

REPUBLIC OF SOUTH AFRICA

DIVISION OF REVENUE BILL

(As introduced in the National Assembly as a section 76(1) Bill)

(MINISTER OF FINANCE)

[B 19—99]

REPUBLIEK VAN SUID-AFRIKA

WETSONTWERP OP DIE VERDELING VAN INKOMSTE

(Soos ingedien in die Nasionale Vergadering as 'n artikel 76(1)-wetsontwerp)

(MINISTER VAN FINANSIES)

[W 19—99]

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BILL

To provide for the equitable division of revenue raised nationally among the national, provincial and local spheres of government for the 1999/2000 financial year; and to provide for matters connected therewith.

PREAMBLE

WHEREAS section 214 (1) of the Constitution requires an Act of Parliament to provide for—

- (a) the equitable division of revenue raised nationally among the national, provincial and local spheres of government;
- (b) the determination of each province's equitable share of the provincial share of that revenue; and
- (c) any other allocations to provinces, local government or municipalities from the national government's share of that revenue, and any conditions on which those allocations may be made.

BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:—

Definitions

1. In this Act, unless the context requires otherwise—

- (i) “Bargaining Council” means the Public Service Coordinating Bargaining Council referred to in section 35 of the Labour Relations Act, 1995 (Act No. 66 of 1995); (i) 5
- (ii) “Budget Council” means the council established by section 2 of the Intergovernmental Fiscal Relations Act, 1997 (Act No. 97 of 1997); (iii)
- (iii) “Budget Forum” means the Local Government Budget Forum established by section 5 of the Intergovernmental Fiscal Relations Act, 1997 (Act No. 97 of 1997); (ii) 10
- (iv) “department” means a national department referred to in section 7(2) of the Public Service Act, 1994 (Proclamation No. 103 of 1994); (vii)
- (v) “Director-General” means the Director-General of the Department of Finance; (viii) 15
- (vi) “head official of the provincial treasury” means the officer in charge of the provincial department charged with responsibility for financial matters in a province; (xi)
- (vii) “financial year” means the financial year of the national and provincial spheres of government commencing on 1 April 1999 and ending on 31 March 2000; (ix) 20
- (viii) “Minister” means the Minister of Finance; (xii)
- (ix) “municipality” means a local government body as defined in section 1 of the Local Government Transition Act, 1993 (Act No. 209 of 1993); (xiii)
- (x) “national accounting officer” means the head of a department or a statutory fund in the national sphere of government charged with the responsibility of accounting for all moneys received and for all payments made by the department or the fund; (xiv) 25

- (xi) “next financial year” means the financial year of the national and provincial spheres of government commencing on 1 April 2000 and ending 31 March 2001; (xvii)
- (xii) “organised local government” means an organisation recognised in terms of section 2(1) of the Organised Local Government Act, 1997 (Act No. 52 of 1997), in respect of which the Minister referred to in that Act has not exercised the power conferred on him or her by section 2(2) of that Act; (x) 5
- (xiii) “payment schedule” means a schedule setting out—
 - (a) the amount of each instalment of an equitable share or an allocation to be transferred to a province, municipality or organised local government for the financial year; 10
 - (b) the date on which each such instalment must be paid; and
 - (c) to whom each such instalment must be paid; (iv)
- (xiv) “relevant members of the provincial executive councils” means, in respect of the South African Housing Fund, the members of the executive councils of the provinces responsible for housing, in respect of the Consolidated Municipal Infrastructure Programme, the members of the executive councils of the provinces responsible for that programme and in respect of the rehabilitation of hospitals, the members of the executive councils of the provinces responsible for health; (v) 15 20
- (xv) “relevant Minister” means, in respect of the South African Housing Fund, the Minister responsible for housing, and, in respect of the Consolidated Municipal Infrastructure Programme, the Minister responsible for local government and in respect of the rehabilitation of hospitals, Umtata Regional Hospital and Durban Academic Hospital, the Minister responsible for Health; (vi) 25
- (xvi) “R293 town” means a township within the meaning of Proclamation No. R293 of 1962 or any other similar town approved by the Minister responsible for local government; (xv)
- (xvii) “SALGA” means the organisation recognised in terms of section 2(1)(a) of the Organised Local Government Act, 1997 (Act No. 52 of 1997). (xvi) 30

PART I

EQUITABLE SHARE ALLOCATION

Equitable division of revenue raised nationally amongst spheres of government

2. Anticipated revenue raised nationally in respect of the financial year is hereby divided among the national, provincial and local spheres of government for their equitable share as set out in Schedule 1. 35

Equitable division of provincial share amongst provinces

3. (1) Each province’s equitable share of the provincial share of anticipated revenue raised nationally in respect of the financial year is set out in Schedule 2.

