

NATIONAL COUNCIL OF PROVINCES

TAKING PARLIAMENT TO THE PEOPLE:

**ALBERTON CIVIC CENTRE, ALBERTON, CITY OF EKURHULENI METROPOLITAN
MUNICIPALITY, GAUTENG PROVINCE**

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***PROCEEDINGS OF NATIONAL COUNCIL OF PROVINCES AT EKURHULENI
MUNICIPALITY, GAUTENG***

The Council met at 17:47.

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

The Chairperson announced that the venue has been declared the precincts of Parliament in terms of section 2(d) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act, Act 4 of 2004.

**SUSPENSION OF RULE 239(1) FOR THE PURPOSES OF CONSIDERATION OF
THE DIVISION OF REVENUE AMENDMENT BILL**

(Draft Resolution)

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The CHIEF WHIP OF THE NCOP: Chairperson, I move:

That the Council resolves that Rule 239(1), which provides inter alia that the consideration of a Bill may not commence before at least three working days have lapsed since the committee's report was tabled, be suspended for the purposes of consideration of the Division of Revenue Amendment Bill, B34 of 2018.

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.

DIVISION OF REVENUE AMENDMENT BILL

(Consideration of Bill and Report of the Select Committee on
Appropriations thereon)

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Mr C J DE BEER: Chairperson, hon members, the Select Committee on Appropriations, having considered the Division of Revenue Bill, B34 of 2018, reports as follows.

The Division of Revenue Amendment Bill was tabled in Parliament on 24 October 2018 by the Minister of Finance during the presentation of the Medium-Term Budget Policy Statement. It was also referred to the standing committee as well as to the Select Committee on Appropriations, and several meetings were held. The briefing took place on 8 November, and the Financial and Fiscal Commission, FFC, also made a presentation.

On 9 November, public hearings were held, although we did not receive any presentations, except for one made by the SA Local Government Association, Salga.

On 13 and 14 November briefings were held in the provincial legislatures as well as public hearings.

On 16 November, the negotiating mandates were submitted to the select committee and the final mandates were submitted this

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morning of 20 November. Presently, we are here to consider the report.

In the context of sluggish economic growth, the downward revisions in the national allocation as reflected in Schedule 1 of the Division of Revenue Amendment Bill decreased by R564,1 million. The downward revision is limited only to the national sphere of government. This means that the equitable share allocations to both provincial and local governments remain unchanged, as reflected in the Division of Revenue Amendment Bill, 2018.

Government is committed to ensuring fiscal consolidation. The expenditure ceiling remains intact as an anchor of fiscal policy, but governance and financial management over government departments has to improve.

Service delivery remains a top priority of government. Both provincial and local government spheres are critical for policy implementation and quality service delivery. Hence, the allocations remain unchanged.

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The committee welcomes an amount of R3,4 billion which has been added for both direct and indirect grants for drought relief. In addition to this, an amount of R1,98 billion has also been added to the direct conditional grant, specifically for drought relief for provinces affected by drought.

These funds have increased allocations to the following provincial programmes. This is very important. Why? To enhance service delivery. The grants we refer is the Comprehensive Agricultural Support Programme, Casp, the land CAB programme grant, the provincial disaster relief grant, the provincial disaster recovery grant, ring-fenced additional funds for the education infrastructure grant, the schools infrastructure backlog grant, the health facilities revitalisation grant, the National Health Insurance indirect grant, the human settlements development grant, and for the ring-fenced and financed-linked to individual subsidy programmes in human settlements.

What does it mean? The Division of Revenue Amendment Bill is pro-poor. It favours the poor. The committee welcomes the additional conditions for the approval of drought relief

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funding which constitutes changes in the gazetted framework. The committee believes that such conditions should be enforced, not only to make sure that there is timeous transfer of funds, but also to improve expenditure of such funds.

The committee welcomes the reprioritisation of funding to enable the creation of two new health grants, referring here to R350 million that has been reprioritised from the National Health Insurance Indirect Grant to fund the new human resource capacitation component to pay for the much-needed health specialists. R150 million has been reprioritised from the Health Facility Revitalisation Component grant to fund the new Beds and Laundry Service Component grant for the procurement of beds and linen to improve health facilities.

The committee is of the view that the introduction of these grants should be accompanied by a strong monitoring mechanism to make sure that monies are used for their intended purposes.

The committee believes that such reforms ought to be supported, particularly when focussing on the much-needed improvement in the health care system.

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Local government is at the forefront of service delivery, and therefore the committee welcomes the additional resource in the following local government grants. The Municipal Disaster Recovery grant, the Water Services Infrastructure grant, the Regional Bulk Infrastructure grant, the Public Transport Network grant – in this case, referring to Cape Town's MyCiti bus service – and the Municipal Systems Improvement grant.

The committee noticed some corrections and omissions tabled by National Treasury: two conditional grant frameworks and the new conditional grant framework as set out in Annexures 2 and 3 of the Bill. But the committee noted the increase in municipalities which adopted unfunded budget: up from 83 to 113 in 2018. This shows a total disregard for the Municipal Finance Management Act.

The committee is concerned about the lack of project oversight in local government. This has seen councils approving project funding without making any follow-up visits to such projects.

