

TO: SELECT COMMITTEE ON APPROPRIATIONS

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SUBMISSION ON THE 2026 DIVISION OF REVENUE BILL

Submitted to the Select Committee on Appropriations

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1. The Legal Resources Centre ('LRC') is the oldest public interest law organisation in South Africa, established in 1979 to challenge the unjust apartheid era laws. Post-1994, the LRC has focused on ensuring the realisation of the rights contained in the Constitution. A significant portion of the LRC's work has focused on the realisation of the right to basic education as enshrined in section 29(1)(a) of the Constitution, seeking to ensure equitable access to quality education for all learners, irrespective of their circumstances.

2. Through its work, the LRC seeks not only to vindicate individual rights, but also to address systemic injustices and hold the State accountable for failures to meet its constitutional and statutory obligations. In the education sector, this includes litigation and advocacy aimed at ensuring that all learners have access to safe, adequate, and equitable learning environments.
3. Ensuring the adequate funding of education is vital to ensure learners' can access quality education. This submission is therefore made in the interest of ensuring that fiscal policy is aligned with the State's constitutional obligations and that public resources are allocated in a manner that gives meaningful effect to the right to basic education.

Inadequacy of Education Budget

4. Education expenditure plays a vital role in building South Africa's future. While it remains positive that the bulk of government spending goes towards education, this alone is not indicative of the adequacy thereof.
5. The right to basic education, enshrined in section 29(1)(a) of the Constitution is immediately realisable and not subject to internal qualifications such as budgetary

constraints.¹ Government's approach to funding education should thus be fundamentally needs driven. Adequate expenditure must account for schools' actual financial need and ensure that schools are adequately equipped to provide learners with the immediate access to education to which they are entitled.

6. The overall budget for education in the 2026/27 financial year increased in nominal terms by approximately 6.7%. However, accounting for the effects of inflation, this amounts to an increase in real terms of approximately 3.7%.
7. Increasing education expenditure is a welcome move by National Treasury and constitutes an important investment in the country's future. However, the increase is marginal and will not enable the education sector at large able to meet the need for education across the country.
8. The public education system has long been in crisis. Years of underfunding have left schools operating at a significant deficit which cannot be remedied with marginal budgetary increases. Significantly, provinces such as the Eastern Cape, KwaZulu Natal and the North West have been open about lacking the funds to adequately fund their scholar transport programmes. The Western Cape and

¹ *Governing Body of the Juma Masjid Primary School v Essay N.O* [2011] ZACC 13.

Gauteng have struggled to ensure the placement of new learners each year. All provinces still struggle with a significant infrastructure backlog that they cannot eradicate.

9. Marginal increases are not sufficient to remedy these issues. Not only must provincial education budgets be increased to resolve these longstanding issues, but they also must be increased to accommodate the mandatory, legislated incorporation of Grade R. A significant increase in funding has, yet again, not been forthcoming from National Treasury, jeopardising the future of South Africa's youth.

School Infrastructure Funding

10. Despite the adoption of the National Minimum Norms and Standards for School Infrastructure ("Norms and Standards for School Infrastructure") more than a decade ago to prioritise the upgrading of schools, significant infrastructure backlogs persist across the public school system.

11. According to the Minister of Basic Education, approximately R129 billion is required to address existing infrastructure backlogs, including the provision of classrooms, sanitation, water, electricity, and the eradication of unsafe structures. In addition, recent data presented to Parliament indicates that 13 655 schools require



additional sanitation facilities, 6 319 schools lack reliable water supply, and 8 265 schools require additional classrooms, while 3 677 schools to continue to have inappropriate or unsafe structures.

12. The infrastructure backlog remains significant and widespread. As schools also expand to accommodate the incorporation of a compulsory Grade R, many, if not most, primary schools will also have to physically expand to ensure the accommodation of more learners.

13. However, the current allocation towards infrastructure does not reflect the need on the ground. The gap between identified infrastructure requirements and available funding raises serious concerns regarding the State's ability to meet its obligations under the Constitution and the Norms and Standards for School Infrastructure.

13.1. First, the phasing out of the School Infrastructure Backlog Grant ("SIBG") remains problematic and will leave schools more reliant on the Education Infrastructure Grant ("EIG") and their school allocations to meet their infrastructure needs.

13.2. Second, a reduction to the Education Infrastructure Grant in real terms will leave schools unable to reduce the school infrastructure backlog in the immediate to near future.

14. As stated previously, the right to basic education is immediately realisable. A key component of this right is the provision of furniture, classrooms, and basic infrastructure.² Against this context, the eradication of infrastructure backlogs is significantly time sensitive. For as long as the backlog remains in existence, learners will be forced to attend school in unsafe and undignified conditions.