(2) Each province’s equitable share of the provincial share of anticipated revenue raised nationally in respect of the financial year must be transferred to the province in weekly instalments in accordance with a payment schedule determined by the Director-General after consultation with the head officials of the provincial treasuries. 40

(3) Despite subsection (2), the Director-General may, on conditions determined by the Minister, advance funds to a province in respect of its equitable share set out in Schedule 2 which have not yet fallen due for transfer in terms of the payment schedule referred to in subsection (2) in respect of that province. 45

(4) Such advances must be set off against transfers to the province which would otherwise become due in terms of that payment schedule.

Equitable share for local government 50

4. (1) The local sphere of government’s equitable share of anticipated revenue raised nationally set out in Schedule 1 must comprise—

- (a) R447 000 000 in respect of R293 towns;

- (b) R1 226 000 000 in respect of organised local government and municipalities other than R293 towns.
- (2) The national accounting officer responsible for local government must determine—
- (a) the share of each R293 town in respect of the allocation mentioned in subsection (1)(a); and
 - (b) the share of organised local government and municipalities other than R293 towns in respect of the allocation mentioned in subsection (1)(b).
- (3) The shares mentioned in subsection (2) must be determined in accordance with criteria approved by the Director-General taking account of any recommendations by SALGA.
- (4) The allocation to each body referred to in subsection (2) must be transferred to the body concerned in monthly or quarterly instalments in accordance with a payment schedule—
- (a) determined by the national accounting officer responsible for local government; and
 - (b) which complies with any directions given by the Director-General.
- (5) The national accounting officer responsible for local government may amend a payment schedule contemplated in this section.

Shortfalls and excess revenue 20

5. (1) If actual revenue raised nationally in respect of the financial year falls short of the anticipated revenue set out in Schedule 1, the national sphere of government bears the shortfall.
- (2) If actual revenue raised nationally in respect of the financial year is in excess of the anticipated revenue set out in Schedule 1, the excess accrues to the national sphere of government.

PART II

OTHER ALLOCATIONS

Other allocations to provinces and municipalities

6. (1) Other allocations to provinces and municipalities from the national government's share of anticipated revenue raised nationally in respect of the financial year, and the conditions on which those allocations are made, are set out in Schedule 3.
- (2) Subject to this Act, each allocation referred to in Schedule 3 and all amounts gazetted under section 14(1) must be transferred to the province or municipality concerned in accordance with a payment schedule—
- (a) prepared by the national accounting officer responsible for the allocation; and
 - (b) approved by the Director-General after consultation with the relevant head officials of the provincial treasuries.
- (3) The Director-General may, after consultation with the head official of the provincial treasury, exempt a grant from this provision.
- (4) Each payment schedule referred to in subsection (2) must provide for transfers to commence in advance of the date on which the province or municipality concerned is to begin expending funds in respect of the allocation in question, unless the province or municipality agrees to a later payment date.
- (5) The national accounting officer responsible for an allocation to a province referred to in Schedule 3, except for agency payments must pay the allocation into the province's provincial revenue fund but the Director-General may direct that such agency funds also be deposited into a provincial revenue fund.
- (6) If a province or municipality does not comply with all the conditions for an allocation in terms of Schedule 3, the national accounting officer responsible for that allocation may nevertheless transfer that allocation to the province or municipality if the national accounting officer—
- (a) is satisfied that the province or municipality is taking adequate steps to achieve compliance with the conditions in question; or

- (b) deems it necessary to do so to prevent—
 - (i) a disruption of basic services; or
 - (ii) a failure by the province or municipality concerned to comply with its statutory or contractual commitments.

(7) A national accounting officer may withhold from a province or municipality an allocation or portion of an allocation referred to in Schedule 3 (excluding the Supplementary Allocation to Provinces) or any allocation gazetted in terms of section 17 or a portion of such allocation if he or she has submitted to the Director-General and to the province or municipality concerned a written report at least 21 days before such payment is due, setting out facts evidencing failure on the part of that province or municipality to comply with the conditions on which that allocation is made and recommending the withholding of the allocation or a stated portion of it. 5 10

(8) Despite subsection (7), the Minister may direct, in writing, that such allocation or a portion of such allocation may not be withheld.

(9) A province or municipality may retain any funds (excluding agency allocations) not expended in respect of an allocation in terms of Schedule 3. 15

(10) A national accounting officer of a department referred to in Schedule 3 must submit a quarterly report in the prescribed form to the Director-General within ten days after the end of each quarter of the financial year in respect of each transfer effected or to be effected in terms of this Act. 20

R293 towns allocations

7. (1) The national accounting officer responsible for local government must, on a monthly basis—

- (a) monitor the transfer of R293 town personnel from the provinces to the municipalities; and 25
- (b) monitor the reduction of such personnel in the employ of the provinces due to any other cause.

