

**KWAZULU-NATAL PROVINCE  
KWAZULU-NATAL PROVINSIE  
ISIFUNDAZWE SAKWAZULU-NATALI**

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**PIETERMARITZBURG,**

3 DECEMBER 2008  
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**GENERAL NOTICE—ALGEMENE KENNISGEWING—ISAZISO SIKAWONKE-WONKE**

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No. 32

3 December 2008

**KWAZULU-NATAL FUNDING OF POLITICAL PARTIES  
BILL, 2008****Notice in terms of Rule 194 of the Standing Rules of the KwaZulu-Natal Legislature**

Notice is hereby given in terms of Rule 194 of the Standing Rules of the Provincial Legislature that the KwaZulu-Natal Funding of Political Parties Bill, 2008 as set out hereunder, has been introduced into the aforesaid Legislature and will be considered by the Finance and Economic Development Portfolio Committee. The public and other interested groups are invited to submit representations on the said Bill, which representations must be addressed to:

**Attention:** Mr K Dlamini  
The Secretary  
KwaZulu-Natal Legislature  
Private Bag X 9112  
PIETERMARITZBURG  
3200

so as to reach her not later than 15 days from the date of publication.

N NAIDOO  
Secretary to the KwaZulu-Natal Legislature

## KWAZULU-NATAL WETSONTWERP OP BEFONDSING VAN POLITIEKE PARTYE, 2008

Kennisgewing ooreenkomstig Reël 194 van die Staande Reëls van die KwaZulu-Natal Wetgewer

Kennisgewing geskied hiermee ooreenkomstig Reël 194 van die Staande Reëls van die KwaZulu-Natal Wetgewer dat die Kwazulu-Natal Wetsontwerp op Befondsing van Politieke Partye, 2008 soos hieronder uiteengesit, by die voorgemelde Wetgewer ingedien is en deur die Portfoliokomitee oor Finansies en Ekonomiese Ontwikkeling oorweeg sal word. Die publiek en ander belanghebbende groepe word uitgenooi om versoë oor die vermelde wetsontwerp in te dien, welke versoë gerig moet word aan:

Aandag: Mnr K Dlamini  
Die Sekretaris  
KwaZulu-Natal Legislature  
Privaatsak X 9112  
PIETERMARITZBURG  
3200

Verstoë moet haar nie later as 15 dae vanaf die datum van hierdie publikasie bereik nie.

N NAIDOO  
Sekretaris van die KwaZulu-Natal Wetgewer

## UMTHETHOSIVIVINYO WOKUXHASWA NGEZIMALI KWAMAQEMBU EZEPOLITIKI WAKWAZULU-NATALI, 2008

Isaziso ngokuhambisana noMthetho 194 weMithetho Emileyo yeSishayamthetho saKwaZulu-Natali

Ngalokhu kunikezwa isaziso ngokuhambisana noMthetho 194 weMithetho Emileyo yeSishayamthetho sesiFundazwe maqondana nokuthi Umthethosivivinyo Wokuxhaswa Ngezimali KwamaQembu Ezepolitiki waKwaZulu-Natali, 2008, njengoba uchazwe ngezansi, sewethuliwe eSishayamthethweni esibalulwe ngenhla futhi uzocutshungulwa yiKomidi Lesishayamthetho Lezezimali kanye fNokuthuthukiswa Komnotho. Umphakathi kanye nabanye abanentshisekelo bayamenywa ukuba balethe izethulo ezimayelana nalo Mthethosivivinyo, okumele ziqondiswe ku -:

Mnu. K. Dlamini  
UNobhala  
ISishayamthetho saKwaZulu-Natali  
Isikhwama Seposi X 9112  
Pietermaritzburg  
3200

ukuze zifinyelele kuye zingakapheli izinsuku eziyi-15 kusukela ngosuku okushicilelwe ngalo lesi saziso

N. NAIDOO  
UNobhala weSishayamthetho saKwaZulu-Natali

**KWAZULU-NATAL  
FUNDING OF POLITICAL PARTIES BILL, 2008**

**BILL**

To provide for the establishment of the Political Parties' Fund in order to strengthen democracy and to educate and develop the political will of citizens of the Province of KwaZulu-Natal through the supplementary funding of political parties on an equitable and proportional basis; to provide for the objects and roles of the Fund; to provide for the funding of the fund; to provide for the allocation to registered political parties from the fund and for the use of those funds; to provide for the publication of allocations made from the fund; to provide for the accountability of political parties for allocations received from the fund; to provide for the recovery of money irregularly spent by political parties; to provide for unspent allocations; to provide for the management and control of the fund; to provide for the Speaker to report to the Provincial Legislature on the affairs of the fund and on its financial reporting; to provide for unspent balances in the event that the Provincial Legislature is dissolved; to provide for the formulation of regulations; and to provide for matters connected therewith.

BE IT ENACTED by the Provincial Legislature of the Province of KwaZulu-Natal, as follows:-

**ARRANGEMENT OF SECTIONS***Section***CHAPTER 1  
DEFINITIONS AND OBJECT OF ACT**

1. Definitions
2. Object of Act

- CHAPTER 2  
ESTABLISHMENT, OBJECTS AND FUNDING OF POLITICAL PARTIES' FUND**
3. Establishment of Political Parties' Fund
  4. Objects of Political Parties' Fund
  5. Funding and deposit of funds into Political Parties' Fund

**CHAPTER 3**

## ALLOCATIONS FROM POLITICAL PARTIES' FUND

6. Allocations from Political Parties' Fund
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## ACCOUNTABILITY OF POLITICAL PARTIES

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## CHAPTER 5

MONETARY CONTROLS, MANAGEMENT AND REPORTING IN RELATION TO  
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9. Recovery of money irregularly spent by Parties
10. Unspent money at end of financial year
11. Management and control of Political Parties' Fund
12. Speaker to report to Provincial Legislature on Political Parties' Fund
13. Audits and financial statements

## CHAPTER 6

## GENERAL PROVISIONS

14. Dissolution of Provincial Legislature
15. Regulations
16. Winding up
17. Short title and commencement

## CHAPTER 1

## DEFINITIONS AND OBJECT OF ACT

**Definitions**

1. In this Act, unless the context otherwise indicates –

"**Constitution**" means the Constitution of the Republic of South Africa, 1996;

"**Electoral Commission Act**" means the Electoral Commission Act, 1996 (Act No. 51 of 1996);

"**Executive Council**" means the Executive Council of the Province of KwaZulu-Natal;



**"financial year"** means the period from 1 April in any year to 31 March of the following year;

**"Gazette"** means the official *Provincial Gazette* of KwaZulu-Natal;

**"Member of the Executive Council responsible for finance"** means the member of the Executive Council of the Province of KwaZulu-Natal responsible for finance;

**"Party"** means any political party registered in terms of section 15 of the Electoral Commission Act, 1996 (Act No. 51 of 1996), and represented in the Provincial Legislature, and **"Parties"** has a corresponding meaning;

**"Political Parties' Fund"** means the Political Parties' Fund established in terms of section 3;

**"Premier"** means the Premier of the Province of KwaZulu-Natal as contemplated in section 125 of the Constitution;

**"prescribed"** means prescribed by regulation under section 15, and **"prescribe"** has a corresponding meaning;

**"Province"** means the KwaZulu-Natal Province contemplated in section 103(1)(d) of the Constitution;

**"Provincial Legislature"** means the Legislature of the Province of KwaZulu-Natal;

**"Secretary"** means the Secretary to the Provincial Legislature of the Province of KwaZulu-Natal;

**"Speaker"** means the Speaker of the Provincial Legislature of the Province of KwaZulu-Natal; and

“this Act” includes the regulations made under section 15.

### **Object of Act**

2. The object of this Act is to make provision for the establishment of the Political Parties' Fund so as to –

- (a) strengthen democracy in the Provincial Legislature;
- (b) educate and develop the political will of the public so as to enhance their participation in political life;
- (c) permit Parties to function effectively as political parties in a modern democracy;
- (d) provide financial and administrative assistance to Parties; and
- (e) provide for the management and administration of the Political Parties' Fund.

## CHAPTER 2 ESTABLISHMENT, OBJECTS AND FUNDING OF POLITICAL PARTIES' FUND

### **Establishment of Political Parties' Fund**

3. The Political Parties' Fund is hereby established for the purpose of funding Parties that participate in the Provincial Legislature.

### **Objects of Political Parties' Fund**

4. The objects of the Political Parties' Fund are –

- (a) to receive and invest moneys deposited with it from sources authorised in terms of this Act; and
- (b) to provide for the supplementary funding of political parties on an equitable and proportional basis.

### **Funding and deposit of funds into Political Parties' Fund**

5.(1) The Political Parties' Fund is funded from –

- (a) money appropriated to the Political Parties' Fund by the Provincial Legislature;

- (b) contributions and donations to the Political Parties' Fund from sources approved by the Member of the Executive Council responsible for finance, whether from within or outside of the Province;
- (c) interest earned on money deposited in terms of subsections (2) and (3) below; and
- (d) money received or accruing to the Political Parties' Fund from any other source.

(2) All money received by or standing to the credit of the Political Parties' Fund must be deposited into a separate banking account opened by the Secretary with an institution registered as a bank in terms of the Banks Act, 1990 (Act No. 94 of 1990).

(3) Money in the Political Parties' Fund that is not required immediately for making allocations to Parties in terms of section 6 may be invested with the Public Investment Commissioners contemplated in the Public Investment Commissioners Act, 1984 (Act No. 45 of 1984).

(4) The banking and investment accounts which are to be opened in terms of this section and any interest earned on those accounts must be solely for the benefit of the Political Parties' Fund, and must be ring-fenced and accounted for separately from any other funds of the Provincial Legislature.

### CHAPTER 3 ALLOCATIONS FROM POLITICAL PARTIES' FUND

#### **Allocations from the Political Parties' Fund**

6.(1) Every Party is entitled to be allocated money from the Political Parties' Fund for every financial year that it is represented in the Provincial Legislature.

(2) Subject to subsection (7), money allocated to a Party must be used for purposes compatible with its functioning as a political party in a modern democracy.

(3) The functioning of a Party as contemplated by subsection (2) includes, but is not limited to --

- (a) the development of the political will of people;
  - (b) bringing the influence of a Party to bear on the shaping of public opinion;
  - (c) inspiring and furthering political education;
  - (d) promoting active participation by individual citizens in political life;
  - (e) exercising an influence on political and socio-political trends; and
  - (f) ensuring continuous vital links between the people and organs of state and, in particular, between people and the Provincial Legislature.
- (4) Allocations from the Political Parties' Fund must be determined and made at prescribed times or intervals, in prescribed instalments, and in the prescribed way.
- (5) The Secretary must allocate money from the Political Parties' Fund to Parties in accordance with a prescribed formula based –
- (a) in part, on the system of proportionality, taking into account the relation that the number of such a Party's representatives in the Provincial Legislature bears to the total number of the members in the Provincial Legislature; and
  - (b) in part, on the principle of equity, which may take into account, among other factors, a fixed threshold for a minimum allocation to each of the Parties represented in the Provincial Legislature or a weighted scale or representation for an allocation to each of the Parties participating in the Provincial Legislature.
- (6) The information and particulars necessary to apply the prescribed formula to a Party must be ascertained from the relevant facts and circumstances at the time when the allocation is made.
- (7) Money allocated to a Party may not be used –
- (a) for the purpose of directly or indirectly paying any remuneration, fee, reward, prerequisite or other benefit to a person representing that, or any other Party in the Provincial Legislature, or who holds office under the State;
  - (b) with a view to finance or contribute to a matter, cause, event or occasion, whether directly or indirectly, in contravention of any code of ethics binding the members or staff of the Provincial Legislature, as the case may be;

(c) directly or indirectly for the purpose of establishing or financing a business or commercial enterprise, or acquiring or maintaining a right or financial interest whatsoever in a business or commercial enterprise;

(d) to acquire a right or interest in immovable property, of whatsoever nature, except where that right or interest in the immovable property is used by a Party solely for ordinary party-political purposes; or

(e) for any other purpose that is incompatible with the functioning of a political party in a modern democracy, as may be prescribed.

(8) The allocation of money from the Political Parties' Fund must end when the Party ceases to qualify in terms of subsection (1), and within 21 days after the date on which the Party ceases to qualify it must repay the unspent balance of all money which has been allocated to it by the Political Parties' Fund.

#### **Publication of allocations from Political Parties Fund**

7.(1) As soon as possible after the end of each financial year, the Secretary must publish a notice in the Gazette setting out the allocations made from the Political Parties' Fund in that period.

(2) The notice referred to in subsection (1) must include the following information for the financial year in question –

(a) the opening balance of moneys held by the Political Parties' Fund at the commencement of the financial year;

(b) the amount and source of moneys paid into the Political Parties' Fund;

(c) names of the Parties to whom allocations were made, and the amounts of those allocations;

(d) the amounts invested by the Political Parties' Fund in terms of section 5(3) above, and the interest earned thereon; and

(e) the closing balance of moneys held by the Political Parties' Fund at the end of the financial year.

