

Tuesday, 26 November 2019]

No 109 – 2019] FIRST SESSION, SIXTH PARLIAMENT

PARLIAMENT OF THE REPUBLIC OF SOUTH AFRICA

ANNOUNCEMENTS, TABLINGS AND COMMITTEE REPORTS

TUESDAY, 26 NOVEMBER 2019

TABLE OF CONTENTS

ANNOUNCEMENTS

National Assembly and National Council of Provinces

1. Bills passed – to be submitted to President for assent..... 1

National Council of Provinces

1. Transmission of Bills for concurrence 2

TABLINGS

National Assembly and National Council of Provinces

1. Minister of Justice and Correctional Services 2

COMMITTEE REPORTS

National Council of Provinces

1. Appropriations 3
2. Security and Justice 21

ANNOUNCEMENTS

National Assembly and National Council of Provinces

The Speaker and the Chairperson

1. Bills passed by Houses – to be submitted to President for assent

- (1) Bills passed by National Council of Provinces on 26 November 2019:
- (a) **Independent Police Investigative Directorate Amendment Bill** [B 25 – 2018] (National Assembly – sec 75).
 - (b) **Child Justice Amendment Bill** [B 32B – 2018] (National Assembly – sec 75).

National Council of Provinces

The Chairperson

1. Message from National Assembly to National Council of Provinces in respect of Bills passed by Assembly and transmitted to Council

- (1) Bills passed by National Assembly and transmitted for concurrence on 26 November 2019:
- (a) **Rates and Monetary Amounts and Amendment of Revenue Laws Bill** [B 17 – 2019] (National Assembly – sec 77).

The Bill has been referred to the **Select Committee on Finance** of the National Council of Provinces.
 - (b) **Taxation Laws Amendment Bill** [B 18B – 2019] (National Assembly – sec 77).

The Bill has been referred to the **Select Committee on Finance** of the National Council of Provinces.
 - (c) **Tax Administration Laws Amendment Bill** [B 19 – 2019] (National Assembly – sec 75).

The Bill has been referred to the **Select Committee on Finance** of the National Council of Provinces.

TABLINGS

National Assembly and National Council of Provinces

1. The Minister of Justice and Correctional Services

- (a) Report on the Suspension/Removal from office of Ms I Meyburgh, an Additional Magistrate at Johannesburg, in terms of section 13(4)(b) of the Magistrates Act, 1993 (No 90 of 1993).
-

COMMITTEE REPORTS

National Council of Provinces

1. REPORT OF THE SELECT COMMITTEE ON APPROPRIATIONS ON THE *DIVISION OF REVENUE AMENDMENT BILL* [B15 – 2019], DATED 26 NOVEMBER 2019

The Select Committee on Appropriations, having considered the *Division of Revenue Amendment Bill* [B15 - 2019] (National Assembly – section 76), reports as follows:

1. Introduction

The Minister of Finance tabled the *Division of Revenue Amendment Bill* (the Bill) in Parliament on 30 October 2019 during the presentation of the 2019 Medium Term Budget Policy Statement (MTBPS). Prior to the Bill being referred to the Committee on 20 November 2019, the Committee received a briefing thereon from the National Treasury during a joint meeting with the Standing Committee on Appropriations on 14 November 2019. To facilitate public participation, the Committees published adverts in print media in all 11 official languages from 3 to 8 November 2019. The Organisation Undoing Tax Abuse (OUTA) and Equal Education made written submissions on the Bill in response to the afore-mentioned advertisements; and OUTA made an oral submission during a public hearing on 15 November 2019. The Committee further invited the Parliamentary Budget Office (PBO) and the Financial and Fiscal Commission (FFC) to comment on the Bill.

The Bill and its annexures address the following matters:

- Changes in the equitable division of nationally raised revenue among the spheres of government;
- Adjustments to provincial allocations;
- Adjustments to local government allocations; and
- Changes to conditional grant frameworks.

2. Equitable division of revenue raised nationally among the spheres of government

Table 1 below outlines the equitable division of revenue raised nationally among the three spheres of government. The 2019 Budget is adjusted upwards by R24.6 billion to R1.68 trillion for the 2019/20 financial year, compared to the original allocation of R1.66 trillion. The in-year adjustments are attributed to debt service costs, the contingency reserve, provisional allocations and the Special Appropriation for Eskom.

Table 1: Schedule 1: Equitable division of revenue raised nationally among the three spheres of government

Spheres of government	Column A		
	2019/20 Allocation '000	Adjusted Amount '000	2019/20 Adjusted Allocation '000
National	1 084 180 207	24 644 884	1 108 825 091
Provincial	505 553 753		505 553 753
Local	68 973 465		68 973 465
Total	1 658 707 425	24 644 884	1 683 352 309

Source: National Treasury (2019 Division of Revenue Amendment Bill)

3. Changes to provincial government conditional grant allocations

3.1. Funds shifted to support disaster recovery

The Municipal Disaster Recovery Grant (MDRG) amounting to R60.7 million, originally allocated to the Joe Gqabi District Municipality, is now shifted to be ring-fenced funds to the Provincial Roads Maintenance Grant. The Eastern Cape Provincial Department of Transport will use the funds to repair flood-damaged roads in Joe Gqabi District Municipality. The funds had erroneously been allocated to the District Municipality under the MDRG, as the damaged roads are provincial roads.

