minister of Finance to establish a bank. Therefore, the DA opposes this Bill. Thank you, Chairperson.

IsiXhosa:

Nks Z V NCITHA: Sihlalo weNdlu, i-ANC iyawuxhasa loMthetho oYilwayo. Isizathu esibangela ukuba siwuxhase kukuba yi-ANC ebihambela phambili ukuququzelela imigushuzo yokuqinisekisa ukuba uMthetho weBhanki uyatshintshwa. Kaloku lo Mthetho nguwo kanye obucinezela abantu bakuthi abantsundu unika abantu abamhlophe amalungelo athe xhaxhe. Yiyo ke loo nto sithe lo Mthetho mawutshintshwe okwenzela ukuba lo mcimbi wokwenziwa kweempepha-mvume ungajongi kuphela abantu abanamashishini.

English:

Mr F ESSACK: Hon House Chairperson, on a point of order again: Why doesn't the member on the podium talk about VBS and looting?

The HOUSE CHAIRPERSON (Mr A J Nyambi): Hon Essack, you have a last warning now. I have been very patient with you and you are disruptive. The unfortunate part is that when it was your turn they respected and listened to you but when it is another member you are not doing the same thing.

IsiXhosa:

Nks Z V NCITHA: Thina siyi-ANC kwiphondo leMpuma Koloni sithi, silungile esi sihlomelo sizayo ukuba sinike amalungelo nakumashishini asebenzisana ncakasana norhulumente okuba abenazo iimpepha-mvume zokuvula iibhanki. Loo nto asiyibeki nje dlakadlaka koko sithi, uMphathiswa lo ujongene nezimali apha eMzantsi Afrika ibe nguye oza kuthi aqinisekise ukuba imithetho ilandelwe ngokufanelekileyo. Iza kuba nguye onqwalayo ukuze kunikwe ilungelo lokuvula ibhanki. Enkosi.

[Kwaqhwatywa.]

English:

VOTING

Mr M KHAWULA: Hon Chair, can I be informed of the hand that was up here if it was counted or not.

The HOUSE CHAIRPERSON (Mr A J Nyambi): Do not worry, I have reliable people and I will get the results now.

Mr M KHAWULA: Because from where we are sitting we could see who the hand was voting for. [Laughter.]

Motion agreed to in accordance with section 75 of the Constitution.

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CONSIDERATION OF PUBLIC AUDIT EXCESS FEE BILL AND REPORT OF SELECT
COMMITTEE ON APPROPRIATIONS THEREON

Declaration of votes made on behalf of the Democratic Alliance and African National Congress.

Mr C J DE BEER: Hon House Chairperson, section 213(2) of the Constitution of South Africa provides that money may be withdrawn from the National Revenue Fund only in terms of an appropriation by an Act of Parliament. Chair, there is a lot of noise around here.

An HON MEMBER: Come here, come

The HOUSE CHAIRPERSON (Mr A J Nyambi): Hon members, we are aware that it is the last day today, but let us not compromise the decorum. Let's sustain how we have started. Hon De Beer!

An HON MEMBER: I will see you outside.

Mr C J DE BEER: Hon Chair, the Public Audit Excess Fee Bill hereinafter referred as the Bill, sets out to provide that the specified excess of the audit fee of certain categories of organs of state payable to the Auditor-General, as envisaged in the Public Audit Act 25 of 2004, is,

if the stated conditions are complied with, a direct charge against the National Revenue Fund and to provide for matters connected therewith. The National Treasury reported that the proposed direct charge for the audit fees in excess of 1% against the National Revenue Fund, NRF, was a result of a joint proposal from the Auditor-General and the National Treasury to the Standing Committee on the Auditor-General during the deliberations on the 2018 Public Audit Amendment Bill.

The audit fees are used to cover the Auditor-General's, AG, expenses, finance the fixed assets and generate a surplus which ranges from 1% to 4% for working capital and general reserve requirements. Unpaid fees therefore deprive the AG of the needed cash flow to support the execution of its constitutional mandate. However, the National Treasury reported that 10% of the AG's client base falls under the financially distressed category comprising a substantial amount of revenue. These auditees are predominantly low capacity municipalities and small auditees such as museums, trust and boards.

The Treasury further submitted the currently section 23(6) of the Public Audit Act provides that if the audit fees is in excess of 1% of the current and capital expenditure of the auditee, then the excess must be defrayed from the National Treasury's budget if it is of the view that the auditee has financial difficulty to pay the excess. It

was also reported that historically, the excess audit fees is to be paid from the National Treasury's Budget Vote, which was substantially higher than the amount appropriated and thus resulted in shortfalls.

What are the provisions in this amendment Bill? Clause 1 provides that the excess of any audit fee, envisaged in section 23(6) of the Public Audit Act of 2004, as amended by section 10 of the Public Audit Amendment Act of 2018, is a direct charge against the National Revenue Fund. Clause 2 contains the short title of the Bill and stipulates that it takes effect on a date to be determined by the Minister of Finance by notice in the *Gazette*. The Select Committee on Appropriations having considered the Public Audit Excess Fee Bill, B7-2019, as referred to it, and classified by the Joint Tagging Mechanism as section 77 Bill reports that it has agreed to be Bill without amendments. The DA objected to the Bill. I table this report for consideration by the House and this is my last report in the Fifth Parliament of South Africa. Thank you. [Applause.]

Debate concluded.

Declaration(s) of vote:

Mr F ESSACK: Hon House Chairperson and fellow South Africans, it is always a pleasure to serve my party and to work for South Africa as a

whole. Therefore, being my last declaration in the Fifth Parliament, please allow me some space, Chairperson. Hon South Africans, the office of the Auditor-General of South Africa has a long and proud history - chairperson, please. It has served this country with distinction through different administrations. The main reason why the AG's office has been so successful, it is because it has always maintained its independence.

The Democratic Alliance is opposed to this Bill because it places the Auditor-General in a more favourable position than any other auditor out in the market place. It is our position that the Auditor-General should be required to collect its fees in the same manner as any other auditor. In addition, the fact that the Auditor-General will be able to recover fees from a third party, who is also its main client, would then create a potential conflict of interests and create ideal conditions for manipulation as well as undue influence.

The Auditor-General, I repeat Chairperson, the Auditor-General is a Chapter 9 institution that has traditionally been self-funded through the levy of audit fees in respect of its services. The Bill, of course, attempts to altar the status quo with the result that the Auditor-General's office will now, to an extent, be funded directly from the national fiscus. At present, any unpaid fees are reflected by the AG as

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an asset on its balance sheet, for those who ... [Inaudible.] ... might understand, which makes up then most of the report at surplus.

This is a very bad idea indeed and should be rejected out of hand by all members of this Council. The reason I say so is that if we pass this Bill, it will mean that the Auditor-General will have no responsibility to collect its own funds in difficult circumstances. What the AG's office fails then to collect will now be paid in preference to and at the collective expense of every other governmental department.

In conclusion, I will urge my colleagues here to all reject this Bill as it has then assist the AG to maintain his office's independence compete fairly in the market and then the Auditor-General's office is, of course, responsible for the collection of his own fees, just as every other professional in South Africa is then required to do. Therefore, the Democratic Alliance cannot support this Bill. I thank you, Chair. [Applause.]

Mr E MAKUE: Hon House Chairperson, the ANC declares publicly that we support for this Bill. Therefore, any attempt by the smaller-nyana party to think that they can influence the ANC will not be successful because we have policy conferences from which we get our directors. As

the Comrades Charel De Beer has referred to the 1%, we believe that this could come to a point where the financial viability of the AG will be at risk which could easily spill over to a threat to the constitutional independence of the AG. The ANC as a political party with the experience which has demonstrated its commitment to rooting out corruption in South Africa as championed the processing of the Public Audit Fees Bill, the direct charge in this instance will mean that the payment to the AG will not form part of the normal appropriation of parts to the National Treasury. The payment will be made directly from the National Revenue Fund to the Auditor-General by the office of the Accountant-General that is responsible for managing the National Revenue Funds.

The ANC supports a direct charge against instead of increasing the appropriation of excess audit fees in National Treasury's Vote because the annual amount varies every year and in current fiscal position of the country will require the National Treasury to cut from other items on its own budget and impact negatively on the National Treasury's ability to perform its own functions. A direct charge will mean that revenue in the National Revenue Fund contributes directly to those auditees unable to pay the excess audit fee. It limits disputes between the AG and the National Treasury and creates more certainty for the

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Auditor-General of what they expected revenue should be. Such certainty is vital for accurate budgeting and prioritisation objectives.

Furthermore, the anticipated revenue is critical for the financial independence due to the crucial role of the AG in ensuring constitutional democracy through this Bill. The ANC is convinced to ensure that this situation ... [Inaudible.] ... financially independent. Thank you, Chairperson. [Applause.] [Time expired.]

Question put: That the Bill be agreed to.

Bill accordingly agreed to, in accordance with section 75 of the Constitution.

Motion agreed to in accordance with section 75 of the Constitution.

NATIONAL LAND TRANSPORT AMENDMENT BILL
(CONSIDERATION OF REPORT OF SELECT COMMITTEE ON ECONOMIC AND BUSINESS
DEVELOPMENT THEREON)

Mr M RAYI: Hon Chairperson of the NCOP, Deputy Chairperson of the NCOP, hon Chief Whip of the NCOP, hon members, I hereby on behalf of the

Select Committee on Economic and Business Development table the Report on the National Land Transport Amendment Bill

The purpose of this Bill seeks to amend the National Land Transport Act 5 of 2009 to insert certain definitions and amend others; to provide for non-motorised and accessible transport; to bring the Act up to date with developments since the implementation of the Act; to provide for certain powers of provinces to conclude contracts for public transport services; to expand the powers of the Minister to make regulations and introduce safety measures.

Further, the Bill seeks to prescribe criteria and requirements for municipalities to enter into contracts for public transport services; to amend other transport related legislation to bring it into line with the Act.

Furthermore, the Bill seeks to clarify or simplify various provisions or solve problems that have arisen since the implementation of the Act; and to provide for matters connected therewith.