As much as the committee welcomes additional funding for various infrastructure grants, the committee is of the view

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that this should be accompanied by intensive effort to improve the capacity of national, provincial and local government to implement infrastructure projects, and strengthen monitoring and evaluation of such projects to ensure that they are implemented and that funds are used for their intended purposes. This is vital.

The committee recommends that, within the framework of its prescribed role, National Treasury and the national Department of Co-operative Governance and Traditional Affairs should ensure improved oversight over government departments, strengthen the monitoring and evaluation of funds which are allocated for project implementation. As part of the intensified consequences management practice, the committee is looking forward to the implementation of the Public Audit Amendment Bill 2018 which allows the Auditor-General to take remedial action to make sure that all losses suffered by the state are recovered and identified irregularities are referred for investigation.

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Any reduction on the baseline should be offset by improvements in spending efficiency at all levels of government. This should not affect their frontline service delivery.

The quality of public spending must improve as should governance and co-ordination within government departments.

On Friday, 16 November, nine provinces submitted negotiating mandates and nine provinces voted in favour of the Division of Revenue Amendment Bill 2018. Today, at 12 o'clock, 20 November 2018, nine provinces submitted their final mandates, while eight provinces voted in favour of the Bill, and one province voted against the Bill.

What is important in this Bill? It is the allocations for drought relief. It is the allocation for public transport. It is the allocation for basic education. And so I can continue. Why? To improve the dignity of people.

The Western Cape did not support the Bill. I therefore recommend on behalf of the Select Committee on Appropriations

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that the House adopts the Report on the Division of Revenue Amendment Bill without amendments. Thank you.

Declarations of vote:

Ms C LABUSCHAGNE: Hon Chairperson, fellow South Africans, we must now begin to realise that the time has come to begin to deliver services to all the people of South Africa. As we have seen in many of our constituencies, we continue to find entire wards that never have running water, basic sanitation or refuse removal. All of the work that we are doing in this House must be aimed at making this country a better place for future generations.

The Medium-term Budget Policy Statement clearly warns that the growth ... [Inaudible.] ... accruals within provincial and local governments constitute a serious fiscal risk. National Treasury estimates that the unpaid bills in provinces amount to R25 billion, with a further estimate of R80 billion contingency liability risk of medical and legal claims.

For municipalities, the estimated amount is R23,4 billion for outstanding bills. Take note, none of these provincial

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[Inaudible.] liabilities are included in the determination of the division of revenue allocations to provinces and municipalities.

What we do know about municipalities is that 113 of them adopted unfunded budgets for 2018. What does this mean? It means that 48% of the 278 municipalities openly voted to enter into long-term contracts and to spend more than the revenue available to them.

Effectively, municipalities spent excessively on vanity projects. They incur fruitless and wasteful expenditure on a monumental scale. This results in municipalities not being able to pay Eskom, unable to provide water to millions of our people who are then forced to make do with water from rivers and dams. They are unable to fix potholes, provide refuse removal services, and stop raw sewerage from flowing unchecked into our rivers.

While these municipalities are looting poor people's monies through the VBS Bank scams, these ineffective ANC-run municipalities are knowingly bankrupting themselves. It is the

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poor who unfortunately must bear the brunt of this financial tyranny. It is not a shortage of equitable share that has rough municipalities to their knees; it is simply incompetent and corrupt cadre officials who are all appointed by the so-called good ANC.

In conclusion, contrary to the popular refrain of top-down, the ANC remains rotten from the bottom up.

The Western Cape does not support the Bill.

Mr T C MOTLASHUPING: Chairperson, it is important to state from the beginning that the North West province supports the Bill. It supports it on the basis that, of the beneficiaries of [Interjections.] for an example, the R6 billion that has been budgeted ... [Interjections.] ...for drought relief, the greatest province that was allocated out of the R6 billion of the ... [Inaudible.]

The CHAIRPERSON OF THE NCOP: Order, hon members! You are disturbing the speaker on the floor! [Interjections.] Order! Please proceed, hon Motlashuping.

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Mr T C MOTLASHUPING: The greatest beneficiary is the very same province that is rejecting the Bill. We have appropriated funds because we are running the whole of South Africa.

[Interjections.]

The North West province also supports the appropriation of funds that was allocated to it on the basis that ...

[Interjections.]

The CHAIRPERSON OF THE NCOP: The speaker on the floor is protected. May I have some order, please! [Interjections.]
Order! [Interjections.] Order!

Mr T C MOTLASHUPING: We are of the view that the coal haulage that is given to Mpumalanga should equally be given to the North West province to assist with issues that relate to its roads infrastructure ... [Interjections.] ... and its rail infrastructure. The reason we want the coal haulage is because the North West ... [Interjections.]

The CHAIRPERSON OF THE NCOP: Order!

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Mr T C MOTLASHUPING: ... is the greatest ... [Interjections.]

The CHAIRPERSON OF THE NCOP: Order!

Mr T C MOTLASHUPING: ... producer of cement. [Interjections.]
We have Siphako, PPC, and the third one - I will remember now
- which are the three greatest cement producers. And we
produce platinum and chrome. And these are factors that we are
saying ... [Interjections.]