## ACCOUNTABILITY OF POLITICAL PARTIES

### **Political parties to account for money allocated from Political Parties' Fund**

8.(1) A Party to which money is allocated from the Political Parties' Fund must –

- (a) open and operate a separate bank account in the name of the Party with an institution registered as a bank in terms of the Banks Act, 1990 (Act No. 94 of 1990), into which account any money received from the Political Parties' Fund is deposited;
- (b) deposit therein all money received in terms of subsection (1); and
- (c) appoint an official of that Party as its accounting officer with regard to the money allocated to that Party from the Political Parties' Fund.

(2) The responsibility of the accounting officer is to account for the money allocated to that Party, and includes –

- (a) in addition to other duties imposed by this Act, the duty to ensure that the Party complies with the requirements of this Act; and
- (b) in particular, the duty to ensure that the allocated money is not paid out for a purpose not authorised by this Act.

(3) The accounting officer must keep separate books and records of account, in the prescribed manner, in respect of money allocated from the Political Parties' Fund, and all the transactions involving such money.

(4) Within 2 months after the end of the financial year the accounting officer must prepare a statement -

- (a) showing all amounts received by the Party from the Political Parties' Fund during that financial year and the use of allocated money; and
- (b) describing the purposes of which the various amounts have been used.

(5) The books and records of account contemplated in subsection (3) and the statement contemplated in subsection (4) must be audited by a public accountant and auditor registered and practising in such terms of the Public Accountants and Auditors Act, 1991, (Act No. 80 of 1991).

(6) An auditor who performs an audit contemplated in subsection (5) must, in the auditor's report, express an opinion as to whether the allocated money was spent for purposes not authorised by the Act.

(7) Within 3 months after the end of the financial year, the accounting officer must submit the audited accounts, statements and report of the auditor, to the Secretary.

(8) Despite subsection (4) the Auditor-General may, at any time, audit the books and records of account and financial statements relating to money allocated to a Party from the Political Parties' Fund.

(9) Subject to subsection (10), the Secretary may –

- (a) order that the allocation of money to a Party from the Political Parties' Fund be suspended, if satisfied on reasonable grounds that the Party failed to comply with a requirement of the Act; and
- (b) terminate the suspension if satisfied, in the light of the Party's subsequent conduct, that the suspension is no longer justified.

(10) The suspension of a Party's allocations may be ordered in terms of subsection (9) only if the Secretary –

- (a) has by written notice informed the Party of the proposed suspension and the reasons therefore; and
- (b) has called upon the Party to furnish reasons, within the period specified in the notice, why its allocations from the Political Parties' Fund should not be suspended.

(11) The period referred to in subsection 10 must not be shorter than 30 days as from the date of the notice.

## CHAPTER 5 MONETARY CONTROLS, MANAGEMENT AND REPORTING IN RELATION TO POLITICAL PARTIES' FUND

### **Recovery of money irregularly spent by Parties**

9.(1) Where money allocated to a Party in terms of section 6 has not been spent in accordance with the requirements of this Act, the accounting officer of that Party is liable to repay the money irregularly spent, to the Secretary.

(2) The Secretary, in his or her capacity as chief executive officer of the Political Parties' Fund, must recover the money spent irregularly, and may do so by –

- (a) instituting a civil claim in respect of the amount irregularly spent against the accounting officer of the Party concerned; or
- (b) setting off the amount irregularly spent against an allocation that may become payable to that Party.

#### **Unspent money at end of financial year**

10. (1) Money not spent by a Party at the end of a financial year must be shown in the books and records of account of the Party as a credit balance carried forward to the next financial year: Provided that –

- (a) the money that may be carried forward may be limited to an amount representing a prescribed percentage of the allocations made for that financial year; and
- (b) the money carried forward to the next financial year may not be taken into account in determining an allocation to the Party concerned during that financial year.

(2) Money standing to the credit of the Political Parties' Fund at the end of the financial year must be carried forward to the next financial year as a credit balance.

#### **Management and control of Political Parties' Fund**

11.(1) The Secretary is responsible for the management and administration of the Political Parties' Fund, and is the accounting officer and chief executive officer of the Fund.



(2) For each financial year, the Secretary must keep records in accordance with generally accepted accounting practice and procedures of –

- (a) money received by or accruing to the Political Parties' Fund;
- (b) allocations and payments made from the Political Parties' Fund;
- (c) expenditure arising from the allocation of moneys from the Political Parties' Fund; and
- (d) a record of the capital and liabilities of the Political Parties' Fund during that year.

(3) The first financial year of the Political Parties' Fund must run from the day on which this Act comes into operation until 31 March, first following, both days included.

#### **Speaker to report to Provincial Legislature on Political Parties' Fund**

12.(1) As soon as possible after the end of each financial year the Speaker must prepare a report regarding the management and administration of the Political Parties' Fund for the 12 month period of that financial year, which report must be tabled in the Provincial Legislature by the Speaker not later than 31 August of each year.

(2) The annual report must –

- (a) fairly present the state of affairs of the Political Parties' Fund, its allocations, its performance against predetermined objectives and its financial position as at the end of the financial year concerned;
- (b) include the report of auditors on those statements;
- (c) include the annual financial statement contemplated in section 13; and
- (d) include such other information as the Member of the Executive Council responsible for finance may in writing require or prescribe.

#### **Audits and annual financial statements**

13.(1) The books of account and other financial records of the Political Parties' Fund must be audited annually by the Auditor-General or by a firm of auditors approved of by the Auditor-General.

(2) When submitting the annual report contemplated in section 12, the Speaker must also submit to the Provincial Legislature the audited annual financial statement contemplated in subsection (3) below, for the relevant financial year.

(3) The annual financial statement must set out –

- (a) the amounts received by and accruing to the Political Parties' Fund during that financial year;
- (b) the allocations made from the Political Parties' Fund to the respective Parties during that year;
- (c) the amounts spent during that financial year by each Party in connection with the purposes classifiable under generally descriptive categories as prescribed from time to time; and
- (d) the balance of the Political Parties' Fund and amounts owing to it or by it as at the end of that financial year.

(4) The annual financial statement must comply with any applicable national and provincial legislative requirements for financial reporting and accounting practices, including the Public Finance Management Act, 1999 (Act No. 1 of 1999).

## CHAPTER 6 GENERAL PROVISIONS

### **Dissolution of Provincial Legislature**

**14.** If the Provincial Legislature is dissolved in terms of the Constitution or in any other circumstances a Party must –

- (a) close its books and records of account not later than 21 days before the date set for an election or within 21 days of the dissolution of the Provincial Legislature if no date has been set for an election;
- (b) within 14 days of closing its books and records of account as contemplated in sub-paragraph 0 above, submit an audited annual statement in respect of those books and records to the Secretary; and
- (c) not later than the day immediately before the date set for an election, repay to the Secretary the unspent balances as at the date when its books and records of account were closed.

**Regulations**

15. The Speaker may, after consultation with the Member of the Executive Council responsible for finance, and by notice in the *Gazette*, make regulations consistent with this Act –

- (a) to prescribe the procedure according to which, the manners in which and the intervals or instalments at which payments from the Political Parties' Fund are to be determined and made;
- (b) to prescribe the formula on which allocations are to be calculated;
- (c) to determine a purpose which in the application of section 6(2) is not compatible with the functioning of a political party in a modern democracy;
- (d) to prescribe the information and particulars a Party must furnish to the Secretary with a view to ensure proper and effective application, administration of and compliance with this Act; and
- (e) on any other matter which may or must be prescribed in terms of this Act, or which is necessary to implement the provisions of this Act.

**Winding up**

16. The Political Parties' Fund may not be wound up except in terms of an Act of the Provincial Legislature.

**Short title and commencement**

17. This Act is called the KwaZulu-Natal Funding of Political Parties Act, 2008, and comes into operation on a date determined by the Premier by notice in the *Gazette*.

(2) Different parts or sections of this Act may be brought into effect on different dates.

## **MEMORANDUM ON THE OBJECTS OF THE KWAZULU-NATAL FUNDING OF POLITICAL PARTIES BILL, 2008**

### **1. INTRODUCTION**

The Constitution of the Republic of South Africa, 1996, underlines the need to strengthen democracy and to enhance multi-party democracy. This can be achieved in a variety of ways, including through political education and the education of citizens on matters concerning the political process, as well as through the funding of political parties participating in the Provincial Legislature on an equitable and proportional basis.

A free and fair political process is necessary in order to build upon the citizens' commitment and rights to a constitutional democracy.

The principle of equal citizenship is vital in a democratic process. In order to enhance the principle of equal citizenship it is necessary that the citizens' representatives are equally and fairly funded. Equal and fair funding and the regulation of that funding ensure that all voices, not just those with funds who might attempt to use the funds to influence the elected representatives, have an equal opportunity to be heard.

The principle of public funding ensures that all parties have a reasonable financial basis to perform their work and to operate and participate in the democratic process. The benefit is that it diminishes opportunities by private funders for improper influence peddling, or corruption and bribery in return for certain decisions.

The Provincial Legislature believes that this is an extremely important principle. It aims, through this Bill, to strengthen and enhance democracy at the provincial level of government, and seeks to provide greater participation by citizens through enhanced democracy.

Not only does the Bill provide directly for this, but it equally enhances the strengths of the parties within the Provincial Legislature. It provides a financial base for capacitating political parties.

There is, however, a further need in this young democracy, and that is to take steps which strengthen and underscore democracy and the democratic process and which educates and develops the political will of the public and citizens.

## **2. AIMS AND OBJECTIVES OF THE BILL**

The Bill will aim to achieve these objectives through, *inter alia*:-

- (a) enhancing the development of the political will of the citizenry;
- (b) bringing the influence of parties who are represented in the Provincial Legislature to bear on the shaping of public opinion;
- (c) inspiring and furthering political education;
- (d) promoting active participation by individual citizens in political life;
- (e) exercising an influence on political and socio-political trends; and
- (f) ensuring continuous vital links between the people and organs of state and, in particular, between the citizenry and the Provincial Legislature.

In addition the Bill seeks to ensure proper usage of the public funds, that those funds are used for the purpose for which they have been allocated, and that the abuse of the funds is minimized.

## **3. THE PURPOSE OF THE BILL**

The purpose of the KwaZulu-Natal Funding of Political Parties Bill is:-

- (a) to strengthen democracy in the Provincial Legislature;
- (b) to educate and develop the political will of the public so as to enhance their participation in political life;
- (c) to permit Parties to function effectively as political parties in a modern democracy;
- (d) to provide financial and administrative assistance to Parties;
- (e) to provide for the management and administration of the Political Parties' Fund (the Fund).
- (f) to provide for funding for political parties represented in the Provincial Legislature;
- (g) to establish the Fund;

- (h) to provide for accountability of that fund;
- (i) to provide for the regulation of the use of funds, and disclosure thereon by Parties; and,
- (k) to provide for incidental matters.

#### **4. CLAUSE BY CLAUSE EXPLANATION**

In summary the Bill provides as follows:

**Clause 1:**

Clause 1 seeks to define words that are used in the Act, with the view to restrict or extend the meaning of those terms.

**Clause 2:**

Clause 2 provides for the objects of the Act which are essentially to make provision for the establishment of the Fund.

**Clause 3:**

Clause 3 provides for the establishment of the Fund.

**Clause 4:**

Clause 4 provides for the objects of the Fund which include the receipt and distribution of funds on behalf of political parties.

**Clause 5:**

Clause 5 provides for the funding and deposits of monies into the Fund. Funds may emanate from moneys appropriated by the Provincial Legislature, contributions, interest and from other sources. The clause also requires that money be deposited into a separate banking account.

**Clause 6:**

Clause 6 provides for allocations from the Fund, describes the functions of Parties and the formula applied in the allocation of funds, as well as certain prohibitions regarding the use of funds by Parties.

**Clause 7:**

Clause 7 provides for publication, by notice in the *Gazette*, of allocations from the Fund by the Secretary and the information that needs to be included in the notice.

**Clause 8:**

Clause 8 provides for political parties to account for money allocated from the Fund. The clause requires that Parties appoint an accounting officer and describes the obligations of the appointee to prepare statements and books of account, as well as the audit requirements in relation to funding received. The clause also describes the procedures to be taken for the suspension of Parties in the event of a breach.

**Clause 9:**

Clause 9 provides for the mechanisms to be employed by the Secretary to recover money irregularly spent by Parties.

**Clause 10:**

Clause 10 provides that unspent money at the end of a financial year be carried over as a credit balance to the next financial year by Parties.

**Clause 11:**

Clause 11 provides for the management and control of the Fund by the Secretary, as the accounting officer and chief executive officer of the Fund, and the records to be kept by him or her.

**Clause 12:**

Clause 12 requires the Speaker, at the end of each financial year, to report to the Provincial Legislature on the management and administration of the Fund for the preceding year.

**Clause 13:**

Clause 13 requires the books of account and other financial records of the Fund to be audited annually by the Auditor General, or approved firm of auditors, and what needs to be included in the annual financial statement.

**Clause 14:**

Clause 14 provides for the procedures to be followed by Parties in the event of the disillusion of the Provincial Legislature and that any unspent balances of monies received from the Fund be returned to the Secretary.

**Clause 15:**

Clause 15 provides that the Speaker, after consultation with the Member of the Executive Council responsible for finance, may formulate regulations.

**Clause 16:**

Clause 16 provides that the winding up of the Fund may only be in terms of an Act of the Provincial Legislature.

**Clause 17:**

Clause 17 provides for the short title and commencement of the Act.

**5. ORGANISATIONAL AND PERSONNEL IMPLICATIONS**

Provincial Treasury to populate information.