The process that was followed by the committee is as follows: the Bill was referred to the Select Committee on Economic and Business

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Development on 24 April 2018. The Department of Transport was invited to brief the committee on 05 June 2018.

The committee advertised the Bill for two weeks inviting all interested stakeholders to submit written submissions. The advert indicated that the stakeholders could make written as well as oral submissions. Permanent delegates also briefed their provinces on the Bill.

The committee facilitated public participation, and received eleven submissions, including a submission from the South African Local Government Association, SALGA, prior to the closing date. One submission was received after the closing date. All of the submissions were considered. Further, all submitters were invited to make oral submissions. Only nine submitters availed themselves to make oral presentation and three submitters declined. On 9 October 2018, Department of Transport responded on the submissions received, and 12 and 19 February 2019, the committee deliberated on the content of the Bill.

Submission from Salga contented that some clauses in the Bill are unconstitutional. I am highlighting the Salga submission because it's unique place in the functioning of the NCOP.

The committee requested advice from parliamentary legal services and a parliamentary legal advisor made a presentation of the legal opinion to the committee. Salga expressed its disagreement with the advice given by the parliamentary legal advisor in the committee.

The committee then directed the parliamentary legal advisor, state law advisor, the department and the legal representative from Salga to further observe and reflect on the constitutionality of the Bill. The parliamentary legal advisor and state law advisor, except the Salga's legal representative gave a feedback further attesting that the proposed amendments in the Bill are consistent with the Constitution, in that;

(a) The Minister is empowered to initiate legislation on a Schedule 4(b) matter that is the Municipal Public Transport, but may not implement the legislation as the implementation is the competence of the local sphere of government;

(b) The Minister is empowered to develop norms and standards pertaining to the implementation of the legislation by the local sphere of government.

(c) The prescribed criteria and requirements referred to in the Amendment Bill form part of the broader framework developed by the Minister that must be met and followed by municipalities in order to enter into new contracts for public transport and are not unconstitutional.

(d) The Minister should guard against intruding on the powers of the local sphere of government in the implementation of the legislation. The power to implement the legislation vests with the local sphere of government.

(e) The Bill is aimed at developing a broader framework for municipal public transport without interfering with the powers of the local sphere of government.

(f) Therefore the Bill is constitutional.

(g) The Minister will publish regulations and it is critical that the local sphere of government is vigilant and ensure that these regulations give the local sphere of government sufficient space to implement this legislation.

The committee applied its mind on the issues raised by

Salga; however felt the legal opinion obtained from the parliamentary legal services stand. Salga remains our strategic partner. Therefore, any issues raised by it, which pose a risk to cooperative governance and congenial relations between the spheres of government need to be treated with sensitivity.

The Committee further reports that all the issues raised during public hearings were considered including the negotiating mandate from the provinces.

With regard to the final mandates, seven final mandates were received and only the Western Cape Province that mandated its delegation not to support the envisaged Act. The final mandates from the Free State and North West Provinces could not reach the committee on time, but we understand that later they were submitted to the office of the Chairperson and that both provinces support the Bill. We therefore, on behalf of the committee recommend that the Bill be adopted. I thank you.

Debate concluded.

Declaration(s) of vote

Mr O S TERBLANCHE: Hon Chairperson, hon members, fellow South Africans, any responsible government across the world has the responsibility to ensure that their country has reliable, well-functioning transport system in place. It is really part of the very key building blocks supporting our hybrid economy.

In South Africa, the National Land Transport Act is the law that regulates all forms of road public transport. It is now the first time that this law is under review since it came into effect in 2009.

Amendments to this Bill are very important, but even more important, is a responsibility to ensure that the result of these amendments will be a well-functioning public transport system serving the community and paving the way towards a growing economy.

The Bill and its impact are important to all South Africans. Even up to this day, there are still concerns whether proper public import was obtained and considered. There are still concerns about the Bill having possible unintended consequences if it becomes law. There are also still questions about the constitutionality of this Bill.

The last concern is shared by various institutions and organisations like *SA Local Government Association*, Salga. Despite all the voices cautioning about the constitutionality, the department convinced the

committee to press ahead along the lines of their interpretation, ignoring seven previous judgements of the Constitutional Court in this regard.

Chairperson, the outcome is predictable. The Bill is also not progressive enough to accommodate new technology and modern business models. E-hailing operators are not well-catered for in terms of safety issues, pick-up points, etc. The implementation of this Bill will therefore severely restrain these operations and rob South Africans of a competitive, modern land transport system.

During the process getting us up to this point where we are today, the Western Cape supported the negotiating mandate, but could not support the amended Bill referred to them to consider for the final mandate. Chairperson, The Western Cape does not support the Bill. I thank you.

Ms M C DIKGALE: Chairperson and hon members, as the ANC we support the Bill for four simple reasons. Firstly, the amendments to the Act will ensure that we bring the South African transport trajectory in line with international best practice and the Fourth Industrial Revolution. It will further ensure that government consolidates systematically the transport function across the three spheres of government.

The Bill will further provide for, and regulate electronic hailing services to enable operators to operate with an app, as well as to empower the Minister to prescribe requirements, standards applicable and offences for the use of e-hailing technology-enabled applications.

This dispensation will ensure that we bring the much-needed stability between the meter taxi and the electronic hailing taxi industry which are characterised by uncertainty, conflict and criminality. Once enacted, this law will provide for temporary licences to be obtained over the counter by a shortened procedure from an official or a member of the regulatory entity delegated by the entity, and a shortened process on application to replace a vehicle specified in the operating license.

It will further ensure that provinces are given an opportunity to conclude new contracts for public transport services in areas where municipalities do not comply with the prescribed requirements. This is more appealing to us because it augurs well with the notion of co-operative governance as well as the support that provincial government, in particular, must give to municipalities in terms of the Constitution.

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We therefore call for the support and passing of the Bill. I thank you, Chairperson.

Mr M MATSENA (Salga): Chair, as Salga we just want to make a brief declaration. Thank you, Chair, for giving us as Salga an opportunity to voice our concern about this National Land Transport Amendment Bill. I am also referring to our interaction with you, and also the opportunity given in the select committee on 19 ... [Interjections.]

The CHAIRPERSON OF THE NCOP: Could you please speak into the microphone?

Mr M MATSENA (Salga): Yes, I'm saying again that an opportunity given to us at the select committee meeting on 19 March. Although we accept and also understand the mandatory processes of the NCOP, our view is that the approach taken on the amendment Bill, fundamentally changes the existing National Land Transport Act in ways we believe are inconsistent with both the Constitution and the sound public transport management.

The most contiguous aspect of the Bill in our view is that the province becomes the default sphere of government for concluding subsidised public transport contracts and secondly that, a municipality may only

enter into those contracts if given permission by the Minister. The most important issues here are two things, and one of them is the municipal public transport in terms of the Constitution falls within the jurisdiction of the local government.

However, the Bill provides that all public transport contracts are in principle concluded by the province. It goes without saying that some of those contracts will fall within the scope of municipal public transport. The Bill, therefore, abolishes the distinction between the two separate constitutional competencies, namely public transport and municipal public transport, and includes them both under provincial jurisdiction.

The Constitution makes the decision and in our view, it is not for the Parliament to effectively abolish it. The Bill effectively removes powers that cities are currently exercising, including the contracting of services such as MyCiti, Rea Vaya and Go Durban.

Whilst we are preciously concerned about municipal capacity, the role of national and provincial government is to support municipalities as required by section 154 of the Constitution, and not to deprive them of their powers. ... [Interjections.]

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The CHAIRPERSON OF THE NCOP: The time allocated has expired.

Mr M MATSENA (Salga): We submit that the amendment Bill seeks to deprive municipality of their constitutional function. As Salga, it is our view that the Bill is unconstitutional. [Applause.]

The CHAIRPERSON OF THE NCOP: Thank you, sir. Just for roundedness, we must say that these matters were brought to the attention of the committee, the matters were considered and legal advice was retaken on the matter. Hon members, we shall not proceed to the manual voting on the question. Hon Khawula, do you want to say something?

Mr M KHAWULA: Chair, I just want to find out if the Chair will allow the declarations by the Western Cape and the Limpopo provinces to stand because when the members were making them, they were making them on the basis of their parties. They made mention of their parties whilst presenting their declarations. So, I just want to find out if you will allow them to stand?

The CHAIRPERSON OF THE NCOP: Thank you sir, if you would have noticed, I actually invited the provinces to make the declarations and it is that recognition that even though they spoke on behalf of their

parties, they were speaking on behalf of their provinces as well. Thank you very much.

Question put: That the Bill be agreed to.

[Take in from Minutes.]

Bill accordingly agreed to in accordance with section 65 of the Constitution.

NATIONAL GAMBLING AMENDMENT BILL

(Consideration of Bill and of Report thereon)

Mr E MAKUE: Hon Chairperson and hon members, let me alert you that this is going to be one of the shortest reports that I have ever delivered. On behalf of the Select Committee on Trade and International Relations, we have deliberated on and considered the subject of the National Gambling Bill [B27B-2018], section 76 Bill, that was referred to us and I report in terms of the NCOP Rule 171(1)(b) that we as committee, have considered the Bill.

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The committee reports further as follows: The National Gambling Amendment Bill was referred to the select committee on the 4 December 2018 and the committee received the briefing by the Department of Trade and Industry on the Bill on the 30 January 2019. We then, because it's a 76th Bill, had a various public hearings within each of the nine provinces and we have received mandates from the provinces. The mandates indicate that three of the provinces have voted against the Bill and three of our provinces voted for the Bill.

At the time that we had our last meeting which was last week, two of the provinces have not submitted the mandates to us. Chairperson, in terms of Rule 171(1)(b), it requires a select committee who has not agreed on a Bill to table the Bill as referred to it in the council. Chairperson, the committee was in limbo because we were sitting with three - three. In terms of sections of the Constitution, we get our mandates from the provinces and because the select committee was in limbo, I now have to return this Bill to the august House. Thank you, Chair.

