

COMMISSION OF INQUIRY INTO HIGHER EDUCATION & TRAINING

23-03-2017

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**Set8 Hearings – Public Hearings**

COMMISSION OF INQUIRY INTO HIGHER EDUCATION AND TRAINING

**PARTIES PRESENT:**

The Chairperson

Commissioners

Head of Evidence LEADER

Evidence LEADER

Experts

Secretariat

**WITNESSES:**

Department of Higher Education and Training, Ministerial Task Team

Mr Sizwe Nxasana

Dr Diane Parker

Mr Farrows Petal

Mr Fazel Toffy

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**SESSION 1**

JUDGE: We have much power delegation than we have them contemplated, but you are all very welcome, and we look forward to your contribution. Who is presenting this morning?

ADV. K. PILAY: Thank you Chairperson, the last group of stake holders in this set 8 is the representatives of the ministry of justice into funding for the poor and the missing middle. And we have representing the task team, the Chairperson, Mr Sizwe Nxasana and he is accompanied by, I assume the members of the task team but also representatives of DHET who have appeared here before. Dr Diane Parker, Mr Farrows Petal, and there's a new representative whose name I've been given, it's Mr Fazel Toffy. And if there are other representatives I'd ask them to put their names on record.

JUDGE: Thank you. Mr Nxasana, do you have any objectives to take in the oath?

MR. NXASANA : No objection.

JUDGE: Would you swear that the evidence you are about to give will be the truth and nothing but the whole truth, if you do say so help me God.

MR. NXASANA : So help me God.

ADV. K. PILAY I think the representative for dheth will also be making the presentation chair, Dr Diane Parker.

JUDGE: Do you wish to swear or affirm?

MR. NXASANA : I can affirm or swear.

JUDGE: Do you affirm that the evidence you will give will be the truth, the whole truth and nothing but the trust?

MR. NXASANA : I do.

JUDGE: Thank you.

ADV. K. PILAY: Chair, before we proceed, I should just point out that we initially had a presentation and evidence from MR. NXASANA on behalf of the Lesedi research

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team. And Mr Sithole presented the Lesedi education Trust fund proposal. We will extend an opportunity to MR. NXASANA to post questions at the end of the presentation.

JUDGE: Do you have any objections to taking questions from Mr Sithole?

MR. NXASANA: No objection.

JUDGE: Are you happy with that procedure?

MR. NXASANA : Yes sir.

ADV. K. PILAY: Thank you chair. The entity has prepared the presentation sir. And we'd ask that they begin with the presentation and we will then ask questions as they arise.

MR. NXASANA: Thank you very much. I'll be starting with the presentation. Just to put into context, the ministerial task team and the work that's been done is been done under the auspices of the Department of Higher Education and Training, and we working very closely in terms of the process around the proposed model.

JUDGE: Can I start off by saying to you, because I think we should be frank with one another, when we were first made aware of the existence of this task team and the nature of its scope we were somehow taken aback. Because it seemed very much a matter of parallel investigation, not controlled by the same necessary controls that we had public representation and listening to the public, etc; team of experts on your side, team of experts on our side who needed to be informed, some which didn't need to be, and having radio report who don't seem to have been constrained by the need to look into 150 000 different things the same way that we were.

But both parties seemed to be working essentially towards the same thing. And it did seem to us that there was no cooperation, no interaction at all between the commission and the task team, that we didn't do things that you were doing and you didn't necessarily do things that we were doing. I put that on the open because that is our initial reaction to your existence and your reason for being here.

Now, we understand what you've been doing, and we see what you've produced; we are still not entirely sure what our status is in relation to what you have done. It is

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been said here that you have (...) which appears to be the position, and so you can do your damdest. We don't ask you to resolve these questions I don't think they are for you to resolve anyway, what we will do is take your presentation at face value, and we would be very interested to see how it shape out.

We have had a number of presentations which have some similarities. One particular in relation to public private partnerships, which differs in some ways and is more comprehensive in some ways than the one that you suggested, and it might be interesting for both of us to compare the one with the other. Having given you that introduction, forgive me, you know where you stand; would you like to proceed?

MR. NXASANA: Thank you very much Chairperson, I think that's helpful and it is something that we would have mentioned in the beginning of our introduction. But just to indicate that our director general, Mr Kwande, was unable to be here today due to skills conference that he is participating in, so he has given his apology for not being here with the team. I think one of the things that he'd ask me to convey to you was the department considers the work of the commission as very important, and we really are looking forward to the report. Because it is going to fundamentally deal with issues that we will need to consider in the development of our work going forward. And we are really looking forward to the finalisation of the report, particularly given the current context in our higher education and training sector. We wanted to perhaps, in the introduction, also indicate, some of the things that are happening in the sector, in our work towards developing and strengthening the post school and training sector, so that the context of this work for the (..) is clearly understood. The national plan, the white paper on higher education came out the beginning of 2014, and on the basis of that there has been a process toward the developing of the new national plan for post school education and training. Taking into context all of the different aspects of the post school education and training system. Specifically as we've been working parallel to developing that plan, the department has also been working on strengthening the tvet college system, putting into place and developing the community education and training college system, and also looking at developing the capacity of the university sector. We are in the process of implementing a programme called the university capacity programme and the minister will be approving that programme before the end of March, for implementation from 2018 onwards, and that really a comprehensive transformation programme for the system

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to strengthen it from the perspective of student support and development, to enable students success from the side of staffing the system, and ensuring the staff success and from the side of programme development, and curriculum development to ensure that we are able to meet some of the challenges that have been put to the system over the last while.

Parallel to this, we are also in the process of implementing and developing a central application service for the psets system, which is really designed to ensure better access into post school and training. And the focus here really is to enable a one stop shop for any person wanting to access universities, or tvet colleges, or the skills system generally to apply for all aspects that would be required. Including programmes and funding. And connected into that is the careers development services, to give potential applicants information about what is available within the system and to assist them in making career choices. So that is a very important programme that is currently under development, and we are hoping that by 2020 that will be in place for the system as a whole. And that will lead to all applications into public post school education and training. Together with that, there are 2 other very important issues that have been put into process through various task teams. The one is the work that the minister requested the counsel on higher education to do, with respect to considering regulatory framework for fees in higher education. That found its genesis in the presidential task team report that was published in November 2015, that report made the suggestion that we could no longer consider having the kind of fee structures in higher education, where the individual institutions made this decisions on their own without considering the system as a whole, and therefore there as a recommendation that processes should be put in place to consider how we could regulate fees going forward to ensure affordable fees in higher education. That task team the minister requested the counsel on higher education to set that task team up in order to advice him. We are expecting them to provide us with advice but clearly the work on their task team can only be completed and whatever the outcome of it is, after report of the presidential commission. Because it's another one of these issues, where the presidential commission has been set up January last year after a decision have already been made to start a process around that. And. That why we didn't start that process, we've been doing the research on that, but clearly the final outcome of that is totally dependent on the

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outcome of the presidential commission. The other area is the development of a support and funding model, comprehensive support and funding model for poor and financially needy students, or students who acquire financial aid and currently the idea of the missing middle have been put in there, and you are aware of that issue. And that's what led to the development of the blue print for the isfa. That work has also begun in October 2015 and then got consolidated with the ministerial task team work, with the understanding that we wouldn't stop that work, but the presidential commission was continuing it's work but can only finalise any decision around any model for this kind of funding after the recommendations of the presidential task team, and after we've been given political direction by the government generally and the president specifically. We are not thinking that this work takes president from anything else. However, we don't want to sit back and wait while work had already been done and we could test out some of the ideas that have put forward. I think that gives you the context for the development of this particular model through the work of the ministerial task team, and the work that we are doing to take that work further is all got to be aligned in the end to the final decisions that come out of the presidential commission.

ADV. G. ALY: Dr Parker can I just enquire, seeing there are similarities in the tasks that we are engaging in and maybe the unintended consequences could be that whatever evidence we have heard in this commission, does not bear the fruit of it, maybe be pilot is different, are we able to align ourselves in that respect if maybe the pilot present a different picture from what we have seen and what we have heard, is there going to be an impediment any time?

MR. NXASANA: Thank you commissioner. I don't believe there's an impediment, because the process at the moment is about testing certain ideas, and at the same time as we go through the report you will see we are also putting in place the feasibility of new study in line, the national treasury process, and there's also the public comment process, which is enabling us to get the information with respect to what the public understands and sees in terms of the proposed model. All of these things are being brought into line but the final alignment has to be what comes out of the recommendations from the presidential commission. There's a report which proposes a model but the work now is towards finalising something that can actually

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be put into the system, hopefully before the end of this year as a model that can go to cabinet, but it will have to come in line with what is coming out of your work.

JUDGE: I respect entirely what you are saying, the only problem that I have is with the words that appear in the task team report, which was that they were working towards the final solution. Fair enough, I have no objection to that at all. But that you should be working towards the final solution and that we should also be working towards a final solution seem ridiculous to vision of labour. It's almost as if saying the task team because of the way we should just work and the way we being organised doesn't require supplementation in any way, and I hear what you are saying but clearly the case is that is not so, and we take it in that spirit as well.

MR. NXASANA : Thank you JUDGE. I think sometimes the ministerial reports can be, remember the minister and the department doesn't control what's in the ministerial report, it's a report that is a recommendation to the minister, and then there's a process that comes afterwards, I think perhaps some of that wording may be more definitive than is the case, but I think the spirit in which we see this is definitely as I've explained. I thought maybe we also needed to just clarify issues around NSFAS as a programme. Because NSFAS is being government flashed programme for progressively introducing free high education for the poor since 1997 when it was established through its own act, but it's started with the previous incarnation in 1994 with tefsa. And really it's focusing on the poor and working class learners coming into higher education and more recently from 2007 or 2009 onwards, into the tvet system. We have been working with NSFAS to try and strengthen it but there are still challenges; there's been administrative challenges and there's been challenges around the implementation of NSFAS. So while it has been successful in many ways,

JUDGE: May I say to you one of the models that have been suggested to us is the model which cut NSFAS entirely in the sense that it is the universal loan model, where the banks will provide all the loans, the government would guarantee all the loans, and there simply won't be any need for NSFAS at all.

MR. NXASANA : There are different models there and all of these things need be considered in our feasibility study as well in terms of the processes going forward. But NSFAS itself, in its original design could've been a universal loan scheme as

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well, the only reason there is a cap is because it's limited to only funding. If you had sufficient funding anyone could apply for a loan scheme such as that, and I think there is that model as well we're we saying is for poor and middle students, could also be a universal model, it depends to the amount of funding that available as to what are the limits. I think from that perspective the universal model is something that we need to be going for, but of course within the limits of funding available one has to make choices about where the cap will be.