**6. DEPARTMENTS/ BODIES/ PERSONS CONSULTED**

Provincial Treasury to populate information.

**7. FINANCIAL IMPLICATIONS**

Provincial Treasury to populate information.

**8. CONSTITUTIONAL IMPLICATIONS**



The State Law Advisors attached to the Office of the Premier have indicated that they have reservations about the constitutionality of the proposed Bill in relation to the power or competence of the Provincial Legislature to legislate on the subject matter of the proposed Bill.

The Bill is being proceeded with in order to facilitate its introduction in the Provincial Legislature and its referral to the relevant Portfolio Committee of the Legislature to enable the debate in respect of the Bill and the attendant constitutional and legal issues to be taken up within the realm of the Provincial Legislature.

This route will have the effect of making the Bill the responsibility of the Provincial Legislature who may decide to source further legal opinion on the Bill, including the legal opinion of the legal advisors to the Provincial Legislature.

Should the Provincial Legislature ultimately approve and pass the Bill, the Premier then still has the opportunity to refer the Bill back to the Legislature should the Premier have reservations about the constitutionality of the Bill (section 121(1) of the Constitution, 1996). The Premier may, ultimately, also decide to refer the Bill to the Constitutional Court for a decision on its constitutionality (section 121(2)(b) of the Constitution, 1996).

#### **9. CONTACT PERSON**

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**KWAZULU-NATAL  
WETSONTWERP OP BEFONDSING VAN POLITIEKE PARTYE, 2008**

## WETSONTWERP

Om voorsiening te maak vir die instelling van die Fonds vir Politieke Partye ten einde demokrasie te versterk en om die politieke wil van burgers van die provinsie KwaZulu-Natal op te voed en ontwikkel deur die aanvullende befondsing van politieke partye op 'n billike en eweredige grondslag; om voorsiening te maak vir die oogmerke en rolle van die fonds; om voorsiening te maak vir die befondsing van die fonds; om voorsiening te maak vir die toewysing aan geregistreeerde politieke partye uit die fonds en vir die gebruik van daardie fondse; om voorsiening te maak vir die publikasie van toewysings gemaak uit die fonds; om voorsiening te maak vir die aanspreeklikheid van politieke partye vir toewysings ontvang uit die fonds; om voorsiening te maak vir die verhaling van geld wat onreëlmstig deur politieke partye bestee word; om voorsiening te maak vir onbestede toewysings; om voorsiening te maak vir die bestuur en beheer van die fonds; om voorsiening te maak vir die Speaker om aan die Provinsiale Wetgewer verslag te doen aangaande die fonds se sake en finansiële verslagdoening daarvan; om voorsiening te maak vir onbestede saldo's indien die Provinsiale Wetgewer ontbind word; om voorsiening te maak vir die formulering van regulasies; en om voorsiening te maak vir aangeleenthede wat daarmee verband hou.

DAAR WORD deur die Wetgewer van die provinsie KwaZulu-Natal soos volg bepaal:—

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HOOFSTUK 1  
OMSKRYWINGS EN OOGMERK VAN WET

**Omskrywings**

1. In hierdie Wet, tensy uit die konteks anders blyk, beteken –

“**finansiële jaar**” die tydperk vanaf 1 April in enige jaar tot 31 Maart van die volgende jaar;

“**Fonds vir Politieke Partye**” die Fonds vir Politieke Partye ingestel ingevolge artikel 3;

"**Grondwet**" die Grondwet van die Republiek van Suid-Afrika, 1996;

"**hierdie Wet**" insluitend die regulasies uitgevaardig kragtens artikel 15;

"**Koerant**" die amptelike *Provinsiale Koerant* van KwaZulu-Natal;

"**Lid van die Uitvoerende Raad verantwoordelik vir finansies**" die lid van die Uitvoerende Raad van die provinsie KwaZulu-Natal verantwoordelik vir finansies;

"**Party**" enige politieke party geregistreer ingevolge artikel 15 van die Wet op die Verkiesingskommissie, 1996 (Wet No. 51 van 1996), en verteenwoordig in die Provinsiale Wetgewer, en "**Partye**" het 'n ooreenstemmende betekenis;

"**Premier**" die Premier van die provinsie KwaZulu-Natal soos bedoel in artikel 125 van die Grondwet;

"**Provinsiale Wetgewer**" die Wetgewer van die provinsie KwaZulu-Natal;

"**Provinsie**" die KwaZulu-Natal provinsie bedoel in artikel 103(1)(d) van die Grondwet;

"**Sekretaris**" die Sekretaris tot die Provinsiale Wetgewer van die provinsie KwaZulu-Natal;

"**Speaker**" die Speaker van die Provinsiale Wetgewer van die provinsie KwaZulu-Natal;

"**Uitvoerende Raad**" die Uitvoerende Raad van die provinsie KwaZulu-Natal;

"**voorgeskryf**" voorgeskryf deur regulasie kragtens artikel 15, en "**voorskryf**" het 'n ooreenstemmende betekenis; en

"**Wet op die Verkiessingskommissie**" die Wet op die Verkiessingskommissie (Wet No. 51 van 1996).

**Oogmerk van Wet**

2. Die oogmerk van hierdie Wet is om voorsiening te maak vir die instelling van die Fonds vir Politieke Partye om sodoende –

- (a) demokrasie in die Provinsiale Wetgewer te versterk;
- (b) die politieke wil van die publiek op te voed en te ontwikkel om sodoende hul deelname aan politieke lewe te verhoog;
- (c) partye toe te laat om effektief as politieke partye in 'n moderne demokrasie te funksioneer;
- (d) finansiële en administratiewe bystand aan partye te voorsien; en
- (e) voorsiening te maak vir die bestuur en administrasie van die Fonds vir Politieke Partye.

**HOOFSTUK 2****INSTELLING, OOGMERKE EN BEFONDSING VAN FONDS VIR POLITIEKE PARTYE****Instelling van Fonds vir Politieke Partye**

3. Die Fonds vir Politieke Partye word hierby ingestel vir die doel van befondsing van partye wat aan die Provinsiale Wetgewer deelneem.

**Oogmerke van Fonds vir Politieke Partye**

4. Die oogmerke van die Fonds vir Politieke Partye is –

- (a) om gelde wat in die Fonds gedeponeer is uit bronne gemagtig ingevolge hierdie Wet, te ontvang en te belê; en
- (b) om voorsiening te maak vir die aanvullende befondsing van politieke partye op 'n billike en eweredige grondslag.

**Befondsing en deponering van fondse in Fonds vir Politieke Partye**

5.(1) Die Fonds vir Politieke Partye word befonds uit –

- (a) geld deur die Provinsiale Wetgewer aan die Fonds vir Politieke Partye bewillig;

- (b) bydraes en donasies aan die Fonds vir Politieke Partye uit bronne goedgekeur deur die Lid van die Uitvoerende Raad verantwoordelik vir finansies, hetsy van binne of buite die provinsie;
- (c) rente verdien op geld gedeponeer ingevolge subartikels (2) en (3) hieronder; en
- (d) geld wat ontvang is of die Fonds vir Politieke Partye toegeval het uit enige ander bron.

(2) Alle geld ontvang deur of tot krediet van die Fonds vir Politieke Partye moet gedeponeer word in 'n aparte bankrekening wat oopgemaak is deur die Sekretaris by 'n instelling geregistreer as 'n bank ingevolge die Bankwet, 1990 (Wet No. 94 van 1990).

(3) Geld in die Fonds vir Politieke Partye wat nie onmiddellik vereis word vir die maak van toewysings aan partye ingevolge artikel 6 nie, kan by die Openbare Beleggingskommissaris bedoel in die Wet op Openbare Beleggingskommissaris, 1984 (Wet No. 45 van 1984) belê word.

(4) Die bank- en beleggingsrekeninge wat oopgemaak moet word ingevolge hierdie artikel en enige rente verdien op daardie rekeninge moet eksklusief vir die Fonds vir Politieke Partye se voordeel wees, en moet belastingbeskerming geniet en ook apart van enige ander fondse van die Provinsiale Wetgewer verantwoord word.

### HOOFSTUK 3 TOEWYSINGS UIT FONDS VIR POLITIEKE PARTYE

#### **Toewysings uit Fonds vir Politieke Partye**

6.(1) Elke party is geregtig op toewysing van geld uit die fonds vir Politieke Partye vir elke finansiële jaar dat dit in die Provinsiale Wetgewer verteenwoordig word.

(2) Behoudens subartikel (7) moet geld wat aan 'n party toegewys word, gebruik word vir doeleindes wat verenigbaar is met sy funksionering as 'n politieke party in 'n moderne demokrasie.

(3) Die funksionering van 'n party soos bedoel in subartikel (2) sluit in, maar is nie beperk nie, tot –

- (a) die ontwikkeling van die politieke wil van mense;
- (b) die geld van 'n party se invloed op die vorming van openbare mening;
- (c) inspirasie en bevordering van politieke opvoeding;
- (d) bevordering van aktiewe deelname deur individuele burgers aan politieke lewe;
- (e) uitoefen van 'n invloed op politieke en sosio-politieke neigings; en
- (f) versekering van deurlopende kardinale skakels tussen die mense en staatsorgane en, in besonder, tussen mense en die Provinsiale Wetgewer.

(4) Toewysings uit die fonds vir Politieke Partye moet op voorgeskrewe tye en met tussenposes bepaal en gemaak word, in voorgeskrewe paaieimente, en op die voorgeskrewe wyse.

(5) Die Sekretaris moet geld uit die Fonds vir Politieke Partye toewys aan partye ooreenkomstig 'n voorgeskrewe formule deels gegrond op die –

- (a) eweredigheidstelsel, met inagneming van die betrekking wat die aantal verteenwoordigers van sodanige party in die Provinsiale Wetgewer het op die totale aantal lede in die Provinsiale Wetgewer; en
- (b) billikheidsbeginsel, wat, benewens ander faktore, 'n vasgestelde drumpel in ag neem vir 'n minimum toewysing aan elk van die partye wat in die Provinsiale Wetgewer verteenwoordig word, of 'n gewoë skaal of voorstelling vir 'n toewysing aan elk van die partye wat aan die Provinsiale Wetgewer deelneem.

(6) Die inligting en besonderhede wat nodig is om die voorgeskrewe formule op 'n party toe te pas, moet vasgestel word uit die tersaaklike feite en omstandighede op die tydstip wanneer die toewysing gemaak word.

(7) Geld wat aan 'n party toegewys word, mag nie gebruik word nie vir –

- (a) die doel om enige besoldiging, fooi, beloning, voorvereiste of ander voordeel direk of indirek aan 'n persoon te betaal wat daardie, of enige ander party, in die Provinsiale Wetgewer verteenwoordig, of wat 'n amp onder die staat beklee;



- (b) finansiering of 'n bydrae tot 'n aangeleentheid, saak, gebeurtenis of geleentheid, hetsy direk of indirek, in stryd met enige etiese kode wat die lede of personeel van die Provinsiale Wetgewer bind, na gelang van die geval;
- (c) die doel om direk of indirek 'n besigheid of kommersiële onderneming te stig of te finansier, of 'n reg of finansiële belang in 'n besigheid of kommersiële onderneming te verkry of te handhaaf;
- (d) verkryging van 'n reg of belang in vaste eiendom, van welke aard ookal, buiten waar daardie reg of belang in die vaste eiendom eksklusief deur 'n party gebruik word vir gewone party-politieke doeleindes; of
- (e) enige ander doel wat nie verenigbaar is met die funksionering van 'n politieke party in 'n modern demokrasie, soos bepaal, nie.

(8) Die toewysing van geld uit die Fonds vir Politieke Partye moet beëindig word wanneer die party ingevolge subartikel (1) nie langer kwalifiseer nie, en binne 21 dae na die datum waarop die party ophou om te kwalifiseer, moet hy die onbestede balans van alle geld wat deur die Fonds vir Politieke Partye aan hom toegewys is, terugbetaal.

#### **Publikasie van toewysings uit Fonds vir Politieke Partye**

7.(1) Sou gou as moontlik na die einde van elke finansiële jaar, moet die Sekretaris 'n kennisgewing in die Koerant publiseer wat die toewysings wat gemaak is uit die fonds vir Politieke Partye in daardie tydperk uiteensit.

(2) Die kennisgewing vermeld in subartikel (1) moet die volgende inligting vir die betrokke finansiële jaar insluit –

- (a) die openingsaldo van gelde wat deur die Fonds vir Politieke Partye teen die inwerkingtreding van die finansiële jaar gehou word;
- (b) die bedrag en bron van gelde wat in die Fonds vir Politieke Partye betaal is;
- (c) name van die partye aan wie toewysings gemaak is, en die bedrae van daardie toewysings;
- (d) die bedrae wat deur die Fonds vir Politieke Partye ingevolge artikel 5(3) hierbo belê is, en die rente wat daarop verdien is; en
- (e) die eindsaldo van gelde wat deur die Fonds vir Politieke Partye aan die einde van die finansiële jaar gehou word.

