

REPUBLIC OF SOUTH AFRICA

DIVISION OF REVENUE BILL

*(As amended by the Portfolio Committee on Finance (National Assembly)
(The English text is the official text of the Bill)*

(MINISTER OF FINANCE)

[B 8B—2000]

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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 2000/2001 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 indicates otherwise—
- (i) "Constitution" means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996); 5
 - (ii) "department" means a national department referred to in section 7(2) of the Public Service Act, 1994 (Proclamation No. 103 of 1994);
 - (iii) "Director-General" means the Director-General of the Department of Finance; 10
 - (iv) "executing authority" means the executing authority defined in section 1 of the Public Service Act, 1994;
 - (v) "financial year" means the financial year of the national and provincial spheres of government commencing on 1 April 2000 and ending on 31 March 2001; 15
 - (vi) "head official of the provincial treasury" means the officer in charge of the provincial department responsible for financial matters in a province;
 - (vii) "Minister" means the Minister of Finance;
 - (viii) "MINMEC" means the meeting between a Minister of the Cabinet in the national sphere of government responsible for particular functions and the provincial Members of the Executive Council having responsibility for corresponding functions in the provincial sphere of government; 20
 - (ix) "municipality" means a local government body envisaged in section 155 of the Constitution;
 - (x) "municipal accounting officer" means the Chief Executive Officer of a 25 municipality;
 - (xi) "municipal financial year" means the financial year of the local sphere of government commencing on 1 July 2000 and ending on 30 June 2001;

- (xii) “national accounting officer” means the head of a department or a statutory fund in the national sphere of government or such other person who has, by law, been approved or instructed by the relevant treasury to be the accounting officer of a department or a fund in the national sphere of government, and who is charged with any of the responsibilities of accounting officers set out in Part 2 of Chapter 5 of the Public Finance Management Act; 5
- (xiii) “next financial year” means the financial year of the national and provincial spheres of government commencing on 1 April 2001 and ending on 31 March 2002;
- (xiv) “next municipal financial year” means the financial year of the local sphere of government commencing on 1 July 2001 and ending on 30 June 2002; 10
- (xv) “past 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;
- (xvi) “past municipal financial year” means the financial year of the local sphere of government commencing on 1 July 1999 and ending on 30 June 2000; 15
- (xvii) “payment schedule” means an instalment schedule which sets out—
 (a) the amount of each instalment of an equitable share or an allocation to be transferred to a province, municipality or SALGA for the financial year;
 (b) the date on which each such instalment must be paid; and 20
 (c) to whom each such instalment must be paid;
- (xviii) “prescribed” means prescribed by regulation under this Act;
- (xix) “provincial accounting officer” means the head of a department or a statutory fund in the provincial sphere of government or such other person who has, by law, been approved or instructed by the relevant treasury to be the accounting officer of a department or a fund in the provincial sphere of government, and who is charged with any of the responsibilities of accounting officers set out in Part 2 of Chapter 5 of the Public Finance Management Act; 25
- (xx) “Public Finance Management Act” means the Public Finance Management Act, 1999 (Act No. 1 of 1999); 30
- (xxi) “receiving officer” means—
 (a) in respect of a Schedule 3A grant or a Schedule 3B grant not transferred to a municipality, but to be utilised for the benefit of a municipality by a province in terms of a provincial appropriation Act, or a Schedule 3C grant the accounting officer of a provincial department which receives a grant set out in any such Schedule; or 35
 (b) in respect of a Schedule 3B grant transferred to a municipality directly or through a province, or a Schedule 3C grant, the accounting officer of a municipality which receives a grant contained in any such Schedule;
- (xxii) “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; 40
- (xxiii) “SALGA” means the organisation recognised in terms of section 2(1)(a) of the Organised Local Government Act, 1997 (Act No. 52 of 1997);
- (xxiv) “transferring national officer” means the accounting officer responsible for a national department which transfers to a province or municipality a Schedule 3A, 3B or 3C grant; 45
- (xxv) “transferring provincial officer” means the accounting officer responsible for a provincial department which receives a Schedule 3B or 3C grant for the purpose of transferring it to municipalities in that province. 50