JUDGE: The report was simply put that this experiment was tried successfully put in Australia in 1996, and the banks in South Africa have more than sufficient money to enable them to finance such a loan scheme, especially a risk free loan scheme.

MR. NXASANA : I think that could be considered but we have to also consider what the issue is for poor students in South Africa.

JUDGE: One of the suggestions would be, as it has been put to us, there will be no need to define who is poor and who is not, because no person will be deprived of access to education.

MR. NXASANA : I think that we would agree with that, except if one considering the loan requirement on individuals,

JUDGE: Everybody will get loan requirement, presumably fixed according to what the university tuition fees are, plus whatever is required for the other matters. And there will be no withholding with such loan, provided the obligations undertaken to take when the recipient is financially available to do so. I'm mentioning this to you because it's this sought of things that have been listened by us.

MR. NXASANA : I think that if these are possible solutions, there are many different things that we could look at, we can maybe discuss that a little bit later. If Mr Nxasana would like to respond to it right now,

JUDGE: I don't expect him to respond right now unless he wants to because you are going to come to it in the convenient time.

MR. NXASANA: We just want to be clear about the difference between NSFAS and this proposed model, that in terms of the funding from the fiscas and the implementation of the NSFAS students model, it's something that is happening at the



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moment, and currently funding for poor students and the working class students is still up to that cap of R122 000 per annum, it still be managed directly through NSFAS while we move into testing some of the ideas that are in the model that has come from the ministerial task team, and that is the process that we are currently involved in and is testing the model, and it's only on certain aspects that we are testing it and it's specifically linked to funding for the so called missing middle. So that the pilot programme that we are currently working on and we will describe it in more detail in the presentation.

JUDGE: Something just strikes me because I was reading it earlier. I didn't see anything about how are you proposing to deal with the historic debt. Is there something in this? Can we be addressed on that, is it proposed that the historic debt should be written off?

MR. NXASANA : Perhaps we can deal with that as a follow up of the presentation, because this is not focusing on the historic debt but obviously it's something that we have been considering and trying to understand how we deal with it.

JUDGE: I'm sorry to interrupt you but what strikes me is that looking at your scheme, I don't recall previously in your presentation that you said anything about historic debt, I should need to know in due course, not now.

MR. NXASANA: That's fine. I think if we work towards our universal model of funding all students who require assistance and support, and that's the long term idea that we need to do. We are talking about assistance and support because we feel very strongly that providing funding access post school education and training without support to ensure success, particularly for students who come from disadvantaged backgrounds would be problematic. And we need to ensure that we deal with that because funding is one aspect that is required but given the disadvantaged backgrounds in terms of not only economically but educationally, of many of our students coming into the post school system that this is an important aspect of the overall model.

JUDGE: In 2013 when the report came out, a note was made that this very question has been raised about funding and improving the system, and the dhet says we have to do both together, we can't wait. From what you are telling us, there has been

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progress, but from what we've been told, there are certain things, which we'll talk about in due course, which need to be done more urgently, and unless we do that we going to be funding without success.

MR. NXASANA: We can talk to that as well. One of the programmes I mentioned was the university capacity programme and the work that's been done in the system towards improve success, and certainly we can show you perhaps tomorrow, some of the data which is showing how the system is improving, and also in response to some of the questions that were linked to the commission, if we could deal with that. If we could move on, we've recognised through this process and it's really giving the current fiscal constraints with government funding, that government on its own is not going to fund sufficiently, all students who require funding in the system, and that's both for universities and for tvet college education. That was also why we wanted to look at where and which we could create partnerships to enable funding to be (..) for both the government and the private sector to support students in this way.

JUDGE: Do you say that your conclusion and the answer to our question is no? That fee free education for the poor is not possible?

MR. NXASANA : No we do think that fee free education for the poor is possible, and we think that in fact this illusion does deal with that issue, specifically for the poor. But certainly free higher education for all is another question.

JUDGE: It all depends on how you define the poor, everybody under 500 000 is essentially poor in this content.

MR. NXASANA : It could be that, and when one looking progressively at this issue, but I think in terms of the South African context and the economy, if we look at the lowest tax bracket you could definitely say that those individuals are definitely poor, and that there's relative financial need for other students in terms of funding higher education. Perhaps to indicate sa we go into the slides, maybe onto the next slide, the structure of the presentation..., we will do just a brief introduction, as part of the introduction just to remind the commission of some of the key structures of what was proposed in the ministerial task team, and some of the decisions that we've made as we started working towards the pilot and the work that is currently on going, there have been a number of policy decisions that have been made in terms of the way in

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which pilot programme is being rolled out, and in terms of some of the ideas that are embedded in the project. We've also looking at the pilot implementation programme at the moment and the actual (..) pilot, we thought it will be important to give you an update to what is happening there, how it's been rolled out, and some of the issues around that. We also needed to explain the feasibility study, which is something that has to go on as we testing some of this ideas in the pilot, and this sort of funding and design enable the implementation of the (..) going forward in relation to the whole process.

And then we will come down with that background to the key questions that were raised by the commission that we are specially to deal with in the presentation. If we just go to the introduction, just to remind ourselves that ministerial task was completed and recommendations were made for financial aid and support model for poor and missing middle students. This report was taken to cabinet and discussed at cabinet, and we gain government support to do a number of things, one was to publish that report for public comment, and generally I think just one issue we've seen in some of the comments we received, people were very scathing about the idea that the gazette only have the executive summary and it's not the whole report. Let me just explain why that is, in the context of fiscal constraint, you may be aware that government gazette costs approximately R1500 per page to publish, so generally when we publish something for public comment, we publish a short gazette which highlights some of the aspects and then we provide the full report on our website. If you look at many of our gazettes, for any new policies where there's a public comment process, that's how we do it. Some of them are only like one or two pages long, but it really is about ensuring that we don't waste funding on such gazette. Because in the end what the final product is, it's something that's quite far down the line. In terms of the report, cabinet also approved that the pilot would go ahead to test certain aspects at selected universities and really it's focused specifically on the missing middle, and some of the key issues there that will be spoken about in the presentation. They also agreed that there should be full feasibility study, specifically to understand if there's a way to go ahead, what would the cost implications for the life cycle of such programme be, and what would be the ideal model for such project.

Obviously, these are happening parallel and as I've indicated no final proposal or decision will be made until the work of the presidential task team is finalised. We

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think that once we've done this well move onto the rest. We had already presented this blue print to yourselves, but we thought it was important to deal with some of those issues and I'm gonna ask the chair of the ministerial task team to take us through from now.

JUDGE: Please don't hesitate if you think there's something needs to be explained the second time because we will welcome it.

MR. NXASANA : Thank you honourable judge. Following on on the introductory slide that Dr Parker has just indicated, and also the agenda you were proposing in terms of how we deal with the questions which were raised by the commission. There are couple of things which we have not repeated here, but thanks for the indulgence and emphasising some of the points. Just to go back to the mandate that the ministerial task team was given, it's not on the slide itself, just to recap and I'm going to paraphrase what the mandate actually said. The first thing that mandate ask the ministerial team to look at was whether or not the existing of NSFAS act as well as the structured mandate of NSFAS is still suitable to address funding and other forms of support for poor and missing middle students. Secondly, the ministerial task team was asked to look at how we could raise sufficient funding from both the public sector as well as the private sector and other sources of funding, to offer a complete solution for funding the poor and the so called missing middle at the universities as well as the tvet colleges. And thirds we were asked to look at the feasibility of grading fully subsidised loans to the poor students, bearing in mind that there may be limitations in terms of total funding available and therefore how we could, on a progressive scale look at those subsidies as household income increases. And we were also asked to look at how we would fund the occupations in high demand in support of the national development plan. We were asked to look at the proposals that will look at the improvement of the success and graduation rates, and employability of those poor and missing middle students that will be funded under the model, so that the country could look at reducing the drop out grades, given the high drop out grades the NSFAS funded students. Last but not least, we were asked to look at how we could create an efficient and robust model with appropriate internal controls to minimise leakage, fraud and risk of grading disbursement of loans and bursaries to the deserving students.

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ADV. G. ALY: May I ask Mr Nxasana, why did the MTT retain the ground portion of the funding? In other words, why didn't they opt for the fully income contingent known model?

MR. NXASANA: We did look at the income contingent known model, but when looking especially at the population of the students that will be funded; an income contingent loan says once you graduate and you earn income, you will repay that loan. And I guess we were influenced also in looking at this demand for free high education, but also by the experience that we have seen of the obligations that are carried by students that come from the working class background, that even if a person may have pursued and succeeded and graduated in for instance some of the so called high income earning degree, diploma, certificates and so on; typically because those students are first entrance into higher education, they carry a lot of obligations and responsibilities, and therefore a loan would still add to their burden even after work in addition to the repayment of the loan itself. And that why we said can't we actually afford to offer full grants especially to the poor students, and then on the progressively reducing grant or subsidy model to those students that come from working class backgrounds. It was really taking to accounts the responsibilities that are carried by those students when they graduate, and whether they earn a lot of income or not. But secondly, just the temperature demands in the country that are calling for free education we believe it was possible to offer those, not to all students but certainly to the very poor students.

ADV.: Why did the task team return the amount of 122 as approxified indication of the poor?

MR. NXASANA : We'll see later on in the slide presentation that we looked at various scenarios, and that's where, based on the financial modelling that we did, we explored different definitions of who are and what is working class, and you'll see later on if you may hold that question over I will show how we ended up with what we believe could be affordable and the sources of funding that could be available.

JUDGE: May I just ask, did you do any scientific research into the measurement of the obligations to be carried by students? Because I can see, for example, the children of a family of a police man, who might fall into the missing middle, may have very substantial obligations to their families once they've graduated. And there may

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be children who don't come from the missing middle but poor, who have no obligations, because they don't have families.

MR. NXASANA : In the determination of how much will be available to a student, based on their background as well as their household means. In additions to looking at household income, we will look at the other considerations. If I just take the current means formula which is applied, the NSFAS, we take the household income which in the case of NSFAS is R122 000.

We then look at how many children or dependants may be in higher education as an example, we'd look at where the household is located to try and determine their standard of living versus what they declare as household income, determine the affordability of the household taking into account some people who may live beyond their means, but the basic living standards measure that will look at the affordability levels for funding a post school or post school students, whether there are 1 or 2 or 3 students in that household that may be going to a university or a tvet college or a community college where they have to pay fees. What we did not look at, is post graduation responsibilities, we did not do a scientific research on that, in other words what other people may regard as the so called black tax and all the responsibilities that they carry, we didn't really do a scientific study on that.