The CHAIRPERSON OF THE NCOP: Thank you Sir. Hon members, in terms of Rule 171(1), the committee to which a Bill has been referred to is required to table a report to this House. The Bill as agreed to or the Bill as referred to. Rule 171(2) compels the committee in its report to

states whether it recommends approval or a rejection of the Bill. The Bill tabled by the committee in terms of Rule 171(1) must relate to the content of the Bill. This will be a clear indication that the committee has considered the Bill in detail. Rule 171(2) requires the committee to report to the House on the conclusion that the committee has reached on the Bill.

Hon members, in terms of this report as presented by the Chairperson, equal numbers of votes, for and against, in fact, it was three - three and there was one province that abstained. The committee could therefore not take a decision. Consequently, the committee makes no recommendations to the House on how to deal with the matter. We then had to consider what to do with the Bill. We had to research because this is the first time the NCOP gets in to this situation.

We have an option to take the Bill into the House and convert the House into a committee. Now, this will be cumbersome if not constitutionally impossible for the House to deal with a Bill in this way, especially because this particular Bill affects the provinces. This will be tantamount to convert the House into committee as a whole. Our Rules actually do not make provision for this and it is therefore desirable to give the committee the opportunity to finalise the deliberations on

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the Bill and make recommendations to the House as required by Rule (171) (2) .

Therefore, this Bill is therefore referred back to the committee for it to conclude the deliberations on the Bill in terms of Rule 238 so that this Bill does not lapse. I know that members are going to jump and say but this is your last sitting. Hon members, we are in terms of the Constitution, still in office and our term expires immediately before the first sitting of the provincial legislatures.

We also want to say that we would exhort in terms of Rule 238 that the Sixth Parliament actually gets ceased with this Bill. Therefore, that would be my ruling on how we need to deliberate with this. Thank you very much. If we are allowed to continue, the Secretary will read the next order.

Debate Concluded.

Bill referred back to the Committee.

COPYRIGHT AMENDMENT BILL

(Consideration of Bill and Report thereon)

Mr E MAKUE: Chairperson, earlier during the day when we had more energy because it was still early, we looked at the treaties that we presented to the House and appreciate the assertion of this House to those treaties. The Copyright Amendment Bill as well as the Performance Protection Bill that we have presented separately to this House are very closely linked to the treaties. It is a very important piece of legislation that has taken many years of deliberation and thorough consultation, serious deliberation and also seeking legal opinion on it from the department as well as from our legal advisors within Parliament.

Whilst this Bill is highly complex and contentious, it is long overdue and rights holders should not be made to wait any longer to reap the benefits of their creative works. The copyright legislation in South Africa as we sit here is outdated and did not provide adequate protection; it did not provide adequate rights or exceptions and limitations. Therefore it severely impacted core industries and institutions relating not only to the creators of works but to those who have disabilities and learning challenges.

This present situation, if we look at the amendments that we are bringing through in this Bill before us, will impact on the access that our people will have to education, information and knowledge. And, we

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know that we are living within an era of the knowledge economy, the Fourth Industrial Revolution. We therefore looked very carefully as members of the committee on what contributions this Bill will make to the economy. We looked at the fair use debate that has happened internationally. We looked at the development of the Bill and the role that the Department of Trade and Industry has played. They had to particularly mention that over an extended period of time, more than two years, the Department of Trade and Industry has been talking to stakeholders and getting their inputs on the Bill.

We as the committee looked at the content of the Bill and we looked at what is going to be the prospects of implementation and we are convinced that indeed this is not a Bill that is going to get dust, it is implementable. On the overall potential and impact of the Bill, I want to say that it will be positive. The department has also embarked on processes of exceeding to several court treaties that I have mentioned before which have been incorporated in to these Bills, they are tied. The Bill will foster an enabling environment to allow creators to receive economic rights for their work and allow fair access to works particularly, for the disabled community and the like. It is therefore my humble privilege to present the Bill to this House as 76 piece of legislation. Thank you, Chair.

Debate Concluded.

Declarations of vote:

Mr O S TERBLANCHE: Hon Chairperson, hon members and fellow South Africans, copyright law is a complex subject that requires a careful approach with valuable understanding. The Bill before us today, in principle, is much needed as it aims to modernise many of the clauses as set out in the Copyright Act of 1978. However, a fundamental factor of copyright protection is that it should not outweigh the right to freedom of expression, which is a basic characteristic of a democracy.

The Bill grapples with two approaches – fair use and fair dealing. Both are aimed to enhance creativity. Fair use provides a principles-based test to see if a use is permitted or not, while fair dealing specifies permissible uses in legislation.

Nonetheless, some of the flaws in the Bill include terminology that will only lead to great uncertainty. The ownership by the state of state-funded works is also problematic. This deprivation of a person's right to property could be viewed as unconstitutional while there are also other unconstitutional aspects of the Bill that allow the Minister of Communications to take on the role of the Independent Communications Authority of South Africa, Icasa, in prescribing local music content

for television and radio broadcasting – possibly opening such a function to political manipulation.

Furthermore, the Bill clearly does not consider the economic consequences on local copyright owners, publishers and innovation. Therefore, considering the negative effect this Bill could have on copyright law and the industries concerned, the DA cannot support this Bill. I thank you, Chairperson.

Mr M RAYI: Hon Chairperson, the Copyright Act of 1978 is outdated and has not been effective in a number of areas. The key objective of the Copyright Amendment Bill is to modernise South Africa's copyright law taking into account the development needs of South Africa, the specific circumstances of the country and global developments. There have been gaps identified in the access for libraries, archives, museum, education sector and for people living with disabilities.

The nonpayment of royalties for copyright works remains a concern as well as the unfair terms of contracts that affected right holders particularly authors. This necessitated the amendments to the legislation to be aligned with the ever evolving digital environment, to allow reasonable access to education, to ensure access to information and make resources available for persons with disabilities

and to ensure that artists do not die as paupers due to ineffective protection.

The Bill is aligned to development at a multilateral level, international standards and introduces improved exceptions and limitation into copyright law. The proposed amendments to the Act are to protect the economic interests of authors and creators of copyright works against infringements and to promote innovation and creativity. The Bill provides for the sharing of royalties and prescribes standard terms of contract for protection of contracting parties.

South Africa has adopted hybrid model of fair use which takes into account the list of exceptions that seeks to create access to education, libraries, archives, computer programs and making learning materials accessible to the disable and visually impaired.

The Bill provides for the availability of accessible format copies of work to accommodate persons with disability. This provision extends beyond matters pertaining to the blind and includes other disabilities such learning disabilities, dyslexia, etc. The Bill introduces a resale royalty right. This resale right means that an artist could be entitled to a royalty even when their original work is resold commercially. The Bill proposes the strengthening of copyright tribunal to address

disputes in copyrights. The Bill introduces provisions which deal with matters pertaining to collecting societies. Collecting societies will only be allowed to collect for their registered members. [Time expired.] The ANC supports the Bill.

Question put: That the Bill be agreed to.

Bill accordingly agreed to, in accordance with section 75 of the Constitution.

PERFORMERS' PROTECTION BILL

(Consideration of Bill and Report thereon)

Mr E MAKUE: Hon Chairperson and members, maybe we should note that the Performers' Protection Act that is at present applicable was adopted in 1967 and this Act is meant to provide economic rights and moral rights for actors. This is critical because the performer who is central to the success of any fixation in audiovisual works or sound recordings is usually exploited in the process or his or her performance and very often treated unfairly. We do not have to go far; we have our mother of music in the continent, the ambassador of South Africa, Mama Miriam Makeba, who has not been protected. The target group of this Bill

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therefore is to provide actors, musicians, dancers or other person who acts, sings, delivers, declaims, plays in, or otherwise performs literary works, musical works, artistic works, dramatic works, or traditional works. Hon Khawula, traditional works. We noted that the challenges that this Bill is trying to address has plagued our country for centuries and therefore we as members of the select committee, particularly those in the ANC, who bring this to you with the full support of those members that were in the meeting, wants to say that, these atrocities that we are talking about must be addressed. The Bill seeks to address the challenges from an outdated Act. It became effective - this outdated Act of 1967 - before television existed in South Africa, and is not aligned to global trends and developments as well as other global treaties.

We have had the effective participation of the Companies and Intellectual Property Commission, CIPC, and also the Copyright Tribunal in the development of this legislation. So, once again, as members of this Fifth Parliament, we are not only looking at producing legislation but also looking at the implementation possibilities of the Bill. The CIPC and the Copyright Tribunal gave us the assurance that they will make sure that it happens. With our ratification of the Beijing Treaty this Bill offers great opportunities for South African performers. We have a big problem with collecting societies in our country. I shared

with members of the committee how on Human Rights Day last week Thursday I visited a Mr Santu Mofokeng. He is sitting in a wheelchair and his collecting society has done him in. And he is but one of many actors that not only die – hon Rayi – as paupers but attempted to take their own lives because they are not protected. As this Parliament we are saying, that time is over. We are providing protection to those who contribute towards the culture of our society, those who through music make us happy; those who through their performances on television screens and in movies lift us up with our children. Therefore, we want to conclude by saying to this House that we have looked thoroughly at the content of this Bill and we are excited about what is contained in it. I therefore thank you for the opportunity to request that we vote in favour of this Bill. I present it on behalf of the select committee Chair. Thank you. [Applause.]

Debate concluded.

Declarations of vote:

Mr O S TERBLANCHE: Hon Chairperson, hon members, fellow South Africans, the DA acknowledge that there is a great need to update legislation regarding the rights of performers especially taking international developments into consideration, this Bill is not in a condition to be passed and enacted. Rushing through legislation for incentives should

not be the objective but should rather be properly considered and passed in the national interest. South Africa should seek a Performers Protection Act that parallels the Beijing Treaty and the WIPO Performances and Phonograms Treaty, WPPT. This Bill is will not meet these benchmarks. The Beijing Treaty and the WPPT cover equitable remuneration for performers.

This Bill undermines and possibly removes the freedom of contract to the disadvantage of both the performer and producer, also making it incredibly difficult for producers to make investment decisions. The Bill challenges contractual freedom: the key content of the agreements will be largely determined by the Minister, leading to heightened investor anxiety as producers will not have freedom to construct contracts in accordance with the will of the parties. Sections of the Bill make rights of authors inalienable, and so watertight, that the rights cannot be used resulting in producers becoming more selective and contracting only with top calibre or "safe" talent, thereby reducing opportunities for other new artists. While this Bill is progress in the right direction, it is not enough to achieve the goals of its intended purpose. This Bill gives the Minister and government too much power when it comes to the relationship between an artist and their producer. While this Bill is progress in the right direction, it is not enough to achieve the goals of its intended purpose. This Bill

gives the Minister and government too much power when it comes to the relationship between an artist and their producer.