(2) Despite section 6(2), and after having monitored the transfers and reductions contemplated in subsection (1), the national accounting officer responsible for local government may, after consultation with the Director-General— 30

- (a) reduce the amount of an allocation to a province in respect of its R293 town allocation in terms of Schedule 3 to take account of any such transfers or reductions;
- (b) transfer any allocation intended for a province in respect of its R293 town allocation to a municipality in that province to which R293 town personnel have been transferred. 35

(3) Any funds not transferred in respect of a province's R293 town allocation in terms of Schedule 3 may be allocated to R293 towns and the province for local government support purposes in that province in such proportions and on such conditions as the national accounting officer responsible for local government may determine. 40

Health conditional allocations

8. The allocations to provinces set out in Schedule 3 in respect of the items concerning health professional training and research, and central hospital services, respectively, must be transferred to the provinces in accordance with a payment schedule determined by the Director-General after consultation with— 45

- (a) the national accounting officer for the vote in question; and
- (b) the head officials of the provincial treasuries.

Supplementary allocation to provinces

9. (1) Subject to subsection (2), the allocations to provinces set out in Schedule 3 in respect of the item "Supplementary Allocation to Provinces" must be transferred to the provinces in accordance with a payment schedule determined by the Director-General after consultation with the head officials of the provincial treasuries concerned. 50

(2) Transfers to a province in respect of the allocation referred to in subsection (1) must commence on the later of—

- (a) the last day of the first quarter of the financial year; or
- (b) 14 days after the province informs the Director-General that it has enacted an Appropriation Act for the financial year.

(3) Despite subsections (1) and (2), the Director-General may withhold from a province the transfer of an allocation or portion of it referred to in this section if the province has failed to comply with the conditions on which that allocation is made.

Improvements in conditions of service

10. (1) Subject to subsection (2), the allocations to provinces set out in Schedule 3 in respect of the item “improvement of conditions of service”, must be transferred to the provinces in accordance with a payment schedule determined by the Director-General after consulting—

- (a) the national accounting officer responsible for the public service; and
- (b) the head officials of the provincial treasuries.

(2) Transfers to a province in respect of the allocation referred to in subsection (1) must commence—

- (a) in the calendar month in which the improvements take effect; and
- (b) in advance of the date on which the province is to begin expending funds in respect of that allocation.

(3) Despite subsection (1), the allocation to provinces in respect of improvements to conditions of service for R293 town personnel must be transferred to the national accounting officer responsible for local government, who must transfer that allocation to the provinces in accordance with a payment schedule determined by him or her, but he or she may, after taking account of the matters referred to in section 7(1)—

- (a) reduce the amount of any such allocation to take account of any transfers or reductions contemplated in section 7(1);
- (b) transfer any such allocation to a municipality in that province to which R293 town personnel have been transferred as contemplated in section 7(1)(a).

Allocations in respect of SA Housing Fund, Consolidated Municipal Infrastructure Programme and rehabilitation of hospitals

11. (1) In respect of the items “SA Housing Fund”, “Consolidated Municipal Infrastructure Programme” and “Rehabilitation of Hospitals”, respectively, the Director-General may permit such national accounting officer to transfer funds in respect of such allocation on receipt of approved documentation regarding expenditure and work completed.

(2) The relevant Minister may, on written notice to the Minister and the head officials of the provincial treasuries concerned, adjust any allocation or payment schedule in respect of an allocation contemplated in this section—

- (a) in accordance with generally applicable performance criteria determined by the relevant Minister after consultation with the relevant members of the provincial executive councils; or
- (b) in accordance with an agreement between the relevant Minister and the relevant members of the provincial executive councils.

(3) If an allocation is adjusted as is contemplated in subsection (2), the national accounting officer concerned must, subject to subsection (1), submit an adjusted payment schedule to the Director-General for approval.

PART III

GENERAL

Amendment of payment schedule

12. (1) The Director-General may amend any payment schedule in the interests of improved debt and cash flow management, after consulting— 5
- (a) the person or persons whom the Director-General was required to consult before determining that payment schedule; or
 - (b) the national accounting officer who is responsible for that payment schedule, as the case may be.
- (2) The Director-General may amend the transfer mechanism of any funds as listed in Schedule 3 or gazetted, after consultation with the relevant provincial treasuries. 10

Transfers made in error

13. (1) A transfer made to a province in error must be regarded as not having been received by the provincial government for the purposes of its Revenue Fund and must be recovered without delay by the national accounting officer responsible for the transfer. 15
- (2) The Director-General may direct that such recovery be effected by set-off against transfers to the province which would otherwise become due in accordance with the payment schedule contemplated in section 3(2) or other transfers to that province.
- (3) Money transferred to a municipality in error must be recovered without delay by the national accounting officer responsible for the transfer. 20
- (4) The national accounting officer responsible for local government may direct that such recovery be effected by set-off against transfers to the municipality in question which would otherwise become due in accordance with a payment schedule.