The CHAIRPERSON OF THE NCOP: Hon Motlashuping, please hold on.
On a point of order on a declaration, hon Essack ... On which
... Just tell me what you want to do ...

Mr F ESSACK: Chairperson, with due respect ... but I believe
the member is out of order because it is for National Treasury
to express themselves on a matter of this nature, seeing as
that the province is under section 100 administration.
[Interjections.] So he is totally out of order, with due
respect to this House. [Interjections.]

An HON MEMBER: No mandate! No mandate!

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The CHAIRPERSON OF THE NCOP: Hon Essack, you are out of order. The legislature of the North West is not under administration. The province is made up of the executive and the legislature. The legislature is not under administration. They have deliberated on the matter.

Please proceed, hon Motlashuping.

Mr T C MOTLASHUPING: And it for those reasons that we are ...
[Interjections.]

The CHAIRPERSON OF THE NCOP: Hon Motlashuping, please take your seat; there is a point of order.

Ms T J MOKWELE: Chair, as a permanent delegate from the North West province, there's no mandate that the province must submit a declaration. So the declaration that hon Motlashuping is submitting before you is not a true reflection of what we have discussed as a delegation. [Interjections.]

Keep quiet!

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The CHAIRPERSON OF THE NCOP: Order! Order, members!

Ms T J MOKWELE: You are making a noise! [Interjections.]

The leadership is at the podium. I am addressing the proper leadership.

The CHAIRPERSON OF THE NCOP: Please address me!

Ms T J MOKWELE: Yes, ma'am. That is my submission. Thank you.

The CHAIRPERSON OF THE NCOP: Hon members, Members of Parliament come from provinces. You do have a responsibility in your deliberations as members who represent provinces to get the mandates, to help explain the issues at a national level, but you are also not robots who cannot think when you represent the provinces. In that way, I want to continue with the business of the day.

Hon Motlashuping, you have one minute left.

Mr T C MOTLASHUPING: Thanks, Chair. [Interjections.]

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The CHAIRPERSON OF THE NCOP: Hon Mokwele, please!

Ms N P KONI: Point of order, Chairperson.

The CHAIRPERSON OF THE NCOP: What is your point of order, hon Koni?

Setswana:

Moh N P KONI: Ntlha ya me ya kgalemo ke gore a wa re ...

... the permanent delegates from North West ... like, for instance, hon Motlashuping ...

Setswana:

... a tle go bua fano ka dilo tseo a se nang bopaki jwa tsone fela go ntse go nale moromiwa wa leruri o mongwe yo o tswang kwa porofenseng eo a go tlhalosetsa gore kang e motl Motlashuping a buang ka yone ga a romiwa go e bua. Ga go na sepe mo pele ga gagwe se se tla pakang gore o romilwe ...

[Tsenoganong.]

English:

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The CHAIRPERSON OF THE NCOP: Hon Koni ... hon Koni ...

Setswana:

Moh N P KONI: Ka jalo, tseo motl Motlashuping a di buang ke tse di mo pelong ya gagwe. O bua ka maikutlo. Ga go na sepe sa go nna jalo, Bokone Bophirima ... [Tsenoganong.]

English:

The CHAIRPERSON OF THE NCOP: Hon Koni, please take your seat.

Ms N P KONI: Chair, the last point is hon Mokwele ...

Setswana:

... o go tlhaloseditse gore ba nnile le kopano mme kopano ya baromiwa o dumalane ka gore ga go kitla go nna le dipolotso ... [Tsenoganong.]

English:

The CHAIRPERSON OF THE NCOP: Hon Koni, please take your seat.

I will not rule again on this matter. I have ruled. Ntate, conclude.

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Mr T C MOTLASHUPING: Chairperson, it is important perhaps just to explain in detail how these processes unfold.

[Interjections.]

The North West has given the NCOP the negotiating mandate. Today, this morning, we received the final mandate, and I'm speaking on the basis of the negotiating mandate and the final mandate ...

Ms T J MOKWELE: Your one minute has expired!

The CHAIRPERSON OF THE NCOP: Hon Mokwele!

Mr T C MOTLASHUPING: They must go and read what is in that negotiating mandate, and ... [Inaudible.] ...

The CHAIRPERSON OF THE NCOP: Just hold on, hon Motlashuping. Hon Mokwele, you will not do that again! Please allow the speaker to conclude! Hon Motlashuping, please conclude.

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Mr T C MOTLASHUPING: I was simply saying, Chair, that the hon member must go and look at the negotiating mandate of the North West and the final mandate of the North West.

Ms T J MOKWELE: I am speaking about the declaration ...

[Inaudible.]

The CHAIRPERSON OF THE NCOP: Hon Mokwele, don't do that.

Asseblief tog! [Please.]

Declarations of vote (cont.):

Mr L P M NZIMANDE: Hon Chairperson, I was in the briefing session of the KwaZulu-Natal Legislature and all opposition parties were present and they unanimously accepted this budget. And therefore Chair, the Western Cape declaration is a clear demonstration of confusion and not knowing what the left hand is doing as the right hand in the Western Cape because in KwaZulu-Natal they are supporting this budget, as the province led by the ANC.

This budget is even assisting the MyCity buses in the Western Cape; the middle-class service. We are saying that all South

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Africans should benefit in the budget because all of them contribute to the fiscus of this country, the poor and those that have money.