3.2. New indirect grant

An amount of R45.3 million will be shifted from the Ilima/Letsema Direct Grant component to create the new Ilima/Letsema Indirect Grant component. The indirect grant

will fund the National Food and Nutrition Survey to be conducted by the Human Sciences Research Council (HSRC), aimed at setting a baseline of poverty and vulnerability for food security forecasting purposes. The R45.3 million was originally ring-fenced within the direct grant, which required the nine provinces to transfer the funds to the HSRC, whereas the new indirect grant allows the national Department of Agriculture, Land Reform and Rural Development to transfer the funds directly to the HSRC.

3.3. Grant funding reprioritised

The 2019/20 allocation of R211.2 million to the Human Papillomavirus Vaccine Grant (HPVG) is reduced by R54 million to R157.2 million. This reduction was done because the target group for vaccinations will change from Grade 4 to Grade 5 schoolgirls, starting from the 2020 school year and most of the Grade 5 cohort would have been vaccinated in 2019. There is also a declared saving of R11 million on the HPVG, as the grant will realise savings in the last three months of 2019/20.

An additional R300 million is allocated to the Human Resource Capacitation Grant for 2019/20 to cover the shortage of funding towards the carry-through costs of posts filled in the health sector in 2018/19. The R300 million is funded through reprioritisation and is comprised of the following:

- R115 million from the National Health Insurance Indirect Grant: Non-personal services component;
- R40 million from the National Health Insurance Indirect Grant: Personal services component;
- R43 million from the Human Papillomavirus Vaccine Grant; and
- Funds will be reprioritised from the national Department of Health Vote.

An amount of R289.3 million is shifted from the National Health Insurance Indirect Grant: Personal services component to the direct National Health Insurance Grant for health professional contracting. This will allow provinces to make payments directly to contracted health professionals, instead of claiming reimbursements from the national Department of Health.

3.4. Roll-over of funds

An amount of R89.3 million of the National Health Insurance Indirect Grant: Health facility revitalisation component is rolled over for the settling of payments to service providers for medical equipment procured for hospitals in the Limpopo Province.

3.5. Reductions to indirect grants

Reductions amounting to R310 million are made to the following indirect grants, in order to stay within the expenditure ceiling set in the 2019 Budget:

- The School Infrastructure Backlogs Grant will be reduced by R40 million;
- The National Health Insurance Indirect Grant: Personal services component will be reduced by R230 million;
- The National Health Insurance Indirect Grant: Non-personal services component will be reduced by R10 million; and
- The National Health Insurance Indirect Grant: Health facility revitalisation component will be reduced by R30 million.

4. Changes to local government conditional grant allocations

4.1. Conversion of direct to indirect grant funding

R19.5 million will be shifted to the Neighbourhood Development Partnership Indirect Grant to ensure the completion of road widening and upgrades in the West Rand District Municipality, and road upgrades in the Emfuleni Local Municipality.

4.2. Roll-over of funds

An amount of R241.9 million from the Regional Bulk Infrastructure Indirect Grant is rolled over to fund the emergency Vaal River System (VRS) pollution remediation intervention in the Emfuleni Local Municipality.

4.3. Reductions to indirect grants

Reductions amounting to R445.5 million are made to the following indirect grants, in order to stay within the expenditure ceiling set in the 2019 Budget:

- The Municipal Systems Improvement Grant will be reduced by R10.5 million;
- The Regional Bulk Infrastructure Indirect Grant will be reduced by R185 million; and

- The Integrated National Electrification Programme (Eskom) Grant will be reduced by R250 million.

5. Changes to gazetted conditional grant frameworks

5.1. Grant frameworks amended

The following proposed changes to the gazetted conditional grant frameworks were submitted:

- The Ilima/Letsema Grant framework is amended to include the conditions for the indirect component, which will allow the national Department of Agriculture, Land Reform and Rural Development to transfer the funds directly to the HSRC.
- The School Infrastructure Backlogs Grant framework is amended to reflect the correct number of schools targeted, with regard to the provision of improved sanitation (from 195 to 717 schools) and water (from 177 to 227 schools). The framework that was tabled in February 2019, did not account for the additional funding of R700 million that was added to the 2019/20 allocation and thus the need to update the grant's performance targets.
- A new grant framework will be gazetted for 2019/20 to account for the introduction of the direct component of the National Health Insurance Grant, which allows provinces to make payments directly to contracted health professionals, instead of claiming reimbursements from the national Department of Health.
- The Human Papillomavirus Vaccine Grant framework is amended to include the vaccinations of Grade 5 schoolgirls; previously only Grade 4 schoolgirls were receiving the vaccinations.
- The Human Resource Capacitation Grant framework is corrected to rectify the grant purpose and outcome statement to be aligned to the intended functions of the grant. In addition, a condition for the procurement of statutory posts is corrected to allow the grant to fund non-statutory posts, if these posts were filled in 2018/19. The non-statutory posts will only be funded if the requirements set out in the framework have been met, with the approval of National Treasury.
- The National Health Insurance Indirect Grant: Health facility revitalisation component framework is amended to allow for the payment for linen and beds procured under the discontinued Beds and Laundry Services component. This allows for the completion of outstanding projects, funded by this component in 2018/19.