#### HOOFSTUK 4 AANSPREEKLIKHEID VAN POLITIEKE PARTYE

##### **Rekenskap deur politieke partye vir geld toegewys uit Fonds vir Politieke Partye**

8.(1) 'n Party waaraan geld toegewys is uit die Fonds vir Politieke Partye moet –

- (a) 'n aparte bankrekening in die naam van die party oopmaak en bedryf by 'n instelling geregistreer as 'n bank ingevolge die Bankwet, 1990 (Wet No. 94 van 1990), waarin enige geld ontvang uit die Fonds vir Politieke Partye gedeponeer word;
- (b) alle geld ontvang ingevolge subartikel (1) daarin deponeer; en
- (c) 'n beampte van daardie party aanstel as sy rekenpligtige beampte met betrekking tot die geld wat aan daardie party toegewys word uit die Fonds vir Politieke Partye.

(2) Die verantwoordelikheid van die rekenpligtige beampte is om verantwoording te gee van die geld wat aan daardie party toegewys is, en sluit in –

- (a) buiten ander pligte wat deur hierdie Wet opgelê word, die plig om te verseker dat die party die vereistes van hierdie Wet nakom; en
- (b) in besonder, die plig om te verseker dat die toegewese geld nie uitbetaal word vir 'n doel wat nie deur hierdie Wet gemagtig is nie.

(3) Die rekenpligtige beampte moet op die voorgeskrewe wyse aparte rekeningboeke en -state hou ten opsigte van geld toegewys uit die Fonds vir Politieke Partye, en al die transaksies wat sodanige geld behels.

(4) Binne twee maande na die einde van die finansiële jaar moet die rekenpligtige beampte 'n staat voorberei wat –

- (a) alle bedrae ontvang deur die party uit die Fonds vir Politieke Partye gedurende daardie finansiële jaar en die gebruik van toegewese geld toon; en
- (b) die doeleindes waarvoor die verskillende bedrae gebruik is, beskryf.

(5) Die rekeningboeke en -state bedoel in subartikel (3) en die staat bedoel in subartikel (4) moet geoudit word deur 'n openbare rekenmeester en ouditeur wat geregistreer is en

praktiseer ingevolge die Wet op Openbare Rekenmeesters en Ouditeurs, 1991 (Wet No. 80 van 1991).

(6) 'n Ouditeur wat 'n audit uitvoer soos bedoel in subartikel (5) moet, in die ouditeursverslag, 'n oordeel uitspreek oor of die toegewese geld bestee is vir doeleindes wat nie deur die Wet gemagtig is nie.

(7) Binne drie maande na die einde van die finansiële jaar, moet die rekenpligtige beampte die geouditeerde rekeninge, state en verslag van die ouditeur aan die Sekretaris voorlê.

(8) Desnieteenstaande subartikel (4) kan die Ouditeur-generaal, te eniger tyd, die rekeningboeke en -state en finansiële state in verband met geld wat aan 'n party uit die Fonds vir Politieke Partye toegewys is, audit.

(9) Behoudens subartikel (10), kan die Sekretaris –

(a) gelas dat die toewysing van geld aan 'n party uit die Fonds vir Politieke Partye opgeskort word, indien hy of sy op redelike gronde tevrede is dat die party versuim het om aan 'n vereiste van die Wet te voldoen; en

(b) die opskorting beëindig indien hy of sy tevrede is, in die lig van die party se gevolglike gedrag, dat die opskorting nie langer geregverdig is nie.

(10) Die opskorting van 'n party se toewysings kan gelas word ingevolge subartikel (9) slegs indien die Sekretaris –

(a) deur middel van skriftelike kennisgewing die party ingelig het oor die voorgenome opskorting en die redes daarvoor; en

(b) 'n beroep op die party gedoen het om redes te verstrek, binne die tydperk wat in die kennisgewing gespesifiseer word, waarom sy of haar toewysings uit die Fonds vir Politieke Partye nie opgeskort moet word nie.

(11) Die tydperk vermeld in subartikel 10 moet nie korter wees nie as 30 dae vanaf die datum van die kennisgewing.

**HOOFSTUK 5**  
**MONETÊRE BEHEERMAATREËLS, BESTUUR EN VERSLAGDOENING MET**  
**BETREKKING TOT FONDS VIR POLITIEKE PARTYE**

**Verhaling van geld onreëlmatig deur partye bestee**

9.(1) Wanneer geld wat aan 'n party toegewys is ingevolge artikel 6 nie bestee is ooreenkomstig die vereistes van hierdie Wet nie, is die rekenpligtige beamppte van daardie party aanspreeklik vir terugbetaling van die geld wat onreëlmatig bestee is, aan die Sekretaris.

(2) Die Sekretaris, in sy of haar hoedanigheid as hoof- uitvoerende beamppte van die Fonds vir Politieke Partye, moet die geld wat onreëlmatig bestee is, verhaal, en wel deur

–

(a) 'n siviele eis in te stel ten opsigte van die bedrag wat onreëlmatig bestee is, teen die rekenpligtige beamppte van die betrokke party; of

(b) die bedrag wat onreëlmatig bestee is, in rekening bring teen 'n toewysing wat aan daardie party verskuldig mag wees.

**Onbestede geld aan einde van finansiële jaar**

10. (1) Geld wat aan die einde van 'n finansiële jaar nie deur 'n party bestee is nie, moet in die rekeningboeke en -state van die party getoon word as 'n kredietsaldo wat oorgedra word na die volgende finansiële jaar: Met dien verstande dat –

(a) die geld wat oorgedra word, beperk kan word tot 'n bedrag wat 'n voorgeskrewe persentasie van die toewysings wat vir daardie finansiële jaar gemaak is, verteenwoordig; en

(b) die geld wat oorgedra word na die volgende finansiële jaar mag nie in berekening gebring word wanneer 'n toewysing aan die betrokke party gedurende daardie finansiële jaar bepaal word nie.

(2) 'n Krediet bedrag in die Fonds vir Politieke Partye moet aan die einde van die finansiële jaar oorgedra word na die volgende finansiële jaar as 'n kredietsaldo.

**Bestuur en beheer van Fonds vir Politieke Partye**

11.(1) Die Sekretaris is verantwoordelik vir die bestuur en administrasie van die Fonds vir Politieke Partye, en is die rekenpligtige beamppte en hoof- uitvoerende beamppte van die fonds.

(2) Die Sekretaris moet vir elke finansiële jaar rekords hou ooreenkomstig algemeen aanvaarde rekeningkundige praktyk en prosedures van –

- (a) geld ontvang deur of die Fonds vir Politieke Partye toegeval het;
- (b) toewysings en betalings gemaak uit die Fonds vir Politieke Partye;
- (c) uitgawe wat voortspruit uit die toewysing van gelde uit die Fonds vir Politieke Partye; en
- (d) 'n rekord van die kapitaal en laste van die Fonds vir Politieke Partye gedurende daardie jaar.

(3) Die eerste finansiële jaar van die Fonds vir Politieke Partye moet geldig wees vanaf die dag waarop hierdie Wet in werking tree tot 31 Maart, eerste volgende, beide dae ingesluit.

**Verslagdoening van Speaker aan Provinsiale Wetgewer aangaande Fonds vir Politieke Partye**

12.(1) So gou as moontlik na die einde van elke finansiële jaar moet die Speaker 'n verslag voorberei aangaande die bestuur en administrasie van die Fonds vir Politieke Partye vir die 12-maande tydperk van daardie finansiële jaar, welke verslag in die Provinsiale Wetgewer ter tafel gelê moet word deur die Speaker nie later nie as 31 Augustus van elke jaar.

(2) Die jaarverslag moet –

- (a) die stand van sake van die Fonds vir Politieke Partye regverdig aanbied, sy toewysings, sy prestasie teen voorafbepaalde doelwitte en sy finansiële posisie soos aan die einde van die betrokke finansiële jaar;
- (b) die ouditeursverslag rakende daardie state insluit;
- (c) die jaarlikse finansiële staat bedoel in artikel 13 insluit; en

(d) sodanige ander inligting insluit as wat skriftelik deur die lid van die Uitvoerende Raad verantwoordelik vir finansies vereis of voorgeskryf mag word.

### **Oudits en finansiële state**

13.(1) Die rekeningboeke en ander finansiële rekords van die Fonds vir Politieke Partye moet jaarliks deur die Ouditeur-generaal of deur 'n ouditeursfirma wat deur die Ouditeur-generaal goedgekeur is, geoudit word.

(2) Wanneer die jaarverslag bedoel in artikel 12 voorgelê word, moet die Speaker ook die geouditeerde jaarlikse finansiële staat, bedoel in subartikel (3) hieronder, vir die toepaslike finansiële jaar aan die Provinsiale Wetgewer voorlê.

(3) Die jaarlikse finansiële staat moet –

(a) die bedrae ontvang deur en die Fonds vir Politieke Partye toegeval gedurende daardie finansiële jaar;

(b) die toewysings gemaak uit die fonds vir Politieke Partye aan die onderskeie partye gedurende daardie jaar;

(c) die bedrae bestee gedurende daardie finansiële jaar deur elke party in verband met die doeleindes klassifiseerbaar onder algemeen beskrywende kategorieë soos van tyd tot tyd voorgeskryf; en

(d) die balans van die Fonds vir Politieke Partye en bedrae aan hom of deur hom verskuldig soos aan die einde van daardie finansiële jaar,

uiteensit.

(4) Die jaarlikse finansiële staat moet voldoen aan enige toepaslike nasionale en provinsiale wetgewende vereistes vir finansiële verslagdoening en rekeningkundige praktyke, met inbegrip van die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999).

## **HOOFSTUK 6 ALGEMENE BEPALINGS**

### **Ontbinding van Provinsiale Wetgewer**

14. Indien die Provinsiale Wetgewer ingevolge die Grondwet of in enige ander omstandighede ontbind word, moet 'n party –

- (a) sy rekeningboeke en -state sluit, nie later nie as 21 dae voor die datum bepaal vir 'n verkiesing of binne 21 dae na die ontbinding van die Provinsiale Wetgewer indien geen datum vir 'n verkiesing bepaal is nie;
- (b) binne 14 dae nadat sy rekeningboeke en -state gesluit is soos bedoel in subparagraaf 0 hierbo, 'n geouditeerde jaarverslag ten opsigte van daardie boeke en rekords aan die Sekretaris voorlê; en
- (c) nie later nie as die dag onmiddellik voor die datum bepaal vir 'n verkiesing, die onbestede saldo's soos op die datum wanneer sy rekeningboeke en -state gesluit is, aan die Sekretaris terugbetaal.

### **Regulasies**

15. Die Speaker kan, na oorlegpleging met die lid van die Uitvoerende Raad verantwoordelik vir finansies, en deur kennisgewing in die *Koerant*, regulasies uitvaardig wat in ooreenstemming is met hierdie Wet –

- (a) om die prosedure waarvolgens, die wyses waarop en die tussenposes of paaielemente waarin betalings uit die Fonds vir Politieke Partye bepaal en gemaak moet word, voor te skryf;
- (b) om die formule waarvolgens toewysings bereken moet word, voor te skryf;
- (c) om 'n doel te bepaal waarin die toepassing van artikel 6(2) nie verenigbaar is met die funksionering van 'n politieke party in 'n modern demokrasie nie;
- (d) om die inligting en besonderhede wat 'n party aan die Sekretaris moet voorsien ten einde behoorlike en doeltreffende toepassing, administrasie en nakoming van hierdie Wet te verseker, voor te skryf; en
- (e) aangaande enige ander aangeleentheid wat ingevolge hierdie Wet voorgeskryf kan of moet word, of wat nodig is om die bepalings van hierdie Wet te implementeer.

### **Likwidasie**

16. Die Fonds vir Politieke Partye mag nie gelikwedeer word nie buiten ingevolge 'n Wet van die Provinsiale Wetgewer.

**Kort titel en inwerkingtreding**

17. Hierdie Wet heet die KwaZulu-Natal Wet op Befondsing van Politieke Partye, 2008, en tree in werking op 'n datum soos deur die Premier deur middel van kennisgewing in die *Koerant* bepaal.

(2) Verskillende dele of artikels van hierdie Wet kan op verskillende datums in werking tree.

**MEMORANDUM OOR DIE OOGMERKE VAN DIE  
KWAZULU-NATAL WETSONTWERP OP DIE BEFONDSING VAN POLITIEKE  
PARTYE, 2008**

**1. INLEIDING**

Die Grondwet van die Republiek van Suid-Afrika, 1996, beklemtoon die noodsaaklikheid daarvan om demokrasie te versterk en om veelparty-demokrasie te verhoog. Dit kan op verskillende maniere bereik word, insluitend deur politieke opvoeding en die opvoeding van burgers aangaande die politieke proses, asook deur die befondsing van politieke partye vir deelname in die Provinsiale Wetgewer op 'n billike en eweredige grondslag.

'n Vrye en regverdige politieke proses is nodig ten einde op die burgers se verbintenis en regte tot 'n grondwetlike demokrasie voort te bou.

Die beginsel van gelyke burgerskap is noodsaaklik in 'n demokratiese proses. Ten einde die beginsel van gelyke burgerskap te bevorder, is dit nodig dat die burgers se verteenwoordigers gelyk en regverdig befonds word. Gelyke en regverdige befondsing en die regulering van daardie befondsing verseker dat alle stemme, nie slegs daardie stemme met fondse wat kan poog om die fondse te gebruik om die verkose verteenwoordigers te beïnvloed nie, 'n gelyke geleentheid het om gehoor te word.



