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NATIONAL COUNCIL OF PROVINCES

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PROCEEDINGS OF THE NATIONAL COUNCIL OF PROVINCES

The Council met at 13:03.

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

The Deputy Chairperson announced that the hybrid sitting constituted a Sitting of the National Council of Provinces.

The DEPUTY CHAIRPERSON OF THE NCOP: Hon colleagues, firstly, let me apologize for starting a few minutes late because we needed to ascertain that we had sufficient representation from the various provinces so that we can proceed with this sitting, which should not take us too long. Hon delegates, I would like to remind delegates that the rules, in particular Sub Rules 21,22 and 23 of Rule 103 will apply. I have been informed that there will be no Notices of Motions or Motions without Notice.

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CONSIDERATION OF REPORT OF SELECT COMMITTEE ON CO-OPERATIVE
GOVERNANCE AND PUBLIC ADMINISTRATION (TRADITIONAL AFFAIRS,
WATER, SANITATION AND HUMAN SETTLEMENTS) OVERSIGHT VISIT IN
TERMS OF SECTION 139(1)C) OF THE CONSTITUTION, 1996, IN
THABAZIMBI LOCAL MUNICIPALITY - 2 OCTOBER 2024

Mr T M KAUNDA: Hon Deputy Chairperson, hon House Chairs, hon Chief Whip, hon Programming Whip, all the office bearers and the members of the NCOP. Chair, I am hoping that you can see me from the screen.

The DEPUTY CHAIRPERSON OF THE NCOP: Yes, you are absolutely clear.

Mr T M KAUNDA: Thank you. I am following the rules. Hon members of this august House, members of SA Local Government Association, Salga, present and all participants, good afternoon. Hon Deputy Chairperson, on 20 September 2024, the Limpopo MEC of the Department of Co-operative Governance, Human Settlement, and Traditional Affairs tabled a notice of dissolution in terms of section 139(c) of the Constitution in Thabazimbi Local Municipality to the office of the Chairperson of the National Council of Provinces. On 20 September 2024 the Chairperson of the National Council of Provinces referred, in

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terms of NCOP Rule 101, the notice of dissolution in Thabazimbi Local Municipality to the Co-Operative Governance and Public Administration (Traditional Affairs, Water, Sanitation and Human Settlements for consideration and reporting.

On 01 October 2024, the multiparty delegation of our select committee conducted oversight visit to Thabazimbi Local Municipality. Hon Chairperson and members of the House, in the spirit of co-operative governance, intergovernmental relations and public participation, our primary objective of conducting oversight visit was to interact with the internal and external stakeholders and solicit their opinions on the constitutional, procedural and substantive matters related to the invocation of section 139(1)c) of the Constitution in Thabazimbi Local Municipality. Hon Chair, during the oversight visit, our delegation interacted and solicited the opinions of the internal and external stakeholders on constitutional, procedural and substantive matters related to the invocation of this said section Thabazimbi Local Municipality.

The stakeholders that the delegation interacted and solicited opinions with, included the MEC for the Department of Co-operative Governance, Human Settlements and Traditional

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Affairs in Limpopo, the Chief Whips of political parties, traditional leadership, representative of SA Local Government Association, organised labour, youth, women sector, business forums, business chamber, disability forum, three Local Taxi Associations located in the area, interfaith organisation, SA National Civic Organisation, Sanco and Macua Forum which is a mining organisation.

Hon Chair, what we have observed, as the collective of the select committee on constitutionality and procedural matters, is that the Limpopo Executive Council resolved to dissolve the council of Thabazimbi Local Municipality by invoking section 139(1)c) of the Constitution with immediate effect. The decision was taken at a meeting of the executive council on 18 September 2024. The dissolution would last until a new council is elected and assumes office and thereafter, mandatory intervention of section 139(5) of the Constitution of the Republic of South Africa should be implemented where the administrator will be appointed.