- The Provincial Roads Maintenance Grant framework is amended to ring-fence the R60.7 million that was shifted from Joe Gqabi District Municipality to the Eastern Cape Province for implementation.
- The Integrated Urban Development Grant framework is amended to rephrase a condition for the transfer of funds. The condition “the second transfer will only be released to municipalities that have spent at least 50 percent of their transferred funds by the end of the second quarter”, is replaced with “the second transfer will only be released to municipalities that have spent at least 50 percent of their first tranche”.

5.2. Changes to allocations

In order to correct allocations for ring-fenced sports projects within the Municipal Infrastructure Grant, the following shifts are proposed:

- R3.6 million is to be shifted to Prince Albert Local Municipality in the Western Cape.
- R1.6 million will be shifted from Emthanjeni Local Municipality and R2 million from Magareng Local Municipality in the Northern Cape.

An amount of R133.2 million of the Municipal Disaster Recovery Grant that was unallocated at the beginning of the 2019/20 financial year, is now allocated to municipalities in the KwaZulu-Natal Province for the repair of flood-damaged roads, as follows:

- R113 million to eThekweni Metropolitan Municipality; and
- R20.3 million to Ugu District Municipality.

6. Submissions from stakeholders

6.1. Financial and Fiscal Commission

The Financial and Fiscal Commission (FFC) provided an overview of actual expenditure in 2019/20, by reporting highlights based on an analysis of aggregate spending for the first six months of the financial year. Total government spending by mid-year was at R816 billion, or 48 per cent; spending by all votes at R448 billion, or 48 per cent, and transfers of the provincial equitable share (PES) at 50 per cent, as expected. However, the FFC reported that an assessment of individual departmental performance showed somewhat uneven spending patterns. The Department of Higher Education and Training had spent 71 per cent of its budget and the Department of Basic Education 58.5 per cent. Other departments such as Environmental Affairs, Water and Sanitation, Human Settlements and Rural Development and

Land Reform had registered below average spending or just at 40 per cent. According to the Commission, excessive deviations below or above the average were generally perceived as undesirable from a budget planning and execution point of view; unless a department's annual plan explicitly identify unusual spending patterns.

Regarding the revised division of revenue for 2019/20, the FFC reported that declared unspent funds returned to the fiscus amounted to R3.9 billion in 2019/20; which was a significant increase from the R329 million declared in the 2018/19 financial year. The largest amount of unspent funds was for the Department of Higher Education and Training (R897.1 million) due to slow capital expenditure, and the Department of Health (R346 million) as a result of slow expenditure on the National Health Insurance (NHI) Indirect Grant. The Commission expressed concerns over the unspent funds on these programmes, given their critical role in addressing shortfalls at institutions of higher learning as well as the imminent health reforms through the NHI programme implementation.

Projected under-spending for national government was reportedly estimated at a total R1.183 billion in 2019/20, a decline compared to the R2.7 billion projected in 2018/19. The largest roll-overs of funds were registered for the Department of Water and Sanitation (R241.9 million) and the Department of Health (R89.3 million), which was 96 per cent of the total roll-overs of R344.9 million in 2019/20. The FFC reiterated the importance of departments using roll-overs as per Treasury Regulations section 6.4 to avoid fruitless and wasteful expenditure.

6.2. Organisation Undoing Tax Abuse

The Organisation Undoing Tax Abuse (OUTA) submitted that the amendment of the Division of Revenue Act was a fundamentally stagnant budgeting process that largely excluded ordinary citizens. OUTA submitted that budgets and expenditure needed to be more heavily scrutinised by Parliament. In terms of public participation, OUTA suggested that the budgeting processes in Parliament needed to prioritise constituency demands over political expediency. It further asked that Parliament make public access to the budgeting process easier through producing searchable PDFs, collation of budget documents on National Treasury's website, and summaries of key budget documents, particularly in different languages. OUTA recommended that the budget cycle in the Executive be harmonised with the parliamentary calendar to ensure that meaningful public participation in expenditure decisions was facilitated timeously.

OUTA submitted that the precarious state of local government was an obstacle to attracting foreign direct investment and stated that there was an urgent need to reassess the local government business model as the present one had failed. It further alluded to the fiscal pressures facing municipalities and submitted that municipal funding was based on population statistics with migration not being sufficiently taken into account. It recommended that National Treasury revisit the intergovernmental fiscal relations framework which, according to OUTA, had culminated in mutually destructive operations of municipalities and Eskom.

Regarding the equitable share determinations for municipalities, OUTA recommended the withholding of the tranches due to be transferred on 2 December 2019 to municipalities heavily indebted to Eskom and/or water boards, or who had failed to honour payment agreements on those debts. It also recommended the withholding of the aforementioned tranches to municipalities who had passed unfunded budgets for the 2019/20 financial year and had not rectified these in line with National Treasury's instructions.

With regard to conditional grants, OUTA suggested that the Integrated National Electrification Programme Grants (Municipal and Eskom) be reassessed, with consideration given to withholding grants from municipalities in default to Eskom, particularly those who failed to sign debt agreements or to adhere to those agreements.