We also note, as KwaZulu-Natal, that R100 million is allocated for human settlements and it will go a long way in assisting to provide for the needed houses.

We also note, Chair, even if we had concerns and requested more money for the storm damages, that the province was allocated R109 million to assist with the disaster that bevelled in KwaZulu-Natal, particularly in Durban.

Therefore, Chair, as the province we declare full support of the budget before us. Thank you.

Mr D M MONAKEDI: Hon Chair ... [Interjections.]

The CHAIRPERSON OF THE NCOP: Hon Koni, you will respect the speaker on the floor!

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Mr D M MONAKEDI: Limpopo has already indicated, as per the mandate, that we support the Bill. We support this Bill because among others, there is an allocation that is made towards ensuring that systems in local government, in our municipalities, are actually improved so that our municipalities can be responsive to the needs of our people. And the challenges that are there in terms of service delivery can be addressed.

We further support this Bill because there is also an allocation for the planning and the design of the much awaited Limpopo Academic Hospital; that has been in the pipeline for quite some time. And we believe this would also ensure that in the long run our people's needs, especially health wise, are addressed.

So, as Limpopo, we are happy with this Bill and therefore we once more want to indicate that we support it. Thank you.

Ms G G OLIPHANT: Chair, the Northern Cape strongly supports the Bill [Interjections.] because ... [Interjection.]

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The CHAIRPERSON OF THE NCOP: Hon members, this member is protected, she's on the floor. Please proceed ma'am.

Ms G G OLIPHANT: Because it's going to help with the issues of inequality, poverty and unemployment with the drought relief in the Northern Cape province. So, we, the Northern Cape, support the Bill.

VOTING

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

MONEY BILLS AMENDMENT PROCEDURE AND RELATED MATTERS AMENDMENT

BILL

(Consideration of Bill and of Report thereof)

Mr C J DE BEER: Hon chairperson, the Money Bills Act was introduced in April 2009 to give effect to section 77 of the Constitution of the Republic of South Africa.

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The Act provides for the procedure to amend money bills before Parliament and to present the interest of the people on public finances through public participation in budget process.

Implementation of the Bill experienced technical challenges that required a review. It was resolved that the finance committees in both Houses, NA and the NCOP, should evaluate the application of the Act and report on matters related to it, which included bills not limited to stringent timeframes and the sequency of various money bills.

The Bill was also referred to the select committee on 28 August 2018. The committee received briefings from the Parliamentary Legal Adviser on 12 September and 9 October 2018 to deliberate on the technical challenges in the ACT, in the series of meetings and invited the representatives of the provincial legislatures to participate in the review. The briefing was attended by the Chairpersons of the portfolio Committees on Finances in the nine legislatures.

This process provided the committee with an opportunity to address the technical challenges related to timeframes, but

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also related to reporting during the annual budget process. Review section 15 which provides for the establishment of the Parliamentary Budget Office, PBO; section 16 which provides for norms and standards for provincial legislatures and improve the language of the Act, to be consistent with the language used in parliamentary processes.

The committee adopted the Bill on 6 November 2018. A further review of the Bill will consider whether establishing a process for tabling and consideration of revenue bills is required and how to enhance meaningful public participation in the budget process.

The Select committee on finance having considered the Money Bills Amendment Procedures and Related Matters Amendment Bill [B28 of 2018] refer to it and classify by the joint tagging mechanism as a section 75 Bill reports that it has agreed to the Bill without amendments.

The EFF agreed to the adoption of the Bill with reservations and the DA reserved its position in this Report.

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I hereby table the Report for the consideration by the House.
Thank you, hon Chair.

Question put.

Mr M M CHABANGU: Hon House Chairperson, on a point of order:
The EFF said it agreed with the Bill...

The HOUSE CHAIRPERSON (Mr A J Nyambi): Hon Chabangu, you will
have opportunity as political parties to make Declarations of
Votes, if you so wish.

Mr M M CHABANGU: I am doing corrections.

The HOUSE CHAIRPERSON (Mr A J Nyambi): Hon Chabangu, we are
doing this one, in terms of Rule 63. I will allow political
parties to make the Declarations of Votes if they so wish. So,
even the EFF will also do that.

Mr M M CHABANGU: I agree Chairperson but you must not be told
what to say. I can see that there are people who are telling
you what to say. [Interjections.]

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The HOUSE CHAIRPERSON (Mr A J Nyambi): No, can you please take your seat? In accordance with Rule 63 I shall now allow political parties to make declarations of votes if they so wish.

Declarations of votes:

Mr F ESSACK: Hon Chairperson, on behalf of the DA I would like to point out that Money Bills currently may only be introduced by the Minister of Finance which implies that Parliament needed a way to amend Money Bills that may only be introduced by the Minister of Finance. It remains very clear that prior to the existence of this Act, Parliament to all intents and purposes remains, but a rubber stamp for Money Bills.

Any amendment to this Act must strengthen the ability of Parliament to hold the executive to account by ensuring that the R1,3 trillion of the budget is used in the best interest of all South Africans. Since this Act was passed in 2009 it has become very evident that the time frames contained therein were indeed difficult to adhere to and at the same do justice to process. Time and time again, since the DA started proposing amendments to the Appropriation Bills, the ANC has

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used the process called strengths of the Bill an excuse for rejecting the DA's proposed amendments of the last few years.