JUDGE: Thank you very much.

ADV. M. LEKOANE: Just that lack of the study, does it interfere with maybe the costing?

MR. NXASANA : We don't believe it interferes with the costing if we have assumed, maybe just going back to the earlier question of an income contingent loan, if we have assumed an income contingent loan funding structure, yes of course that would interfere with that. The only thing that we'll obviously look at that may have some impact is the ability to repay those loans that are offered to those students. All we looked at there is how do we make sure that those students who do get offered loans are not over indebted. Therefore we looked at the interest rates that will be charged, the period which they repay those loans, as well as the cap in line with the national credit act. So we didn't look at other obligations such in terms of determining the ability to repay.

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JUDGE: Did you look at comparable systems where income contingent loans have been applied, the system for example which says the loan will be for a maximum of 10 years, if it is not for 10 years it is written off?

MR. NXASANA: We did look at many different countries that have income contingent loans, we looked at the Australian model, we looked at the German model, we looked at the Italian model, we looked at the US model, we looked at the UK model; those are. The models that we looked at that have some income contingency in them, but I guess the overriding consideration in our recommendations to understand the local conditions that you are comparing first world countries to third world countries.

We also looked at the Kenyan model as an example, which is a loan that is sort of income contingent, not fully, but the obligations that are carried by those students when they finish is quite large, therefore it has a negative impact on those students but also on the broader economy it means those students can't really invest or spend in houses and things like that, which has a negative impact on the economy. It was considering that we are dealing with poor students and working class students. Therefore when we looked at all those income contingent models and their variations we came to a conclusion that yes you can deal with the issue of the ability to pay in a different way than income contingency. In other words you look at the country has to deal with skills for example, we still have to deal with the fact that those people that are funded come from poor backgrounds, therefore they may not be able to afford a lot of money without having a huge amount of debt hanging over their necks.

JUDGE: The reason why I asked you this question is because I have read your full report several times, and I didn't find anything about this in that report. I take it it was in the working papers of yours, which are not available, so one is left so much in the dark about these matters. You know for one reading the report you may or may not have considered these things, I assume that you have possibly could.

ADV. G. ALY: Just to follow up on the cost, the worry about it was if there is a repayment period, an analysis has to be made at what point can a student start repaying the loan so that they can be able to assess what is available, that's coming back.

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MR. NXASANA: We've done a lot of modelling in that regard because what important in the loan that will be offered, is that you create enough funding capacity to circulate the money and fund more students. And we can only do that if there's a repayment profile that allows for that to happen. And that's why in the recommendations we looked at the (...) of those loans in relation to how much those students will be earning and there are various scenario in terms of interest rates and repayability or credit risk and so on, that will make sure that in line with the credit act there's a cap as to how much we are able to deduct in those students. So the repayment will start after the student graduates and earn income.

JUDGE: Mr Nxasana, is it communal that the court adjourns for tea at this moment?



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**SESSION 2**

MR. NXASANA It turns out to be required to manage the processes so on. So that we can determine what the total cost or the life cycle cost of the proposed model will be. So a lot of that work is currently on the course. So we have various work streams that are looking at the feasibility study, we create a steering committee, we are looking at all the detail funding sources so that we can test whether the assumption we have made in the report are valid or not. We have legal work stream looking at all the public policy issues and looking at different pieces of legislation that will be impacted by the proposal that we are making.

ADV. G. ALY: Mr Masonna, in respect of legal, my recollection is that we have work as part of your team and you have indicated in your submission that you have a legal opponent regarding the issue raised by Ms Pilay in respect of the obligation of the state?

MR. NXASANA It was an internal legal opinion and it does not go to the senior counsel. We have a project steering committee.

ADV. K. PILAY: Just to follow up. Is the legal opinion does it state out what the obligations are or does it speak to if we have made up for this model?

MR. NXASANA As regards state obligation, it simply looks at the constitution and various pieces of legislations. Particularly pieces those legislation that affects higher education, so in looking at the recommendations, there are various recommendations for amendment to, for instance the NSFAS act or talk to the there are no recommendations as such that talks to the Higher Education act but there are various others that look at the taxation and tax administration act and other pieces of legislation. So the whole section which analysis pieces legislation that will be impacted by the recommendations that are in the task team.

JUDGE HEHER: (Indistinct comment by the JUDGE HEHER) Whether you will be prepared to make that opinion on constitutional matters not the choice of... legislation available to them?

MR. NXASANA I am sure that will be possible

JUDGE HEHER: Is that okay Ms Pilay, do just help me.

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ADV. K. PILAY: Not at all, of course we will benefit from it so we are in your hand Mr Massonna.

MR. NXASANA Let me put it to you straight like i said to the ANC Youth League, you are aware of what the constitution says and the convention itself doesn't upheld, which then present the issue of whoever advise you will not be limited if not look at what the constitution says together with reservation because it has it's own problem in the way it is framed and whether taking that into account the obligation of the state doesn't change. So that is what i put to the others and i would like to put to you later but that is the issue probably tonight look at that tonight and later we can talk about it, you don't have to answer to it now.

JUDGE HEHER: We can make available 2 copies of the Convention. Whether it will be any of assistance.

ADV. K. PILAY: We did looked at the convention after the, the initial ministerial task team didn't look at the it but we did looked at it and infact took the last time that we spoke and we did talked to that the interpretation of the convention. Perhaps we could come back later.

MR. NXASANA: Doctor, your specific evidence asked to that, was that the reservation indicates and our national education policy must be taking to account when implementing. However if you read the reservation and make it available, you limit yourself to article 13, 2A, then will the problem arrives, so it is not as gentle as you put it is accepted with then, may or may or may not change your obligation as a state.

JUDGE HEHER: What simply make it is if you choose to deal with something and also choose not to deal with some other things, it will be taken that you have agreed with the other thing you did not deal with.

MR. NXASANA So out of this steering committee, we have people who are full time and they work full time looking at the details work in terms of all the work stream that we are taken and we done on a regular basis to make sure that everyone is on thesame page especially to run the team, to do the detail feasibility study and look at the detail design

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JUDGE HEHER: How many task team do you have?

MR. NXASANA 7 work streams not task teams, and this work streams includes the officials from the department and ourselves. In terms of the key founding policy decision which obviously is the department of higher education and training which is comfortable with in terms of this create an obligation for the state and some of this policy can impact on the ability by the state to find poor and working class students. We have had the policy that determines what should be the maximum loan, taken into account the importance of not over indicting the students that are found. Can there be an expectation for family contribution and if so at what levels does that start. The loan grant ratio, if there is funding at what stage do loans kick in and what is the nature of those loans, in terms of the repayment and character of those loans, the tenure of those loans and so on and the definition of the total cost of study bearing in mind there is a separate ministerial committee which is looking at the whole issue of the fees structure across particularly university. Then when you look at the maximum loan as an example we look at that to determine how and what level do we cap those loans and what other restriction will apply to those loans because these are special kind of loans funding in the main working class or student that comes from working class background. How do you ensure that the private sector particularly may provide funding for those loans because they are not sort that generate adequate super profit but they generate adequate returns from those loans but at the same time without over indebting the student themselves. We look at the expected fund from the contribution, the most important point to make here is that in the discussion with government, bearing in mind that the moment that NAFSARS found that the student have an expected family contribution, even the cap of household income of R120,000.00, So in looking at that financial model discussed and debated, it was agreed that the expected family contribution only kick-in at the level of R300,000.00. in other words any students who comes from a family that earns below that threshold will not have to contribute anything , there may be a gap between the grant and the full cost of study., for those particular students. R300,000.00 and R450,000.00 there will be 10% total cost of study as expected from the contribution. For instance if the total cost of study is R130,000.00, then the amount will be R13,000.00 for that student. Obviously the minister will determine the all other variables including how many student that are in the household even determine even at R 300,000.00 should

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pay the family contribution and those from 450,000.00 to 600,000.00 it will be 18% of the total cost of study. What we want to do here, for business illustration to try and make the determination of the family contribution easy to understand but there will be a number of variables that go into the computation.

JUDGE HEHER: Can i stop you there, before you go on. One of the things that we have been concerned with was this means test, it has on the evidence before us prove to be inefficient, manipulatable, open to fraud, derived and devised and applied by persons who does not have any interest in drawing and it seems to be a particularly inefficient and we looked at the possibility of avoiding any forms of means test this is one of the reasons it was not contained in the universal loans. Have you considered the underlying problems of the means test? Cost of applying, efficiency of applying method, who should apply and how they will be quick to apply and above how you can actually vet it.

MR. NXASANA The continued nations. The first thing is that there should be a means test. The second one is that how we make sure that it is efficient, especially that it does not require the student to prove each time that they are poor.

JUDGE HEHER: We have been told that one of the thing the students are subjected is the means test, because it subjects them to mini scrutiny.

MR. NXASANA We then proposed that it could be done in a way that it does not require the student to prove that at the time. The means test is that the recommendation has been structured. One, we will create an automated platform that links to data bases, various data bases, at least 5 data basis that in relations whether the student come from a household. Means of devising means of copy, will have to get parental or guardian consent, to access third party information, to include home affairs data base to confirm identifications, through the social grants data base and the department of Basic education and training, it will include SARS data base obviously to a standard. We are not looking for how much people earn but to just check if they are registered for income tax.

JUDGE HEHER: You see the sort of thing we had her was a student who said i was not going to tell them where my parent are. My sole living relative was my grandmother.