Transfers not listed under Schedule 3

14. (1) A national accounting officer may effect a transfer to a province or municipality during the financial year in respect of an allocation other than an allocation set out in Schedule 3 only if the Minister has published a notice in the *Gazette* approving the allocation and stating— 25
- (a) the purpose of the allocation;
 - (b) the amount of the allocation; 30
 - (c) to whom the allocation is made; and
 - (d) any conditions on which the allocation is made.
- (2) If a transfer contemplated in subsection (1) is effected to a province or municipality between 1 April 1999 and the date on which this Act takes effect—
- (a) the national accounting officer concerned must, in writing, inform the Minister of that transfer within seven days after the date on which this Act takes effect; and 35
 - (b) the Minister must without delay publish a notice in the *Gazette* containing the information set out in subsection (1).
- (3) For the purpose of subsection (1), an allocation includes any agency payment or any other payment in respect of a function administered by a province or municipality. 40
- (4) A province or municipality performing an agency service may charge a two per cent fee or an amount agreed, to cover the costs of rendering such service.

Transfers to local government with weak administrative capacity

15. (1) If the national accounting officer responsible for local government reason- 45

ably believes that a municipality is not able to administer any allocation or part of it effectively, he or she may transfer such allocation or part of it to the province or district council, if any, in which the municipality is located, after consultation with the municipality and the province or district council concerned.

(2) Any allocation or part thereof transferred to a province or a district council in terms of subsection (1) shall be dealt with by the province or district council concerned in accordance with any directions given by that national accounting officer. 5

Next financial year

16. (1) The Director-General may effect transfers to provinces and municipalities in respect of their anticipated equitable shares for the next financial year in the following manner: 10

- (a) An amount equal to a maximum of 55 per cent of the equitable share of each province set out in Schedule 2 may be transferred to each province in the first six calendar months of the next financial year in accordance with a payment schedule determined by the Director-General after consultation with the head officials of the provincial treasuries; and 15
- (b) an amount equal to a maximum of 55 per cent of the equitable share of local government set out in Schedule 1 may be transferred to municipalities designated by the national accounting officer responsible for local government, in the first six calendar months of the next financial year in accordance with a payment schedule determined by the accounting officer for local government after consultation with the Director-General. 20

(2) Amounts transferred in terms of subsection (1) must be deemed to be instalments of the equitable share allocations of the provincial and local spheres of government, respectively, for the next financial year. 25

Regulations

17. The Minister may, by notice in the *Gazette*, make regulations regarding—

- (a) anything which must or may be prescribed in terms of this Act;
- (b) any matters which it is necessary or expedient to prescribe for the effective carrying out and implementation of the provisions and objects of this Act. 30

Short title

18. This is the Division of Revenue Act, 1999.

SCHEDULE 1**Equitable division of revenue raised nationally among the three spheres of government**

Sphere	Share (R 000)
National	80 833 276
Provincial	84 201 709
Local	1 673 000

SCHEDULE 2**Determination of each province's equitable share of the provincial sphere's share of revenue raised nationally****(as a direct charge against the National Revenue Fund)**

Province	Allocation (R 000)
Eastern Cape	14 819 396
Free State	5 742 237
Gauteng	12 573 114
KwaZulu-Natal	16 706 549
Mpumalanga	5 645 686
North West	7 213 351
Northern Cape	2 083 524
Northern Province	11 143 847
Western Cape	8 274 005

SCHEDULE 3

Vote	Name of Grant	Purpose	Transfer Mechanism	Total R 000	Allocation		Conditions
					Province	R 000	
Constitutional Development (Vote 7)	(a) Consolidated Municipal Infrastructure Programme	To provide internal bulk and connector infrastructure for low income households	Agency payment	695 500	Eastern Cape Free State Gauteng KwaZulu-Natal Mpumalanga Northern Cape Northern Province North West Western Cape	110 797 48 047 146 673 143 408 42 406 16 306 60 914 52 955 73 994	1. Submission for approval by the national accounting officer responsible for local government of business plans in accordance with departmental requirements. 2. Submission to the national accounting officer responsible for local government, of a municipal council resolution approving each local government project. 3. Compliance with the provisions of the prescribed implementation agreement. 4. A maximum of 3.5 per cent of each province's allocation may be utilised by the province for programme management services.