Die beginsel van openbare befondsing verseker dat alle partye 'n redelike finansiële grondslag het om hul werk te verrig en om die demokratiese proses te dryf en daaraan deel te neem. Die voordeel is dat dit geleenthede vir privaat befondsters verminder vir onbehoorlike beïnvloeding, of korrupsie en omkoperij in ruil vir sekere besluite.

Die Provinsiale Wetgewer is van oordeel dat hierdie 'n uiters belangrike beginsel is. Die doel daarvan is om, deur hierdie Wetsontwerp, demokrasie op provinsiale regeringsvlak te versterk en verhoog, en streef na groter deelname deur burgers deur verhoogde demokrasie.

Die Wetsontwerp maak nie slegs direk hiervoor voorsiening nie, maar dit verhoog in gelyke mate die sterkpunte van die partye binne die Provinsiale Wetgewer. Dit voorsien 'n finansiële basis vir bevoegmaking van politieke partye.

Daar is egter 'n verdere behoefte in hierdie jong demokrasie, en dit is om stappe te doen wat demokrasie en die demokratiese proses versterk en beklemtoon en wat die politieke wil van die publiek en burgers opvoed en ontwikkel.

## **2. OOGMERKE EN DOELWITTE VAN DIE WETSONTWERP**

Die oogmerk van die Wetsontwerp is om hierdie doelwitte te bereik deur, onder andere:-

- (a) die ontwikkeling van die politieke wil van die burgers verhoog;
- (b) die invloed van partye wat in die Provinsiale Wetgewer verteenwoordig is, laat geld op die vorming van openbare mening;
- (c) politieke opvoeding te inspireer en bevorder;
- (d) aktiewe deelname deur individuele burgers aan politieke lewe te bevorder;
- (e) 'n invloed op politieke en sosio-politieke neigings uit te oefen; en
- (f) deurlopende kardinale skakels tussen die mense en staatsorgane te verseker en, in besonder, tussen die burgers en die Provinsiale Wetgewer.

Daarbenewens streef die Wetsontwerp daarna om behoorlike gebruik van die openbare fondse te verseker, dat daardie fondse gebruik word vir die doel waarvoor dit toegewys is, en dat die misbruik van die fondse geminimaliseer word.

### 3. DIE DOEL VAN DIE WETSONTWERP

Die doel van die KwaZulu-Natal Wetsontwerp op Befondsing van Politieke Partye is:-

- (a) om demokrasie in die Provinsiale Wetgewer te versterk;
- (b) om die politieke wil van die publiek op te voed en te ontwikkel ten einde hul deelname aan politieke lewe te verhoog;
- (c) om partye toe te laat om doeltreffend as politieke partye in 'n moderne demokrasie te funksioneer;
- (d) om finansiële en administratiewe bystand aan partye te verleen;
- (e) om voorsiening te maak vir die bestuur en administrasie van die Fonds vir Politieke Partye (die fonds).
- (f) om voorsiening te maak vir befondsing vir politieke partye verteenwoordig in die Provinsiale Wetgewer;
- (g) om die Fonds in te stel;
- (h) om voorsiening te maak vir aanspreeklikheid van daardie fonds;
- (i) om voorsiening te maak vir die regulering van die gebruik van fondse, en openbaarmaking daarvan deur partye; en
- (k) om voorsiening te maak vir bykomstige aangeleenthede.

### 4. KLOUSULE-VIR-KLOUSULE VERDUIDELIKING

Die Wetsontwerp bepaal kortliks soos volg:

**Klausule 1:**

Klausule 1 omskryf woorde wat in die Wet gebruik word, ten einde die betekenis van daardie terme te beperk of uit te brei.

**Klausule 2:**

Klausule 2 maak voorsiening vir die oogmerke van die Wet wat hoofsaaklik behels om voorsiening te maak vir die instelling van die Fonds.

**Klausule 3:**

Klausule 3 maak voorsiening vir die instelling van die fonds.

**Klousule 4:**

Klousule 4 maak voorsiening vir die oogmerke van die fonds wat die ontvangs en verspreiding van fondse namens politieke partye insluit.

**Klousule 5:**

Klousule 5 maak voorsiening vir die befondsing en deponering van gelde in die fonds. Fondse kan afkomstig wees van gelde bewillig deur die Provinsiale Wetgewer, bydraes, rente en uit ander bronne. Die klousule vereis ook dat geld in 'n aparte bankrekening gedeponeer word.

**Klousule 6:**

Klousule 6 maak voorsiening vir toewysings uit die fonds, beskryf die funksies van partye en die formule wat toegepas word in die toewysing van fondse, asook sekere verbodsbepalings aangaande die gebruik van fondse deur partye.

**Klousule 7:**

Klousule 7 maak voorsiening vir publikasie, deur middel van kennisgewing in die *Koerant*, van toewysings uit die fonds deur die Sekretaris en die inligting wat by die kennisgewing ingesluit moet word.

**Klousule 8:**

Klousule 8 maak voorsiening vir politieke partye om verantwoording te doen vir geld toegewys uit die fonds. Die klousule vereis dat partye 'n rekenpligtige beampte aanstel en beskryf die verpligtinge van die aangestelde persoon om state en rekeningboeke voor te berei, asook die ouditvereistes met betrekking tot befondsing ontvang. Die klousule beskryf ook die prosedures wat gevolg moet word vir die opskorting van partye in die geval van 'n breuk.

**Klousule 9:**

Klousule 9 maak voorsiening vir die meganismes wat deur die Sekretaris in werking gestel moet word om geld wat onreëlmatig deur partye bestee is, te verhaal.

**Klousule 10:**

Klousule 10 bepaal dat onbestede geld aan die einde van 'n finansiële jaar as 'n kredietsaldo deur partye na die volgende finansiële jaar oorgedra moet word.

**Klousule 11:**

Klousule 11 maak voorsiening vir die bestuur en beheer van die fonds deur die Sekretaris, as die rekenpligtige beamppte en hoof- uitvoerende beamppte van die fonds, en die rekords wat deur hom of haar gehou moet word.

**Klousule 12:**

Klousule 12 vereis van die Speaker om, aan die einde van elke finansiële jaar, verslag te doen aan die Provinsiale Wetgewer aangaande die bestuur en administrasie van die fonds vir die voorafgaande jaar.

**Klousule 13:**

Klousule 13 vereis dat die rekeningboeke en ander finansiële rekords van die fonds jaarliks deur die Ouditeur-generaal, of 'n goedgekeurde ouditeursfirma, geoudit moet word, en wat by die jaarlikse finansiële staat ingesluit moet word.

**Klousule 14:**

Klousule 14 maak voorsiening vir die prosedures wat deur partye gevolg word in die geval van ontnugtering van die Provinsiale Wetgewer en dat enige onbestede saldo's of gelde ontvang uit die fonds aan die Sekretaris terugbesorg word.

**Klousule 15:**

Klousule 15 bepaal dat die Speaker, na oorlegpleging met die lid van die Uitvoerende Raad verantwoordelik vir finansies, regulasies kan formuleer.

**Klousule 16:**

Klousule 16 bepaal dat die likwidasie van die fonds slegs mag plaasvind ingevolge 'n Wet van die Provinsiale Wetgewer.

**Klousule 17:**

Klousule 17 maak voorsiening vir die kort titel en inwerkingtreding van die Wet.

## **5. ORGANISATORIESE EN PERSONEELIMPLIKASIES**

Inligting moet deur Provinsiale Tesourie verskaf word.

## **6. DEPARTEMENTE/ LIGGAME/ PERSONE GERAADPLEEG**

Inligting moet deur Provinsiale Tesourie verskaf word.

## **7. FINANSIËLE IMPLIKASIES**

Inligting moet deur Provinsiale Tesourie verskaf word.

## **8. GRONDWETLIKE IMPLIKASIES**

Die Staatsregsadviseurs verbonde aan die Premierskantoor het aangedui dat hulle voorbehoude ervaar aangaande die grondwetlikheid van die voorgename Wetsontwerp met betrekking tot die bevoegdheid of bekwaamheid van die Provinsiale Wetgewer om wette te maak oor die voorgename Wetsontwerp se onderwerp.

Die Wetsontwerp word voortgesit ten einde die inkorporering daarvan in die Provinsiale Wetgewer te fasiliteer, asook die verwysing daarvan na die tersaaklike Portefeuljekomitee van die Wetgewer om geleentheid te verskaf vir die debat ten opsigte van die Wetsontwerp en die meegaande grondwetlike en wettige kwessies wat binne die terrein van die Provinsiale Wetgewer opgeneem moet word.

Hierdie roete sal ten effekte hê dat die Wetsontwerp die verantwoordelikheid van die Provinsiale Wetgewer gemaak word wat kan besluit om verdere regsmeening aangaande die Wetsontwerp in te win, met inbegrip van die regsmeening van die regsadviseurs van die Provinsiale Wetgewer.

Sou die Provinsiale Wetgewer die Wetsontwerp uiteindelik goedkeur en aanneem, het die Premier steeds die geleentheid om die Wetsontwerp terug te verwys na die Wetgewer sou die Premier voorbehoude ervaar oor die grondwetlikheid van die Wetsontwerp (artikel 121(1) van die Grondwet, 1996). Die Premier kan, uiteindelik, ook

besluit om die Wetsontwerp na die Grondwetlike Hof te verwys vir 'n besluit aangaande die grondwetlikheid daarvan (artikel 121(2)(b) van die Grondwet, 1996).

#### **9. KONTAKPERSOON**

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**UMTHETHOSIVIVINYO WOKUXHASWA NGEZIMALI KWAMAQEMBU EZEPOLITIKI  
WAKWAZULU-NATALI, 2008**

## UMTHETHOSIVIVINYO

Wokuhlinzekela ukusungulwa kwesiKhwama samaQembu ezePolitiki ukuze kusimamiswe intando yabantu, kufundiswe futhi kuthuthukiswe ugqozi lwezepolitiki kwizakhamuzi zesiFundazwe saKwaZulu-Natali ngokwengezwa koxhasomali emaqenjini ezepolitiki ngendlela elinganayo nefanayo; wokuhlinzekela izinhloso kanye namaqhaza esikhwama; wokuhlinzekela ukuxhaswa ngezimali kwesikhwama; wokuhlinzekela ukwabelwa esikhwameni kwamaqembu ezepolitiki abhalisiwe kanye nokusetshenziswa kwalezo zimali; wokuhlinzekela ukushicilelwa kwezabelo ezithathwe esikhwameni; wokuhlinzekela isibopho sokubika sawo wonke amaqembu ezepolitiki kwizabelo ezitholakale esikhwameni; wokuhlinzekela ukubuyiselwa kwemali esetshenziswe ngokungafanele ngamaqembu ezepolitiki; wokuhlinzekela izabelo ezingasetshenziswanga; wokuhlinzekela ukuphathwa nokulawulwa kwesikhwama; wokuhlinzekela ukuthi uSomlomo abike kwisiShayamthetho sesiFundazwe ngezindaba esimayelana nesikhwama kanye nombiko waso ngezimali; wokuhlinzekela izimali ezingasetshenziswanga uma isiShayamthetho sesiFundazwe sihlakazwa; wokuhlinzekela ukusungulwa kwemithethonqubo; kanye nokuhlinzekela okunye okuphathelene nalokho.

MAKUMISWE UMTHETHO yisiShayamthetho sesiFundazwe saKwaZulu-Natali, kanje:-

### UKUHLELEKA KWEZIGABA

*Isigaba*

#### ISAHLUKO 1 IZINCAZELO KANYE NENHLOSO YOMTHETHO

1. Izincazelo
2. Inhloso yoMthetho

#### ISAHLUKO 2 UKUSUNGULWA, IZINHLOSO KANYE NOKUXHASWA NGEZIMALI KWESIKHWAMA SAMAQEMBU EZEPOSITIKI

3. Ukusungulwa kwesiKhwama samaQembu ezePolitiki
4. Izinhloso zesiKhwama samaQembu ezePolitiki



5. Ukuxhaswa ngezimali nokufakwa kwezimali esiKhwameni samaQembu ezePolitiki

### ISAPHLUKO 3

#### IZABELO ZESI-KHWAMA SAMAQEMBU EZE-POLITIKI

6. Izabelo zesiKhwama samaQembu ezePolitiki  
7. Ukushicilelwa kwezabelo zesiKhwama samaQembu ezePolitiki

### ISAPHLUKO 4

#### ISIBOPHO SOKUBIKA SAMAQEMBU EZE-POLITIKI

8. Amaqembu epolitiki anesibopho sokubika ngezimali azabelwe yisiKhwama samaQembu ezePolitiki

### ISAPHLUKO 5

#### UKULAWULWA KWEZIMALI, UKUPHATHA KANYE NOKUBIKA OKUMAYELANA NESI-KHWAMA SAMAQEMBU EZE-POLITIKI

9. Ukubuyiselwa kwemali esetshenziswe ngokungafanele ngamaQembu  
10. Imali engasetshenzisiwe ekupheleni konyaka wezimali  
11. Ukuphathwa kanye nokulawulwa kwesiKhwama samaQembu ezePolitiki  
12. USomlomo uyobika kwisiShayamthetho sesiFundazwe ngesiKhwama samaQembu ezePolitiki  
13. Ukucwaningwa kwamabhuku kanye nezitatimende zezimali