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MR. NXASANA There is always going to be a parent or guardian who signs certain thing on behalf of that student and that when a student is above 18, there is a question, is there a legal or any other obligation for a parent to support their child for higher education. There is a question and the impact of that question is if when a parent says i don't have any obligation to support my child in higher education then essentially he could argue that you have to place reliance on the student themselves or anybody else including their parent regardless. We have assumed in our model and we actually debate that issue and assume that the y will still be a secretary obligation or legal obligations but parent will typically support their children and therefore facilitate their process of making sure they have access to higher education and therefore there will actually provide the concern to access their information even if there is no legal obligation, that is the assumption as it may. Typically with all these data basis it will require parental or guardian in terms of accessing the information and determine whether the student comes from a household that is poor working class or rich, depending on how you define those income bracket. In terms of these structures, you know the proposed structure in the minister's report, we have essentially two categories poor and student that comes from family with some household means. So as far as the poor student is concerned assuming a 4 year programme, they will get grants from all of their years of study and there is an issue here with the definition of poor, we have looked at various scenarios based on social grants to the minimum tax, that determine s that. One that determines will depend on how much can be raise to support profile from both the private and public sector. For student that comes from working class and have some Household means. He is expected on the contribution from the R300,000.00 and one , you'll see that below are grants below 300,000.00. There will be loan in the first year of study, then loan second year of study and a partial grants third year and loan in their final year. Now why is it constructed this way, let us quickly look at how the national student financial aids school scheme currently funds. In the national student financial aid scheme one of student enters higher education, i am talking university because TVET colleges are different because they gather scholarships for 20% portion for that but I indicated earlier. There is usually initial dropout in the first month; this is that if students including those that came from rich family or working class background are given more support in the form of funds in the years of initial study, more intensive wrap around support. In other words psychosocial, additional academic and all other

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things you mentioned earlier there more like to reduce the risk of dropout and therefore if you have to offer loans to those students, they will be offered to make sure they come cover the full cost of study, if you are going to offer loans unlike the NASFES model which your loans are front loaded, which mean you get a portion of that loan in your second year, third year and in your final year of study. Actually you have a situation now , because of the high rate of dropout, end up with loans that is for something they never got . Which is one of the key to the problems that the students have been raising? So you actually have to flip on his head, understanding that we can't give grants to everyone because of the limited funding capacity in the country, perhaps some loans are available to provide to those students. That is why the construct is as we see it on the slide here. And we will give student because they get this additional wrap around loan. They will be given the regulated time, plus the one year that NASFES regulated time plus 2 years to complete their degree and continue to qualify for the funding.

ADV. K. PILAY: Before you continue, When the CEO of NSFAS appeared before us he produced presentation and put the following figures before us and I want to read it to you and I want to get your comment on how that applies to this . He said that less 15% of 9.4 billion of the world in 2015, constituted at your actual net loans and that 64 – 70% of amount disbursed are as written off as bursaries. Approximately over 20% of amount disbursed are written off due to concessionary interest rate or interest holiday. And for this reason that the paper concluded the break down. In relation to your model, what doesn't your email see anymore and the costing of the model?

MR. NXASANA Can you let me get back to you on that? There are number of assumptions that we have made in terms of the spread of students that there who are up to R600,000.00 given the and numbers at universities and TVET colleges, to determine how much will be loans and therefore like one there was a percentage like grants for those. So we will have to come to you on that?

JUDGE HEHER: Is the coverage of the loans determined by the amount that is available or is it based on ideological principle? How do you determine, for instance, that a person that is in the third year should get a half loan and half grant?

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MR. NXASANA The first consideration is how much was available for grant funding both in the public sector and the private sector that was the primary consideration. Then, having done that and having agreed on policy change on the cost of study, if you have the same amount of money. Let say that NSFAS has the same amount of money available to you excluding the TVET colleges is R3 million. And we fund on the average cost of study at the amount of 48,000.00.

At the university you are probably going to find about 220,000.00 student, I am not sure because we haven't finalised on this figure yet and the allocation this year. If you increase that allocation to R90,000.00, it means you are going to fund less students. The first thing is how to increase the grant component and contribute significantly to the state covers. When there is a gap, how do you then fill that gap with loan funding based on the affordability level that is what the country can really afford?

JUDGE HEHER: The reason we ask you is that we have tried to look for unused funds which are not serving any particular purpose in the hands of the bearer.

MR. NXASANA We didn't look at that type of funding.

JUDGE HEHER: Is not that supposing that you have been aware of additional capital of R15 billion, will that then have impact on your green ballots?

MR. NXASANA Yes, it will do if the 15 billion is for grant funding, it pushed the grey to the right hand side of the triangle. It will definitely have an impact because it means you can extend more grant funding assuming you can circulate some part of that money or amount which then earn a secondary component and therefore you push the component angles.

JUDGE HEHER: I was just interested in knowing if there would have been an effect? Whether you would have said this is very nice we would put this into improving the system?

MR. NXASANA Yes, those are policy decision which will have to be made by government. If we could have more sources of funding, like grants funding impact. If that amount is available for university funding. Our mandate is limited to student funding. Some of the assumptions on policy decisions like full cost of study.

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And here, just access of performance of the National Student Aids based on the study of the whole sector which was done by the national treasury and that is said that the total cost of study is R92,000.00. We then look at the breakdown of that. Like what are the component parts of that, the tuition fee averagely is like R 53,000.00 average from one university to another. So look at the component part. This is average and a lot of things may be up or down. And this is only for university because TVET colleges have different structure and so on. We have done a lot more details and financial modelling details that you will help me in different programme, there are different things there.

JUDGE HEHER: How do you propose that year by year as you necessarily make adjustment how is that going to be done by, who is it going to be done by, how is it going to be done? Do you propose that a regulatory board be established to cover tuition, and others?

MR. NXASANA There is a difference between the ministerial task team that is handling that topic, and we did not handle that topic? All we said in the recommendation is that the student will receive full cost of study and clearly there are differences. The differences are in terms of providing access to poor students. We know as we are looking at different course as an example you can't just look at total cost of study in the university in a programme, there are number of area where even the poor student can access total cost of study on social science. This may be 130,000.00 but in social sciences statistics per calls more than double the cost of other courses as a student. If a student comes and wants to do social science, because very often they actually end up dropping out of social sciences is because they profitability and not necessarily but you can call madam. There is a problem which is in the area of funding for full cost of study. May be some of them may be poor students may be you should be the part of this, you of the average. From a diversity standpoint, you need the poor student to have access to service, there is an issue there, but there is a different to send it then, supposing we are looking at this point.

Perhaps, it is something that you should look at and regardless of how long and obviously the profile indicated earlier, funding will be made available regardless of how long a student stays. It is profile of it for 6 years but if this is for a four year



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course then this profile will extend for 6 years, even for students who will be given extra year the seventh year will be funded also. Obviously even for post graduate, the funding should be similar to higher education but the difference is dynamic action.

JUDGE HEHER: You do contemplate that your model to give grant to the poor will apply right through all faculties; giving grant to the very poor will apply through all faculties regardless of years of study?

MR. NXASANA Yes, absolutely. LLB is 5 years, Accounting will take 5 years then we keep funding for that period. You would have seen in the recommendation about this thing that I know about it. Even for post graduate. We propose a funding formula which should actually apply to higher education as well. We did not explore fully, we have different dynamics that apply to higher education at the moment but we are saying that this model should be extended to the post graduate students as well.

JUDGE HEHER: Thank you.

MR. NXASANA This is just detail of your using R130,000 as an example and assuming you have different household income territories from R25000 to R 600000 what is the loan grant and the family contribution look like.

JUDGE HEHER: I am sorry just to come back to the previous slide. I noticed that, one of the things you didn't include in your make up is travelling.

MR. NXASANA Sorry chair, that is an omission on the slide, so it is certainly included, when you look at the previous slide you will see that travelling will certainly be part of it and will be included in the slide or it is included in the allowances that is gagged and especially bearing in mind our earlier discussion that on campus accommodation is inadequate to cater for the student needs.

JUDGE HEHER: I have pressed you before we go further in their plan. What is your safeguard to ensure that the tuition money be paid for tuition as intended.

MR. NXASANA We certainly have thought of that. Obviously, we really need to be sure that the money goes to those areas for which is intended, who providing tuition are easy because you pay that into the accommodation if it is on campus. Also, it is easy because it included in the University, if it is private accommodation, there are

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norms and standards which have been to look at the standard .Living with suitable ,Living a suitable accommodation provider which the department if you want to . even right now they are providing a service but they did not meet the standard of the department, so they will have to be a policy to scouting around in that case if none standard ,it is inadequate to cater for the student. There are Accommodation, provider. This is one area where there a have been a lot of fraud at NIFES where your private accommodation providers, there needs to be a rigorous internal control process, to ensure that money go to the legitimate accommodation provider. The first choice will be those with normal standard and the second choice will go to a verification process to make sure money is paid to those landlords that accommodate the students. The meals, book is easy to deal with, there are books providers, a student should be able to buy second hand book at lower cost. How do you put money into the hands of students and have control over what they use that money for and how do you make sure in providing debt facility to disperse cash is convenient? The current NSFAS system is not okay because it uses only one platform.

JUDGE HEHER: In other words, you didn't want to use the old system either?

MR. NXASANA There are a lot of things you can do and we really looked at the combination of possible solution, that allows the students to transact like you and i transact. They can use cards, online banking and they can use E-wallet. Quiet easy to have a rule based system that limits their ability to use their ingenuity; they bypass some of your control. So you cannot really have a water tight system but there are lot of control that you can put in place.

JUDGE HEHER: As long as you are satisfied. The other thing about this is that one of the problems is with any payment out to anybody. One can't be in state of where employer and employee renegotiating wage yearly. What do you think about how to prevent this continued renegotiation and the discontent that spread though this?

MR. NXASANA The starting point is that we will fund full cost of study and we based our reliance on the other processes going on in government in study at least at the cost of the system. Clearly you see in the components if you freely because we have choice but they all have different rate of inflation. Tuition is the not the same as food, inflation is not the same as food inflation. They are all different, so we have not

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recommended any cap on how to deal with inflation and the other proceed. All we have said is that there will be full cost of study So there will be mechanism may be through regulation to deal with it, may be the minister will make appropriate regulations.

ADV. K. PILAY: The slides before this, we picked up in the report, the block on the right side, and you describe it as the poor. In the report, you describe it as partial grant and partial loan and now you change to a full grant, is there a reason?

MR. NXASANA Couple of reasons; he model has not gone through re-processing and branding; it is taking a lot of inputs especially after a lot of public inputs. The second thing was that the financial modelling is there are a lot that go into that process in the report which is even before we went to cabinet on how much we can we are taking a more conservative but it was also based on a 3 year programme not a 4 year programme. It is based on an affordability contract. This is 4 years now but was 3 years in the recommendations now.

ADV. K. PILAY: I see in the last slides, there is a reference to a stipend. Is it different from the travelling allowance, what is this stipend for?

MR. NXASANA The stipend is sort of a cajole when you look at that amount compared with the earlier amount you just want to... there are other needs that women may need like sanitary pads, and some other important thing that are needed so the stipend is to enable them focus on their academy. So that stipend takes care of those things. You also need to travel to other part of your environs... Transport; you can just put all those category of needs into that stipend.

ADV. K. PILAY: Is it quantifiable?

MR. NXASANA It really does assume a living allowance of 7,500.00. Also, laptop; 7,500.00. So, it is very different from one institution to the other and it is very different from one faculty to the other and different from one year of study to another.