OUTA also submitted that the funding allocated to the Vaal River System for emergency pollution remediation intervention in the Emfuleni Local Municipality was incoherent. Whilst the South African National Defence Force estimated the cost for the intervention at about R1 billion, the R241.9 million allocated in the form of a grant to Emfuleni had effectively not been spent and would be rolled over.

Regarding the National Health Insurance (NHI), OUTA submitted that it was in full support of the goal of universal health coverage as this would help make section 27 of the Constitution a reality for South African citizens. However, it expressed concerns about the inadequate fiscal planning relating to the NHI as well as the question regarding its affordability as stated in the 2019 MTBPS.

OUTA recommended that the School Infrastructure Backlogs Grant not be reduced as this funding was essential in supporting some of the most vulnerable and voiceless people in South Africa. It further recommended that government seek advice from health experts before

reducing the Human Papillomavirus Vaccine Grant and give assurance that limiting the vaccination to prevent cervical cancer to just one grade of school children would pose no significant risk in terms of prevention.

6.3. Equal Education

The focus of Equal Education's (EE) submission was on the basic education sector. EE submitted that, if inflation was taken into account, the total basic education sectoral allocation was growing at an extremely slow pace, with only 0.8 percent real growth anticipated in the 2020/21 financial year. EE added that, based on current projections, R7 billion less would be spent on education in the 2020/21 financial year than had been indicated in 2017 plans.

Regarding conditional grants, EE submitted that reductions in grants such as the School Infrastructure Backlogs Grant (SIBG), remained a threat to eradicating school infrastructure backlogs. EE explained that allocations to almost all provinces declined for the upcoming financial year, including provinces with major infrastructure backlogs such as the Eastern Cape and Kwazulu-Natal. EE emphasised that the budget for the SIBG, which allocated money to the Department of Basic Education (DBE) to build schools, continued to decline in the 2020/21 financial year, with a projected R350 million in real terms. It further highlighted the reductions amounting to R40 million from provinces due to the slow implementation of water and sanitation projects. EE added that a further R100 million had been removed out of the national infrastructure budget as it had been incorrectly classified in the 2019 Estimates of National Expenditure. These reductions followed a R7 billion cut from infrastructure grants in 2018.

EE further submitted that, over the last few years, the DBE and National Treasury had committed to introducing a conditional grant for scholar transport; but had thus far failed to deliver on this promise. EE explained that the finalisation of a Department of Planning, Monitoring and Evaluation (DPME) evaluation on scholar transport provision had been cited as one of the main barriers to introducing a scholar transport conditional grant. According to EE, the evaluation had now been completed, yet there was still no mention in budget documents and speeches of the introduction of such a grant.

In respect of the provincial equitable share (PES) allocation, EE submitted that in previous submissions to the Committee, it had highlighted the problems with the PES formula. EE submitted that the current formula failed to cater for the higher costs of education provision in

rural provinces as compared to urban areas. However, EE welcomed National Treasury's intention to review the current formula, even though they were still expecting time-frames for the review process to be made public. EE added that the information provided in various Division of Revenue Bill Explanatory Memorandums was vague, such that it was impossible to ascertain when the public can expect to interact with the process and to provide comments. EE claimed that it was unclear to what extent the education component of the PES formula was to be reviewed.

In conclusion, EE submitted the following recommendations on the Bill:

- Drastic steps should be taken to ensure that bailouts for state-owned entities cease to divert funds from critical social spending priorities such as basic education;
- The Committees should evaluate National Treasury's Medium Term Expenditure Framework projections for basic education funding and insist that the basic education sectoral budget be considered for an annual real increase greater than 0.8 percent in the 2020/21 financial year.
- The Committees should halt the proposed decreases to all education conditional grants, particularly school infrastructure grants, which were drastically reduced in 2018.
- The Committees should ensure that stakeholders such as National Treasury provide support to the DBE and provincial education departments (PEDs) to strengthen their ability to efficiently spend allocated funds. EE recommend that the Committees request the DBE and PEDs to report on interventions to improve spending and delivery.
- The Committees should request National Treasury to strengthen oversight of conditional grants and intervene in provinces that are under-resourced or under-capacitated.
- The Committees should call on National Treasury, the DBE and other relevant departments to urgently finalise the development of a conditional grant for scholar transport, which should be put into effect in the 2020/21 financial year. In addition, the Committees should follow up on the status of the evaluation report conducted by the DPME on scholar transport.

- A progress update and timelines on the PES review process should be made publicly available, as a matter of urgency, and details of the process should be included in the 2020 Division of Revenue Bill.
- Further phases of the PES formula review should take into account the factors contributing to the high cost of providing education in rural provinces.

7. Provincial mandates

The Committee met on 25 and 26 November 2019, respectively, to consider negotiating and final mandates from provinces.

7.1. Negotiating mandates

- 7.1.1. Eastern Cape supported the Bill and raised some concerns.
- 7.1.2. Free State supported the Bill and made inputs.
- 7.1.3. Gauteng supported the Bill and made recommendations.
- 7.1.4. KwaZulu-Natal supported the Bill.
- 7.1.5. Limpopo supported the Bill.
- 7.1.6. Mpumalanga supported the Bill and made recommendations.
- 7.1.7. Northern Cape supported the Bill and made inputs.
- 7.1.8. North West supported the Bill and made recommendations.
- 7.1.9. Western Cape abstained from voting on the Bill.