PART I

EQUITABLE SHARE ALLOCATION

Equitable division of revenue raised nationally among spheres of government

2. Anticipated revenue raised nationally in respect of the financial year is divided among the national, provincial and local spheres of government for their equitable share as set out in Schedule 1. 55

Shortfalls and excess revenue

3. (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 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 government. 5

Equitable division of provincial share among provinces

4. (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. 10

(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 accordance with the payment schedule referred to in subsection (2) in respect of that province. 15

(4) The advances contemplated in subsection (3) 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 20

5. (1) The local sphere of government's equitable share of anticipated revenue raised nationally is set out in Schedule 1.

(2) The national accounting officer responsible for local government must determine the allocation for SALGA and for municipalities in respect of this equitable share.

(3) The criteria for determining the share contemplated in subsection (2) must be in accordance with a framework approved by the Director-General, after taking into account any recommendations of SALGA. 25

(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 determined by the national accounting officer responsible for local government. 30

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 any additional conditions on which those allocations are made, are set out in Schedules 3A, 3B and 3C. 35

(2) Subject to section 226 of the Constitution, and any conditions attached to a grant, a province or municipality may, unless otherwise directed by the Director-General, retain any funds not expended in respect of an allocation set out in Schedules 3A or 3B. 40

(3) In this Act—

(a) Schedule 3A contains conditional grants and any other grants transferred by a department to a province to fund programmes falling within the functional areas of provincial competence; 45

(b) Schedule 3B contains conditional grants and any other grants transferred by a department to a municipality directly or through a province or which a province utilises in terms of an appropriation Act, to fund programmes falling within the functional areas of municipal competence;

(c) Schedule 3C contains agency payments to be effected on behalf of a department, grants still to be divided between spheres and which the Minister may, by notice in the *Gazette*, allocate as either Schedule 3A or 3B grants or as agency payments or any other grant. 50

Conditional grants

7. (1) The transferring national officer responsible for a conditional grant set out in Schedule 3A or Schedule 3B must by 1 April 2000 or such date agreed upon with the Director-General, but not later than 30 June 2000, submit to the Director-General at least the following information: 5
- (a) The purpose and conditions, if any, of the grant;
 - (b) the proposed criteria for the division of such grant among the provinces;
 - (c) any associated costs, including any future costs, arising directly or indirectly from the grant but not covered by it;
 - (d) the monitoring and reporting mechanisms for such grant; 10
 - (e) the proposed payment schedule for such grant;
 - (f) agreements, if any, of the MINMEC relating to such grant; and
 - (g) such other information that may be requested by the Director-General.
- (2) A transferring national officer must by 1 April 2000 or such later date agreed upon with the Director-General, but not later than 30 June 2000, certify to the Director-General that all arrangements, business plans, payment schedules and any other requirements deemed necessary to allow funds to be transferred to a province or municipality, are in place. 15
- (3) Before submitting the information required in subsections (1) and (2), the transferring national officer must consult with the receiving officer in respect of a grant to a province, or with SALGA in respect of a Schedule 3B grant to be received by a municipality. 20
- (4) The Director-General may exempt a grant from any of the requirements of subsections (1), (2) or (3).
- (5) (a) The transferring national officer must deposit, in accordance with a payment schedule determined by the Director-General after consultation with the head officials of provincial treasuries, in respect of a deposit to a provincial Revenue Fund, a Schedule 3A or 3B grant into— 25
- (i) the relevant provincial Revenue Fund; or
 - (ii) the relevant municipal banking account, where a Schedule 3B grant is transferred directly to a municipality. 30
- (b) The transferring provincial officer must deposit, in accordance with a payment schedule determined by the transferring national officer after consultation with the Director-General, a Schedule 3B grant into the relevant municipal banking account.
- (6) Funds transferred to a provincial Revenue Fund must, subject to section 226 of the Constitution, only be withdrawn— 35
- (a) in terms of an appropriation by a provincial Act ; or
 - (b) in the case of a Schedule 3B grant transferred to a municipality through a province, as a direct charge against that Revenue Fund.
- (7) The receiving officer of a Schedule 3A or Schedule 3B grant must ensure— 40
- (a) that it is properly managed and accounted for;
 - (b) that the funds are spent in accordance with its purpose and conditions; and
 - (c) that there is compliance with agreed reporting and monitoring mechanisms.
- (8) (a) The receiving officer in a municipality of a Schedule 3B or 3C grant must submit to a transferring provincial or national officer, as the case may be, a report on the grant in the prescribed form not later than five working days after the end of every month or such date prescribed in respect of such grant. 45
- (b) The receiving officer in a province in respect of a Schedule 3A or 3C grant or the transferring provincial officer, as the case may be, must, by the tenth working day after each month or such date prescribed in respect of such grant, submit a report to the head official of the provincial treasury and to the transferring national officer. 50
- (9) The reports contemplated in subsection (8) must include—
- (a) an outline of actual revenue and expenditure on the grant for a month and the projected total revenue and expenditure on the grant for the financial year, including projected commitments on it for the financial year; 55
 - (b) the reasons for any projected under-spending or over-spending on that grant and an identification of the measures to be taken to deal with such under-spending or over-spending;
 - (c) the projected roll-over into the next financial year;
 - (d) information on how the province or municipality receiving a grant complied with its conditions; and 60