JUDGE HEHER: Do you foresee, because of changes in economic situation from year to year, the line of your growing maybe, have to be changed annually?

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MR. NXASANA It goes back on the earlier question. It is based on available funding. If for instance in our report there is funding gap, how much we need as against how much is in the funding pool for grants and how much is in the funding.

JUDGE HEHER: Will you also shift depending upon the number of new students that the scheme generate, what I am saying is that, suddenly you may have 100,000 students who may not be in the system but now came into the system. How can you Holy spirit.

MR. NXASANA It is like the modelling scenario. Unless you can raise more money through grant funding or loan funding. Politically, it will be very difficult politically to say we are going to half it saying this is 92,000. Politically, it will be really unpalatable. So we've looked at all different type of funding.

JUDGE HEHER: Thank you

MR. NXASANA As far as the pilot is concerned, he is not testing all forms, he is not testing all assumptions that are in the funding formula. It is particularly testing how students, the starters especially the missing middle because the agreement was that NSFAS already have like 222,000.00 per year from that level upward up to 600,000. Honestly, we want to test a lot of things, we are using the Thuthuka educational Fund. It has been extended from just supporting accounting to supporting all other programmes including foundational programmes. The selection processed uses the same criteria, it doesn't look at the poor but the missing middle, we selected a number of universities, seven to be exact. We identify the academic problems that will be included in the pilot; the reason for the use of other instruments to test for development support to be provided. How much can the private sector contribute to fund the students, if we have different and multiple funders?

JUDGE HEHER: When I read your report initially, I had difficulty in finding, I take that it was based upon your student support?

MR. NXASANA Yes, that is correct!

JUDGE HEHER: I find it difficult to find any sort of correlation between your student support scheme and the reduction in the dropout rate?

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MR. NXASANA We have done a lot of report and there are limitation with providing or trying to get reliable information about progression rates and graduation rates at TVET as an example, it has proved really challenging because data. Now in analysing a number of data and talking to institution as part of institution to refine those assumption we are just not confident enough to share it now. I think we have done a lot of work and we will still do more work just that we have not still done much especially in the area of TVET but we will still work of it. So this is the distribution assuming we raised R100,000,000.00 as the current date .There are various roles that are attached to different stakeholders. We have been busy training the programme managers; they are tied in the pilot institutions to provide the tutorial support, life support and so on. The programme managers have a platform that we have developed a dash board where they can see which student may be having issues. So for instance, for every student that we supported that is founded test, assignment , project, the student is part of the core that if they are supposed to do anything and didn't , the project manager can see from their dash board and go to the student area to ask what's going on. The student may be having a real difficulty but you zero in on that issue. Even if a student is not busy and are not busy, the project manager will be able to see from the dash board so they can give support to the students who are serious about their academics. But what the system also allows is that they can do analytics of data through this system. The pilot of team of this project includes the department itself.

ADV. K. PILAY: under the pilot, what is the interest rate?

MR. NXASANA it is 80% of recoup, we have not finalised the interest rate because all the student in the pilot programme are in their first year and therefore were on grants and not loans, because the registration with the FDI and FNB, so we haven't really finalised. All the funding this year is actually grants, but when we want to start charging interest rate we will first look at 80% recoup and then maybe we will look at the prime rate and so on so we cannot answer your question directly.

JUDGE HEHER: Have you considered the possibility of government standing in as guarantor for the loan and therefore getting better conditions?

MR. NXASANA We enquire from the national treasury and they said they have limited capacity to stand as guarantor for loans on behalf of government.

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JUDGE HEHER: That suggests I have very little faith in your ability to recover?

MR. NXASANA I will argue it from opposite. Private sector is coming to the party in terms of risk sharing, that is one of the discussion we are having that how do we make sure the recoverability and the efficiency of the platform is improved, if you just take the bank out so that it will not affect the bank in terms of credit extension. The intension is to make sure there is no over indebtedness. We have to take all of thank you.

JUDGE HEHER: That will lead me to believe that Government doesn't have a way of recovery.

MR. NXASANA: No, the government actually does. The only issue is not going to be ready for couple of years to pay because there is a need for a change in Administration Act. And secondly, it is migrating to a new IT system which full implementation is probably going to be between 2 to 5 years.

JUDGE : 2 years or 3 years down the line?

MR. NXASANA: Well that's correct, but the issue is in the modelling around the recovery of the loans or risk. We have to assume that it may take as long as indicated to have one of administration has changed. Secondly, it will have the system to act as an agent for recovery of students loans, if it takes shorter, then fine. Our risk profile will simply be reduced but we have assumed that the worst case scenario in terms of recovery of loans but then you build the system in the platform that can be beneficial without relaxing.

MR. NXASANA: It is a bit more complicated than that especially after the propagation as well as changed that might have taken place in tax administration. So it used to be like that up to 20 in 2008 for 2008. It was like that as soon as the person works and got a tax number as well as salary deduction or pay roll deduction. But the national credit has changed all of that which is why you have to do affordability assessment for those concerned. They are also some system to do this and it can't be done automatically do it. They are also ultimate way to do this you can't change without amending the tax administration.

JUDGE : I can't understand the interaction between the tax collection and...

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MR. NXASANA: It has to do with the recovery of loans because in terms of there are certain provisions that determine on how you extend loans in development loans and how the loans can be recovered. If you have any recourse in recovering loans, what processes you should follow if you?

ADV. K. PILAY: Besides it is that a person cannot be to achieve that and the deduction of the salary and the student doesn't because the repayment is all going to the loan.

MR. NXASANA: Yes, true. The issue is one, you have to look at the affordability of repayment of that loan. There is an NCR or National Treasury. The issue is that it is has to do with the tax administration which has to be amended for collection

JUDGE: The banks?

MR. NXASANA: i guess that could be an option.

ADV. K. PILAY: On the use of unclaimed funds you are talking about there was a statician that if we're to access those funds if bad currency we have a limitation s to be taken or not

MR. NXASANA: No, we have to take it like that. So, the feasibility study is obviously done through treasury regulations. We have a team that is looking at the feasibility study and which is in terms of the PPP. So we are looking at options and analysis that we explore. The project should have diligent assessment in almost how is it going to cost which include the economic value. The question is; how much will this going to cost the state and can the country afford this and if so how is it going to be done and what option is going to be considered?

MR. NXASANA: This return to the question of the introduction of Dr Parker. Now this commission is supposed to come out with something; recommendation to the funding. So, the feasibility study goes in by June presentation. We must submit our report which will contain recommendations. So, we have treasury and poor government official's because now you need another feasibility study. You must have another feasibility study. Unfortunately, we are sitting with that another work is waiting to what should have done and from where I am sitting one wonders why we continue. But I take if for your exercise to be completed, you have to go through this

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process. I just need to record that they posted second of November they made a point that has to be input into the presidential. And we see ourselves as providing a guiding input but at end of the day the commission will determine.

JUDGE : What you are saying is what you are presenting is the fact and commission should call or put it forward?

MR. NXASANA: Absolutely, this is the way I see it.

JUDGE: Lunch break.

ADV. K. PILAY: Thank you Chair,



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**SESSION 3**

ADV K. PILAY: Thank you chair. There is a slight adjustment to the programme. I believe MR. Nxasana has got certain time constraints. He can't be here tomorrow. So, I was wondering if it is possible for us to finish off the presentation in the first hour and allow MR. Nxasana to deal with his questions immediately after.

JUDGE HEHER: Yes, I see no reason why we shouldn't.

MR. NXASANA: May I proceed?

JUDGE HEHER: Please.

MR. NXASANA: So, the section is that last section of the background before we go to the questions that were posed by the commission. This looks at the works that is currently on the way to enable the implementation of both its pilot and the detailed design of the feasibility study. We spoke about the special purpose vehicles which are 'Manco and Franco'. We have teams who are looking at the students' lifestyle funding. The research really touched the assumption that made around the amount of funding from all the different sources that can be raised. The testing of those assumptions with those potential funding sources. And also looking at NSFAS and asking what are those elements in NSFAS funding that need improvement. We know that at the moment NSFAS only get its funding from the public sector and what are those reasons that caused other funders to leave; so, that we can cover that and cater for those in design process.

We are looking at extension of the pilot into next year with more students and institutions. The social bundle is a particular instrument that will be focusing on the reduction of the students drop out rate at both universities and TVET colleges. Its going through serious actuary process with a teams from Discovery designing the actuarial model.

We are looking BBBE. We have a task team that from Department of Trade and Industry looking at proposed recommendations for amendment to the revised codes of practice for broad based black economic empowerment. We are having these meetings and workshops to narrow down the sources of funding that we can find particularly from the private sector sources.

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There is also works in legal streams in terms of feasibility study requirements and treasury regulations. The government had to appoint transaction advisor to advise the government on the details of the feasibility studies given all the topics we are required to cover in terms of treasury.

There is also work to review NSFAS Act. So, we have work stream that is reviewing the Act taking account the broader objectives which the Department wanted to achieve is beyond just funding students.

These then takes me to the questions which were posed by the commission. Which was what was the general response from students and the public to the model? Had there been any drawbacks into the implementation of the pilot? What are the amendments to be made to the pilot? Proposals made to amend the pilot and if such proposals have been incorporated in the model?

So, I start with (cuts)

JUDGE HEHER: Can I just add one to that? How far advanced is the PPP agreement?

MR. NXASANA : I can answer that quickly. The PPP arrangement requires a detailed study for the state to determine whether to go ahead or not. In other words, whether to allow for amendment to NSFAS Act and whether NSFAS is to go into procurement agreement with special purpose called ('Manckle'). This requires detailed feasibility study for government and the study will be finished in June and then goes to through a whole process in government.

JUDGE HEHER: Is the PPP agreement effectively the marriage ceremony?

MR. NXASANA : Yes, only after the cabinet has made a decision. It may not make a decision.

JUDGE HEHER: So, it may not come to marriage ceremony?

MR. NXASANA : Yes. Starting with the first question. We have looked at the general report from the public and categorised it into the key stakeholders, starting with institutions. We have Universities SA and Vice chancellors saying they want to be part of the pilot. We've had written feedback on the minister task team

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recommendations as part of public process which was made of Stellenbosch University, University of Cape Town and WITS.

Generally, they are supportive and they offer some views. For instance, Stellenbosch raised issues around why there were not selected for the pilot. University of Cape Town has some experience in means testing and selection of students. So, they made recommendations on how the mean testing could work. Wits recommendation was around extending the programmes that are included in the pilot.