During the meeting of 25 November 2019, National Treasury responded to the issues raised by provinces, and the responses were forwarded to the provinces on the same day.

7.2. Final mandates

- 7.2.1. Eastern Cape voted in favour of the Bill.
- 7.2.2. Free State voted in favour of the Bill
- 7.2.3. Gauteng voted in favour of the Bill.
- 7.2.4. KwaZulu-Natal voted in favour of the Bill.
- 7.2.5. Limpopo voted in favour of the Bill
- 7.2.6. Mpumalanga voted in favour of the Bill.
- 7.2.7. Northern Cape voted in favour of the Bill.
- 7.2.8. North West voted in favour of the Bill.

7.2.9. Western Cape did not support the Bill.

8. Findings:

The Committee made the following findings during its deliberations with identified stakeholders on the *Division of Revenue Amendment Bill* [B15 – 2019]:

Findings affecting provincial government allocations:

- 8.1 The Committee notes with concern the apparent lack of monitoring of expenditure, consequence management in cases of fruitless and wasteful expenditure; under-spending on infrastructure projects and failure to adhere to conditional grant frameworks by some provincial departments and municipalities.
- 8.2 The Committee welcomes the correction and the grant framework amendment made to ring-fence the R60.7 million, which was erroneously allocated to Joe Gqabi District Municipality instead of the Eastern Cape Provincial Department of Transport for flood-damaged roads, since such roads are classified as a provincial competency.
- 8.3 The Committee notes the amendment of the Ilima/Letsema Grant framework to include the condition for an indirect component as well as the shifting of R45.3 million from the direct grant component to create the new indirect grant component, which will fund the National Food and Nutrition Survey to be conducted by the Human Sciences Research Council (HSRC).
- 8.4 The Committee welcomes the amendment to the Human Papillomavirus Vaccine Grant framework to include the vaccinations of Grade 5 schoolgirls; while previously only Grade 4 schoolgirls were receiving the vaccinations and the Committee further noted the R43 million reduction as well as the R11 million declared savings for the last three months of 2019/20.
- 8.5 Whilst the Committee welcomes the proposed additional R300 million for the Human Resource Capacitation Grant for 2019/20, which is allocated to cater for the shortage of funding towards the carry-through costs of filling vacancies in the Health

Sector during 2018/19, the Committee remains concerned about the reduction of R115 million as well as R40 million from the National Health Insurance (NHI) Grant, given the high levels of inequality around access to health in South Africa and NHI being the policy intervention that seeks to provide universal access to health for all South Africans.

- 8.6 The Committee further welcomes the new grant framework for the direct component of the National Health Insurance Grant, which will allow provinces to make payments directly to contracted health professionals, instead of claiming reimbursements from the national Department of Health. However, adequate capacity for provincial health departments to spend these funds effectively remains vital.
- 8.7 Given the challenges faced by hospitals around health facilities including beds and linen, the Committee welcomes the amendment of the National Health Insurance Indirect Grant: Health facility revitalisation component framework to allow for the payment for linen and beds procured under the discontinued Beds and Laundry Services component. This will further allow for the completion of outstanding projects, funded by this component in 2018/19.
- 8.8 Whilst understanding the significance of maintaining the expenditure ceiling for the 2019 Budget, the Committee is of the view that any proposed budget reductions for 2019/20 should not negatively affect or disrupt service delivery and annual targets as set out in the annual plans of departments, as this could also affect National Development Plan (NDP) targets (*Vision 2030*). The Committee further notes the R310 million proposed budget reduction, which is taken from the School Infrastructure Backlogs Grant, National Health Insurance Indirect (NHI) Grant: Personal services; NHI Grant: Non-personal services component; and the NHI Indirect Grant: Health facility revitalisation component.
- 8.9 The Committee welcomes the School Infrastructure Backlogs Grant framework amendment to reflect the correct number of schools targeted, with regard to the provision of improved sanitation (from 195 to 717 schools) and water (from 177 to 227 schools). The Committee further notes that the framework that was tabled in February 2019, did

not account for the additional funding of R700 million that was added to the 2019/20 allocation and thus the need to update the grant's performance targets.

- 8.10 The Committee agrees with Equal Education that there is a need for National Treasury, the Department of Basic Education and the Department of Transport and other interested parties to urgently finalise the location of the scholar transport function and policy issues so that a conditional grant can be created, otherwise poor pupils continue to bear the brunt of the current fragmented arrangement. The Committee will monitor the progress.
- 8.11 With respect to the Moloto Corridor, the Committee notes and rejects the assertion that a rail service for the Moloto Corridor was unaffordable at present. Government should deliver on commitments made to its people and it was concerning that there was no progress reported on the development of the Moloto Rail.
- 8.12 The Committee observed that a lot of provinces raised the matter of drought and its dire consequences and that there was a need for drought relief funds. The National Treasury was of the firm view that drought relief funds were available to all provinces but the issue was lack of submissions and spending of allocated funding.
- 8.13 The Committee also noted that provinces sharply raised the matter of the provincial equitable share formula. A number of rural provinces were of the view that the formula did not take into account the higher cost drivers of delivering services in rural areas. National Treasury indicated that the process of reviewing the provincial equitable share formula was already underway.