Vote	Name of Grant	Purpose	Transfer Mechanism	Total R 000	Allocation		Conditions
					Province	R 000	
	(b) R293 town personnel conditional grant	To fund personnel costs of provinces and municipalities in respect of R293 towns	Conditional grant to be included in estimates of expenditure in provincial Main Budget	463 000	Eastern Cape Free State KwaZulu-Natal Mpumalanga Northern Province North West	70 000 55 000 144 000 30 000 102 000 62 000	1. The province must submit to the national accounting officer responsible for local government by 9 April 1999 a detailed report outlining— (a) the names of R293 personnel, their rank, reporting station and remuneration as at 31 March 1999 as listed in PERSAL and elsewhere; (b) the proposed date of transfer of each employee listed above, and the proposed municipality that will be employing him or her; (c) a list of all R293 personnel transferred to municipalities after 1 January 1999, their last month's remuneration, and the municipality to which they were transferred, in terms of the Transfer of Staff to Municipalities Act, 1998 (Act No. 17 of 1998). 2. The province must submit a monthly report not later than 10 days after the end of each month, beginning in April 1999, indicating the progress made with regard to the transfer of R293 personnel to municipalities or other functions, retrenchments, natural attrition and remaining supernumeraries in the month ended, and the expected monthly allocation required to pay R293 personnel retained in the following month.

Vote	Name of Grant	Purpose	Transfer Mechanism	Total R 000	Allocation		Conditions
					Province	R 000	
							3. The national accounting officer responsible for local government must, after receipt of the above information, determine the monthly allocation to a province or municipality for the month in question.
	(c) R293 transfer grant	To assist provinces and municipalities with the costs of transferring R293 personnel	Conditional grant in estimates of expenditure in provincial Adjustments Budget	40 000	Unallocated		1. The national accounting officer responsible for local government must determine the criteria for the allocation per province after consultation with the respective provincial heads of department responsible for local government.
	(d) Local Government Support Grant	To provide assistance to municipalities and to fund municipal structural adjustment programmes	Conditional grant in estimates of expenditure in provincial Adjustments Budget	140 000	Division between national department and province to be negotiated.		1. Submission to the national accounting officer responsible for local government of business plans for approval in accordance with departmental requirements. 2. The Minister responsible for local government must determine the division between national and provincial government after consultation with the relevant members of the provincial executive councils and SALGA. 3. The Minister responsible for local government may determine conditions to ensure that provinces transfer the funds to municipalities.

Vote	Name of Grant	Purpose	Transfer Mechanism	Total R 000	Allocation		Conditions
					Province	R 000	
Education (Vote 10)	(a) Financial Management and Quality Enhancement for Education Departments	To support financial management and quality-enhancing initiatives in school education	Conditional grant in estimates of expenditure in provincial Main Budget	111 000	Eastern Cape	20 535	1. Submission by the national accounting officer responsible for education of a business plan for approval in accordance with departmental requirements.
					Free State	6 993	
					Gauteng	13 653	
					KwaZulu-Natal	24 531	
					Mpumalanga	8 103	
					Northern Cape	2 109	
					Northern Province	17 427	
					North West	8 880	
					Western Cape	8 769	
					Unallocated		
	(b) Financial Management and Quality Enhancement for Education Departments	To support financial management and quality-enhancing initiatives in school education	Agency payment or conditional grant in estimates of expenditure in provincial Adjustments Budget	100 000			1. Submission by the national accounting officer responsible for education of a business plan for approval in accordance with departmental requirements. 2. Transfers to a province may only be made on receipt by the national accounting officer responsible for education of appropriate documentation regarding expenditure incurred.

Vote	Name of Grant	Purpose	Transfer Mechanism	Total R 000	Allocation		Conditions
					Province	R 000	
Finance (Vote 12)	(a) Supplementary Allocation to Provinces	To supplement provincial revenues to support improvements in financial management and budget practice	Conditional grant in estimates of expenditure in provincial Main Budget	2 500 000	Eastern Cape Free State Gauteng KwaZulu-Natal Mpumalanga Northern Cape Northern Province North West Western Cape	444 951 167 818 357 969 509 280 171 034 58 120 346 221 210 558 234 049	1. The province's Appropriation Act for the financial year must reflect adequate funding of health, education and welfare and must reflect adequate steps to be taken to improve the collection of own revenue. 2. The province must comply with generally recognised financial management practices, treasury norms and standards, borrowing rules and other legislation. 3. The province must show that it has complied with agreements for the R1 billion "Contingency Grant" Adjustments Allocation in the 1998/99 financial year. 4. The province must comply with agreements of the Budget Council and comply with deadlines for the budgetary process. 5. The province must supply information required by the Minister to facilitate transparency and effective monitoring of expenditure.
Health (Vote 15)	(a) Health Profession Training and Research	To support health professional training and research	Conditional grant in estimates of expenditure in provincial Main Budget	1 118 000	Eastern Cape Free State Gauteng KwaZulu-Natal Mpumalanga Northern Cape Northern Province North West Western Cape	50 310 80 496 479 622 139 750 22 360 22 360 22 360 22 360 278 382	1. Submission by 1 May 1999 to the national accounting officer responsible for health of strategic plans, in the prescribed format, for health professional training and research for the 2000/01 and 2001/02 financial years after consulting the relevant provinces and the Department of Health, and taking into account national policies and guidelines for health professional training and research.