(e) such other information as may be requested by the Director-General.

(10) The transferring national officer and the head official of a provincial treasury must ensure that the report contemplated in subsection (9) is submitted in the prescribed form to the Director-General by the fifteenth working day after the end of each quarter or such date agreed upon with the Director-General.

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Agency payments

8. (1) The national accounting officer of a department or the provincial accounting officer of a provincial department responsible for transferring an agency payment is responsible for accounting for that agency payment and must, for the purpose of such accounting, by 1 April 2000 or such date agreed upon with the Director-General but not later than 30 June 2000, enter into agreements with the relevant provincial or municipal accounting officers regarding any responsibilities and obligations of the principal and agent departments concerning that agency payment, and must, if he or she is a national accounting officer, submit a schedule outlining such agreements to the Director-General, or must, if he or she is a provincial accounting officer, submit such a schedule to the head official of the provincial treasury concerned.

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(2) Subject to subsection (1), an agency payment to a province must be deposited in a banking account approved by, and subject to the conditions determined by, the head official of a provincial treasury and must comply with the framework determined in terms of section 7 of the Public Finance Management Act.

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(3) A province or municipality performing an agency service may charge a two percent fee or such other amount agreed upon to cover the costs of rendering such service.

Allocations in respect of capital grants

9. (1) In respect of grants identified as capital grants in Schedules 3A, 3B and 3C, every transferring national officer must, on a quarterly basis, provide the Director-General with a schedule outlining the transfer agreements for such grants in respect of each province or municipality receiving such grant during that quarter.

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(2) The agreements referred to in subsection (1) must include—

(a) the conditions of the grant;

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(b) the monitoring and reporting mechanisms for the grant;

(c) the projected dates of transfers of the grant; and

(d) the projected financial implications in future years,

resulting from the project funded by the grant.

(3) The transfer of funds in respect of allocations for capital grants must be in accordance with a payment schedule determined by the national accounting officer responsible for that allocation after consultation with the Director-General, relevant provincial accounting officers and the head officials of the provincial treasuries concerned.

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(4) Funds transferred to the provincial Revenue Fund or a municipal banking account for capital projects may not be used as collateral, pledge or any other form of security or for any other purpose other than the purpose set out in the transfer agreement.