The DA understands the hardships faced by performers and artists and why they feel this Bill should be supported. However, history has proven that supporting a bad Bill can have consequences in the future. The DA would rather wish to bring forward the private member's Bill that would address the matter of royalties. It is because of the rushed and sloppy nature of this Bill's legislative process, among many other factors, the DA cannot support this Bill. I thank you Chairperson.

Mr M RAYI: Hon Chairperson, firstly I would like to indicate that, as a committee, we received a lot of e-mails from the performers who are supporting this Bill and encouraging us to pass this Bill, big documents of e-mails that we received from the performers. There is an actor who acted in *Emzini Wezinsizwa*, I was disappointed when I saw him in a DA t-shirt. I hope he is watching this debate and see what the DA is saying about them. But I will also further invite the performers of South Africa to go on to page 24 of the ANC manifesto and see what the ANC is saying about creative workers.

Going back to the declaration, the Performers' Protection Amendment Bill is about the performer and his or her right to protection and to

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maximise the economic exploitation of the rights provided in the Bill regarding his or her fixated performance. Performers are crucial to the national expression, and they form part of our daily existence. They are part of the fabric of society, its heritage and history. The Performers' Protection Act of 1967 became effective before television in South Africa and it is not aligned to global trends and developments as well as global treaties. The law is more than 50 years old, as the chairperson of the select committee was indicating. The creative industry has become synonymous with the challenges that include unfair contracts, resulting in the continuous signing away of the economic rights by musicians. The performers have not received royalties over time despite the continued use of their performances. For some performers, their rights to have their images represented as they prefer, are violated. The law is not aligned to global trends which impacted on the economic rights they could benefit from South Africa being party to international treaties. Sadly, many of our performers do not reap the benefits that they are entitled and live in poverty despite their fixated performances being repeated on television and even sold overseas to other broadcasters in the audiovisual industry for example.

The content of the Bill, the key features of the Performers' Protection Amendment Bill include the provision for the Minister ... [Time expired.] The ANC supports this Bill.

IsiZulu:

Mnu M KHAWULA: Yebo! Yebo! Yebo! Shayani izandla. [Ubuwelewele.] Sihlalo ohloniphekile, ngigale ngokusho nje ukuthi ngiyacabanga ukuthi kufuneka simbonge uMtwana wakwaPhindangene. Umangabe abahlonishwa abafana nomhlonishwa u-Makue sebekwazi ukukhuluma kahle kanje ngokuvikelwa kwesintu namalungelo amasiko ethu nezinto zethu kusho ukuthi uMtwana ...

English:

... is a very good teacher, hon Makue, having taught you and for you to speak so well and to make that reference to the IFP, I am very happy.

IsiZulu:

Kodwa-ke okubalulekile ukuthi angisho ukuthi iqembu leNkatha liwusekela ngokugcwele loMthethosivivinyo. Hheyi! Baxhashaziwe abantu bakithi ikakhulukazi kusifundazwe engisuka kusona KwaZulu-Natal. Baxhaphazekile abantu bakithi ikakhulukazi abantu abaxhaphazekile abangamaciko abantu abampisholo ngenxa yokungavikeleki kwamalungelo abo ezinto zabo

abazisungulele zona bese zithathwa ziyohweba ngaphandle zenze izigidigidi. Abahlonishwa uma bengakhumbulu nje ukuthi *Imbube* ike yadala umdonsizwano ongakanani, hhayi eNingizimu Afrika, kodwa emhlabeni jikelele, isibangwa, kodwa ibe isungulwe ngumAfrika. Isibangwa abangayisungulanga ngenxa yokuthi imithetho ebavikelayo ibingekho. Ngesonto elidlule ngishayelwe ucingo ngumholi waMambazo efuna ukuzwa ngaloMthethosivivinyo ngoba akhathazekile amaciko akithi ngokungavikeleki kwezinto zabo. Ngifisa ukusho-ke ukuthi-ke, baba u-Makue, siyabonga ukuthi nilandele ezinyathelweni zikaMtwana. [Ubuwelewele.] Iqembu leNkatha liwusekela ngokugcwele loMthethosivivinyo wokuvikela amalungelo kanye namagugu namafa abantu bakithi abampisholo. Siyathokoza. [Ihlombe.]

Question put: That the Bill be agreed to.

Bill accordingly agreed to, in accordance with section 75 of the Constitution.

FOREIGN SERVICE BILL

(Consideration of Bill and Report thereon)

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Mr E MAKUE: Chairperson, this Report is going to be even a shorter one. Chairperson, the Foreign Service Bill is very important for us as a country. Our international footprint, we owe it to Tata Madiba and to Mama Sisulu for the work they have done in terms of placing South Africa back on the international arena. We are no longer the pariah of the world. We are a democracy that is respected internationally. Chairperson, therefore the Foreign Service Bill was very important for us as the select committee because we are unanimous in our agreement that our foreign service needs to be professional. Our foreign service needs to promote the interest of our country, South Africa.

Chair, it is unfortunate that with all the submissions that we have received, including those from two departments of government, we deliberated very seriously as members of the select committee and arrived at a resolution, particularly of section 2 paragraph 2 of the Bill that was before us. We need to request the House to vote against the Bill with the understanding that what we are doing is to refer the Bill back to the National Assembly because we have to amend the Bill. Chair, our amendment on this Bill is that section 2 paragraph 2 as we have received the Bill from the National Assembly, should be deleted in its entirety. Thank you, Chairperson.

The CHAIRPERSON OF THE NCOP: That concludes the debate. I shall now put the question and the question to get you quite right Ntate Makue is that the Bill not be agreed to.

Mr E MAKUE: Chairperson, the Bill has an amendment, therefore we cannot agree to it, but we are not rejecting the Bill. The Bill is important. We are amending it and requesting the authority - the permission to send it back to the National Assembly.

Debate concluded.

Voting

Question put: That the Bill not be agreed to.

Bill accordingly not agreed to.

**CONSIDERATION OF PROPERTY PRACTITIONERS BILL [B21B – 2018] AND REPORT
OF SELECT COMMITTEE ON SERVICES THEREON**

Ms L C DLAMINI: Hon Chairperson and hon members, on behalf of the Select Committee on Social Services - allow me to present one of the most important transformation bills that has been presented by the department to us and the name of the Bill is Property Practitioners'

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Bill, whose purpose is to ensure transformation to the industry which is highly dominated by white business owners.

The property sector is worth over 7 trillion that includes both residential and commercial with only the 5% of previously disadvantaged people playing a role in the property sector. Hon Chairperson, Out of 2700 agencies and principals, only less than hundred that are owned by black people in the country. For example in the Northern Cape, hon Chairperson, during the year 2017/18 only one black business, in fact not even one black business owner is registered in that province, hence this Bill.

In my province, which is Mpumalanga only 6 of the black owners in the industry, therefore Chairperson, we are saying this is one of the most important bills; we have to thank the department and the members for participating in this bill. Hon Chairperson, I want to assure this House that we have done all to make sure that there's maximum participation. After advertising, we received for 18 public comments from organizations and individuals, and also after out of 9 provinces at the time of the committee sitting, we had 7 provinces which voted in favour, we later received the 2 outstanding final mandates which also supported the Bill.

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Hon Chairperson, the Portfolio Committee on Human Settlement referred the bill to the Select Committee on Social Services on 4th of December 2018. On the 29th of January 2019, the Select Committee on Social Services received a briefing from the Department of Human Settlement, thereafter we advertised for public comments. Hon Chairperson, after considering the Bill as the committee and deliberated on the submissions made by the people, the committee wants to report that it has agreed to the Bill, which is the Property Practitioners Bill [B21B – 2018] being made into law

There are two areas of emphasis chair that we want to make as a committee, which is the speed of regulations to ensure that the Bill is implemented and also to ensure that the department relaxes the criteria for the entry of the previously disadvantaged people so that they are able to enter into this industry.

The Select Committee on Social Services supports this Bill because it is levelling the playing field to ensure that the Estate Agency Affairs Act, 1976 (Act No. 112 of 1976) is repealed.

Hon Chair, the Bill seeks to address a number of challenges facing the property practitioners sector and a key focus area is transformation and providing opportunities to previously disadvantaged people. We are

therefore hon Chair, calling upon all people in South Africa who want to participate in this industry.

The government which is led of course of course by the ANC, is opening opportunities for them to participate in, we therefore present the report for the House to consider. I thank you.

Declarations of vote:

IsiZulu:

Nks L L ZWANE: Sihlalo ohloniphekile, ngiyafisa ukudlulisa egameni lesifundazwe sakwaKwaZulu-Natal ukuthi lo mthetho sivivinywa esiwusebenzayo ubaluleke kakhulu. Iminyaka ngeminya umuntu omnyama evimbekile ekungeni kule mboni yezezindlu, njengoba uSihlalo ebalulile enkulumweni yakhe. Phambilini bekulukhuni ukungena kulo mkhakha ngenxa yemibandela eyayibakwe nguhulumeni wobandlulo, cabanga nje ngoba lana sizosebenza ukususa umthetho ka 1976.

Namhlanje siku nyaka ka 2019, ngalokho siyabonga kuhulumeni oholwa nguKhongolose ukuthi ababonelele abantu ukuba nabo bahlomule kulo mnotho ongaka otholakala kule mboni yokudayiswa kwezindlu.