15. Moreover, because the right to basic education encompasses both the right to basic infrastructure *and* the provision of textbooks, LTSM and other educational tools,³ schools should not be placed in a position where they have to forgo the latter to afford providing the former.

² *Equal Education and Another v Minister of Basic Education and Others* 2019 (1) SA 421 (ECB); *Madzodzo and Others v Minister of Basic Education and Others* 2014 (3) SA 441 (ECM).

³ *Khula Community Development Project v The Head of Department, Eastern Cape* (Eastern Cape Division of the High Court, Makhanda) Unreported Case No 611/2022.

16. While the overall budget for education has increased in real terms, this increase is largely concentrated in and absorbed by personnel costs. The fiscal space available for capital investment, including infrastructure, has continued to shrink.

17. First, the infrastructure grants have themselves reduced in real terms.

17.1. The SIBG has shrunk from R1.8 billion in the 2024/25 financial year and R1.6 billion in the 2025/26 financial year to a mere R448 million in this financial year. This reflects a decline of approximately 75% in nominal terms over a two-year period.

17.2. The EIG has remained comparatively steady, with a slight decrease in real terms. R16 285 220 000 was allocated to the EIG in the 2025/26 financial year, while R16 257 401 000 was allocated to the EIG in the 2026/27 financial year. In nominal terms this amounts to a slight decrease of 0.02%. However, accounting for the impact of inflation, this amount to a real decrease of approximately 3.02%.

17.3. The EIG is intended to be restructured to absorb funds from the SIBG over the three-year Medium Term Expenditure Framework. However, the

increase each year in the EIG over the next three year framework is marginal, and does not keep pace with inflation.

17.4. Ultimately, this significantly reduces the availability of ring-fenced funding specifically dedicated to backlog eradication. While the EIG may be used to reduce the infrastructure backlog, it does not form part of the Accelerated Schools Infrastructure Delivery Initiative and does not exclusively have to be used to reduce the infrastructure backlog. The EIG is also used as a broader funding instrument that is already required to fund maintenance, upgrades, and new infrastructure.

17.5. While the consolidation of grants may be justified on administrative or efficiency grounds, the scale of the reduction, combined with the absence of a dedicated replacement mechanism, suggests a deprioritisation of targeted infrastructure interventions at a time when backlogs remain extensive.

18. Second, there is a clear disjunct between the budget allocated towards school infrastructure, and schools' needs. Approximately R129 billion is required to address existing school infrastructure backlogs, not accounting for the expansion required to accommodate new Grade R learners. However, R447 million and R16

billion have been allocated towards school infrastructure through the SIBG and EIG respectively. This falls significantly short of the R129 billion required to eradicate the backlog.

18.1. Significantly, the EIG is a Schedule 4 conditional grant. This means that it is used to supplement provincial allocations made towards school infrastructure. Within this context, shrinking the core avenue for school infrastructure funding will have a significant impact on education-based inequalities between provinces. Provincial allocations will not be made uniformly, ensuring an equitable eradication of the infrastructure backlog between provinces.

18.2. Furthermore, a key source of provincial funding remains the school allocation, allocated to schools on a per-learner basis under the National Norms and Standards for School Funding (“Norms and Standards for School Funding”).

18.3. At present, the targets for the per-learner allocation set by the Minister for Basic Education for the 2026/27 financial year are:

- 18.3.1. R1 835 per learner per year in no-fee paying quintiles 1 to 3 schools;
- 18.3.2. R919 per learner per year in fee-paying quintile 4 schools; and
- 18.3.3. R315 in fee-paying quintile 5 schools.

19. School allocations are required to fund learners' textbook and LTSM needs, contribute towards school maintenance and cover other miscellaneous operational expenses. Relying on school allocations for cover any shortfall in the EIG is problematic for several reasons.

- 19.1. First, the per learner allocation is already impossibly low. Schools struggle to sustain themselves using their school allocations and are often forced to forgo critical maintenance to cover other operational expenses.
- 19.2. Second, the allocation may, and often does, vary per province with not all provinces electing to fund schools at the national target. Schools in the Eastern Cape and KwaZulu Natal have, for example, been funded below the national target for close to half a decade. Relying on allocations that may vary province-to-province thus introduces yet another avenue for provincial inequality.

19.3. Third, no-fee paying schools are at a significant disadvantage if left to rely on school allocations. As they are no-fee paying, they cannot rely on school fees to supplement their school allocation to ensure the affordability of any other projects or required expenditure. Fee-paying schools on the other hand can adjust their school fees to accommodate increased operational costs.