Findings affecting local government allocations:

- 8.14 Whilst the Committee understands the need to maintain the expenditure ceiling for the 2019 Budget, it is of the view that any proposed budget reductions for 2019/20 should not negatively affect or disrupt service delivery and annual targets as set out in the Municipal Service Delivery, Budgets and Implementation Plans (SDBIPs), especially considering the fact that municipalities are at the coalface of service delivery, and the Committee further notes the R445.5 million proposed reduction in local government allocations, taken from the Municipal Systems Improvement Grant; the Regional Bulk Infrastructure Indirect Grant; and the Integrated National Electrification Programme (Eskom) Grant.

- 8.15 The Committee welcomes the amendment of the Integrated Urban Development Grant framework, which rephrases a condition suggesting that the second transfer of the earmarked allocation will only be released to municipalities once they have spent at least 50 percent of their first tranche of the transferred funds by the end of the second quarter.
- 8.16 The Committee welcomes the fact that R133.2 million of the Municipal Disaster Recovery Grant, which was unallocated at the beginning of the 2019/20 financial year, is now allocated to municipalities in the KwaZulu-Natal Province (Ethekewini Metropolitan Municipality, R113 million, and Ugu District Municipality, R20.3 million) for the repair of flood-damaged roads
- 8.17 Having engaged with Salga and other stakeholders, the Committee remains concerned about the amounts of money owed by local government to Eskom and water boards and the amounts owed by provincial and national government departments to local government; as well as the culture of non-payment for basic services in some local communities, even those who can afford to pay. The Committee views this as part of the challenges that destabilise municipal finances.
- 8.18 The Committee notes the roll-over amount of R241.9 million from the Regional Bulk Infrastructure Indirect Grant to fund the emergency Vaal River System (VRS) pollution remediation intervention in the Emfuleni Local Municipality. While the Committee welcomes the intervention, it remains concerned about the lack of consequence management for those who have polluted the river and is of the view that appropriate action ought to be taken against the culprits.
- 8.19 With regards to the infrastructure maintenance expenditure issue as raised by Salga, the Committee notes the National Treasury's explanation and agrees that the Division of Revenue Act provides adequate space for municipalities wherein it allows them to use at least 95 per cent of their allocations to projects eligible for Municipal Infrastructure Grant (MIG), including maintenance of roads.

9. Recommendations

The Select Committee on Appropriations, having considered the *Division of Revenue Amendment Bill* [B15 – 2019] and submissions from various stakeholders, recommends as follows:

9.1 The Minister of Finance must ensure that National Treasury gazette the corrections to the Conditional Grant Frameworks as well as the New Conditional Grant Frameworks as set out in annexures 2 and 3 of the Bill, in accordance with section 16(4) of the Division of Revenue Act, 2019 as soon as possible. The following are the affected grants:

- Ilima/Letsema Grant;
- School Infrastructure Backlogs Grant;
- National Health Insurance - Direct Grant;
- Human Papillomavirus Vaccine Grant;
- Human Resources Capacitation Grant;
- National Health Insurance - Indirect Grant: Health Facility Revitalisation component;
- Provincial Roads Maintenance Grant;
- Integrated Urban Development Grant;
- Municipal Disaster Recovery Grant; and
- Municipal Infrastructure Grant.

9.2 While the Committee notes the technical issues behind the School Infrastructure Backlogs Grant adjustment and adjustments to infrastructure grants as a whole, the Committee recommends that all procedural and technical issues need to be swiftly and effectively dealt with to ensure that the financial support for the removal of these backlogs is given, and that the government does everything in its power to ensure the speedy completion of these projects.

9.3 In order to prevent fiscal dumping and fruitless and wasteful expenditure, the Minister of Finance, together with the Ministers of Agriculture, Health and Basic Education and the affected provincial treasuries, should ensure that concrete steps are taken to build and demonstrate capacity to spend, including developing clear plans to monitor expenditure for proposed additional allocations. Further, the Ministers need to ensure that the proposed additional allocations are effectively and efficiently spent according to the approved plans before the end of this financial year, and provide a progress report to the

Committee in the first quarter of the 2020/21 financial year. The proposed additional allocations include the following conditional grants:

- The ring-fenced R60.7 million, which was shifted to the Eastern Cape Provincial Department of Transport for roads damaged by floods;
- The new indirect component of the Ilima/Litsema Grant, amounting to R45.3 million, to fund the National Food and Nutrition Survey;
- The Human Resource Capacitation Grant, amounting to R300 million, which is allocated to cater for the shortage of funding towards the carry-through costs of filling vacancies in the health sector;
- The direct component of the National Health Insurance Grant, which will allow provinces to make payments directly to contracted health professionals;
- An additional funding of R700 million to the School Infrastructure Backlogs Grant, which was added to the 2019/20 allocation; and
- The Municipal Disaster Recovery Grant amount of R133.2 million, earmarked for Ethekewini Metropolitan Municipality and Ugu District Municipality.