Ngiyakhumbula nje nami edolobheni langakithi kwakukhona umfana okwakuthiwa Juwi Mhlanga owayezama ukusebenza kulo mkhakha, kodwa ngenxa yobulukhuni kwemibandela ebekiwe ukuthi ukuze ukwazi ukuqhubeka

nokusebenza kuleli bhizinisi, kumele ngabe usudayise imizi eyisibalo esithile, uma uhlulekile ukudayisa imizi eyilelo nani, wawuvaliswa ibhizinisi lakho

Siyabonga ukuthi uKhongolose namhlanje wokuzotakula abantu osizini lokuthi bakwazi ukungena nakunoma iliphi ibhizinini. Iningi kakhulu imali kulo mkhakha. Sifisa ukweluleka abantu abasha abafisa ukungena kulo mkhakha wezifundo eziphethеле nokuhlaliswa kwabantu ukuthi ngempela bathathe zifundo ezimayelana nokuthengiswa kwezindlu, ngoba lokho kuyobasiza ekugcineni ukuba bangene kuleli bhizinisi benolwazi olufanele ukuze baphumemelele.

Sepedi:

Moh T K MAMPURU: Modulasetulo, e re ke leboge modulasetulo wa rena wa komiti ka mokgwa woo a hlagišitšego pego ya rena ka gona. Se segolo ga se gona ntle le go bontšha gore re le badudi ba Afrika-Borwa ka tlase ga diprofense tše di fapanego, re bile le tlhotlo ye kgolo yeo e ka bago e re tšeere mengwaga ye 43, go tloga ka 1976.

Basadi, baswa le batho bao ba sa itekanelago ba be ba dutše ka fase ga kgatelelo, ba sa kgone go ba beng ba dikhamphani tše di bego di ka ba kgoniša go tšwetša pele tlhabologo ya meago ka mo Afrika-Borwa. Ke ema ke bolela ka tsela ye ka lebaka la gore kua Limpopo re a tseba gore

kamoka Musina re e lebeletše ka kgolo ya ekonomi; re lebeletše Lephalale; re lebeletše le Tubatse. Ka yona tsela ye re a reta; re a boka; re a tumiša; re re hle 1994, "halala" go wena ka gobane ga se wa tlela lefela, o tlile wa fetola maphelo a rena re le badudi ba Afrika-Borwa. Limpopo ke ba boditše gore ba dule komana-madula-a-bapile, ba tsebe gore bophelo bjo bobotse bo tlile ka lebaka la mmušo woo o eteletšwego pele ke ANC. Re thekga Molaokakanywa wo. Re a leboga.

Voting

Agreed to.

ELECTRONIC DEEDS REGISTRATION SYSTEMS BILL

(Consideration of Bill and of report thereon)

Mr O J SEFAKO: Thank you very much hon Chairperson for the opportunity to present the Report of the Select Committee on Land and Mineral Resources on the Electronic Deeds Registration Systems Bill [B 35B - 2017] (National Assembly - sec 75), dated 19 March 2019.

The CHAIRPERSON OF THE NCOP: Hon Sefako, please hold. Hon member, what you are doing is not allowed. You may use your phone privately,

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whatever, but that is not allowed. Thank you very much. Hon Sefako, please proceed.

Ms T K MAMPURU: Order, Chair.

The CHAIRPERSON OF THE NCOP: Is a point of order, hon Mampuru?

Ms T K MAMPURU: Hon Chairperson, I hear you are warning the member but I will request the indulgence so that the member deletes the pictures that are in the phone.

The CHAIRPERSON OF THE NCOP: The hon member has just left the House. We have told here that it is out of order to do that. We will convey the message. Can we proceed, please? Hon Sefako?

Mr O J SEFAKO: Thank you one more. The Bill was referred to the committee on 13 November 2018, where after on 6 December 2018, the committee placed an advertisement on the parliamentary website calling for public comments.

The Department of Rural Development and Land Reform briefed the committee on 29 January 2019 on the Electronic Deeds Registration

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Systems Bill [B 35B - 2017], with no public comment having been received.

The committee resolved that the public consultation period should be extended, with the advertisement calling for public comments to be placed on the parliamentary website, in relevant newspapers and various radio stations. To date, eight submissions were received of which three were merely comments made. The submissions received were from Mr M Surgeon; Ms N Bam-Tshangana; Ms P Faas, Banking Association of South Africa; Law Society of South Africa; amaBhungane Centre for Investigative Journalism; University of Johannesburg and Johan Schoon for Du Plessis and Viviers.

During the deliberations of 12 March 2019, the committee noted and extensively deliberated on the proposed definition of a statutory officer. In essence, the committee agrees that the said definition would add value in clarifying potential confusion in the interpretation of the Act. However, the committee is of the view that this definition may be introduced at a later stage as a technical amendment to provide more clarity on the legislation. The committee is of the view that the definition is key, however, it found that this amendment is of a technical nature which should not delay the passing of the Bill.

The committee considered the principle of passing the Bill as far too important to be delayed due to an issue of a technical nature, which could be fixed through a technical amendment by the department as soon as possible. The committee implored the Department of Rural Development and Land Reform to prepare and introduce a technical amendment in this regard before the Sixth Parliament for consideration.

The Select Committee on Land and Mineral Resources, having deliberated on and considered the subject of the Electronic Deeds Registration Systems Bill [B 35B - 2017] (National Assembly – sec 75), referred to it and classified by the Joint Tagging Mechanism as a section 75, agreed on the Bill without any amendments. I present the Bill for consideration. Thank you.

Debate concluded.

Question put: That the Bill be agreed to.

Bill accordingly agreed to, in accordance with section 75 of the Constitution

The CHAIRPERSON OF THE NCOP: Hon members, I have been informed that the Chief Whip should have run a motion asking for the removal of this order of the day for today. I therefore have to do the unnecessary and ask that this House refers this Bill back to the committee. Thank you very much.

Bill referred back to the committee.

**CONSIDERATION OF REPEAL OF THE OVERVAAL RESORTS LIMITED BILL AND REPORT
OF SELECT COMMITTEE ON COMMUNICATIONS
AND PUBLIC ENTERPRISES THEREON**

Ms E PRINS: The Select Committee on Communications and Public Enterprises considered the subject of the Repealing of the Overvaal Resorts Limited Bill, B36-2017, that was referred to it by the National Assembly, Section 75, on 20 November 2018.

The committee received a briefing from the Department of Public Enterprises on 13 February 2019. The Bill was advertised on community newspapers on 18 December 2018 to 11 January 2019 in all 11 languages as well as on the parliamentary website.

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The committee invited all interested parties and stakeholders to submit written and oral submissions. Perhaps because of the nature of the Bill, which seeks to declare that government no longer has ownership rights over the Overvaal Resorts, there was only one response that the committee received from the public which indicated interest in making an oral presentation to the committee.

Despite the fact that the public comment received did not raise any issues regarding the Bill itself nor any of its provisions, the committee however agreed that former employees of Overvaal Resorts must come and make their oral presentation to the committee.

Matters raised before the committee by former employees of Overvaal Resorts in their oral presentation were specific to the context within which the Overvaal Resorts were disposed of as a government-owned entity in 1997. They raised questions about the absence of an Employee Programme of Share Ownership Scheme, EPSOS, in the sale of Overvaal Resorts as well as the validity of the 30% Broad-Based Black Economic Empowerment.

The committee deliberated on these matters and requested that the Department of Public Enterprises take a look at the legal aspects of

the sale of Overvaal Resorts and address all the issues raised by the former employees of Overvaal Resorts.

The committee was pleased to learn that, following our meeting with the department, the latter took a stand to pursue the matter and used every available avenue to see to it that the sale of Overvaal Resorts meets all the requirements of government policy especially the Employee Programme of Share Ownership Scheme and the Broad-Based Black Economic Empowerment policy. Both policies designed to benefit the previously disadvantaged groups of our country.

The support the committee gave this Bill was primarily based on the commitment the department made and the detailed plan they presented to us to address these matters, assuring us that as government of the people, representing the same people, we will not fail our people, not in this Parliament nor the one that is to come. I table the report for adoption and I thank you. [Applause.]

Debate concluded.

Question put: That the Bill be agreed to.

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Bill accordingly agreed to, in accordance with section 75 of the Constitution.

FAREWELL SPEECHES

The CHIEF WHIP OF THE COUNCIL: Thank you very much hon Chairperson.
[Applause.]

Sesotho:

Mong S J MOHAI: Ke isa hlomphe ho wena Modulasetulo wa rona wa Khansele ya Diprofense. Ke ise hlomphe ho ditho tsohle tsa Ntlo ena. Ke hlomphe bohle ba tswa diprofenseng bao e leng barumowa ba ikgethehileng. Mme hape, ke hlomphe difosiri tsa tshebeletso tsa rona tsa Ntlo ena, ke ba bitse ka mabitso ka ho qolleha: Ntate Brent Leeuwendaal, Ntate Freek Erasmus, le Mme Moira Foster. Ke kopa re fe Brand, Freek and Moira matsoho hle! [Applause.]

English:

Can we please ... [Applause.] ... report nicely on the service that they provide to us on a daily basis, by even helping us to recover some of the items that are important to us after our sittings.

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As we may be aware, the family of the Chief Whip of the Majority Party in the National Assembly, hon Jackson Mthembu, has suffered another painful setback with the untimely death of his daughter, Ms *Khwezi* Mthembu, who will be buried over this weekend. I deem it fit, on behalf of the House, to express our heartfelt condolences to the Mthembu family during these trying times.

This occasion of our farewell speeches takes place at a time when the memories of human tragedy and devastation, occasioned by the natural disaster against the peoples of Mozambique, Malawi and Zimbabwe, are still fresh. This tragedy, which is estimated to have killed over 750 people, will forever remain in our history as one of the greatest natural disasters that has undermined Africa's renewal and development in the 21st century.

It is against this background that I once more beg for your indulgence by allowing me to take this opportunity, on behalf of the ANC and the people of South Africa, to express our solidarity with the governments and the peoples of Mozambique, Zimbabwe and Malawi under these trying times. We salute our government and other governments within the AU and the southern African region, the Southern African Development Community, SADC, for extending their generous assistance to these countries. The presence of our national flag through the SA National

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Defence Force in the rescue and reparation operations in these countries should indeed be a source of pride about South Africa's leading role in forging and deepening African solidarity.