The private sector- organised business- as represented by the Banking Association of South Africa, Business Leadership South Africa, Association of Savings and Investment Industry have all been supportive and most of the funding that we've received has come from the support of those three bodies. Most of the 138million has come mainly from these three bodies. In addition to that, they've donated over R20 million for the operating costs to run the pilot.

NSFAS submitted a 66 pages of detailed comments and suggestions document which given its mandate went into detailed recommendations with design, the roles of NSFAS going forward and pitfalls they saw with some of the designs. Overall, NSFAS was favourable towards the ISFAP model. Another recommendation was that NSFAS itself enters into contractual procurement agreement with special purpose vehicles that will manage what ISFAP can't manage really well. In terms of the funding design- the granting of funding to students, they were supportive of the SASSA model.

Let's start with the students that are in the pilot. We received 1, 706 applications. We are going through the final process of determination of students that are going to be in the pilot. We've had engagement with the SRCs of universities and TVET colleges which were mainly focused on NSFAS challenges for this academic year. The TVET colleges did not participate in the pilot because of the need to address certain fundamental policy issues. And also there is also confusion between NSFAS and ISFAP. I guess it is because I chair NSFAS and the minister task team. It does create some confusion as ISFAP is seen as NSFAS tool version, because I am also involved in the two.

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With the TVET sector, we've had disjointed engagements, there are still a lot of work to be done.

We've had a lot of negativity from students particularly those coming from the Youth Communist League, SASCO, and the students at Wits particularly. Bearing mind that the EFF students command and PASMA were invited to the reference group last year where inputs from stakeholders were being received, but they refused to participate in the process. The YCL and SAUS rejected the model out rightly saying this is not the solution to the issues that students are raising because students want free education. The negativity has stemmed from the philosophy that we have opposing the ministerial proposing PPP. This also concerns what private sector may do given their profit motives especially the components of loans that will be offered to students, particularly the banking sector that may be driven by profit motive primarily as opposed to social or developmental motive of funding students.

There has been a lot of rejection of the model by those calling for free education because it does not give free education to all. There is also a lot of unhappiness with NSFAS model which ranges from the loans to the inefficiencies in NSFAS model to the fact that the model does not replace NSFAS, but NSFAS entering into an arrangement is being seen by many students as not the solution because they are calling for the disbandment of NSFAS. It is seen as an improvement on NSFAS not a total redesign of how students should be funded. The students are not homogenous group themselves. So, most of engagements were with students that are part of political formations such as YCL, SASCO, and DASU. Political parties, including in the students politic, also played important roles. We engage mainly with students units of political parties (though they do not represent the whole student body), because there are so many elected SRCs out there we cannot engage with because of their numbers. So, that is one of the challenges that we have because you cant always see the students for them to understanding what the model is.

There is also concern around the participation of the private sector. How the private sector will be monitored to make sure that they don't use students' funding to generate super profit.

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JUDGE HEHER: May I just ask with regards to the private sector involvement. You talk about banks, what about the financial institutions more broadly and the public investment corporation?

MR. NXASANA : Private sector broadly would be represented mainly by BUSA- Business Unity SA which has been engaged on a number of occasions. They have asked for extension of the public commentary process so that they could make more inputs.

JUDGE HEHER: I am sorry that wasn't I meant quite clearly. I am thinking beyond the banks to more broad range of financial institutions.

MR. NXASANA : I was coming to that chair. So, your BUSA which has some financial organisations- the two organised financial services organisations that intricately involved in supporting ISFAP both in money and kind are the Banking Association of South Africa and the Association for Savings and Investment which include investment houses, insurance companies. Those are the chief supporter of the model including not just the model we have seconded people at ISFAP that moved to Cape Town, those come from banking sector through the banking association or Association of savings and investment which actually covers more than 90% of the financial services companies. So, they are very involved in the process, but their involvement is looked upon with suspicion. More than 70% of the 128 million funding comes from them.

ADV. M. LEKOANE: Is there an agreement with the banking sector? I just want to check the sustainability of the relationship. What commits them to this?

MR. NXASANA : At this stage of the process, there is nothing that commits them. The participation is voluntary.

JUDGE HEHER: It is just a co-operation of common end for public good.

MR. NXASANA : Yes.

ADV. M. LEKOANE: Is that sustainable? Could it be a model that can be relied on by a country?

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MR. NXASANA : Well, there is always an instrument of legislation to get people to do things.

ADV. M. LEKOANE: So tying them with legislation is an option you would consider?

MR. NXASANA : We have not looked at legislation to compel any party, other than that government has legislative duties to do certain things. There are pieces of legislations that can facilitate or force people to do which we have looked at as part of recommendations but we have not look at to force stakeholders.

JUDGE HEHER: It has been indicated by Minister of Science and Technology yesterday using legislation to force social responsibility is not a good option.

MR. NXASANA : We have made a lot of progress using policies not really legislation. If you take the BBBE codes, there are a lot of penalties that are in that codes, even though it is voluntary. It has more teeth, even though it doesn't force companies to do certain things, but once they have decided to do certain things, it provides some frameworks that include penalties that can be imposed if people don't do the right or abuse the system. So, there are certain protections, but we agree with the statement that has been made.

And what we have seen engaging with the media is they react if we put out certain statements. There have been some opinions written by journalists and editors. Media is very different and broad these days, such as the traditional media and social media. So, in the traditional media, there are stances and opinions that are broadly supportive or otherwise neutral. In the social media, it depends on you follow, the opinion makers. If follow students or students community, the comments on the social media will be negative, if you follow, institutions as in universities the comments will be positive or neutral. If you follow the private sector, opinion makers, they will be positive or neutral.

ADV. M. LEKOANE: On the position of the PPP, was it the way the message was conveyed to the public or were they questioning the actual nature of the PPP?

MR. NXASANA : I think we have to accept that we have trust deficit in this country by society generally against the private sector and against the profit motive that drives the private sector. If you analyse the comments that are negative about the PPP,

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they will range from can we really trust the private sector? Can we expect the private sector to play a role in a social good?

To ideological issue, because there are just people in the civil society that just believe government must not be absolved from the responsibility of providing social good. People from ideological standpoint who disagree with the stance the country has taken to have a mixed economy. They will begin to say the state must do this; must levy taxes. It is its job. Don't mess around and get involved in this messy PPP arrangement. So, it ranges from ideological stance to the mistrust of private sector.

We've had proactive stance with the media when we engage them and we've seen the increase in coverage. We engage with students including social media. And we will continue to do that to disseminate information. There are some misunderstandings where people think it is another loans scheme where it is a grants scheme that provides loan to fill the gaps where the country doesn't have adequate funding with check and balances to make sure that the private sector that makes provision for the loans does not end up generating super profit.

These are some of themes that have emerged such as; "this NSFAS 2.0; this another debt trap for students; and SARS will become equivalent of loan shark because of the collection that would be done through SARS. That this is a solution that will provide possible conflict and will not end the conflict of fees must fall movement."

In terms of the public process, the first phase which closed in January, we had 17 responses in the original comment period. Out of those 17, 4 were unsolicited submissions from service providers, they want to provide services. One was request for examination results from a student and another was a request for funding from another student. Just to organisations that provides funding includes SITA, NSFAS, NRF and those people which include MR. NXASANA which is here today, who actually made two submissions. Other institutions who provided comments would include Stellenbosch, BUSA, Eastern Cape Education Department and DUT etc. Stellenbosch University supported the pilot and was motivating to be part of the pilot. Western Cape supported the report and NSFAS as I have indicated provided a 66 page commentary document. We had individual submissions from Mr. Khaya and

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Mr. Dylan, and representations from NRF and UCT. There were critical comments but generally supportive.

Just to the second question whether there had been any drawback to the implementation of the pilot. The biggest drawback has been the NSFAS issue particularly as it relates to its migration to the student finance model. There has been confused communication between NSFAS and ISFAP. And people don't know which is which. The students' unrest particularly at the TVET colleges has raised this as an issue, but we are still yet to properly engage with the students of the TVET colleges.

There have been some delays in the processes, part of which is the delay in the exams in some of the institutions and the release of results. But we are now finalising the process of which students will be funded. We should conclude this by next month.

On the legal side, some of the challenges are that before we can extend loans, we need to be registered with the financial services board as well as with the National Credit Regulator. The process takes long and requires a lot of details to be submitted which in a number of cases; we can't submit all of the details because we are running a pilot. We don't have it because decisions have not been made yet. But using the Thuthuka educational placement funds, we have made the application and it is in process.

As I have indicated, the loans will be offered later because they are meant to top up students later in their years of studies.

JUDGE HEHER: Why do you want to limit to 600,000? If you got loan money, why shouldn't you loan money to anyone who needs it?

MR. NXASANA : It is because the loan terms are going to be favourable not to your normal commercial terms.

JUDGE HEHER: These are loans for people who can't afford to go to university. So, why should there be any difference?



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MR. NXASANA : That is true, however there are certain legislative and regulatory changes that we are proposing that will make it possible for any lender to provide loan funding to any student. At the moment, a student loan which is not supported by collateral is regarded as an unsecured loan. And if you are funding student, even if it is a developmental loans from the bank regulation standpoint, there is a huge capital penalty including excess capital which any lender has to maintain to fund students. These regulations were tightened after the global financial crisis. Part of it, in our context, is to try and limit indebtedness. So, banks would have to maintain a high capital if there was no security behind students' loans. That is why any bank today in this country requires collateral for any student loan offered because such unsecured is highly risk weighted.

JUDGE HEHER: That is easily understandable, but in your case, you are going to find legal basis for unsecured loans?

MR. NXASANA : Yes. That is why we've asked for an amendment in our recommendations to both National Credit Act and the banks regulations that determine the amount of funding and capital that must be available or reserved by any credit lender for the purpose of extending unsecured loans especially to students.

JUDGE HEHER: Why couldn't you push that up to say, 700,000 without prejudice to anybody to ensure anybody who needs the access can get it?

MR. NXASANA : We could have pushed up to 700,000. I guess maybe what was presented to us especially after the announcement of the 600,000 cap sort of in a way (cuts).

JUDGE HEHER: Because next year today' 600,000 is going to be 500,000.

MR. NXASANA : True. There is nothing regulated about the 600,000. It was just because there was already a peg from the Minister's announcement last year about 600,000. Otherwise, this could be extended beyond 600,000. But once the legislative amendments has been made, this will then open the tap for students funding regardless of whether a student comes from poor, working class or rich background. This is just in a phase before the regulatory or legislative changes are made.

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ADV. M. LEKOANE: I just wanted to check with regards to the funds that have been raised. Where do they sit? Is there a special account?