We have also observed and noted that the local municipality was informed on 19 September 2024 of the executive council's decision and subsequently, the Minister of Co-operative Governance and Traditional Affairs, the NCOP and the Speaker

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of the Legislature were informed of the executive council's decision on 20 September 2024. The select committee has also noted that on 26 September 2024, the local municipality submitted the intention to interdict the Limpopo Provincial Executive Council's decision of putting the municipality under section 139(1)c) to the High Court of South Africa in Polokwane. This matter had been resolved. They were not granted such an application, especially the interdict.

Hon Chairperson, our select committee has noted that in terms of the evidence provided by the provincial department of Co-operative Governance, Human Settlements and Traditional Affairs, and external stakeholders that we interacted with, it has become apparent that Thabazimbi Local Municipality has failed to perform its constitutional duties in terms of section 152 of the Constitution. We stated clearly on the objectives of local government that the council must promote democratic and accountable government for local municipality to ensure the provision of services to communities in a sustainable manner, to promote social and economic development, to promote safe and healthy environment and to encourage the involvement of communities and community organizations in the matters of local government.

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Hon Chair, we have therefore noted with concerns that Thabazimbi Local Municipality is the only municipality in Limpopo province that is dysfunctional which forms part of the 35 dysfunctional municipalities in the country. We have further noted that the MEC of the department of Co-operative Governance, Human Settlements and Traditional Affairs in the province, on numerous times, provided support to the municipality which they refused, including a request to provide the list of RDP housing beneficiaries which the local municipality failed to provide. Hon Chair and hon members, as the collective of the select committee we have generally noted with great concerns, the nonattendance of council meetings by some councillors, absence of council resolutions by the executive committee that is not holding council meetings.

In conclusion, political interference in administration and supply chain management, nonpayment of contractors, lack of maintenance of the building of the local municipality, vacancies at senior management level, existence of parallel structures at political management sector, department's debts to the local municipality, lack of consequence management, lack of service delivery, lack of political will amongst the municipal councillors and the nonfunctional Municipal Public

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Accounts Committees, Mpacs and other committees, like audit committees.

Hon Chair, having considered the substantive matters related to parallel political structures and administrative management team, lack of good governance, poor financial management, lack of service delivery to the communities and the opinions of the stakeholders, our select committee is of the view that the invocation and dissolution of the Thabazimbi Local Municipality in terms of Section 139(1)c) of the Constitution is constitutionally and substantively justifiable.

Hon Chair, as I draw to the conclusion, having engaged and solicited the opinions of the internal and external stakeholders, on invocation of section 139(1)c) of the Constitution in Thabazimbi Local Municipality, the select committee recommends to the National Council of Provinces as follows: That the National Council of Provinces approves the invocation of section 139(1)c) of the Constitution in the Thabazimbi Local Municipality in Limpopo. The Limpopo MEC for the department of Co-operative Governance, Human Settlements and Traditional Affairs after the NCOP has approved this report, provide the select committee with terms reference of the administrator and the turnaround plan on the

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implementation of the section 139(1)c) of the Constitution in Thabazimbi Local Municipality. The MEC should ensure that the terms of reference of the administrator include, but not limited to, conducting lifestyle audits of all managers, employees' skills audit, developing wellness programmes to boost the morale of the municipal employees and ensure the functionality of the local labour forum, LLF to investigate the use the use of and success and access of municipal bank account by the officials who are not employed by the municipality as well as salary backpays.

The other one is that the MEC should consider instituting forensic investigation in terms of section 106 of the Local Government Municipal Systems Act of 2000 to investigate all allegations related to financial mismanagement, fraud and corruption within the Thabazimbi Local Municipality. The Limpopo MEC for the department of Co-operative Governance, Human Settlements and Traditional Affairs should provide the National Council of Provinces with the status report of all the forensic investigations conducted in Thabazimbi Local Municipality. The MEC for the department of Co-operative Governance, Human Settlements and Traditional Affairs should table the report containing findings and recommendations to

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the National Council of Provinces and the Limpopo Provincial Legislature, once forensic investigation has been completed.