Despite what were good intentions, the Bill before us today makes it even more difficult for Parliament to amend Money Bills and I will tell you why. Rather than introducing more practical but still rigid time frames this Bill sets out to relax time constraints for committees of Parliament by introducing the phrase of, "or as soon as reasonably possible, thereafter". Where after? Well, it refers to reports of these committees.

This uncertainty about the budget would then have a negative impact with international credit agencies and therefore on South Africa's sovereign credit ratings. The Bill however goes somewhere to improve the independence of the Parliamentary Budget Office but remains and falls short of dealing with all the constraints. I will move towards my concluding points. While there are portions of the Bills that we support there are others that we are not able to support.

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The DA therefore, welcomes the efforts to improve the practical application of the Money Bills and Amendment Procedure and Related Matters Act Amendment Bill, somewhat of a jaw breaker. We do welcome that the Act be further reviewed in the next Parliament when we hope that the outstanding issues that we currently have may be dealt with. I thank you for the opportunity.

Mr M M CHABANGU: Hon Chairperson, on a point of order: I want to put it categorically...

The HOUSE CHAIRPERSON (Mr A J Nyambi): Hon Chabangu, it is the Declarations of Votes of the political parties.

Mr M M CHABANGU: I cannot hear you.

The HOUSE CHAIRPERSON (Mr A J Nyambi): It is the Declarations of Votes of the political parties.

Mr M M CHABANGU: Yes, that was the slip of the tongue. The EFF does not accept the Bill. Reservations therefore mean that. Thank you very much.

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Mr L B GAEHLER: The UDM supports the Bill. However, we must raise a major concern we have risen on several occasions about the funding of the projects in the Eastern Cape. We do believe that if more funding is done for infrastructure Eastern Cape can boost the national fiscus with tourism as we have some of the most beautiful beaches. We have raised this before that the funding of the Eastern Cape is very problematic and very low. For instance, the Eastern Cape has two homelands which make it different to other provinces. We still believe that there should be more funding for the Eastern Cape and that will boost the national fiscus. I thank you.

Mr F ESSACK: Hon Chairperson, on a point of order: with due respect we are on item no 2 regarding the Money Bills Amendment Act and he is talking about the Eastern Cape.

The HOUSE CHAIRPERSON (Mr A J Nyambi): No, hon Essack take your seat.

Ms T MOTARA: Hon Chairperson, while hon Essack is correct that we are now not dealing with Division of Revenue Amendment Bill and I think that hon Gaehler was using the opportunity to

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smuggle his issues. Be that as it may, it is fine. The reason that we support the Bill is precisely because some of the restrictions that the Bill in its current form had presented, which by the way the DA, as well as the ANC and all other political parties had raised over a number of years. However, the DA did not, at any stage, recommend or even attempt to introduce any amendments to the Bill. So, that needs to be corrected.

We agree that the Parliamentary Budget office needs some level of independence but this Bill really seeks to correct a lot of what was restraining and restricting that we have identified over a number of years. There was an intensive process, a long process, which culminated in this amendment of the Bill as it now stands. We have addressed those issues and other technical issues will be addressed going further and I do not think that the non-support or the support with reservations, whichever the reservations were, could help if the EFF presented exactly what those reservations were so that when there is continuous review of the Bill, those reservations are looked at. But if there are reservations just general reservations it is clear

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and there is no clear guidance as to what needs to be looked at.

Political parties whether in opposition or the ruling party when they are making Declarations of Votes or making suggestions to Bills they must help the process to identify the reservations they have so that when we look at reviewing the Bill, we can also look at those reservations. But thank you the ANC SUPPORTS THE Bill as amended.

The HOUSE CHAIRPERSON (Mr A J Nyambi): I would like to request hon members to vote by raising their hands. On this side, on my right, the hon Chief Whip will assist in terms of counting and that side will be hon Mampuru. Those who vote in favour...

Ms T J MOKWELE: Hon Chairperson, on a point of order: It has never happened that way. It does not work like that.

The HOUSE CHAIRPERSON (Mr A J Nyambi): Hon Mokwele...

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Ms T J MOKWELE: Hon Chairperson, I am requesting with due respect. Now that we are not in the House, why don't you request officials to assist you in counting? Not a Chief Whip.

The HOUSE CHAIRPERSON (Mr A J Nyambi): Hon Mokwele, let me assist you. The problem is that if at all the times you are not in the NCOP it becomes a problem and you may not understand some of these things. This is what is happening now.

Ms T J MOKWELE: I do not have to understand these arrangements. They are not significant to our people. They do not even understand them.

The HOUSE CHAIRPERSON (Mr A J Nyambi): We are voting now. We are on this side on the right. Those that are voting...

Mr R J TAU: No, no, hon Chair, let us not be undermined and abused. Let us not be undermined and abused. This is a process that we have already done. We have done it before and it has happened before where we vote by a show of hands. Even in the NCOP. This thing of saying that this is an arrangement as if

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it is wrong - this is a resolution that was passed by the Chief Whip and seconded.