Vote	Name of Grant	Purpose	Transfer Mechanism	Total R 000	Allocation		Conditions
					Province	R 000	
							2. Adherence to agreements with the Minister of Health regarding planning and provision of health professional training and research. 3. Compliance with reporting requirements prescribed by the national accounting officer responsible for health. 4. Ensure the availability of appropriate personnel to use these resources effectively and maintain a high standard of professional training and research.
	(b) Central Hospital Services	To support central hospital services	Conditional grant in estimates of expenditure in provincial Main Budget	3 075 000	Free State Gauteng KwaZulu-Natal Western Cape	235 698 1 481 307 403 496 954 499	1. Submission by 1 May 1999 to the accounting officer responsible for health of strategic plans, in a prescribed format, for central hospital services for the 2000/01 and 2001/02 financial years after consultation with other provinces and the Department of Health, and taking into account national policies and guidelines for central hospital services. 2. Non-discrimination in admissions and tariff policies between residents and non-residents and as against patients referred by hospitals, clinics or health personnel of other provinces. 3. Adherence to agreements with the Minister of Health regarding the planning and provision of central hospital services.

Vote	Name of Grant	Purpose	Transfer Mechanism	Total R 000	Allocation		Conditions
					Province	R 000	
							4. Compliance with reporting requirements prescribed by the accounting officer responsible for health. 5. Proper and effective management of these resources by the province.
	(c) Umtata Regional Hospital and Durban Academic Hospital	To fund construction and development of the Umtata Regional Hospital and the Durban Academic Hospital	Conditional grant in estimates of expenditure in provincial Main Budget	63 900 246 976	Eastern Cape KwaZulu-Natal		1. Payments may only be made on receipt of appropriate documentation certifying expenditure and project progress, and is subject to approval by the national accounting officer responsible for health of a detailed plan for the construction and development of this hospital. 2. Any substantial variations of the approved plans are subject to the prior approval of the accounting officer responsible for health.

Vote	Name of Grant	Purpose	Transfer Mechanism	Total R 000	Allocation		Conditions
					Province	R 000	
	(d) Re-distribution of Specialised Health Services	To fund redistribution of tertiary services to provinces which do not currently provide them	Conditional grant in estimates of expenditure in provincial Adjustments Budget	112 000	Unallocated		1. Proposals for the establishment or extension of specialised health services must be submitted to the national accounting officer responsible for health by 1 May 1999, including service delivery plans and expenditure estimates for the 1999/00, 2000/01 and 2001/02 financial years taking into account national policies and guidelines for hospital service development. 2. Compliance with the reporting requirements prescribed by the national accounting officer responsible for health. 3. Adherence to agreements with the Minister responsible for health regarding planning and provision of tertiary hospital services.
	(e) Rehabilitation of hospitals	To fund the rehabilitation of hospitals	Conditional grant in estimates of expenditure in provincial Adjustments Budget	200 000	Unallocated		1. Payments may be made on receipt of appropriate documentation certifying expenditure and project progress, and are subject to approval by the national accounting officer responsible for health of a detailed plan for the rehabilitation and restructuring of the hospitals in question. 2. Any substantial variation of the approved plans are subject to the prior approval of the national accounting officer responsible for health.

Vote	Name of Grant	Purpose	Transfer Mechanism	Total R 000	Allocation		Conditions
					Province	R 000	
	(f) Primary School Nutrition Programme	To fund primary school nutrition programmes	Conditional grant in estimates of expenditure in provincial Main Budget	554 677	Eastern Cape Free State Gauteng KwaZulu-Natal Mpumalanga Northern Cape Northern Province North West Western Cape	125 561 37 518 52 069 126 163 37 837 9 615 100 982 37 514 27 418	1. Submission of business plans in the prescribed format to the national accounting officer responsible for health. 2. Expenditure of funds strictly in accordance with the business plan. 3. Submission of monthly reports in the prescribed format to be certified by the head of the provincial department.
Housing (Vote 17)	(a) Special Presidential Projects on Urban Renewal	To fund specified urban renewal projects	Agency payment	136 000	Unallocated		1. To be finalised by agreement between the Minister responsible for housing and members of the provincial executive councils responsible for housing.
	(b) Capacity Building	To fund the building of capacity and skills amongst provincial personnel	Conditional grant in estimates of expenditure in provincial Adjustments Budget	10 000	Unallocated		1. To be finalised by agreement between the Minister responsible for housing and members of the provincial executive councils responsible for housing.
	(c) SA Housing Fund	To finance capital housing programmes	Agency payment	2 941 244	Unallocated		1. To be finalised by agreement between the Minister responsible for housing and members of the provincial executive councils responsible for housing.