MR. NXASANA: Yes. There is a specific account for ISFAP pilot and it is managed by the South African Institute of Chartered Accountants, a dedicated account. We have them memorandum of incorporation which has been amended and the board of Thuthuka has been changed and we have more representation on that board. There is a while government and reporting structures that are on it. One of the things we are testing in the pilot is the ability to respond to funder's restrictions. Some funders have specific restrictions; we want to sponsor only black.

ADV. M. LEKOANE: And how do you treat the interests on that?

MR. NXASANA: The interests received on the money received?

ADV. M. LEKOANE: The money received and the interests on it.

MR. NXASANA: The interests that has been generated is kept to defray administrative costs because the cost of running the pilot is more than R20 million. In future, assuming the ISFAP model is approved; part of the interests will compensate those in purse of other administration of funding students. It depends on which port of funding you earned the interests either from grants or loans.

ADV. M. LEKOANE: Maybe the sponsor will state how they want that interests to be treated.

MR. NXASANA: Yes.

ADV. M. LEKOANE: I was thinking it will potentially grow though.

MR. NXASANA: That is why in the platform that we are building you've got to cater for different funder's requirements.

As far as the TVET colleges are concerned, we've had a number of discussions. There is a whole transformation and reforms of the TVET sector and Mr. Patel here, is a lot more competent to talk about that than I am. We selected one TVET college but because of the challenges with changes that are taking place, the Ministerial Task Team agreed that we delay the implementation of the pilot in the TVET colleges until some of these issues have been addressed.

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Amendments that have been made to ISFAP model. We continue to refine the model. For instance, out of the public comments we have received such as expected family contributions. Initially, if you look at the report, the expected family contribution was going to kick in at much lower household income. We put that at 300,000 because of some of the recommendations that came in. The process to obtain household means, we have tried to come with a system which is efficient, less inclusive and less demeaning to determine the household means. And that came out of a lot of recommendations that were made.

For funder requirements, we made sure we create flexibility in the platform to be able to cater for that; including how you may represent donors by creating a donor committee. Some of these came out from some of the donors who used to donate money to NSFAS.

With the social impact bundle, we will be looking at raising the additional funding to add to DHET's capacity building funding with main objective being to reduce drop-out rate and improve success rate for student.

There is a lot of detailed works that we are incorporating into the design based on the recommendations we have received. The social repayment of IFSAP, especially community service is one of the recommendations, and that requires systems. So, if students are going to play a role not in repaying loans, but playing roles in community services, you need system to identify and track those students and match them to opportunities. We feel this recommendation is important because you are trying to build citizenry and community responsibility. And this should apply to all students including those that are unfounded and from rich homes. The skills in the local communities and municipalities will benefit the students themselves and also the country. We are still looking at how this can be incorporated.

Have there been proposals to amend ISFAP model? Yes, there have been proposals. We had an external finance company saying because of the negativity that we have been associated with, with the granting of loans and there have been numbers of proposals. Some of them say; leave this to the banks or any credit lenders, they do the loans. The ISFAP only does grants. So, we have those recommendations which are under considerations. For instance, once legislative and regulatory changes have been made around students' loans funding, it is possible to

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actually have students' loans funding which is which much more better than the current collateralised students loan funding because such loans products at the banks have not changed in the last 50 years. It has become more stringent in terms of required collateral. So, once the changes have been made, it could pave the way for a lot of players to make students loans available without them being just run by the FSPs. I think there are a lot of merits on that discussion around the negativity that has been raised about this being NSFAS 2.0. That you clearly delineate which portion is grant funding. A student gets grant funding here and goes to another door to sign a loan.

Some of the comments have had to do with- how do you cap the profit that is generated by the private sector? Regulations have been proposed and we've incorporated that into the proposal, in terms of the regulations that could be passed by the minister to limit the profit that are generated out of students' loans funding.

**The roles that will be performed by NSFAS versus that of ISFAP (Bank..).** So, there are still a number of variations on a continuum in terms of what will be procured by NSFAS in all of these. Also, broadening the scope, not just focusing on the occupations and higher demands, because this model is going to fund all students even though there is focus on occupations and higher demands, but it will fund all poor and working class students.

**The Whitepaper requirements.** There is a white paper requirement for post-school and higher education and training. That requires that we make sure there are no conflicts with what the government is doing there. We've considered those.

The decision-making process in terms of the institutions especially as far as enrolments and registration is concerned. We work within the context of government's enrolment plans.

Grant issue is a constant issue, the concern that private sector will benefit from the funding, and that this is not free even for the working class and the missing middle has also been an issue. So, base on all these public comments and those that will come out of here, we continue in this interactive process to see which one can be incorporated. Thank you very much.

ADV K. PILAY: Thank you chair.

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JUDGE HEHER: Thank you.

ADV K. PILAY: Mr. Sithole, any questions from you?

ADV. M. LEKOANE: Please just before Mr. Sithole comes in, where you were listing what has been raised. I see with Liberty, Oppeinhimers, Discovery and others that the figures are not mentioned. Are they part of the 138? Is it undisclosed? Is it pre-agreement?

MR. NXASANA: No, they are not part of the 138. The 138 numbers tally with the numbers that I have indicated. They have indicated support and pledges, we will only put an amount in, once we have the money. We have not received the money from those yet.

MR. SITHOLE: Thank you Chair for the opportunity to pose these questions. Just in relation to the public comment process and you could see from the screen that only 10 responses were received. I just want to find out from DHET about the wisdom of initiating public comment process on the 15<sup>th</sup> of December, when students were not on capuses and closing on the 31<sup>st</sup> of January, just before they return? This idea of tapping into public funds requires us to do public consultation. And that the primary affected persons, which is the students could not participate is what a lot of us cannot understand and you could see the results.

JUDGE HEHER: Let him deal with that and try not to make speeches. Try to make it few questions at a time. I am sure Mr. Nxasana understood

MR. SITHOLE: That's the first part time. The second part is the...

JUDGE HEHER: Save the second part for when the first part is answered.

DR. PARKER: Thank you chair. One of the processes of publishing a gazette is that it will be published soon after approval\_or publication as soon as possible. I think that cabinet approve that we should publish the gazette in November and there had to be submission to the Minister and he signs on it. And we had committed to the system as a whole to publish as soon as possible. Unfortunately, it ended up being published in December. We did extend the period initially because normally the initial period is 21 days after the publication of the gazette. So, we made it for the end of January and we sent it out via email to all affected and interested parties including

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the students through their SRCs. What we recognise in getting this back was that there wasn't sufficient time and that we need to extend the process, which has now being extended to the end of April. There was no sense in which we should rush or we shouldn't get as many comments as possible.

MR. SITHOLE: Thank you Dr. Parker. In relation to that, the extension of the time is still problematic.

DR. PARKER: I think the whole issue of consultation is much more than just initial ministerial task team. It is a process of progressive elaboration as the comments come in terms of developing other model and the way in which it should or could be implemented. And so, as we go through the workshop processes, these questions and these ideas can be discussed in details with various parties. Obviously, students are one of the critical stakeholders that need to be consulted.

MR. SITHOLE: Thank you Dr. Parker. The last part is that on that. You mentioned that the cost of printing a gazette is quite expensive. So, what you end up with is that students have an interface of 20 pages, which is a gazette summary and you are asking them to give feedbacks on 150 pages they have never seen. The reality is that you can possibly cover 150 pages conversation with students to enable them to proactively engage in it. So, do you think that those particular engagements that you having now are actually enabling students to meaningfully participate in this process?

DR. PARKER: Perhaps I could just answer one part of it. I think everybody has access to full document by go online and download the document. And they can have it electronically if they request us to print it out and send it to them, we can do that too. I don't think there is any question that the full document has not been made accessible all stakeholders. In terms of the process of interaction, that can be answered by the MTT.

MR. NXASANA: Thank you. The process that we have embarked to engage the document and recommendations is to conduct a road show countrywide. We don't assume all students have access to the internet, so there is the option of printing copies of the documents and the outcomes of different engagement and make it available. Also, the process of road show is on-going and we have even had request

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to come back in some places we've already engaged with. We continue to listen to recommendations, not bound by the feasibility study only or the fixed date in April. We try to engage in as many consultations as we can do.

MR. SITHOLE: Thank you for that. I would like to look at the model itself. If you go to the slide with the metrics and numbers, I like to interrogate the idea that says a student whose family earns an income of R75, 000 can be granted a loan of R73, 500 in the fourth year because that works out to be 98% of the family income and the very definition of indebtedness actually means that that one would not happen. The reason that we know why banks don't offer loans to students is because they don't have collateral. It is unclear to me why a student can't get a loan for three years and in the fourth year, he is offered a loan that equates to 98% of the family income. Could you clarify how you work that out?

MR. NXASANA: The repayment ability in this particular case is not so much based on the family income. It is based on the fact that the student is closer to graduation. He just need extra year of partial or full funding to complete their degree and will be able to find employment and contribute to economic activities. The repayment is based on the ability of the student to earn income. Hence, the income contingency you are seen there.

MR. SITHOLE: The issue is if you thought deserves to be offered a loan, why did you offer it in the first year? Your thinking is that the person is closer to graduation which seems to me that your fear is that person may not graduate and that is what the banks also look at. What you've done here by your admission, is that in the first three years, there is risk of drop out. So, you've outsourced those risks to the State and the banks can step in knowing the student is closer to graduation and the risk is no minimal. Now, how does this tie in with the idea of developmental credit?

MR. NXASANA: Chair, if I may, there are a number of considerations here. If you look at the loans that will be provided upfront especially the category of R75-100,000 family income; it would seem from NSFAS experience, the risks of drop-out and recovery are much higher. However, it is incorrect to assume that it is only the state that provides grant funding. We have shown that the grant funding will not only come from the public sector or the state, but also from the private sector. One of the major sources of private sector funding will be the encouragement to participate and

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contribute to one of the BBBE codes into funding students. And that funding we estimate will come to about R8 billion in a year and it may double the number if the DTI's recommendations are gazetted and get incorporated into the BBBE Act. One other thing we are planning to do is to build a database of all private funders and scholarships. But the idea of a loan is not premised on family income, but the ability of earning more income from the students themselves.

MR. SITHOLE: I like to focus on what aspect you mentioned which the risk is sharing. You said the state and private sector are able to offer grants, but that cannot be because those private entities you mentioned will be able to claim BEEE points and those grants will be tax-deductible. So, if you compare the state to private entity offering R100 each, to the state, the grants is the true cost of a 100, but to a private entity, there is not only the tax benefit of R28 which means the true cost is down to 72, there is also possibility of BEE points. So, the private sector grant and the government are not the same thing in terms of its true values. What do you say to that?