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

Ms T J MOKWELE: Arrangement resolution!

The HOUSE CHAIRPERSON (Mr A J Nyambi): Hon Deputy Chair, can you take your seat? Hon Deputy Chair, when we started the Chairperson declared this place the precinct of Parliament in terms of our rules and that is the first point. The second point, I made a clear ruling that what we are doing is not something that is happening for the first time. We are voting now.

**INSPECTION IN LOCO ON NOTICE OF INTERVENTION ISSUED IN TERMS
OF SECTION 139(1)(B) AND (5) OF THE CONSTITUTION, 1996, IN
GREAT KEI LOCAL MUNICIPALITY DATED 15 NOVEMBER 2018.**

(Consideration of Report of Select Committee on Co-operative
Governance and Traditional Affairs)

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Mr J M MTHETHWA: Chairperson, the Provincial Executive Council, PEC, of the Eastern Cape resolved to intervene in the Great Kei Local Municipality in terms of section 139(1)(b) and (5) of the Constitution after the municipality has failed to fulfil its executive obligations, including noncompliance with the Municipal Finance Management Act, MFMA.

In relation to expenditure management, in terms of the Constitution, section 139(1)(b) provides for general intervention in instances where a municipality fails to fulfil an executive obligation; and section 139(5) provides for intervention in instances where a municipality is unable to deliver services or meet its obligation due to a crisis in its financial affairs.

The situation has deteriorated, leading to poor performance of the municipality, thus negatively affecting service delivery. Part of the reason of the intervention was because the community started a protest action and complained by a number of service delivery projects that were not completed or not started altogether.

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Matters became worse as the financial status of the municipality started to deteriorate, leading to non-payment of salaries for the month of May 2018.

The MEC has engaged the political leadership of the municipality with the view to address the challenges faced by the municipality.

The departmental support team of officials produced a support plan that was presented to municipality, however, the municipality failed to implement the support plan and the situation led to poor performance of municipality and thus negatively affecting service delivery and further led to a labour unrest.

On 14 May 2018 the MEC met the leadership components of South African Municipal Workers' Union, SAMWU, and allegations of corruption regarding the organisation of the Golf Day were made, corruption in recruitment processes, nepotism of appointments, court interdicts, abuse of traffic cars, mismanagement of Municipal Infrastructure Grant, MIG, funds,

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persecution of whistle blowers and victimisation of employees though illegal suspension and disciplinary processes.

In its sitting of 30 May 2018, the PEC resolved to approve the intervention in the affairs of the municipality in terms of section 139(1) (b) and (5) of the Constitution.

An administrator was appointed for a period of six months, subject to review with clear terms of reference, and assumed duties on 4 June 2018. He was specially appointed to achieve the following milestones: facilitate the appointment of the Municipal Manager; assist in addressing the challenges currently confronting the municipality's administration; financial and service delivery challenges; attend to all labour related challenges with the view to bring back and ensure stability in the municipality; ensure that the Supply Chain Management, SCM, system is in place for the smooth running of the procurement management processes; facilitate the review of all financially related policies, especially the credit control and revenue collection policies; attend to all legal matters that are confronting the municipality, including litigation that seek to rip-off the municipality's finances;

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ensure that the oversight structures of the municipality are strengthened in order to be able to perform their functions effectively and efficiently; ensure that the municipality co-operates fully with the forensic investigation processes that might be instituted in the municipality.

The municipality's monthly salary bill is about R4,3 million and it is only able to collect revenue of R2 million a month. On average, that means every month there is a shortfall of R2,3 million and it was only on the receipt of equitable share transfers that the accumulated shortfall was paid.

The municipality was unable to fund its daily operations and currently owes creditors approximately R28 million, of which an amount of R22 million was more than 90 days that was owed to creditors. Among other creditors, the municipality owes R1,1 million in staff pensions; R7 million, excluding penalties, to the SA Revenue Services, SARS; R5,8 million to the municipal standard chartered accountant and R1,2 million to Eskom.

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For the 2016-17 financial year the municipality received a financial unqualified audit opinion. Meaning the financial statement contained no [Inaudible.] statements. The findings have been raised on either reporting on the predetermined object of noncompliance with legislation or both these aspects.

In May this year, SAMWU and Independent Municipal and Allied Trade Unions, IMATU, members in the municipality downed tools demanding the removal of a senior Municipal Manager. They have accused the municipality of maladministration, corruption and nepotism.

Earlier, municipal offices and two refuse trucks were torched and protesting workers were calling on the provincial government to takeover the administration of the municipality. The unions claim to have lost confidence in the leadership of this municipality as the employer did not pay the provident funds on time and the last payment was in February 2018.

Having conducted the oversight visit in the Great Kei Local Municipality and interacted with the internal and external

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stakeholders, it is recommended that the NCOP approves the intervention in the Great Kei Local Municipality in terms of section 139(1)(b) and (5) of the Constitution; the administrator should assist the municipality in developing a communications strategy so as to improve public participation of the Rate Payers Association and the general community members on the matters related to service delivery.

Since the performance contract of the administrator is coming to an end, the Eastern Cape MEC for Co-operative Governance and Traditional Affairs, CoGTA, should consider renewing it in order to ensure that the necessary institutional capacity is developed and the transfer of skill is facilitated.