Our farewell messages in this last sitting of the National Council of Provinces in the Fifth democratic Parliament is indeed a special and historic occasion. It comes with the painful moment of truth in our individual and collective lives. For some of us it may be a temporary break and a transition into the Sixth democratic Parliament as representatives of our people, and for others, assignments in different areas. The painful aspect associated with this moment of truth can only be explained in military terms, as military scientists would argue that in a situation of war there is no nation that summons its entire army to the battlefield. Others remain as reserves, while others are assigned to different auxiliary functions. This is the plain truth about our call of duty as politicians and selfless servants of our people. We serve at the pleasure of our political parties, and today is the time when our democracy demands the renewal of political mandates, assignments and reassignments to serve our country and her people.

Whatever the future holds in store for any of us, we should look back over the past five years of service as members of this august House with a great sense of pride. Our individual and collective response to

heed the call of duty to serve our people will permanently feature in the archives of history with an inscription of, an honour to serve.

The National Council of Provinces is our second House of Parliament that occupies a special place in the battle of ideas for the building of a national democratic society. It will therefore be a serious dereliction of duty for us as members of this House to simply come here and extend messages of farewell to each other without touching on the state of our politics and institutions of democratic governance in empowering our people as architects of their own future.

We do this not out of affinity or theoretical debates but because history demands that we constantly reflect on how our politics, governance and democratic landscape continues to empower our people to be architects of their own future. *Antonio Gramsci* reminds us that in politics the masses do not exist in a vacuum, but in so far as they are organised and mobilised into action by political parties.

As critical social agencies for political leadership, societal change, transformation and development, political parties determine the behaviour and performance of government, and are the ultimate forces in shaping the behaviour of the electorate.

The greatest threat to our democracy in the twenty-first century is the persistence of the trust deficit in the ability of political and corporate elites to address the triple challenge of poverty, unemployment and inequality. This trust deficit accounts for the persistence of political apathy among the overwhelming majority of the electorate, especially among the youth. This presents a compelling case to the leadership of any country to continuously reflect on the nexus between their politics, governance and the masses.

Throughout history, the ANC has placed a high premium on the masses as the decisive factor critical to the victory of our national democratic revolution. The significance of the masses as the architect of their own future is a collective heritage of our struggle that resonates with the fundamental values and principles of our Constitution as the supreme law of our country.

At the beachhead of the ANC, democratic transition has always meant the fundamental transformation of patterns of ownership, and the management and control of the commanding heights of the economy. All of us know that the ANC-led government has designed and adopted policies and legislation to give effect to economic transformation. Our Parliament has further commissioned ... in fact, Chairperson, this includes among others, to cite but a few, the Preferential Public Procurement

Framework Act, the Affirmative Action Policy, broad-based black economic empowerment, the Competitions Act, the national minimum wage, the National Credit Act amendments that address debt relief, and the Public Audit Amendment Bill.

These are pieces of legislation critical to the lives of our people that have passed through this House.

Our Parliament has further commissioned a high level panel on the review of the impact of the legislation on the lives of our people. This panel conducted an extensive public participation process to receive the inputs of our people and other critical stakeholders across the length and breadth of our country.

The overwhelming majority of our people identify with the policy and vision of the ANC not only on the basis of superior logic, but also as the articulation of their own voices.

The challenge of greed and corruption that has permeated our public and private sectors has not escaped our attention. We have learnt great lessons from those countries that were liberated before us, hence our strong, robust anti-corruption legislation and institutions. The commission of enquiry into the allegation of state capture and other

sectoral commissions of enquiry established by President Ramaphosa are an assurance to our people of our unwavering commitment to fight corruption. We might have not perfected the art of governance and transformation but, with time, we will be in a better position to ensure that the democratic state and its institutions are the collective property of our people, not that of a few elites.

This is central to the strategic task of renewal adopted by the 54th conference of the ANC.

We have listened to our people, and are continuing to do so and understand their fears, hopes and aspirations about the better future we seek to build. In doing this, we have not concealed the truth, irrespective of how it hurts us. Like today, it is the ANC that is at the frontline of public debate, acknowledging the poor performance of the economy and the current challenge of loadshedding, with the view towards finding sustainable solutions.

Hon members, one of the architects of South Africa over the last 25 years is the common commitment and allegiance of her people to the Constitution as the unifying vision about the future we seek to build. United in diversity, our constitutional dispensation has gone through

many trials and tribulations to become a living document for a better future in the eyes of the overwhelming majority of our people.

In pursuance of the strategic vision of the activist Parliament for a better quality of life for all, the NCOP has, among others, intensified its efforts in facilitating dialogue between the three spheres of government and deepening the dialogue with our communities through our flagship programmes. We bear witness to that, hon members.

The quick question that must still enjoy urgent collective attention in the sixth democratic Parliament is how we deepen the unique identity and role of the NCOP and the National Assembly.

I am happy to report that under the stewardship of the Chairperson of the National Council of Provinces, hon Thandi Modise, lots of work has been done in this regard. We will constitute a legacy report in the 6th democratic Parliament.

This farewell message will not be complete without dedicating a few words to the collective leadership of this House, under your stewardship. Leaders come and go, but institutions and organisations remain as social agencies for societal change and development. Memories

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of your stewardship of this institution will forever be a source of inspiration to many amongst us, across party-political device.

Under your stewardship, the unique brand and position of the NCOP in South Africa's constitutional democracy have grown in leaps and bounds. Among the successes of this term of Parliament, under your stewardship, is the consolidation of the identity of Parliament, as made up by National Assembly and the National Council of Provinces, both in terms of governance and operations.

At qualitative level, we have witnessed the emergence of a shared appreciation of the supremacy of the rule of law in the conduct of our business, as an institution. hon Thandi Modise, your consistency and steadfastness, to treat everyone equal in the terms of the law and the rules of this House, have not only bolstered the decorum of the House but, most importantly, made it compelling to members of this House to be custodians of the decorum of this House. Is that not true, members? [Applause.] [Interjections.]

To the Deputy Chairperson, hon Tau, and the two House Chairpersons - being House Chairperson for Committees, hon Nyambi, and the House Chairperson for International Relations, Mme Dikgale: Without your sterling support to the Chairperson, many successes we are talking

about could have not been possible. You stood true to the call of duty, sometimes under difficult circumstances. In multiparty democracy like ours, the role of the opposition is very critical and indispensable for the consolidation of our democracy.

I have said this before in the House: Among the challenges we must confront in our body politic are the twin dangers of blind majority and blind opposition. I am proud to have worked with a collective of leadership of the minority parties that have always defied a danger of blind opposition. It was glaring in a number of our sessions, hon Khawula and hon Cathy. Two members are not here: hon Gaehler – I understand the constraints of a small party – and hon Mokwele. Small parties really struggle. [Laughter.]

The fact that we have never experienced a serious risk in the co-ordination of our work with provinces is a testimony of how Provincial Whips were on top of the situation. [Interjections.] It is the Provincial Whips that make the business of the House to succeed. With this collective account of our footprints in the fifth democratic Parliament, I dare challenge anyone to refute that we have not written a new chapter on the evolution and history of the NCOP as a second Chamber of our democratic Parliament.

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Let me therefore take this opportunity to wish you the best in your future endeavours as we part in different directions after this sitting. My good wishes to my dear colleagues, friends and comrades will be incomplete without a big thank you for your individual and collective support during my tenure as Chief Whip of this House. Of course, I am an outgoing Chief Whip now.

I also want you to allow me to express great sense of appreciation and my gratitude to the ANC, my political home for the confidence entrusted in me as Chief Whip of the National Council of Provinces, ... and I express my appreciation of good-working relationship, first with Chief Whip Jackson Mthembu and his deputy, Comrade Dlakude, and many of you comrades. I salute you. I want to wish Comrade Mthimunye well, to recover speedily. He has demonstrated a good work ethic by always being with us. Amandla ngawethu! Ke a leboga! Thank you!

Ms C LABUSCHAGNE: Hon Chairperson, hon members and fellow South Africans, we have come to the end of the Fifth Parliament term and I ask myself what it is that I would like to say to whom at the end of the five year journey in the NCOP.

Firstly, I would like to say thank you to all parliamentary staff, committee staff and political parties staff for your patience, sharing

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your experience and knowledge with us as well as guiding members in our daily duty of serving the people who voted us into Parliament. I can recall a few robust discussions on legal aspects in various committees as well as heated opinions when the NCOP conducted provincial weeks and taking Parliament to the people. All those moments contributed to enabling us as members to fulfil our roles as we continue with our work in Parliament.

A special word of appreciation to the Table and Chamber staff to the many extended hours of service in the NCOP. Secondly I would like to thank our colleagues of all other parties for interesting discussions, sometimes heated debates and the conjugality.

I always knew when the ANC colleagues wanted to pass some tricky issues in the multiparty works group. The indicators were that everyone normally fighting me in meetings were very friendly and even compliment me.

Hon Thandi Modise I thank you for the experience that could have served in the NCOP under your stewardship. Your ability to listen, search for facts and discern between right and wrong enabled us all to bring some changes to the functionary of the NCOP in this Fifth Parliament.

Hon I will always appreciate you for your ability to listen and find solutions in a calm and reasonable way. The process of adjusting the speaker's time as well as the way the way debates are now being determined and introduced in the NCOP are examples thereof.

I would also not be true to myself if I do not refer to the issues that are still a challenge to the NCOP and need to be addressed in the Sixth Parliament. I am only going to summarise and name a few of them:

keeping the executive accountable; revising the existing model of oversight that currently is a blue print of the role and functions of the NA; revisions of the rules of the NCOP has many grey areas or lack of guidance were discovered and the more we fulfilled our role with regard to procedures and processes of legislation. The model of provincial weeks and taking parliament to the people to focus on determining the impact of legislation on the lives of our people. High level panel reports are currently the only significant method of feedback on whether legislation have a good or a bad impact on our people.

The NCOP has to check and balance of Parliament should ensure efficient and progressive oversight and I use that by a lack of a better word over legislation. The procedures and processes followed in the NCOP committees when legislations are being processed specifically focusing

on public participation process with regard to section 76 legislation. We need to apply our minds critically on the input received by the people through this public participation processes as illustrated by the process of the Minerals and Petroleum Resources Development Bill to mention one example.