Vote	Name of Grant	Purpose	Transfer Mechanism	Total R 000	Allocation		Conditions
					Province	R 000	
Labour (Vote 21)	(a) Manpower Training Centres	Function shift of the training (<i>manpower</i>) function including two centres and staff	Unconditional grant in estimates of expenditure in provincial Main Budget	56 021	Free State North West	9 085 46 936	
Land Affairs (Vote 22)	(a) Land Development Objectives	To subsidise the development of land development objectives in poor rural areas	Conditional grant in estimates of expenditure in provincial Main Budget	38 017	Eastern Cape Free State KwaZulu-Natal Mpumalanga Northern Cape Northern Province North West Western Cape	7 458 4 019 7 458 4 019 2 558 6 729 4 019 1 757	1. Submission by the national accounting officer responsible for land affairs of a working plan for approval in accordance with departmental requirements. 2. Compliance with the provisions of the prescribed implementation agreement.
Improvement of Conditions of Service (Vote 18)	(a) Improvement of Conditions of Service	To effect improvement in conditions of service of provincial personnel	Conditional grant in estimates of expenditure in provincial Adjustments Budget	Subject to Cabinet decision following negotiations in the Bargaining Council	Provincial allocations to depend on the amounts approved by Cabinet		

Vote	Name of Grant	Purpose	Transfer Mechanism	Total R 000	Allocation		Conditions
					Province	R 000	
State Expenditure (Vote 31)	(a) Financial and personnel management systems support	To improve the quality of financial management in government	Conditional grant in estimates of expenditure in provincial Adjustments Budget	20 000	Amount to be divided between national and provincial governments		1. The national accounting officer responsible for state expenditure to determine allocation to departments or provinces after consultation with the Budget Council.
Transport (Vote 34)	(a) Bus subsidies	To subsidise bus tariffs to promote the use of public transport and to assist bus commuters	Agency payment	1 293 435	Eastern Cape Free State Gauteng KwaZulu-Natal Mpumalanga Northern Cape Northern Province North West Western Cape	46 564 68 552 525 135 289 729 111 235 3 880 59 498 41 390 147 452	1. Transfers to the provinces will be made only after agreement on allocations is reached in MINMEC (MINCOM) based on contracts between provinces and bus companies. 2. Allocations per province represent maximum amounts and certain allocations may be reduced by the accounting officer responsible for transport to stay within the appropriated total.
Welfare (Vote 36)	(a) Developmental programme for unemployed women with children under 5 years of age	To fund projects under the Flagship Programme	Agency Payment	2 366	Unallocated		1. Submission to the national accounting officer responsible for welfare of business plans in accordance with departmental requirements. 2. Compliance with the provisions of the prescribed implementation agreement. 3. Transfers to a province may only be made on receipt by the national accounting officer responsible for welfare of original documentation regarding expenditure incurred.

Vote	Name of Grant	Purpose	Transfer Mechanism	Total R 000	Allocation		Conditions
					Province	R 000	
	(b) Financial Management of Social Security systems	To improve the quality of financial management in the social security system and to eliminate fraud in the system	Conditional grant in estimates of expenditure in provincial Adjustments Budget.	50 000	Unallocated		1. Submission to the national accounting officer responsible for welfare of business plans in the prescribed format.

MEMORANDUM ON THE OBJECTS OF THE DIVISION OF REVENUE BILL, 1999

Section 214(1) of the Constitution requires an Act of Parliament to provide for—

- (a) the equitable division of revenue raised nationally among the national, provincial and local spheres of government;
- (b) the determination of each province's equitable share of the provincial share of that revenue; and
- (c) any other allocation to provinces, local government or municipalities from the national government's share of that revenue, and any conditions on which those allocations may be made.