### ISAPHLUKO 6

#### IZINHLINZEKO EZEJWAYELEKILE

14. Ukuhlakazwa kwesiShayamthetho sesiFundazwe  
15. Imithethonqubo  
16. Ukushatshalaliswa  
17. Isihloko esifingqiwe nosuku lokuqala kokusebenza koMthetho

### ISAPHLUKO 1

#### IZINCAZELO NEZINHLOSO ZOMTHETHO

##### **Izincazelo**

1. Kulo Mthetho, ngaphandle uma ingqikithi isho okwehlukile –  
“uMthethosisekelo” kusho uMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1996;

**“uMthetho weKhomishana yoKhetho”** kusho uMthetho weKhomishana yoKhetho, 1996 (uMthetho No. 51 ka 1996);

**“uMkhandlu oPhethe”** kusho uMkhandlu oPhethe esiFundazweni saKwaZulu-Natali;

**“unyaka wezimali”** kusho isikhathi esisukela mhla lu-1 kuMbasa kunoma yimuphi unyaka kuya kumhla zingama-31 kuNdasa ngonyaka olandelayo;

**“iGazethi”** kusho iGazethi esemthethweni yesiFundazwe saKwaZulu-Natali;

**“iLungu loMkhandlu oPhethe elibhekele ezezimali”** kusho ilungu loMkhandlu oPhethe esiFundazweni saKwaZulu-Natali elibhekele ezezimali;

**“iQembu”** kusho noma yiliphi iqembu lezopolitiki elibhaliswe ngokwesigaba 15 soMthetho weKhomishana yoKhetho, 1996 (uMthetho No. 51 ka 1996), futhi elimelwe kwisiShayamthetho sesiFundazwe, kanti igama **“amaqembu”** linencazelo efanayo;

**“isiKhwama samaQembu ezePolitiki”** kusho isiKhwama samaQembu ezePolitiki esisungulwe ngokwesigaba 3;

**“uNdunankulu”** kusho uNdunankulu wesiFundazwe saKwaZulu-Natali njengoba kuhlangozwe esigabeni 125 soMthethosisekelo;

**“okunqunyiwe”** kusho okunqunywe ngumthethonqubo ngaphansi kwesigaba 15, kanti igama **“ukunquma”** linencazelo efanayo;

**“isiFundazwe”** kusho isiFundazwe saKwaZulu-Natali esihlangozwe kwisigaba 103(1)(d) soMthethosisekelo;

**“isiShayamthetho sesiFundazwe”** kusho isiShayamthetho sesiFundazwe saKwaZulu-Natali;

“**uNobhala**” kusho uNobhala wesiShayamthetho sesiFundazwe saKwaZulu-Natali;

“**uSomlomo**” kusho uSomlomo wesiShayamthetho sesiFundazwe saKwaZulu-Natali; futhi

“**Io Mthetho**” kubandakanya imithethonqubo eyenziwe ngaphansi kwesigaba 15.

### **Inhloso yoMthetho**

2. Inhloso yalo Mthetho ukwenza izinhlinzeko zokusungulwa kwesiKhwama samaQembu ezePolitiki ukuze –

- (a) kusimamiswe intando yabantu kwisiShayamthetho sesiFundazwe;
- (b) kufundiswe futhi kuthuthukiswe ugqozi lwezepolitiki kubantu nokugqugquzelwa ukubamba kwabo iqhaza kwezepolitiki;
- (c) kuvunyelwe amaqembu ukuthi asebenze ngokufanele njengamaqembu ezePolitiki kwintando yabantu yesimanje;
- (d) kuhlinzekwe usizo lwezezimali nolokuphatha kumaQembu; futhi
- (e) kuhlinzekelwe ukuphathwa nokulawulwa kwesiKhwama samaQembu ezePolitiki.

### ISAHLUKO 2

#### UKUSUNGULWA, IZINHLOSO KANYE NOKUXHASWA NGEZIMALI KWESIKHWAMA SAMAQEMBU EZEPOLITIKI

### **Ukusungulwa kwesiKhwama samaQembu ezePolitiki**

3. IsiKhwama samaQembu ezePolitiki ngalokhu siyasungulwa ngenhloso yokuxhasa ngezimali amaQembu abambe iqhaza kwisiShayamthetho sesiFundazwe.

### **Izinhloso zesiKhwama samaQembu ezePolitiki**

4. Izinhloso zesiKhwama samaQembu ezePolitiki –

- (a) ukwamukela nokutshala izimali ezifakwe kuso zisuka kwimithombo egunyaziwe ngokwalo Mthetho; kanye
- (b) nokuhlinzekela ukwengezwa koxhasomali lwamaqembu ezePolitiki ngendlela elinganayo nefanayo.

**Ukuxhaswa ngezimali kanye nokufakwa koxhasomali esiKhwameni samaQembu ezePolitiki**

**5.(1) IsiKhwama samaQembu ezePolitiki sixhaswe –**

- (a) ngemali eyabelwe isiKhwama samaQembu ezePolitiki yisiShayamthetho sesiFundazwe;
  - (b) yiminikelo kanye nezinkongozelo eziya esiKhwameni samaQembu ezePolitiki ezisuka kwimithombo evunyelwe yiLungu loMkhandlu oPhethe elibhekele ezezimali, kungaba ngezivela esiFundazweni noma ngaphandle kwaso;
  - (c) inzalo yemali efakwe ngokwezigatshana (2) no (3) ngasenhla; kanye
  - (d) nemali eyamukelwe noma eqoqwe yisiKhwama samaQembu ezePolitiki eqhamuka kunoma yimuphi omunye umthombo.
- (2) Yonke imali eyamukelwe noma esegameni lesiKhwama samaQembu ezePolitiki kumele ifakwe kwi-akhawunti yasebhangе eseceleni evulwe nguNobhala esikhungweni esibhaliswe njengebhangе ngokoMthetho wamaBhangе, 1990 (uMthetho No. 94 ka 1990).
- (3) Imali esesiKhwameni samaQembu ezePolitiki engadingeki ngokuphuthumayo ukwabela amaqembu ngokwesigaba 6 ingatshalwa koKhomishana bezokuTshalwa kweziMali zoMphakathi abahlongozwe eMthethweni woKhomishana bezokuTshalwa kweziMali zoMphakathi, 1984 (uMthetho No. 45 ka 1984).
- (4) Ama-akhawunti okungawokulondoloza kanye nawokutshala imali azovulwa ngokwalesi sigaba kanye nanoma iyiphi inzalo kulawo ma-akhawunti kumele kube ngawokuhlomulisa kuphela isiKhwama samaQembu ezePolitiki, futhi kumele avikelwe futhi angahlanganiswa nezinye izimali zesiShayamthetho sesiFundazwe.

ISAHLUKO 3  
IZABELO ZESIKHWAMA SAMAQEMBU EZEPOSITIKI

**Izabelo zesiKhwama samaQembu ezePolitiki**

6.(1) Wonke amaqembu abophezelekile ekutheni abelwe imali esiKhwameni samaQembu ezePolitiki kunoma yimuphi unyaka wezimali amelwe ngawo kwisiShayamthetho sesiFundazwe.

(2) Ngokuncike kwisigatshana (7), imali eyabelwe iQembu kumele isetshenziselwe izinhloso ezihambisanayo nokusebenza kwalo njengeqembu lezepolitiki elisesikhathini sentando yabantu.

(3) Ukusebenza kweQembu njengoba kuhlangozwe kwisigatshana (2) kubandakanya, kodwa kungacini lapho –

- (a) ukuthuthukiswa kogqozi lwezepolitiki kubantu;
- (b) ukufaka umoya weQembu ekutheni ube nomthelela ekulolongeni imibono yomphakathi;
- (c) ukuvuselela nokuqhubela phambili imfundiso yezepolitiki;
- (d) ukugqugquzela ukubamba iqhaza okubonakalayo kwabantu ngabanye abayizakhamuzi kwezepolitiki;
- (e) ukwenza umnyakazo kwipolitiki nakwinhlalo yezepolitiki; kanye
- (f) nokuqinisekisa ukuxhumana okuqhubekayo phakathi kwabantu kanye nezinhlaka zombuso futhi, ikakhulukazi, phakathi kwabantu kanye nesiShayamthetho sesiFundazwe.

(4) Izabelo eziphuma esiKhwameni samaQembu ezePolitiki kumele zinqunywe futhi zenziwe ngezikhathi ezibekiwe, ngohlelo lokukhokha kancane kancane, nangendlela enqunyiwe.

(5) UNobhala kumele abele amaQembu esiKhwameni samaQembu ezePolitiki ngokuhambisana nendlela enqunyiwe –

- (a) kokunye, ohlelweni lokulinganisa, kubhekwa ikakhulu umthelela wesibalo samalungu amele lelo Qembu kwisiShayamthetho esinawo esibalweni esiphelele samalungu akwisiShayamthetho sesiFundazwe; kanye

(b) nangokomgomo wokulingana, ongabheka, phakathi kokunye, isamba esingaguquki esitholwa yiQembu ngalinye elimelwe kwisiShayamthetho noma isilinganiso okanye ukumelwa ukuze iqembu elibambe iqhaza kwisiShayamthetho sesiFundazwe linikwe izabelo.

(6) Ulwazi kanye neminingwane okudingekayo ukuze kusetshenziswe uhlelo olunqunyiwe eQenjini kumele kuqinisekiswa kwamanye amaqiniso nezimo ngesikhathi sokwabelwa.

(7) Imali eyabelwe iqembu akumele isetshenziselwe –

(a) izinhloso okungaba ngokuqondile noma ngokungaqondile ezokuholela, ezokukhokha, ezokuklomelisa, ezezidingo noma ezokuhlomulisa umuntu omelelelo qembu, noma elinye iqembu kwisiShayamthetho sesiFundazwe, noma obambe isikhundla kuHulumeni;

(b) inhloso yokuxhasa ngezimali noma ukufaka isandla odabeni, emcimbini noma embuthanweni, kungaba ngokuqondile noma ngokungaqondile, okungukwephula noma yimuphi wemigomo yokuphatha ebophezele wonke amalungu noma abasebenzi besiShayamthetho sesiFundazwe, njengoba kungaba njalo;

(c) ngokuqondile noma ngokungaqondile ngenhloso yokusungula noma yokuxhasa ngezimali ibhizinisi noma yokuhweba, noma ukuthola noma yokugcina ilungelo noma umhlomulo kwezezimali ebhizinisini noma kwezohwebo;

(d) ukuthola ilungelo lempahla enganyakazi, noma ngabe ngeyaluphi uhlobo, ngaphandle uma lelo lungelo kuleyo mpahla enganyakazi, noma eyolunye nje uhlobo, kusetshenziswa yiQembu kuphela ngokwezinhloso ezejwayelekile zeqembu okungezopolitiki; nanoma

(e) iyiphi enye inhloso engahambisani nokusebenza kweqembu lezopolitiki elisebenza kwintando yabantu, njengoba kunganqunywa.

(8) Ukwabelwa imali esiKhwameni samaQembu ezePolitiki kumele kuqedwe uma iQembu lingasafaneleki ngokwesigatshana (1), futhi ezinsukwini ezingama-21 ngemuva kosuku iQembu okutholakale ngalo ukungafaneleki kwalo kumele libuyise yonke imali esele engasebenzanga ezimalini ebelizabelwe esiKhwameni samaQembu ezePolitiki.

**Ukushicilelwa kwezabelo zesiKhwama samaQembu ezePolitiki**

7.(1) Ngaphandle kokupholisa amaseko ngemuva kokuphela konyaka wezimali ngamunye, uNobhala kumele ashicilele isaziso kwiGazethi esibeka izabelo ezenziwe esiKhwameni samaQembu ezePolitiki ngaleso sikhathi.

(2) Isaziso okukhulunywe ngaso kwisigatshana (1) kumele sibandakanye le mininingwane elandelayo yalowo nyaka wezimali okukhulunywa ngawo –

- (a) izimali esivule sinazo isiKhwama samaQembu ezePolitiki ekuqaleni konyaka wezimali;
- (b) isamba nemithombo yalezo zimali ezikhokhwe esiKhwameni samaQembu ezePolitiki;
- (c) amagama amaQembu ahlinzekwe ngezabelo, kanye nezamba zalezo zabelo;
- (d) izamba zezimali ezitshalwe yisiKhwama samaQembu ezePolitiki ngokwesigaba 5(3) ngasenhla, nenzalo etholakale lapho; kanye
- (e) nemali okuvalwe ikhona esiKhwameni samaQembu ezePolitiki ekupheleni kwalowo nyaka wezimali.

ISAHLUKO 4  
ISIBOPHO SOKUBIKA SMAQEMBU EZEPOSITIKI

**Amaqembu ezePolitiki anesibopho sokubika ngemali ayabelwe yisiKhwama samaQembu ezePolitiki**

8.(1) IQembu elabelwe imali esiKhwameni samaQembu ezePolitiki kumele –

- (a) livule futhi lisebenzise i-akhawunti yasebhange eseceleni egameni leQembu nekhungo appropriate esibhaliswe njengebhange ngokoMthetho wamaBhange, 1990 (uMthetho No. 94 ka 1990), lapho kuyofakwa khona noma iyiphi imali etholakale esiKhwameni samaQembu ezePolitiki;
- (b) lifake lapho yonke imali eliyithole ngokwesigatshana (1); futhi
- (c) liqoke isikhulu salelo Qembu njengesikhulu esinesibopho sokubika mayelana nemali eyabelwe lelo Qembu yisiKhwama samaQembu ezePolitiki.