The Eastern Cape MEC for CoGTA should table quarterly progress report to the NCOP on the status of the intervention in the municipality, including challenges.

The Select Committee on Co-operative Governance and Traditional Affairs in co-operation with the relevant portfolio committee in the Eastern Cape Provincial Legislature should in future conduct a follow-up oversight visit to the

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municipality in order to evaluate progress made in respect of the intervention in the municipality.

Chairperson, I table this Report. [Applause.]

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 CO-OPERATIVE
GOVERNANCE AND TRADITIONAL AFFAIRS – INSPECTION IN LOCO ON
NOTICE OF INTERVENTION ISSUED IN TERMS OF SECTION 139(1) (b) OF
THE CONSTITUTION, 1996, IN UTHUKELA DISTRICT MUNICIPALITY,
DATED 15 NOVEMBER 2018.**

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Mr J M MTHETHWA: Chairperson, on 1 August 2018, the provincial executive council resolved to intervene in terms of section 139(1) (b) of the Constitution at Uthukela Municipality.

This followed complaints the community had raised on various water- and sanitation-related challenges to the sub-committee of the provincial executive committee.

The municipality has been under financial stress for a period of two to three years. There were various service delivery protests causing major destruction to transport routes.

Upon assessment it was discovered that there were concrete indicators that the municipal leadership and management had failed in their oversight and administrative roles.

The basis for invoking section 139(1) (b) of the Constitution is that part of the substantive reasons for intervening in the municipality included the absence of financial management controls and processes. This absence led to noncompliance.

There was an absence of municipal leadership in respect of both oversight and administrative responsibilities. There was

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an increase in water distribution losses as a result of aging infrastructure and theft. Furthermore, there had been an alarming increase in irregular, fruitless and wasteful expenditure and an absence of plans to mitigate such risks. In addition, there were frequent disruptions of service delivery through labour and community protests and the absence of plans to manage and avoid such disruptions.

An administrator has been appointed and has been tasked with implementing the following recovery plan which includes the following aspects, among others: preparation and implementation of a recovery plan approved by the municipal council; assumption of responsibility for the whole water service authority function; ensuring implementation of financial system policies and procedures, including preparation and implementation of cost-cutting measures; ensuring the implementation of governance systems and procedures, including oversight of the administration; ratification of decisions taken by the municipal council, executive committee, the municipal manager and section 56 managers in terms of delegated or original authority; ensuring the implementation of findings arising from any investigation

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into fraud, maladministration or corruption and initiating new investigations where necessary.

The deliberations and view of the select committee are as follows. In terms of the municipality's transformation and institutional development, the select committee has observed the following challenges: shortage of skilled staff to perform certain functions; poor condition of municipal buildings and other facilities versus budget constraints; lack of systems and procedures; aging infrastructure and poor infrastructure maintenance strategies; water quality and water loss; further revenue from service charges were not accounted for at the fair value of the consideration received or receivable as required by the standard; additional service charges were recorded in the current year while it related to the previous year. This was due to inadequate internal control in the billing and estimation of revenue.

The Auditor-General was unable to confirm the service challenges by alternative means.

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The recommendations are as follows. Having conducted the oversight visit to Uthukela District Municipality and interacted with the internal and external stakeholders, it is recommended that the NCOP approves the intervention in Uthukela District Municipality in terms of section 139(1)(b) of the Constitution. The administrator should assist the municipality to develop a stakeholder communication strategy on matters related to basic service delivery including the provision of water and electricity reticulation; the KwaZulu-Natal MEC for Co-operative Governance and Traditional Affairs should table quarterly progress reports 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 the relevant portfolio committee in KwaZulu-Natal Provincial Legislature should conduct a follow-up oversight visit to the municipality in order to evaluate the progress made in respect of the intervention in the municipality.

I table this report.

Debate concluded.

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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.

**CONSIDERATION OF REPORT OF SELECT COMMITTEE ON CO-OPERATIVE
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NOTICE OF INTERVENTION ISSUED IN TERMS OF SECTION 139(1) (B)
AND (5) OF THE CONSTITUTION, 1996, IN ENOCH MGIJIMA LOCAL
MUNICIPALITY, DATED 15 NOVEMBER 2018.**

Mr J M MTHETHWA: Hon Chairperson, on 1 August 2018, the
Eastern Cape provincial executive council resolved to invoke
section 139(1) (b) and (5) of the Constitution. The reason was
that after the amalgamation of Lukhanji, Tsolwana and Inkwanca
Municipality the new municipality was confronted with various
challenges in terms of service delivery, administration and
financial management which led to total collapse of the
municipality. The municipality was struggling with revenue

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collection, 64 to 70% collection levels, and the credit management policy was not fully implemented as other areas of the municipality do not pay rates. Data cleansing was also a major challenge as the municipality bill data outdated and the billing is not accurate.