Section 214(2) of the Constitution requires that the Bill may be enacted only after the provincial governments, organised local government and the Financial and Fiscal Commission ("FFC") have been consulted and after any recommendations of the FFC have been considered. It further provides that the Bill must take into account—

- (a) the national interest;
- (b) any provision that must be made in respect of the national debt and other national obligations;
- (c) the needs and interests of the national government, determined by objective criteria;
- (d) the need to ensure that the provinces and municipalities are able to provide basic services and perform the functions allocated to them;
- (e) the fiscal capacity and efficiency of the provinces and municipalities;
- (f) developmental and other needs of provinces, local government and municipalities;
- (g) economic disparities within and among the provinces;
- (h) obligations of the provinces and municipalities in terms of national legislation;
- (i) the desirability of stable and predictable allocations of revenue shares;
- (j) the need for flexibility in responding to emergencies or other temporary needs, and other factors based on similar objective criteria.

In terms of section 10 of the Intergovernmental Fiscal Relations Act, 1997 (Act No. 97 of 1997) ("the Act"), each year when the annual budget is introduced, the Minister of Finance must introduce in the National Assembly a Division of Revenue Bill for the financial year to which that budget relates.

The Act requires that the Bill must be accompanied by a memorandum explaining—

- (a) how the Bill takes account of each of the matters listed in section 214(2)(a) to (j) of the Constitution;
- (b) the extent to which account was taken of any recommendations of the FFC submitted to the Minister or any consultations with the FFC; and
- (c) any assumptions or formulae used in arriving at the respective shares of the various spheres of government.

The Division of Revenue Bill, 1999, is introduced to comply with the above-mentioned requirements of the Constitution and the Act.

The memorandum required by section 10 of the Act is contained in Annexure E to the Budget Review.

The Bill sets out in three separate schedules—

- (a) the respective shares of revenue raised nationally which are allocated to the national, provincial and local spheres of government;
- (b) the respective shares of the provinces; and
- (c) those allocations to provinces and municipalities which are made from the national government's share of revenue.

The Bill also deals with a number of consequential matters. These are explained as follows:

Clause 1 of the Bill contains relevant definitions.

Clause 2 provides for anticipated revenue raised nationally to be equitably divided among the national, provincial and local spheres of government as set out in Schedule 1.

Clause 3 provides for each province's equitable share, which is set out in Schedule 2 to the Bill. The clause also provides for a payment schedule based on weekly instalments to the provinces in order to establish stability and predictability of transfers. It also allows for conditional advances of funds to a province in respect of its equitable share for the financial year.

Clause 4 provides for the two components of local government's equitable share and a process for determining the allocations to municipalities and R293 towns.

Clause 5 determines what happens to actual revenues should there be an excess or shortfall of anticipated revenue for the financial year.

Clause 6 refers to all other allocations to provinces, local government or municipalities from the national government's share of revenue. These allocations, which take the form of conditional grants or agency payments, are set out in Schedule 3 of the Bill. They are made in respect of the departments of Constitutional Development, Education, Finance, Health, Housing, Public Service and Administration, Land Affairs, Labour, State Expenditure, Transport and Welfare.

This clause provides for a payment schedule for grants. In cases where a province has failed to comply with the conditions of a grant, this clause provides for a fair process to stop payments and allows for payments to continue in cases where it is necessary to avoid disruption of basic services or to comply with statutory or contractual commitments.

Clauses 7 to 11 contain specific provisions relating to the conditional grants under the Health vote, the supplementary allocations for provinces under the Finance vote, allocations in respect of improvements to conditions of service, the amounts for each province in respect of the allocation to the SA Housing Fund under the Housing vote and allocations for the Consolidated Municipal Infrastructure Programme under the Department of Constitutional Development's vote.

Clauses 12 to 14 cover a number of general matters. They provide that the payment schedule may be amended in the interests of improved debt and cash flow management. They also provide that transfers made in error must be recovered without delay by the accounting officer responsible for the transfer. A national department can make a transfer to a province or municipality that is not authorised by Schedule 3 to this Bill only if the Minister of Finance has published a notice in the *Gazette* approving the allocation.

Clause 15 deals with transfers to local governments with weak administrative capacity. This clause provides for the transfer of allocations or part thereof to the province or district council if a municipality is not able to manage its allocation effectively.

Clause 16 deals with transfers to provinces, local government and municipalities in respect of their anticipated equitable shares in the first six months of the 2000/2001 financial year before the enactment of the Division of Revenue Bill for the 2000/2001 Budget. The provision is similar to the deeming expenditure provisions in the Exchequer Act.

Clause 17 deals with regulations that the Minister of Finance can make regarding anything which shall or may be prescribed under the Division of Revenue Act and any matters relating to the effective carrying out and implementation of the provisions of that Act.

PARLIAMENTARY PROCEDURE

The State Law Advisers and the Department of Finance are of the opinion that this Bill must be dealt with in accordance with the procedure prescribed by section 76(1) of the Constitution since it provides for legislation envisaged in Chapter 13 of the Constitution, and it affects the financial interests of the provincial sphere of government as contemplated in section 76(4)(b) of the Constitution.