(2) Umsebenzi wesikhulu esinesibopho sokubika ngokubhekelela izimali ezabelwe lelo Qembu, futhi ubandakanya –

- (a) ngaphezu kweminye imisebenzi enqunywe yilo Mthetho, umsebenzi wokuqinisekisa ukuthi iQembu liyahambisana nezimfuneko zalo Mthetho;
- (b) ikakhulukazi, umsebenzi wokuqinisekisa ukuthi imali eliyabelwe ayikhokheli izinhloso ezingagunyaziwe yilo Mthetho.

(3) Isikhulu esinesibopho sokubika kumele sigcine izincwadi namarekhodi e-akhawunti eceleni, ngendlela enqunyiwe, mayelana nemali eyabiwe esiKhwameni samaQembu ezePolitiki, kanye nakho konke ukukhishwa kwemali okuthinta leyo mali.

(4) Esikhathini esiyizinyanga ezimbili ngemuva kokuphothulwa konyaka wezimali isikhulu esinesibopho sokubika kumele silungise isitatimende –

- (a) esikhombisa yonke imali emukelwe yiQembu esiKhwameni samaQembu ezePolitiki ngalowo nyaka wezimali kanye nokusetshenziswa kwaleyo mali; futhi
- (b) esichaza izinhloso zokusetshenziswa ngokwehlukana kwalezo zamba ezisetshenzisiwe.

(5) Amabhuku kanye namarekhodi kwe-akhawunti okuhlongozwe kwisigatshana (3) kanye nesitatimende esihlongozwe kwisigatshana (4) kumele kucwaningwe ngumbhekeleli wokusebenza kwezimali zikahulumeni kanye nomcwaningimabhuku ababhalisiwe futhi abasebenza ngokwemibandela ye-Public Accountants and Auditors Act, 1991 (uMthetho No. 80 ka 1991).

(6) Umcwaningimabhuku ocwaninga amabhuku ngokuhlongozwe kwisigatshana (5) kumele, embikweni womcwaningimabhuku, ethule umbono ngokuthi kungenzeka yini ukuthi imali eyayabiwe yasetshenziselwa izinhloso ezingagunyaziwe yilo Mthetho.

(7) Esikhathini esiyizinyanga ezintathu ngemuva kokuphothulwa konyaka wezimali, isikhulu esinesibopho sokubika kumele silethe ama-akhawunti, umbiko kanye nezitatimende okucwaningiwe, kuNobhala.

(8) Ngaphandle kokushiwo yisigatshana (4) umCwaningimabhuku-Jikelele, noma yingasiphi isikhathi, angacwaninga amabhuku namarekhodi e-akhawunti kanye nezitatimende wezimali okuphathelene nemali eyabelwe iQembu esiKhwameni samaQembu ezePolitiki.



(9) Kuncike kwisigatshana (10), uNobhala –

- (a) angayalela ukuthi imali eyabelwe iQembu lezePolitiki esiKhwameni samaQembu ezePolitiki imiswe, uma enelisekile ngezizathu ezizwakalayo ukuthi iQembu lehlulekile ukuhambisana nezimfuneko zoMthetho; futhi
- (b) angahoxisa lokho kumiswa uma enelisekile, ngokuqaphela ukuziphatha kangcono kweQembu ngemva kwalokho, ukuthi ukumiswa akusenasingo.

(10) Ukumiswa kwezabelo zeQembu kungayalelwa kuphela ngokwesigatshana (9) uma uNobhala –

- (a) esazise iQembu ngesaziso esibhaliwe mayelana nokumiswa okuhlongozwayo nezizathu zakho; futhi
- (b) esebize iQembu ukuzonikeza ngezizathu, ngesikhathi esicacisiwe esazisweni, zokuthi kungani izabelo zesiKhwama samaQembu ezePolitiki kungamele zimiswe.

(11) Isikhathi okukhulunywe ngaso kwisigatshana 10 kumele singabi ngaphansi kwezinsuku ezingama-30 kusuka osukwini lokukhishwa kwesaziso.

ISAHLUKO 5  
UKULAWULWA KWEZIMALI, UKUPHATHA KANYE NOKUBIKA MAYELANA  
NESIKHWAMA SAMAQEMBU EZEPOLITIKI

**Ukubuyiselwa kwemali esetshenziswe ngokungafanele ngamaQembu**

9.(1) Lapho imali eyabelwe iQembu ngokwesigaba 6 ingasetshenziswanga ngokuhambisana nezimfuneko zalo Mthetho, isikhulu esinesibopho sokubika salelo Qembu kuyomele sikhokhe imali esetshenziswe ngokungafanele, kuNobhala.

(2) UNobhala, ngokwesikhundla sakhe njengesikhulu esiphethe isiKhwama samaQembu ezePolitiki, kumele aqoqe imali esetshenziswe ngokungafanele, futhi angenze njalo –

- (a) ngokufaka isikhalazo esejwayelekile mayelana nesamba esisetshenziswe ngokungafanele esikhulwini esinesibopho sokubika salelo Qembu elithintekayo; noma

(b) ngokutomula isamba esisetshenziswe ngokungafanele esabelweni esiyokhokhelwa iQembu.

**Imali engasetshenziswanga ekupheleni konyaka wezimali**

10. (1) Imali engasetshenziswanga yiQembu ekupheleni konyaka wezimali kumele ikhonjiswe emabhukwini nakumarekhodi e-akhawunti yeQembu njengemali esele edluliselwa kunyaka wezimali olandelayo: Kuncike ekutheni –

(a) imali engadluliselwa ingaba yisilinganiso sesamba esithile esimele amaphesenti anqunyiwe ezabelo ezenziwe kulowo nyaka wezimali; futhi

(b) imali edluliselwe kunyaka wezimali olandelayo ingangabalwa ekunqunyweni kwesabelo seQembu elithintekayo ngalowo nyaka wezimali.

(2) Imali esele esiKhwameni samaQembu ezePolitiki kumele idluliselwe kunyaka wezimali olandelayo njengemali esele.

**Ukuphathwa nokulawulwa kwesiKhwama samaQembu ezePolitiki**

11.(1) UNobhala nguye obhekene nokuphathwa nokulawulwa kwesiKhwama samaQembu ezePolitiki, futhi uyisikhulu sezimali kanye nesikhulu esiphethe sesiKhwama.

(2) Ngonyaka wezimali ngamunye, uNobhala kumele agcine amarekhodi ezimali amayelana nenqubo kanye nemigomo eyamukelekile –

(a) ezimali ezamukeliwe noma eziyinzalo yesiKhwama samaQembu ezePolitiki;

(b) ezabelo kanye nezinkokhelo ezenziwe yisiKhwama samaQembu ezePolitiki;

(c) okusetshenziswa kwemali okuqhamuka ekwabiweni kwezimali zesiKhwama samaQembu ezePolitiki ; kanye

(d) nawamarekhodi ezimali ezikhona kanye nezikweletu zesiKhwama samaQembu ezePolitiki ngalowo nyaka.

(3) Unyaka wezimali wokuqala wesiKhwama samaQembu ezePolitiki kumele uqale kusukela osukwini lokuqala kokusebenza kwalo Mthetho kuze kube ngumhla zingama-31 kuNdasa, kuhlanganisa nazo zombili izinsuku lezi zinsuku.

**USomlomo uyobika kwisiShayamthetho sesiFundazwe ngesiKhwama samaQembu ezePolitiki**

12.(1) Ngaphandle kokupholisa amaseko kuphele unyaka wezimali ngamunye uSomlomo kumele alungise umbiko mayelana nokuphathwa kwesiKhwama samaQembu ezePolitiki wesikhathi esiyizinyanga eziyi-12 zonyaka wezimali owedlule, lowo mbiko kumele wethulwe kwisiShayamthetho sesiFundazwe nguSomlomo engakashayi umhla zingama-31 kuNcwaba wonyaka ngamunye.

(2) Umbiko wonyaka kumele –

- (a) uveze ngokungachemile isimo sezindaba zesiKhwama samaQembu ezePolitiki, ukwabiwa kwaso, ukuqhuba kwaso ezinhlosweni ezazibekiwe nesimo saso sezimali ekupheleni kwalowo nyaka wezimali othintekayo;
- (b) ubandakanye umbiko wabacwaningimabhuku kulezo zititimende;
- (c) ubandakanye isitatimende sezimali sonyaka esihlongozwe kwisigaba 13; futhi
- (d) ubandakanye eminye imininingwane iLungu loMkhandlu oPhethe elibhekele ezezimali elingayicela noma elingayinquma ngokubhalwe phansi.

**Ukucwaningwa kwamabhuku kanye nesitatimende sonyaka sezimali**

13.(1) Amabhuku e-akhawunti kanye namanye amarekhodi ezimali kwesiKhwama samaQembu ezePolitiki kumele kucwaningwe minyaka yonke ngumCwaningimabhuku-Jikelele noma yinkampani yabacwaningimabhuku evunywe ngumCwaningimabhuku-Jikelele.

(2) Uma esethumela umbiko wonyaka ohlongozwe kwisigaba 12, uSomlomo kumele aphinde athumelele isiShayamthetho sesiFundazwe isitatimende sezimali sonyaka esicwaningiwe salowo nyaka esihlongozwe kwisigatshana (3).

(3) Isitatimende sezimali sonyaka kumele sikhombise –

- (a) izamba ezamukelwe neziqokelelwe esiKhwameni samaQembu ezePolitiki ngalowo nyaka wezimali;
- (b) izabelo ezenziwe esiKhwameni samaQembu ezePolitiki emaqenjini ahlukahlukene kulowo nyaka;

(c) izamba ezisetshenziswe yiQembu ngalinye kulowo nyaka wezimali mayelana nezinhloso ezikleliswe ngaphansi kwemikhakha echaziwe ngokwejwayelekile njengoba kunqunyiwe izikhathi ngezikhathi; kanye

(d) nemali esele esiKhwameni samaQembu ezePolitiki kanye nezamba esizikweletwayo noma esizikweletayo ekupheleni kwalowo nyaka wezimali.

(4) Isitatimende sezimali sonyaka kumele sihambisane nanoma yiziphi izimfuneko ezingokomthetho kazwelonke kanye nowesifundazwe ezisetshenziswayo ekwenzeni imisebenzi yokubika nokubalwa kwezimali, kubandakanya uMthetho wokuPhathwa kweziMali zikaHulumeni, 1999 (uMthetho No. 1 ka 1999).

#### ISAPHLUKO 6 IZINHLINZEKO EZEJWAYELEKILE

##### **Ukuhlakazwa kwesiShayamthetho sesiFundazwe**

14. Uma isiShayamthetho sesiFundazwe sihlakazwa ngokoMthethosisekelo noma ngaphansi kwanoma yiziphi ezinye izimo, iQembu kumele –

(a) livale amabhuku kanye namarekhodi kwe-akhawunti yalo zingakapheli izinsuku ezingama-21 ngaphambi kosuku olubekelwe ukhetho noma ezinsukwini ezingama-21 kuhlakazwe isiShayamthetho sesiFundazwe uma lungekho usuku olubekelwe ukhetho;

(b) ezinsukwini eziyi-14 livale amabhuku namarekhodi kwe-akhawunti yalo njengoba kuhlangozwe kwindinyana (a) ngasenhla, lithumele isitatimende sonyaka esicwaningiwe mayelana nalawo mabhuku namarekhodi kuNobhala; futhi

(c) lungakadluli usuku olungaphambi kosuku olubekelwe ukhetho, likhokhele uNobhala izimali ezisele ezingasetshenziswanga kusukela osukwini lapho livale khona amabhuku namarekhodi.

##### **IMithethonqubo**

15. USomlomo, ngemuva kokubonisana neLungu loMkhandlu oPhethe elibhekele ezezimali, nangesaziso kwiGazethi, angenza imithethonqubo ehambisana nalo Mthetho

–

- (a) yokunquma indlela okuzonqunywa nokuzoqhutshwa ngayo ukukhokha kancane kancane nangezikhathi ezinqunyiwe kwezimali eziphuma esiKhwameni samaQembu ezePolitiki;
- (b) yokunquma indlela okuzobalwa ngayo izabelo;
- (c) yokunquma inhloso yokuthi ukusetshenziswa kwesigaba 6(2) kungashayisani nokusebenza kweqembu lezopolitiki asebenza kwintando yabantu;
- (d) yokunquma ulwazi neminingwane iQembu okumele liyihlinzekele uNobhala ngenhloso yokuqinisekisa ukusetshenziswa, ukuphathwa kanye nokuhambisana nalo Mthetho; kanye
- (e) nakunoma yiluphi olunye udaba olunganqunywa noma okumele lunqunywe ngokwalo Mthetho, noma oludingekayo ukuze kuqaliswe izinhlinzeko zalo Mthetho.

#### **Ukushatshalaliswa**

16. IsiKhwama samaQembu ezePolitiki angeke sishatshalaliswe ngaphandle uma kwenziwa ngokoMthetho wesiShayamthetho wesiFundazwe.

#### **Isihloko esifingqiwe nosuku lokuqala kokusebenza koMthetho**

17. Lo Mthetho ubizwa ngoMthetho wokuXhaswa ngeziMali kwamaQembu ezePolitiki, 2008, futhi uqala ukusebenza ngosuku olunqunywe nguNdunankulu ngesaziso kwiGazethi.