The reasons and motivations for instituting interventions. Hon House Chair I also want to convey my deep felt gratitude to my DA colleagues for being a team to be proud of including the special delegates from all provinces. We met through many memorable experiences and I know we will look back to this term in the NCOP as one of our highlights in our role as MPs. I would also like to say thank you to every member's family for your support and sacrifices. I wish everyone well in their future endeavours

Hon Chair, lastly, I want to remind all of us as well as our citizens that although we are representing different parties, we are all living in our beloved country South Africa. Our share of responsibility is to uphold the Constitution, the rule of law and the bill of rights enshrined in our Constitution. The end of the term automatically indicates an election, therefore, I call on all South Africans to reflect on the way the party they are voting for makes you feel, to

reflect in the way if you can trust the Constitution, the rule of law and the Bill of Rights in the hands of the party you vote for.

It is important that we as members of the Fifth NCOP Parliament go out, ensure and reflect on what is our role did each and everyone of us did our utmost best when we represented our people in the committees, when we represented the issues of our provinces in our committees, when we applied our minds in the discussions on each and every legislation and come to a decision. I wish for those of us who are returning to the NA, other legislatures and or the NCOP to take this as an example to build on to what we have achieved. Those of our colleagues who choose not to come back or it happens that you cannot come back, I wish you well on all your endeavours. Thank you very much.

Xitsonga:

Man T B MATHEVULA: Mutshamaxitulu, vatirhikulorhi na MaAfrika-Dzonga hi ku angarhela, ndza mi xeweta.

English:

When the EFF arrived in this Parliament, we found an institution which was nothing more but a rubberstamp of the ANC. Wherein, the ineffective policies and legislations were pushed through without contestation and where a President who was a constitutional delinquent was not held to

account. In the last five years, the EFF in the National Assembly and in the National Council of Provinces have transformed this Parliament and South Africa at large.

It was because of the EFF and our first cardinal pillar that Parliament has undertaken to amend section 25 of the Constitution to allow for the expropriation of land without compensation. History will record that it was an EFF motion which started this process. The struggle for liberation has always centred on the need to see the land - which was taken from the African people by white settlers - returned to the people. The EFF has continued with this battle. Five years ago, this Parliament was the playground of Jacob Zuma. He came here and did as he pleased. In fact, the members of the ANC protected Jacob Zuma for the seven and half years.

It was the EFF who got Jacob Zuma to pay back the money; it was the EFF's sponsored vote of no confidence motion which eventually led Zuma to resign and it was the effort of the EFF - both in Parliament and in the courts - which resulted in the establishment of the state of capture commission of enquiry. No matter what the Stratcom media said, it was the EFF which ended the reign of Zuma and the capture of the state by the Guptas.

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While holding the executive accountable, we have also used the last five years to table the laws. This has included the National Health Amendment Bill, which will ensure that all clinics are open 24hours a day; the in-sourcing Bill, which will result in the in sourcing of all government and state-owned entities workers who provide regular services; the illegalisation of alcohol advertisement Bill, which will end the promotion of consumption of alcohol in South Africa; the Bank Amendment Bill, which will lead to the creation of the state-owned bank and the nationalisation of the South African Reserve Bank Bill, which will end the private ownership of central bank.

The other EFF contributions included the motion on free education; improved working conditions and the salaries of mine workers; the repeal of all apartheid laws and legislations; nationalisation of the Reserve Bank as well as the submission of Parliament and the Davidson County Election Commission and elicit financial flow on tax evasion. On the issue of gender and representation of women, the EFF caucus has led by example. There is 66% of EFF NCOP representatives are females and we have shown that we have capable female leaders. On behalf of the EFF as an organisation, we really like to say to both the EFF women and all South African women, thank you. To the EFF leadership that considered and believed in the leadership of women, may God bless you.

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[Inaudible.] industrialisation which will not see the economy grow, but we will see the economic development so that we become the producer of the goods we consume. The EFF government will use tariff subsidies and other measures to protect local industries and agriculture. The EFF government will in-source workers; give productive land to the people; provide them with the necessary tools, skills, resources and access to the market so that they are able to feed the country. The EFF government will provide free education; formalise early childhood development; establish state banks; nationalise the Reserve Bank; ensure that women and the youth are prioritised in the distribution of land and in the allocation of all jobs.

Xitsonga:

Eka vaakatiko hinkwenu va Afrika-Dzonga, a hi humeni hi 08 Mudyaxihi 2019, hi ya vhotela vandla ra EFF. Ndza khensa.

Mr M KHAWULA: Hon Chairperson, hon members, on behalf of Umntwana waKwaPhindangene, Prince Mangosuthu Buthelezi, and on behalf of the IFP family, let me start by expressing gratitude to all the hon members and all South Africans who have sent messages of condolences to our leader, to the Buthelezi family and to the IFP family on the passing away of our dear mother, Princess Irene Audrey Thandekile MaMzila Buthelezi. Your words of comfort, your gestures of ubuntu and your reaching out to

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Umntwana and his family at this difficult time means a lot to all of us.

As the NCOP wraps up the five years work of this 5th Parliament, the IFP has been proud to have been part of this House and to have made positive and constructive contributions to build our country, entrench our democracy and stabilise the work of this Parliament. The House started the term with one Chief Whip and we are finishing the term with a different Chief Whip. KwaZulu-Natal, Free State, Eastern Cape, Mpumalanga, all changed provincial whips in the middle of the term.

When one looks back again, I remember that we started our work with this Hon Chairperson of our council, Hon Thandi Modise, and we are finishing our term with her. Hon Deputy Chair, watch out! I appreciate that you resurfaced on time after your brief disappearance. Next time, we might not wait that long to fill up an empty Deputy Chairperson vacant seat. At least, you made it back on time for you to finish the term.

As we wrap up the work of this parliament this term, the IFP puts the following as some of the unfinished important business: That the division of revenue still does not give fair shares and proportions to the provinces and local governments of our country; that follow ups to

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the concerns raised by communities in Taking Parliament to the People programmes have still remained very poor; that petitions select committee work has been very close to being dysfunctional; that follow ups on commitments made by the executive have been very poor; and that the party motions have received very minimal attention and time in the House for debates

Be that as it may, the IFP wishes to appreciate the quality leadership of our Chairperson, her objectivity, her motherly guidance and the quality reflection of experienced leadership. Chairperson, thank you very much! We also wish to express gratitude to the quality leadership of our Chief Whip, hon Mohai. You came in during the middle of the term and tried your best to steer the ship to the right direction.

My friend and colleague, the hon House Chairperson of Committees, hon Jomo Nyambi. Always reflecting a sense of ubuntu in your leadership. Thank you very much for that. One could very easily mistaken and associate your mentorship and upbringing, and that of the Hon Mohai, with Umntwana's mentorship. [Interjections.] The Hon House Chairperson, Mme Dikgale, Ndlunkulu, thanks for always speaking your mind without fear or favour, irrespective of the circumstances. Hon Deputy Chairperson, thank you for your firmness, especially on the issues of observing time

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Secretary of NCOP, Adv Phindela, and all our wonderful NCOP staff, the IFP says bravo! The hon Programming Whip, my favourite: If you come back to this House after elections, I would advise members to bring with them their dictionaries to the House whenever you are scheduled to speak. You remain one of the best teachers of terminology politics in this House, especially Marxist terminology. Hon colleagues, and friends in the DA, the ANC, the EFF, the UDM, the IFP says thank you very much for a five years well spent with you all in this House.

As the IFP, we will forever cherish the experiences and memories of this House: The ANC struggling with the proper utilisation of its big numbers in the house; the DA walk outs and opposition just for the sake of it; the always Western Cape vs. South Africa approach to anything; the EFF noises and disruptions meant to capture the attention of the camera; and the Gaehler outbursts. [Time expired.] Utshaba lixesha! We love you all; we honour you all; and we respect you all! Thank you very much Chair. [Applause.]

The CHAIRPERSON OF THE NCOP: Hon members, I prefer greeting people when I meet them for the first time. I am not very good at saying goodbye. However, I want to express my appreciation for every time we, as the NCOP, have spent together.

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When I first came to Cape Town, it was a very sudden ruption in my life. I went through a rough time during my first six months here. I found, amongst you, friends. I found, amongst you, people who would judge without even asking first. However, I will always appreciate two women - and for today, I will say they are two white women - who walked into my office, one day, asked me to sit down and tell them what had happened. I must say, I will always appreciate the hon Labuschagne and the hon Van Lingen, because I remember it was the first time, I could sit with women and say, actually it is better that it is my pigs that have died on my farm and not my grandson. I had had to rush here and leave my grandson with a domestic worker because I was totally unprepared to come here. So, I want to thank you for being there.

There was also another woman, the former Chief Whip of the NCOP, who walked in and said that whatever the problem was, we are women and we will stand by you. We will try and understand.

It is when you have walked the difficulties that you understand when another human being gets into a tight spot. It is when you have fought that you understand what fighting is all about. It is when you have felt the pain that you know that to inflict the pain can only be done by cowards because they transfer that which is in them. So, I want to

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say that, on a very personal note, it is difficult for me to say goodbye to some of you.

I have also enjoyed the ability of the NCOP to come together and to become family when they are needed to do so. I have often enjoyed the rough debates because the rough debates, depending on who you are, actually show you the blind spots you might have. In politics, it is also always good to hear about your weaknesses, to be forced to look at things you might not ordinarily want to look at.

I agree with the hon Labuschagne. It is very, very necessary for the NCOP to go back to where we started. I remember our first workshop. It was where we interrogated our constitutional mandate. When we walked out of that workshop, we said that intergovernmental relations was going to be our mantra; we must make sure that we do that. We said that co-operative governance is the business of the NCOP. We went all over the show to try and convince others who, like me when I stepped into the NCOP, did not understand its workings.

We have, to some extent, moved the perception about this House of Parliament, a little bit. We know we can move the NCOP to become the House that gets the attention and the respect of South Africans, because it is through the provisions of the Constitution, setting up

the NCOP, that the protection of the provinces and the people in the provinces can, in fact, gain ground.