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Supplementary allocation to provinces

10. (1) Subject to subsection (2), the allocations to provinces set out in Schedule 3A in respect of the item “Supplementary Allocations to Provinces” must be transferred to the provinces in three instalments in accordance with a payment schedule determined by the Director-General after consultation with the head officials of the provincial treasuries.

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(2) The first instalment must be paid not later than 18 July 2000, after taking into account—

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(a) whether a province submitted its final appropriation accounts for the past financial year to the National Treasury by 30 June 2000; and

(b) compliance with the adjustments grant agreements entered into between the provincial government and the national government in December 1999.

Withholding of payments

11. (1) The Director-General may, with the concurrence of the Minister, direct that any payment to a municipality in terms of section 5 or set out in Schedule 3B or 3C or a portion of such payment, be withheld if a municipality is involved in serious or persistent material breach of the measures envisaged in section 216(1) of the Constitution. 5

(2) The Director-General may, with the concurrence of the Minister, and subject to section 216 of the Constitution, direct that—

(a) an allocation or any portion of it referred to in Schedule 3A or 3B but which is not transferred to a municipality, or referred to in Schedule 3C; or 10

(b) an allocation approved in terms of section 16(1),

be withheld if the transferring national officer submitted to the province concerned, a written report at least 21 days before such payment is due, setting out facts evidencing serious or persistent material breach of the measures envisaged in section 216(1) of the Constitution: Provided that subject to subsection (1), a supplementary allocation to 15 provinces may be withheld even if no report has been given to a province.

(3) In the event of evidence of substantial non-compliance, with the conditions of a grant, or mismanagement of the grant or any other form of financial misconduct, the national accounting officer responsible for the grant must, as soon as such evidence comes to his or her attention, report such non-compliance, mismanagement or other 20 form of financial misconduct to the Director-General.

(4) The Minister may, by notice in the *Gazette*, approve that funds or a portion of funds withheld in terms of subsection (1) be used to address a municipality's outstanding statutory commitments.

PART III

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GENERAL

Conversion of conditional grants, agency payments and capital grants into equitable shares

12. The Minister may, by notice in the *Gazette*, determine that funds which, due to non-compliance by the transferring national officer with the provisions of sections 7, 8 30 and 9, cannot flow to provinces or municipalities, form part of the equitable share of revenue to be allocated to provinces or municipalities.

Reporting in respect of provincial transfer of grants not set out in a schedule to this Act

13. A provincial accounting officer transferring any funds not set out in a schedule to this Act to a municipality must, prior to such transfer, report to the relevant head official of a provincial treasury, who must on a quarterly basis submit to the Director-General such report which must set out— 35

(a) the purpose of the allocation;

(b) the amount of the allocation; 40

(c) to whom the allocation is made;

(d) conditions, if any, on which such allocation is made; and

(e) information on his or her responsibilities in respect of monitoring and reporting on such grant.

Amendment of payment schedule and transfer mechanism

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14. (1) The Director-General may amend any payment schedule in the interests of improved debt and cash flow management, after consulting—

(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 a payment schedule, 50 as the case may be.

(2) The Director-General may, after consultation with the relevant head officials of provincial treasuries, amend the transfer mechanism of any funds listed in Schedules 3A, 3B and 3C or published in the *Gazette* in terms of this Act, and such amendment

may include moving funds between Schedules 3A, 3B to 3C or re-allocating R293 town grant funds.

Transfers made in error

15. (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. 5

(2) The Director-General may direct that the recovery referred to in subsection (1) be effected by set-off against transfers to the province which would otherwise become due in accordance with the payment schedule contemplated in section 4(2) or other transfers to that province. 10

(3) Money transferred to a municipality in error must be recovered without delay by the national accounting officer responsible for the transfer.