MR. NXASANA: Grants are grants. This question goes back to the responsibility of the state to offer social good. We are saying here that we understand in that in the context of constraints for funding that we have, the state is not able at the moment, if you just take the current funding model, to offer grants in the context of the demand in the necessity of offering free higher education especially to the poor. How do you make it possible for the private sector to increase the amount of funding that goes into scholarships and grants? You have to have some incentives to enable that to happen. And there is risk sharing there, the burden does not sit on government alone. Initially, the proposal was that government must provide collateral and the treasury made it very clear that we must take that out of our idea. But in the grant component, it is about significantly the amount of grant funding which is available to support the poor and working class students. Given where we are, we have to come the conclusion that there has got to be some incentives which does not cost the state anything. Getting BEEE points benefits those companies through procurement, when they do business with another company, so it is not a cost on the state. The purpose of BBBE is to address issue of equity in the country and therefore address radical economic transformation in significant and material ways to allow more economic participants in the mainstream.



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MR. SITHOLE: Ok, thank you. I think you and I will remain in disagreement when you say it doesn't cost the state anything. To the next issue, I am still unclear whether this loan is being offered to a student or family. Why that is important is that if you look at the National Credit Act, the issue of indebtedness come to the equation. If this model gets adopted, a family should be able to look at the model and say to student will send you to the university and when you get to the fourth year, we will take a loan, but if that family has other commitment, how does this change the metrics? The National Credit Act says you have to do that assessment and check if it makes sense to advance a loan of R73,000 to a family whose annual income is only 75,000.

MR. NXASANA: The only consideration for the household income is to determine whether the student is poor, working class background or rich. The determination of a loan especially development loan is especially in the context of the National Credit Act, using development finance pedigree licensing in the NCR, is looking the student not the household for repayment. That is why the structure of the grant versus loan for those students that are getting loans has been back-ended. (cuts). Let us take NSFAS at the moment. NSFAS doesn't look at parents or household for repayment. It is about putting responsibility for studying not on the parents; students are not doing for their parents. This many not necessarily apply to rich students but to poor students who need to be supported. We can't expect the Family in the category to have wherewithal to pay back the loans. However, if you fund these students and they are able to graduate, their fortunes and therefore that of their families change and they are able to repay the loans.

MR. SITHOLE: There was also something you said that these loans are not forced on the students, but they are optional. I am not clear on how a student who get told for three years that you will be fully funded and then get told in the fourth year, that there is a loan but you don't have to take it. Assuming the student doesn't want to take the loan, how do you imagine that conversation goes? Once, you have trapped a student in to the system for three years, of course they are going to take the loans, is it really sensible then to say these loans are optional when they are not optional for a person who says I have got two more semesters left? It is not sensible to socialise the discussion to say you can opt out of the loan, when the reality is they can't.

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MR. NXASANA: Students understand funding more than we give them credit for especially when they are in their senior years. The optionality of the loans says the students are not forced to come to ISFAP or to its Special Purpose Vehicle instrument for a loan. They can go anywhere to other credit lenders because at the point the possibility of succeeding in graduating and earning income has increased.

MR. SITHOLE: Dr. Nxasana, I really have to disagree with that. You can't say students can go to any lender, say you have got 75,000 annual income and zero collateral. That just doesn't happen unless you are going to lobby for changes in the way banks in South Africa currently deals with this issue. I think it is incorrect to say that on this platform because you know no bank in South Africa will offer such a thing. Even if they did, it will still be unsecured loan and the family has zero collateral. And according to the National Credit Act, the interests on such loan could go up to 24%.

ADV. G. ALY: Sorry Mr. Nxasana. Perhaps Mr. Sithole, if you listen to what Mr. Nxasana has said about amendment to legislations then you will perhaps understand each other. He was indicating that there will need to be amendments to the NCR and to the banking Act in terms of loaning and so forth. Your response indicates the NCR and the banking Act as they are presently which does not tie in with what Mr. Nxasana was saying. I just get perhaps there is miscommunication.

MR. SITHOLE: The next question is about the interest rate regime. The problem is that we believe that students can be able to go on these alternative streams, how do we protect them against some types of extortions? I do think we need to have engagement on how regulate the lending environment to say that if a person want to participate in funding students on this model, then this is the interest rate they must sign up for.

MR. NXASANA: Chair, interests rates are there to achieve a number of objectives; to take care of the credit risk the banks or lenders take for lending. Secondly, it is to compensate the providers of capital. That's why in addressing the issue, there is understanding that you are dealing with students who are from poor background, recommendations have been made around things like interests rates, on collateral, around tenure still within the ambit of the NCR, but amending the banking regulation and legislation to allow for more funding to become available in terms of loans to

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poor and working class students. so, there will certainly be a regulatory regime which protects the interest of students to ensure we don't end up with another credit bubble which is in students' loans and over indebtedness. Under the development finance licensing under the NCR Act, it should be possible.

MR. SITHOLE: Just to end off. I think the reality is that it really still sounds like a loan system and I think if more people are about to engage with you as I have done, they might be able to understand what is it that you are putting across. Just as a final comment, I do suspect that this idea of, firstly, structuring the model this way where grants are at first year and getting SARS to do the collection, simply means you have eliminated all the credit risks from the banks. And unfortunately, you are still not in a position to articulate how the elimination of credit risks for the banks will translate into lower interest rates for the students. I am sure you know the implications of that.

Another thing is that as person on the side, what you find as frustration for you going forward is that all people have a limited understanding how your interaction works. Even the people that have submitted public comments, they don't get feedback from your team. So, you don't know whether your idea has been considered. So, you then find out that people will lose faith in the whole process. I do suspect that you and your team, in spite of what you are presenting here, have superseded us and even this particular commission because you have committed to running a pilot project and doing a feasibility study. So, we are participating because it is our constitutional duty, but we do feel that we have been completely undermined by the ways your processes have run. And I suppose I can only wish you the best going forward. Thank you for your time.

MR. NXASANA: Thank you Chair. Certainly, the communication process and maybe the clarifications of some of the issues, which is a process that is going to continue, will help to clarify a lot of misconceptions, because fielding these questions here indicates that they have been a number of misconceptions. Let's just start with loans. As I have mentioned, the loans will not be offered by the banks. The loans will be offered by the special purpose vehicle on the basis of regulations that understand the fundamentals of funding students. Of course, if the regulations in terms of the banking Act and National Credit Act are changed, it means more funding in terms of loans can be made available by any credit lender. Credit lenders include financial

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development institutions. Let's just take (ITHALA). Ithala which is a credit lender can actually now under the new regulatory framework which will be promulgated will be able to give more students loans. Ithala is a state-owned bank. If the NEF, which is now under the IDC, the National Empowerment Funds, say as part of our empowerment, we now extend loans to students; they will be able to do that. Banks, of course, will be able to extend loans. So, I think there have been a lot of misconceptions. The banks will not offer the loans and so will not make money from the funding. The loans will be made available out of the funds that have been pooled funds that may come from financial institutions including banks. Anyone who puts money into the funds can even be you and I. We have various financial instruments; SPV, bonds. So you and I can buy a student funding bond. If you invest in loans investment products, you get paid interests by ISFAP's SPV. I think that is a very important which I guess has been missed in the whole discussion.

So, we are going to improve our communication because it is clear based on our students' engagement, there are a lot of misconceptions that need to be clarified.

DR. PARKER: Just to also indicate that one of the things that drive us is affordable higher education for all and funding for the poor and working class specifically; that is not onerous. Therefore, we are talking about affordable loan- a developmental loan- and what get paid back by individual student needs to be a reasonable amount in terms of loans burden to them. The second issue in terms of the public comments; what happens is we analyse all the comments. There is a document that is put together that identifies who provides what comments and the analysis of those comments and what aspects can be taken forward in terms of changing the ways in which we are thinking about these things; and which things we may not be able to take forward and the reasons for that. All of that information will also go through a process when finally we come to an agreement that we want to put these things through and we need to finalise the process. The document will be sent to the council on higher education for its advice to the Minister. We are also in the process of doing this on consultations. The team is taking notes as far as documenting what the public are saying. Eventually, when the model comes out those issues will be highlighted so that individuals can recognise where they have influenced the process.

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JUDGE HEHER: Anybody else?

ADV K. PILAY: Thank you chair, we have no further questions.

JUDGE HEHER: Mr. Nxasana?

ADV. K. PILAY: I just want to make a comment about... (cuts).

JUDGE HEHER: What do you want to comment on?

ADV. K. PILAY: Just with regard to your statement about your sole purpose to create an affordable education. I think if that was the case, you will be dealing with chronic underfunding of the entire system as well as there is a huge disparity of the cost of higher education across the system. So, should it be considered that ISFAP as a pilot process does not work, those students are locked in for 4 years of the duration of their degrees. But there is a bigger population outside of that population that is chronically underfunded. So, I think that point becomes mute when you look at the rest of the population.

JUDGE HEHER: Thank you very much.

DR. PARKER: Perhaps, I could just indicate, yes, that we are dealing with the issue in numerous ways and we will be guided by the outcomes of this process. But as I indicated from beginning, there is a task team that has been set up by the Council on Higher Education very specifically to look at the issues of regulations of fees in higher education and that is driven by the idea that we need to have fee regulation as we go forward. Secondly, in terms of funding of the system, yes, we have been working tirelessly at finding additional funding for the system. But given the fiscal constraints and the needs of education across the entire educational sector- ECD, basic education, TVET and university education, there is clearly a huge challenge with respect to funding the system. And that is something that to be dealt with at a much higher level. It is not something that the DHET could do on its own.

ADV. M. LEKOANE: Just the last one as you were saying the recommendation for the commission. I suspect that the commission will outlive the pilot programme. How do we get the result of that for the purpose of what would have been achieved by the pilot programme?

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DR. PARKER: We have agreed that we will provide the information of whatever comes out of the works that is being done by the ministerial task team to the commission's team so that any of the information could be utilised by the commission.

JUDGE HEHER: Mr. Nxasana yesterday when I described her presentation as seductive, Mr Pandor spanked me. So, I will in fact thank you for your presentation and we will see you tomorrow. Wouldn't we? Or is that not the case?

ADV K. PILAY: Chair, we would be excusing Mr. Nxasana for tomorrow, but the remaining members of the DHET team would be here.

JUDGE HEHER: Thank you so much indeed and to the rest of your team.

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**SET 8 – HEARING 1 – DAY 8**

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