19.4. Admittedly, the Norms and Standards for School Funding do allow no-fee paying to charge school fees if necessary. However, no-fee paying schools have an important role to play within the education landscape and are no-fee paying for a reason. It is near impossible for many families to pay school fees to send their children to school. It is necessary to ensure that no-fee paying schools remain no-fee paying to ensure that learners are not locked out of the education system almost entirely.

Accommodating Compulsory Grade R

20. Since amendments to the South African Schools Act introducing compulsory Grade R for all learners, ensuring adequate funding to implement these amendments has been of vital importance. Grade R was previously unfunded, with provinces retaining a discretion to fund it and by how much.



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21. Expanding the school system to accommodate compulsory Grade R requires significant funds to, amongst other things, increase schools' school allocation under the Norms and Standards for School Funding, employ more educators, build classrooms at schools to accommodate new learners, and expand the scholar transport system to ensure the transportation of more qualifying learners now attending Grade R.

22. In 2024, the Department of Basic Education estimated that incorporating universal Grade R into the basic education sector would require approximately R17 billion, consisting of R5.26 billion for educators and R12 billion for infrastructure. While no specific funds were allocated for the incorporation of Grade R into the education system, mention has been made of explicit funding for certain limited aspects thereof in the 2026/27 budget.

23. It is unclear whether the current allocation is sufficient to progressively address Grade R enrolment demand. The Medium-Term Expenditure Framework (MTEF) outlines government spending plans for three years and interacts directly with allocations in the Division of Revenue Bill. Therefore, the current fiscal framework suggests that Grade R expansion will occur gradually over each three-year budget cycle, rather than immediately. This is concerning partly because, in 2024 the



Department of Basic Education indicated a potential shortfall of approximately 250 000 Grade R places nationally.

24.R342 million has been allocated to *equalise* pay disparities between Grade R teachers and other teachers in the public sector. While this small development is welcome, it is not sufficient.

24.1. First, as it remains to be provided through the provincial equitable share allocation given to provincial education departments, it is not explicitly ringfenced for Grade R educators.

24.2. Second, it does not necessarily address the overall teacher shortage, seeking rather to increase what existing teachers are paid and not necessarily increase the number of teachers employed. The legislated learner-to-teacher ratio for Grade R in South African schools is 30:1. However, according to School Realities (EMIS) 2022, the national average learner-to-teacher ratio in state-paid schools was 34:1.

24.3. Third, it focuses on operational expenses, and makes no provision for meeting the increased infrastructure needs of schools to accommodate Grade R learners.

25. While provinces continue to report difficulty in placing Grade R learners, it is essential that the education budget increases to fund the additional cost points created by the incorporation of Grade R. A failure to do so, or a commitment to do so on a progressive basis, will result in a limitation of the right to basic education for thousands of children who cannot be accommodated within the system.

Conclusion

26. Nothing presented thus far in the preparation of the Division of Revenue Bill demonstrates that there has been adequate costing done by Treasury when calculating its allocation towards basic education in a manner that accounts for ensuring there is enough in the budget to cover schools' actual expenses.

27. We urge the state to undertake an adequate and accurate costing exercise to establish with greater certainty what schools' financial needs are to ensure greater congruency between the funds allocated towards school subsidies and what those subsidies are intended to cover.

28. This approach is consistent with the immediately realisable nature of the right to basic education. The right to basic education is a right without budgetary qualifications, placing an obligation on the state to ensure that it plans and budgets

according to what is necessary to cover the inputs required to provide all learners with access to quality education.

29. Particularly within the context of conditional grants such as the EIG, a needs-based approach to budgeting is crucial. Provincial education departments' previous expenditure under the EIG and other conditional grants is often significantly below those departments budgetary needs to ensure adequate provisioning. Under-expenditure is the result of provincial education departments struggling to comply with the conditions of many of these ringfenced grants. It is not indicative of a reduced need within that province.

30. National Treasury should ensure that it does not solely base its budget allocations on past expenditure. Where provincial education departments struggle to spend the funds that they are allocated, it is often not indicative of a reduced need. Instead, National Treasury should attempt to assist to build the capacity of the respective provincial education department to better equip them to comply with the relevant conditional grant's requirements.

31. The 2026/27 budget significantly undercuts provincial education departments' ability to ensure the incorporation of Grade R into the education system and reduce the education infrastructure backlog. The insignificant increase quoted by National

Treasury will also not stabilise the many crises currently facing the education system in South Africa. Fundamentally, the education system requires more resources.

32. While the Legal Resources Centre is grateful for the opportunity to make this submission, it unfortunately will be unable to follow it with an oral submission. However, should there be any questions of clarity that the Committee would wish to raise with the Legal Resources Centre, they are welcome to do so.

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