(2) Izingxenye noma izingaba ezahlukene zalo Mthetho zingaqala ukusebenza ngezinsuku ezahlukene.

## I-MEMORANDAMU NGEZINHLOSO ZOMTHETHOSIVIVINYO WOKUXHASWA NGEZIMALI KWAMAQEMBU EZEPOLITIKI, 2008

### 1. ISINGENISO

UMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1996, ugqamisa isidingo sokuqinisa intando yabantu nokugqugquzela intando yabantu enamaqembu ehluhahlukene. Lokhu kungaphunyeleliswa ngezindlela ezahlukene, kubandakanya ukufundisa ngezepolitiki nokufundisa izakhamizi ngezindaba eziphathelene nenqubo yezepolitiki, kanye nangokuxhaswa ngezimali kwamaqembu ezepolitiki abambe iqhaza kwisiShayamthetho sesiFundazwe ngendlela efanayo nelinganayo.

Inqubo engachemile nekhululekile yepolitiki iyadingeka ukuze kwakhiwe ukuzibophezela kwezakhamizi kanye namalungelo entando yabantu engokomthetho.

Umgomo wokulingana ngokobuzwe ubalulekile kwinqubo yentando yabantu. Ukuze kugqugquzelwe inqubo yokulingana ngokobuzwe kuyadingeka ukuthi abamele izakhamizi baxhaswe ngezimali ngokulinganayo nangokufanayo. Ukuxhaswa ngezimali okufanayo nokulinganayo nomthethonqubo walolo xhasomali kuqinisekisa ukuthi wonke amazwi, hhayi nje kuphela labo abanoxhasomali abangazama ukusebenzisa lolo xhasomali ukufaka umoya kulabo abakhethelwe ukumela izakhamizi, aba nethuba elilinganayo lokuzwakala.

Umgomo wokuxhaswa ngezimali komphakathi uqinisekisa ukuthi wonke amaqembu anesimo esifanele sezimali ukuze enze imisebenzi yawo nokuthi asebenze futhi abambe iqhaza kwinqubo yentando yabantu. Lokhu kusiza ekutheni kunqandeke amathuba abaxhasi bangasese ekutheni bazidayise ngokungekho emthethweni, noma inkohlakalo nokugwazelwa ezinqumweni ezithile.

IsiShayamthetho sesiFundazwe sikholelwa ekutheni lona ngumgomo obaluleke kakhulu. Sihlose, ngalo Mthethosivivinyo, ukuqinisa nokugqugquzela intando yabantu ezingeni likahulumeni wesifundazwe, futhi sizama ukuhlinzekela ukubamba iqhaza okuthe xaxa kwezakhamizi ngentando yabantu egqugquzelwe.

Akusikhona nje ukuthi uMthethosivivinyo uhlinzekela ngokuqondile lokhu kuphela, kodwa uphinde ugqugquzele ngokufanayo ukusimamiswa kwamaqembu akwisiShayamthetho sesiFundazwe.

Noma kunjalo, kule ntando yabantu esafufusa, kunesinye isidingo sokuthi kuthathwe izinyathelo zokusimamisa nokugqamisa intando yabantu nenqubo yentando yabantu efundisa nethuthukisa ugqozi lwezepolitiki emphakathini nakwizakhamizi.

## **2. IZINHLOSO NEZIMPOKOPHELO ZOMTHETHOSIVIVINYO**

UMthethosivivinyo uphokophelele ukuphumelelisa lezi zinhloso ngokuthi, phakathi kokunye:-

- (a) ugqugquzele ukuthuthukiswa kugqozi lwezepolitiki kwizakhamizi;
- (b) ufake umoya emaqenjini amelwe kwisiShayamthetho ukuthi agxile ekwakheni kahle umbono womphakathi;
- (c) usimamise futhi uqhubele phambili imfundiso yezepolitiki;
- (d) ukhuthaze ukubamba iqhaza okubonakalayo kwabantu ngabanye abayizakhamizi kwezepolitiki;
- (e) usebenzise amandla awo kwipolitiki nakwinhlalo yezepolitiki; futhi
- (f) uqinisekise ukuxhumana okuqhubekayo phakathi kwabantu kanye nezinhlaka zikahulumeni, futhi ikakhulukazi, phakathi kwezakhamizi nesiShayamthetho sesiFundazwe.

Ngaphezu kwalokho uMthethosivivinyo uzama ukuqinisekisa ukusetshenziswa okufanele kwezimali zomphakathi, ukuthi lezo zimali zisetshenziselwe inhloso ebezabelwe yona yini, nokuthi ukuxhashazwa kwezimali kuyancishiswa.

## **3. INHLOSO YOMTHETHOSIVIVINYO**

Inhloso yoMthethosivivinyo wokuXhaswa ngeziMali kwamaQembu ezePolitiki:-

- (a) ukusimamisa intando yabantu kwisiShayamthetho sesiFundazwe;
- (b) ukufundisa nokuthuthukisa ugqozi lwezepolitiki emphakathini njengokugqugquzela ukubamba iqhaza kwawo kwezepolitiki;

- (c) ukuvumela amaQembu ekutheni asebenze ngendlela ebonakalayo njengamaqembu ezePolitiki entando yabantu;
- (d) ukuhlinzekwa ngosizo lwezimali nolokuphatha emaqenjini;
- (e) ukuhlinzekela ukuphathwa nokulawulwa kwesiKhwama samaQembu ezePolitiki (isiKhwama);
- (f) ukuhlinzekela ukuxhaswa ngezimali kwamaqembu ezePolitiki amelwe kwisiShayamthetho sesiFundazwe;
- (g) ukusungula isiKhwama;
- (h) ukuhlinzekela isibopho sokubika saleso sikhwama;
- (i) ukuhlinzekela umthethonqubo wokusetshenziswa kwezimali, kanye nokuvezwa kokusetshenziswa kwazo ngamaQembu; kanye
- (k) nokuhlinzekela okunye okuvelayo.

#### 4. UKUCHAZWA KWEMISHWANA NGEMISHWANA

Ngokufingqiwe uMthethosivivinyo uhlinzeka kanje:

**Umshwana 1:**

Umshwana 1 uhlose ukuchaza amagama asetshenziswe kuMthetho, ngenhloso yokuthibela noma yokwenza kuvuleleke izincazelo zalawo magama.

**Umshwana 2:**

Umshwana 2 uhlinzekela izinhloso zoMthetho ezidingekayo ukuze kwenziwe izinhlinzeko zokusungulwa kwesiKhwama.

**Umshwana 3:**

Umshwana 3 uhlinzekela ukusungulwa kwesiKhwama.

**Umshwana 4:**

Umshwana 4 uhlinzekela izinhloso zesiKhwama ezibandakanya ukwamukelwa kanye nokwabiwa kwezimali zabelwa amaqembu ezePolitiki.

**Umshwana 5:**



Umshwana 5 uhlinzekela ukuxhaswa ngezimali kanye nokufakwa kwezimali esiKhwameni. Izimali kungaba ngeziqhamuka kwisabelo sesiShayamthetho sesiFundazwe, kwiminikelo, kwinzalo nakweminye imithombo. Umshwana uyadinga futhi ukuthi leyo mali ifakwe kwi-akhawunti yasebhanghe eseceleni.

**Umshwana 6:**

Umshwana 6 uhlinzekela ukwabiwa kwezimali, uchaza imisebenzi yezinhlangano kanye nendlela esetshenziswayo ekwabiweni kwezimali, kanye nokunye okwenqatshelwe mayelana nokusetshenziswa kwezimali ngamaQembu.

**Umshwana 7:**

Umshwana 7 uhlinzekela ukushicilelwa, ngesaziso kwiGazethi, kwezabelo zesiKhwama ezenziwe nguNobhala kanye nolwazi okudingeka ukuba lubandakanywe kuleso saziso.

**Umshwana 8:**

Umshwana 8 uhlinzekela amaqembu ezepolitiki ukuthi abike ngemali ayabelwe yisiKhwama. Umshwana udinga ukuthi amaQembu aqoke isikhulu esinesibopho sokubika futhi uchasisa ngendima okumele idlalwe yilowo oqokiwe okungukulungisa isitatimende kanye namabhuku kwe-akhawunti, kanye nezidingo zokwenziwa kocwaningo mayelana nezimali ezingenile. Umshwana uphinde uchaze izinqubo okumele zilandelwe uma kumiswa amaQembu esimweni lapho kukhona ukwephulwa komthetho.

**Umshwana 9:**

Umshwana 9 uhlinzekela uhlelo okumele lusetshenziswe nguNobhala ukubuyisa imali esetshenziswe ngokungafanele ngamaQembu.

**Umshwana 10:**

Umshwana 10 uhlinzekela ukuthi imali engasetshenziswanga ekupheleni konyaka wezimali idluliselwe kunyaka wezimali olandelayo yiQembu njengemali esalile.

**Umshwana 11:**

Umshwana 11 uhlinzekela ukuphathwa kanye nokulawulwa kwesiKhwama nguNobhala, njengesikhulu esinesibopho sokubika kanye nesikhulu esiphethe sesiKhwama, futhi amarekhodi agcinwe nguye.

**Umshwana 12:**

Umshwana 12 udinga ukuthi uSomlomo, ekupheleni konyaka wezimali ngamunye, ukuthi abike kwisiShayamthetho sesiFundazwe ekuphathweni nasekulawulweni kwesiKhwama kulowo nyaka.

**Umshwana 13:**

Umshwana 13 udinga ukuthi amabhuku ama-akhawunti kanye namanye amarekhodi ezimali esiKhwama acwaningwe minyaka yonke ngumCwaningimabhuku-Jikelele, noma inkampani yabancwaningi egunyaziwe, nokuthi yini edinga ukubandakanywa esitatimendeni sezimali sonyaka.

**Umshwana 14:**

Umshwana 14 uhlinzekela imigomo okumele ilandelwe amaQembu esimweni lapho kuhlakazwe isiShayamthetho sesiFundazwe nokuthi zonke izimali ezingasetshenziswanga ezitholakale esiKhwameni zibuyiselwe kuNobhala.

**Umshwana 15:**

Umshwana 15 uhlinzeka ukuthi uSomlomo, ngemuva kokubonisana neLungu loMkhandlu oPhethe elibhekele ezezimali, angasungula imigomo.

**Umshwana 16:**

Umshwana 16 uhlinzeka ukuthi ukushatshalaliswa kwesikhwama kuyokwenzeka kuphela ngokoMthetho wesiShayamthetho sesiFundazwe.

**Umshwana 17:**

Umshwana 17 uhlinzekela isihloko esifishane nosuku lokuqala kokusebenza koMthetho.

## **5. UKUNQUNYWA KOKUHLELEKA NABASEBENZI**

IHhovisi loMgcinimafa lesiFundazwe liyokhipha ulwazi.

#### **6. IMINYANGO/ IMIGWAMANDA/ ABANTU ABATHINTWAYO**

IHhovisi loMgcinimafa lesiFundazwe liyokhipha ulwazi.

#### **7. UKUFAKWA KWEZIMALI**

IHhovisi loMgcinimafa lesiFundazwe liyokhipha ulwazi.

#### **8. UKUSETSHENZISWA KOMTHETHO**

AbeLuleki boMbuso kwezoMthetho abangaphansi kweHhovisi likaNdunankulu sebeveze ukuthi banokungabaza ngokuhambisana kwalo Mthethosivivinyo ohlongozwayo noMthethosisekelo mayelana namandla kanye nekhono lesiShayamthetho sesiFundazwe ekushayeni umthetho odabeni oluphatelene noMthethosivivinyo ohlongozwayo.

UMthethosivivinyo kuyaqhutshekwa nawo ukuze kuhlinzekelwe ukwethulwa kwawo kwisiShayamthetho sesiFundazwe nokuthi udluliselwe kwiKomidi lemiSebenzi lesiShayamthetho elifanele ukuze kuvulelwe inkulumo mpikiswano mayelana noMthethosivivinyo kanye nezindaba ezithinta umthetho nomthethosisekelo ziyophathwa ngaphansi kokubusa kwesiShayamthetho sesiFundazwe.

Le ndlela izokuba nomthelela ekutheni kwenziwe uMthethosivivinyo ube wutaku lwesiShayamthetho okuyiso esinganquma ukuthi sifake eminye imibono yoMthetho kuMthethosivivinyo, kubandakanya umbono womthetho ovela kubeluleki bomthetho besiShayamthetho sesiFundazwe.

Uma isiShayamthetho sesiFundazwe siphetha ngokuvuma nokuphasisa uMthethosivivinyo, uNdunankulu usenalo ithuba lokuthi abuyisele emuva kwisiShayamthetho uMthethosivivinyo uma uNdunankulu enokungabaza ngokuhambisana koMthethosivivinyo nomthethosisekelo (isigaba 121(1) soMthethosisekelo, 1996). UNdunankulu, ekugcineni anganquma ukudlulisela

uMthethosivivinyo kwiNkantolo yoMthethosisekelo ukuthi inqume mayelana nokuhambisana kwawo nomthethosisekelo (isigaba 121(2)(b) soMthethosisekelo, 1996).

#### **9. OKUNGAXHUNYANWA NAYE**

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