9.4 The Minister of Finance should ensure that National Treasury approve the roll-overs contained in the Bill for all projects near completion timeously for the receiving municipalities (for Regional Bulk Infrastructure to be used for emergency Vaal River pollution remediation) and provinces (for medical equipment in Limpopo hospital) and provide a progress report to the Committee in the first quarter of 2020/21.

9.5 The Committee appeals to National Treasury, the Department of Cooperative Governance and Traditional Affairs and the South African Local Government Association (Salga) to continue to support municipalities until the Eskom and water boards debt issues are resolved; and to ensure that the issues around provincial and national departments owing municipalities are also expeditiously addressed to bolster municipal finances. To further ensure that municipalities create credible credit control measures, debt management policies and effective revenue collection strategies; and to provide a progress report in this regard to the Committee in the first quarter of 2020/21.

9.6 The Committee requests National Treasury to consider allocating a budget for the development of the Moloto Rail Corridor even if it is spread over a period of five years.

The argument that a feasibility study found the project to be too expensive was not accepted by the Committee, which argued that high cost of a project cannot be elevated above the lives of voters who had been promised a better service.

- 9.7 The Minister of Finance and the Minister of Transport should report progress to Parliament, within three months after the adoption of this Report, on what has been done since the pronouncement by President Jacob Zuma – in September 2017 – that the Moloto Rail Development Corridor was a government priority and one of the infrastructure development initiatives.
- 9.8 The Committee noted the issue of the prolonged drought raised by various provinces, and the National Treasury response that funding is available, but is not being spent. The provincial departments who have been allocated drought funding should urgently develop a clear strategy to ensure that drought relief funds reach the appropriate beneficiaries and further identify possible mismanagement and deal with the relevant officials accordingly.
- 9.9 With respect to the Medium Term Budget Policy Programme timeframes, Parliament must ensure that, between the tabling by the Minister of Finance and Parliament rising, enough time is allowed for Parliament and Provincial Legislatures to process the Bill in compliance with section 12(19) of the Money Bill and Related Matters Act No 9 of 2009 [as amended].

10. Committee Recommendation on the Bill

The Select Committee on Appropriations, having considered the *Division of Revenue Amendment Bill* [B15 - 2019] referred to it and classified by the Joint Tagging Mechanism (JTM) as a Section 76 Bill, recommends that the Bill be adopted, without amendments.

Report to be considered.

2. Report of the Select Committee on Security and Justice on the Border Management Authority Bill [B9B-2016] (National Assembly – sec 75), dated 26 November 2019:

The Select Committee on Security and Justice, having deliberated on and considered the subject of the **Border Management Authority Bill** [B9B-2016] (National Assembly – sec 75), initially referred to the Select Committee on Social Services during the 5th Parliament on 8 June 2017 and then referred by the 6th Parliament to the Select Committee on Security and Justice on 31 October 2019, classified by the JTM as a section 75 Bill, reports that it has agreed to the Bill with proposed amendments.

Background

The Border Management Authority Bill (The Bill) seeks to provide for:

- the establishment, organisation, regulation, functions and control of the Border Management Authority (BMA);
- the appointment, terms of office, conditions of service and functions of the Commissioner and Deputy Commissioners;
- the appointment and terms and conditions of employment of officials; to provide for the duties, functions and powers of officers;
- the establishment of an Inter-Ministerial Consultative Committee, Border Technical Committee and advisory committees;
- delegations;
- the review or appeal of decisions of officers;
- certain offences and penalties;
- annual reporting;
- the Minister to make regulations with regard to certain matters; and to provide for matters connected therewith.

1. The Bill is tagged as a Bill to be dealt with in terms of Section 75 of the Constitution (a bill not affecting provinces).
2. There are financial implications associated with the Bill. R3,8 billion is currently utilised by key agencies and departments to discharge their ports of entry and border law enforcement functions and it is this funding that will be used to fund the BMA.
3. The Select Committee Social Services, in the 5th parliament, held a briefing on the Bill on 12 September 2017, 07 November 2017, 14 November 2017, 13 February 2018 and 20 February 2018.
4. The Bill was not finalised by the Select Committee Social Services.
5. The 6th Parliament National Council of Provinces passed a resolution, on 17 October 2019, reviving the Bill and further, that the proceedings on these Bills should resume at the stage at which they were at the end of the term; and that where Committees have commenced with the processing of the Bills, work be accepted as having being done by Committees.

1. Public participation process on the Border Management Authority Bill [B9B-2016] (National Assembly – sec 75)

The 5th Parliament Select Committee on Social Services advertised the Bill on Parliament's electronic platforms and radio on 15 September 2017 with a deadline for written submissions on 27 October 2017.

2. Summary of Submissions (See Annexure A):

The Select Committee on Social Services received submissions from the following organisations:

1. Elcort Matlala ("EM");
2. Refugee Legal and Advocacy Centre ("RLAC");
3. The South African Association of Freight Forwarders ("SAAFF");
4. Business Unity South Africa ("BUSA");

5. Member of Executive Council: Western Cape Government (Mr A Winde) (“WCG”);
6. Public Service Co-ordinating Bargaining Council (General Secretary, Frikkie de Bruin) (“PSCBC”);
7. United Nations High Commissioner for Refugees (“UNHCR”);
8. Lawyers for Human Rights (“LHR”);
9. Congress of South African Trade Unions (“COSATU”); and
10. National Education Health and Allied Workers’ Union (“NEHAWU”).
11. Institute for Security Studies (“ISS”).