Lastly, the Co-Operative Governance and Public Administration (Traditional Affairs, Water, Sanitation and Human Settlements) should, in collaboration with relevant portfolio committees in the National Assembly and provincial legislatures conduct post intervention impact assessment, to monitor progress made in invoking section 139(1)c) of the Constitution in the municipalities.

Chair, we have also in the report that is also submitted, alluded to the fact that section 139(a) must be looked at and we should be very close to the monitoring of the process.

Chair, we wish to thank you, the leadership of the NCOP and the members for allowing us to table this report. We, therefore, submit on behalf of the Select Committee on Co-Operative Governance and Public Administration (Traditional Affairs, Water, Sanitation and Human Settlements). I submit.

Declaration(s) of vote:

Ms J S MANANISO: Deputy Chair, as Gauteng, we have gone through the report, and we want to support the decision made

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by the select committee with regard to section 139 for the municipality of Thohoyandou. Thank you.

Mr M BILLY: Chairperson, as the province of KwaZulu-Natal, we note the report and fully support it, but also want to express concern about the ongoings in the municipality. Colleagues would recall that when the Minister of Co-operative Governance and Traditional Affairs was in this House, he made it clear that section 139 should be a last resort and is our wish that municipalities begin to take the delivery of services quite seriously, to avoid having to deal with municipalities which are dysfunctional.

We hope that this will also send a very strong message to dysfunctional municipalities, those that are hellbent on collapsing the much-needed services meant to be brought to the people in this municipality and other various municipalities. It cannot be correct that a municipality becomes bankrupt, has parallel structures, and has 13 different municipal managers in a space of 12 years. That is a clear indication that there is a crisis, and we hope this kind of intervention will put the people of Thabazimbi first, and that it is a fruitful intervention. Thank you.

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Mr M F MOKWELE: Thank you very much, Chair, and greetings to hon members, those that are in here and those that are on the virtual platform, as Limpopo, we welcome the submission from the select committee and also welcome the effort made by the Limpopo government, in particular, the MEC of Co-operative Governance, Human Settlements and Traditional Affairs, and the one who's dealing with the municipality, that indeed, with the decision that they've taken to make sure that they put the interest of the people of Thabazimbi first.

We also noted from the report from the select committee that the municipality was the only municipality in the province that was dysfunctional. We also heard about the attempt that the provincial government made to make sure that they save that municipality because it is true that as the government, section 139(1)(c) must be the last resort, which from the report that we got from the select committee, it is the people of Thabazimbi, that were suffering. But also to appreciate the recommendation from the select committee to say what will be the way forward, because in the main, at the end of the day, we wanted to see clean governance in that municipality, and also to make sure that the people of Thabazimbi, continue getting the service delivery they deserve. With those few words, we support the recommendation. Thank you.

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Ms S NXUMALO: Chair, my greetings to your good self and other hon members present there, as Mpumalanga, we have gone through the report, and we find it necessary that we support the report so that necessary steps be taken and that municipality to be up and running. So, with those few words as Mpumalanga, we are supporting the report by the hon Kaunda. Thank you very much.

Ms D W FIENIES: Hon Chairperson, greetings to the Chair as well as all other members, as the Northern Cape, we fully support the report. Thank you very much.

Ms S L SITHOLE: Hon Deputy Chair, greetings to all the colleagues on the platform and the ones sitting in the House sitting. As the North West province, we went through this report, and we support the decision that has been taken. We hope that going forward, everything will be in order. Thank you.

Debate concluded.

Declarations of votes made on behalf of Gauteng, KwaZulu-Natal, Limpopo, Mpumalanga, Northern Cape and North West.

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Question put: That the Report be agreed to.

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

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

The Council adjourned at 14:25.