Those new members of the NCOP and those who will return, if we ever get to be warriors on behalf of our people and gather our wits and come out with that legislation that we need in order to really exercise our powers in terms of sections 100 and 139, we will have done that big thing. If we ever appreciate ... I know that the hon Motlashuping once raised the matter very roughly, of why we, from this House, weren't being taken into the executive. However, I think it is a good thing that members of this House are not members of the executive, because the deliberateness of excluding this House from the executive is a power that we should be exercising very thoroughly.

It is when we mature, as a democracy, as South Africa, that we will really begin to appreciate the power of this House. This House is powerful. It just does not understand its power. It does not understand its hold on the executive. It does not understand its responsibility towards provinces. It does not understand its responsibility towards local government. If we get there, some day, we will be very proud.

I am very proud of the accident that brought me to the NCOP. I am very proud to leave the NCOP, as I probably will, because I don't know where

I will be, come the elections, but I will leave with a clean heart that we have been able to talk.

The day I got my first hug from the hon Smit, he had hair all over, and he said he was happy to be giving me a hug. I actually scolded him for having a beard. I told him to cut that thing off, it hurt my face ... [Laughter.] ... forgetting that I was not the person he had to hug every day and who was the one who had to worry about his beard every day! This shows how far we have come.

I must say that I don't know where we would have been without the hon Nyambi and Ma' Dikgale. So, I want to thank them. [Applause.] I also want to thank the Deputy Chair – in his absence, it was these two who held us together. [Interjections.]

Yes, we changed Chief Whips. She started us off. She took us places, and we must thank her. Perhaps it is exactly because mistakes happened that we became stronger for it, and therefore, nTate, say so. Whilst we thank you for helping us navigate the rest of the way, we must also thank Mme Dr Mateme for the stewardship that she gave us. [Applause.]

We must thank the women of the NCOP because, also, when we started off, there were only two young women, if I remember correctly, the hon

Motara and the hon member Manopole, who went back to the Northern Cape. The rest of us were women in our nice and comfortable years – not old! I want to thank the women because they kept up with the pace. They never made excuses that they were women with grandchildren or that they had lost their husbands to death or to younger models. They kept up with the pace, and I want to thank my female colleagues, not only for keeping up with the work, but for also being able to look at all of us, as women across parties, as women, to disagree, as women, but also to remember the points where we needed to come together, as women, address certain matters without our party hats on and move in a certain direction. [Applause.] So, I want to thank the women.

I want to thank the men for the respect they have shown us, as Members of the NCOP. I want to thank you very much. Amongst you ...

IsiXhosa:

... kukho amanene...

English:

... really, really good gentlemen. I want to thank you for that because I have not actually had a single case where female members of the NCOP have come to report male members of the NCOP. For that, I think we must be grateful. [Applause.] If you want to see how great the male South

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African Members of Parliament are, travel abroad with them. They become real gentlemen there. So, I want to thank you all for that.

I want to join in in thanking the staff, from Adv Phindela right down to that anonymous member of the community who cleans our offices. I want to thank these service officers who run around tirelessly during the sittings with papers and glasses of water. I want to thank them very, very much because, without them, we might not have the energy we have. [Applause.]

To the staff in the restaurants, we don't always agree with their menus, but they do their best and we must thank them. I think those who do visit the bars must take an extra trip before they go off - not for the last drink, but for the last tip ...

An HON MEMBER: Amandla, Shosholoza! [Laughter.]

The CHAIRPERSON OF THE NCOP: ... and it must be big for those staff members who serve you and wait for you until you are nice and sozzled before you agree to drive your cars.

Yes, there are a number of things that we have done. There are a number of things we still need to do. I am proud that we tinkered with our

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programmes. I am proud that we tinkered with the programme of Taking Parliament to the People. I am proud that we have had more consistent reports coming from the committees.

I am still worried that, in fact, we have not quite gotten into how we get provincial mandates into the House on Bills that need provincial votes. So, I want to say to the provincial Whips that you are only a provincial Whip because you come and serve members that come from a particular province. We pay you that salary to serve all members who come from any particular province. If it is province X, it is all the members. It doesn't matter what colours they wear, because it means that, provincially, the Whip is the leader of that province, here, in a foreign place called Parliament.

I want to say that we would do very well to negotiate amongst ourselves, as parties, to create better camaraderie and congeniality if we began with entrusting the discipline of our members to whom it belongs - the Whips. The Whips have the responsibility to keep us on time, in the House, knowing our work, and delivering. The chairpersons have the powers to run the committees undisturbed. It is unfettered because the Constitution and the Rules of the House do not see the co-chairing and the co-responsibility between the Whip and the

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Chairperson. So, chairpersons must not delegate their responsibilities of making sure that matters before them are fine.

I have had quite a quarrel about making a distinction - simply because the NCOP is quite distinct from the NA - in terms of the budget. It is a battle I am fighting and a battle I agree with you, hon members of the NCOP, that I think I have lost. It comes in one way and goes out another. They cannot make a distinction. However, the distinctness of this House must show in the actions and the programmes of this House. It must be reflected in the budget.

I do know that we have taken issue, at presiding officer level, over the allocations of the funds for Parliament on study tours. The NCOP has not had its fair share. I hope that, in future, the chairpersons will get programmes adopted by their committees. It is very important for you to do that because then your committee can hold you to account for that which they have adopted right at the beginning of the term if you do not deliver. That will also help us with planning and fighting for the resources for the NCOP.

I want to say that without special delegates, the NCOP does not stand. Without special delegates and the strength, the quality of debates, we

would just be talking amongst ourselves. So, I want to really thank the special delegates very much.

Some provinces are very consistent in giving us support. We thank you very much. There are provinces which we know struggle to keep quorums in their own instances. We understand that they can't always send us special delegates, but then, again, with the mandate of the NCOP, I hope it is the NCOP that will bring back to the table the discussions on the functionality and effectiveness of provincial governments. To be nice, because we need to be voted back and not to say that province X fails to deliver here and here and here, and to suggest remedies is to not do right by the people in the provinces. Therefore, it is one of the things that I am saying - should the NCOP continue in this way, I think we would be failing the people who sent us here to represent them.

There is a programme in Parliament called the Legislative Sector Support, LSS. We must also look at changing its focus because that programme is supposed to make sure that when a member goes and briefs a committee in a province, that member does not need anything. That member is turned into an expert in that particular field and can field questions, and so on. As that programme is, it enables Members of Parliament to disappear from here, to go to universities and not to

translate their time there into qualitative production of what we have come here for.

I am not jealous. Please study. However, I am saying that if the institution is going to fund money out there, it must be to ensure that this institution begins to function optimally. We can't suffer absenteeism because people are busy pushing private degrees. We must suffer absenteeism because we have sent you to get a skill that we have identified Parliament needs.

Therefore, for me, there are small things that we need to do. We need to go back and those of us who come back and ask whether we are very proud of the fact that, over the last five years, we have produced quality legislation. I am on record as having said that, for me, it is not about the number of Bills and Acts that are churned out. It is the quality and impact of what passes through our hands that must matter most to us. It is the quality of debates on issues that affect the people out there on the street that must worry us.

I would beg that, on coming back to the NCOP, we must actually maximise things here which occur in local government and provinces. We must criticise, yes, but we must be able to put possible solutions on the

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table because the NCOP cannot be representing the people in the provinces if it is not serious about building communities.

In conclusion - because I think I have actually just been moaning and not saying things that people say in farewell speeches - I want to say I think the NCOP must be able to say no to the racial tensions which are beginning to rage across this Republic of South Africa. We must say no, because we have seen bloodshed. We have seen bad things. We don't want to see them happening again, across the board.

So, we must be able to talk across the board to everybody, black and white, and say it is not done in our name. In our name, we will quarrel and we will fight, but we will not maim and we will not condemn our children's children back into racism and racial disagreements. We must say that we were not stupid when we stated that our diversity is our power. We are proud to be in it. It is our strength, it is not our weakness.

So....

IsiXhosa:

...manene namanenekazi...

English:

... I want to thank you very much for the period we've been together and I hope that during this time, we have not disappointed you.

As I said, I have a group of women who come now and then who will tell me when they disagree with me. So, I then get told off. I have also taken the liberty of calling members of the NCOP with whom I do not agree to say, in the same way they take liberties, I do not agree with them there. I think we build one another up, in that way.

If we can do that, ladies and gentlemen, even to our staff members ... Remember, that member of staff makes you perform when you have been re-elected because you have delivered a good speech. Sometimes it is that staff member who has helped you gather the facts. It is that staff member who has brought you glasses of water and cups of tea. It is that staff member who makes sure that your office is clean and you can think in it. It is that staff member who arranges your trips, makes sure that when you go and speak to stakeholders, you understand what you supposed to be dealing with.

So, my thanks, once more, goes to the staff and goes to you all, my colleagues. Thank you very much. Mam' Samka, you must continue being the Whip in our private lives. She does that! Mam' ...

IsiZulu:

... noma angabuyi. [Uhleko.]

English:

We must continue to say that some of us will be there continuously to sponsor the people in the NCOP. I know my homeboy says he's tired and he's retiring. Chris, I don't know what you're going to do. You have always been busy. I think people like us who have never actually had the time to be idle, get ourselves into trouble. So, you worry me because I don't know what you're going to do when you retire. You're going to age quickly. You might even start drinking! [Laughter.] So, I'm very worried about you.

However, retire some of us must because sometimes we have given so much to the nation that our families have suffered. Sometimes, we have sacrificed so much that we love the bigger South African family but do very badly when it comes to human relations within our families.

So, I would say, let us go out. Let us campaign very hard - but don't forget your families. Don't forget that, because, at the end of the day, when anything happens to you, it is that family that comes running first. Your political party will come, yes, but it is that family that we often neglect that we need to go back to. Thank you very much.

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I am told that I must give one last instruction. This is to invite Members of the NCOP to gather in the Queen's Hall for a photograph. I am also going to instruct the Table here, in front of you, that a copy of that photograph must go to all members, individually.

HON MEMBERS: Hear! Hear! [Applause.]

Setswana:

MODULASETILO WA NCOP: Ka jalo, ke lebogile go menagane.

English:

Thank you. [Interjections.] [Laughter.]

Hon members, this is what an old woman who is in a hurry to get out does! Hon members, that concludes the business of the day. The House is adjourned.

Debate concluded.

The Council adjourned at 17:26.