3. Committee consideration of the Border Management Authority Bill [B9B-2016] (National Assembly – sec 75)

The Select Committee on Security and Justice received a briefing by the Department of Home Affairs on the Bill on 18 October 2019. The Department of Home Affairs responded to the written submissions on the Border Management Authority Bill on 30 October 2019. The Parliamentary Legal Advisor responded on 6 November 2019 to the Department of Home Affairs proposed amendments to the Bill and further amendments were considered on 20 November 2019. On the 26 November 2019, the Committee deliberated on the proposed amendments, went through clause by clause, and adopted the Committee report on the Bill.

The Committee had various engagements with the Department of Home Affairs, Treasury, SAPS and SANDF to ensure that all Departments were satisfied with the proposed amendments to the Bill.

4. Proposed Amendments agreed to:

Proposed amendments by Select Committee on Security and Justice

Border Management Authority Bill

[B9B—2016]

CLAUSE 1

1. On page 5, after line 6, to insert the following definition:

““customs related functions” means the functions performed exclusively by the South African Revenue Service under—

- (a) customs and excise legislation; and
- (b) any tax Act,

as defined in the Tax Administration Act, 2011 (Act No. 28 of 2011);”.

2. On page 5, from line 32, to omit the definition of “revenue”.
3. On page 5, after line 33, to insert the following definition:

““South African Revenue Service” means the South African Revenue Service established by section 2 of the South African Revenue Service Act, 1997 (Act No. 34 of 1997);”.

CLAUSE 2

1. On page 5, in line 44, to omit “This”, and to substitute with “Except where the Act otherwise provides, this”.

2. On page 5, in line 45, to omit “exercised”, and to substitute with “performed”.
3. On page 5, in line 46, to omit “and”.
4. On page 5, in line 48, at the end of paragraph (b), to remove “.” and to substitute with “; and”.
5. On page 5, after line 48, to insert the following paragraph:

“(c) the customs related functions performed by the South African Revenue Service.”.

CLAUSE 5

1. On page 6, in line 15, after “,”, to add “and”.
2. On page 6, from line 16, to omit paragraph (c), and to omit “and”.
3. On page 6, in line 18, to substitute “(d)” with “(c)”.

CLAUSE 22

1. On page 12, in line 18, after “Act”, to omit “, excluding revenue collected in terms of section 5(c)”.

CLAUSE 27

1. On page 14, from line 3, to omit clause 27, and to substitute with the following clause:

“Implementation protocols

27. (1) For the purpose of this section, “implementation protocol” means an implementation protocol concluded in accordance with section 35 of the Intergovernmental Relations Framework Act, 2005 (Act No. 13 of 2005).

(2) Where the implementation of a policy, the exercise of a statutory power, the performance of a statutory function or the provision of a service relating to border law enforcement functions by the Authority depends on the participation of other organs of state, the Authority and those organs of state must, within a reasonable time after the commencement of the Act, co-ordinate their respective functions in such a manner as may be appropriate or required in the circumstances by entering into an implementation protocol.

(3) The organs of state referred to in subsection (2) must, within a reasonable time after the commencement of the Act, enter into implementation protocols with the Authority to collaborate on and ensure the alignment of technological, electronic, information and communication

systems and procedures necessary to ensure the efficient sharing of relevant information with the Authority.

(4) The Minister may initiate the process for the conclusion of implementation protocols contemplated in subsections (2) and (3) in the Inter-Ministerial Consultative Committee.

(5)(a) The Authority must, within six months after the commencement of this section, conclude implementation protocols with□

- (i) the Defence Force;
- (ii) the South African Police Service; and
- (iii) the South African Revenue Service,

for the mandatory co-ordination of their respective functions within the border law enforcement area and at ports of entry.

(b) If any of the implementation protocols contemplated in paragraph (a) are not concluded, the Minister and the Cabinet member responsible for Defence and Military Veterans, Police or Finance, as the case may be, must determine the relevant implementation protocol.

(6) The implementation of implementation protocols concluded in terms of this section must be co-ordinated by the Inter-Ministerial Consultative Committee.”.

CLAUSE 28

1. On page 14, in line 28, to omit “27(2)”, and to substitute with “27(4), 27(5)(b)”.

CLAUSE 39

1. On page 17, in line 26, after “ports”, to insert “, points and places”, and after “entry”, to insert “or exit”.
2. On page 17, in line 38, after “under”, to insert “—”, and to omit “subsection”.
3. On page 17, from line 39, to omit “(1)(b) or (c), after consultation with the Commissioner of the South African Revenue Service or the Minister of Agriculture, as the case may be”, and to substitute with the following:

“(a) subsection (1)(b), in consultation with the Commissioner of the South African Revenue Service; or

(b) subsection (1)(c), after consultation with the Minister of Agriculture, as the case may be.”.

5. Consensus on the Bill

- a. Seven members voted in favour of the Bill;
- b. Three members abstained.

Report to be considered.