The municipality has accumulated Eskom debt of R85 million of which R44 million was a payment arrangement debt, R16,1 million is in arrears debts and R24,5 million is the current account. Constitutional and procedural matters related to intervention, the department recommended to the provincial executive committee the invocation of section 139(1)(b) and 5 of the Constitution in its sitting of 1 August 2108, the provincial executive council, PEC, approved the intervention and delegated its authority to the member of the executive council, MEC, responsible for Co-operative Governance and Traditional Affairs. The department seconded its senior official deputy director-general, DDG, to be an administrator for a period of six months subject to review with a clear terms of reference and assume duties on 14 September 2018. All statutory bodies, Minister, NCOP, legislature, SA Local Government Association, Salga, and executive Mayor of the Joe

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Gqabi District Municipality were notified about the intervention and the municipality within the legislated time frame. The Minister approved the intervention in a letter to the MEC dated 29 August 2018.

Terms of reference of the administrator, an administrator has been appointed to assume the following responsibilities, among others, representing the MEC and take over the functions of the council in respect of financial management and administrations in particularly credit control and debt collection. Supply chain management and development of financial recovery plan to be the custodian of financial management authority and must after assessment of the financial environment develop a financial sub-delegations. The municipal manager will continue to perform his other powers that are not related to financial management, but everything that has financial implication must first be rectified by the administrator to ensure the preparation and implementation of a financial recovery plan working closely with a municipal financial recovery service of the National Treasury to ensure the implementation of the financial system policies and procedures including preparation and implementation of cost

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cutting measures in order to reduce and ultimately complete the process of paying prior year creditors; increasing revenue collection and related measures to be a compulsory signatory of the municipality primary bank account on an other bank account that municipality may operate; to establish an act as the Chairperson of the Interim Finance Committee; to monitor and manage the cash flow of the municipality approve or disapprove purchase requisite and to ensure that the municipality cash position is not overdrawn; to ensure that the International Finance Corporation, IFC, meets regularly to monitor the cash flow position payment approved and disapprove and commitment made via the approval purchase orders; to implement governance system and procedures including the oversight over the administration and rectifying all of decisions taken by the municipal council, the executive committee municipal manager and section 56 manager in terms of delegated original authority to ensure the implementation of remedial action plan dealing with negative findings from the Auditor-General of South Africa; implementation of all projects undertaken by the municipality including unblocking project that have stalled; and the open and conclude negotiations with creditors of the municipality including the

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application of processes envisage in section 152 and 153 of the Municipal Finance Management Act.

Deliberations and the views of the select committee, the municipality is facing with a lot of electricity problem, especially in Queenstown. These problems are characterised by owed electricity infrastructure, regular electricity outage which affect business and household alike. The municipality is losing a lot of revenue on electricity as a result of these problems and is currently at a very high risk as the electricity infrastructure is deteriorating very fast. Further, there are financial losses due to electricity theft and tempering estimated at 40% of billable electricity revenue. The municipality pays about R48 million per month to Eskom to bulk supply and generated less in the form of owed revenue.

Lastly, there is a risk of losing the National Energy Regulator, Nersa, licence due to uncontrolled losses. The municipality has exceeded the upper limit of the National Treasury guidelines; as a result the municipality salary budget as a percentage to its operating budget is 36%. The

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Treasury guidelines is that salary budget should not exceed 35%. For the 2017-18 financial year the municipality received a disclaimer audit opinion, meaning that the municipality provided insufficient evidence in the form of documentation on which to base and audit opinion. The lack of sufficient evidence is not confined to a specific amount or represents a substantial portion of the information contained in the financial statement.

Recommendations, having conducted the oversight visit to Enoch Mgijima Local Municipality and interacted with internal and external stakeholders, it is recommended that the NCOP approve the intervention in Enoch Mgijima Local Municipality in terms of section 139(1)(b) and 5 of the Constitution. The administrator should fast-track the process of implementing forensic investigation in order to enable the MEC for Co-operative Governance and Traditional Affairs to table the report to the NCOP. The Eastern Cape MEC for Co-operative Governance and Traditional Affairs 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

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Affairs in co-operation with the relevant portfolio committee in the Eastern Cape provide 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, I therefore, table this report. [Applause.]

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.

Ms T J MOKWELE: Chair, on a point of order, Limpopo did not vote for or against ...

Setswana:

... le re le a leboga. Le a leboga, Limpopo.

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English:

... and you can't give them voting rights twice. Already they have voted ...

Setswana:

... ba re ba leboga.

English:

The HOUSE CHAIRPERSON (Mr A J Nyambi): Hon Mokwele, we are done with voting.

Ms T J MOKWELE: Yes, but in eight provinces and it must be recorded.

The HOUSE CHAIRPERSON (Mr A J Nyambi): Nine provinces voted in favour, I therefore declare the report agreed to in terms of section 65 of the Constitution.

Ms T J MOKWELE: No, it is not nine, it is eight, Chair.

Setswana:

Go leboga ke ... [Inaudible.]

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English:

Please it is not voting, Chair, on record it is not voting.

All members are agreeing that it is not voting.

The HOUSE CHAIRPERSON (Mr A J Nyambi): Hon members! Hon Mokwele, you are not recognised. Hon members, order! The hon members that are leaving tonight to Cape Town the escort cars and the cars that are transporting them are ready waiting outside. Immediately we adjourn let them rush straight to the cars. That concludes the business of the day. Hon members, you are requested to remain standing until the procession have left the Chamber. The House is adjourned.

The Council adjourned at 19:05.