(4) The national accounting officer responsible for local government may direct that the recovery referred to in subsection (3) be effected by set-off against transfers to the municipality concerned which would otherwise become due in accordance with any payment schedule. 15

Transfers not listed in schedules to this Act

16. (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 the schedules to this Act only if the Minister has published a notice in the *Gazette* approving the allocation and stating— 20

- (a) the purpose of the allocation;
- (b) the amount of the allocation;
- (c) to whom the allocation is made; and
- (d) conditions, if any, on which the allocation is made. 25

(2) If a transfer contemplated in subsection (1) is effected to a province or municipality between 1 April 2000 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 30
- (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.

(4) Allocations in terms of this section must comply with such reporting and monitoring mechanisms as may be prescribed. 35

Transfers to municipalities with weak administrative capacity

17. (1) If the national accounting officer responsible for local government reasonably believes that a municipality is not able to effectively administer any allocation or a portion of it, he or she may transfer such allocation or portion to the province in which the municipality is located or another municipality, after consultation with the municipality and province concerned. 40

(2) Any allocation or a portion of it transferred to a province or municipality in terms of subsection (1) must be dealt with by the province or municipality concerned or such other body as may be prescribed, in accordance with any directions given by that national accounting officer. 45

Transfers to municipalities which are replaced by new municipalities

18. Any allocation in terms of this Act to a municipality which ceases to exist, is deemed to be an allocation to the municipality or municipalities which assume the responsibilities of the municipality which ceases to exist. 50

Next financial year

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

- (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 5
- (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 municipal financial year in accordance with a payment schedule determined by the Director-General after consultation with the national accounting officer responsible for local government. 10

(2) Amounts transferred in terms of subsection (1) are deemed to be instalments of the equitable share allocations of the provincial and local spheres of government for the next financial year and the next municipal financial year, respectively. 15

(3) The national accounting officer of a department intending to have allocated, in the next financial year, a grant contemplated in section 214(1)(c) of the Constitution, must submit to the Director-General, not later than 31 August 2000, information on that grant.

Division of revenue transfers only in terms of this Act

20. Despite anything to the contrary contained in any other law, the allocations provided for in this Act are transferred only in terms of this Act and accounting for such allocations is subject to the national legislation envisaged in section 216(1) of the Constitution. 20

Non-compliance with this Act constituting financial misconduct

21. (1) Any serious or persistent material non-compliance with the provisions of this Act or the conditions of any grant in terms of this Act constitutes financial misconduct in terms of the national legislation envisaged in section 216(1) of the Constitution and must, subject to subsections (2) and (3), be dealt with in terms of that national legislation or any other applicable law. 25

(2) Before a charge of financial misconduct contemplated in subsection (1) can be brought against anyone, the Director-General must provide the Minister and the executing authority responsible for the department, provincial department or functional area in which there has been an alleged financial misconduct, with the names of officials involved in the alleged financial misconduct, the details of such alleged financial misconduct and recommending the charges which must be brought against such officials. 30 35

(3) Despite subsection (1), but subject to the national legislation envisaged in section 216(1) of the Constitution or any other applicable law, the Minister may, after consultation with the relevant executing authority, determine that the conduct contemplated in subsection (1) does not constitute financial misconduct. 40

Determination of transfers in respect of past financial year as being in terms of Division of Revenue Act, 1999

22. (1) Subject to subsection (2), a transfer to a province or municipality or an agency payment in respect of the past financial year, which should have been effected in terms of the Division of Revenue Act, 1999 (Act No. 30 of 1999), but was not so effected, is deemed effected in terms of that Act. 45

(2) The President may, by proclamation in the *Gazette* and after consultation with the Minister, determine the transfer or agency payment which in terms of subsection (1) is deemed effected in terms of the Division of Revenue Act, 1999.

Regulations 50

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

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

Short title

24. This Act is called the Division of Revenue Act, 2000.

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

Sphere	Share (R 000)
National	88 688 048
Provincial	94 408 341
Local	1 867 000

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	16 451 931
Free State	6 407 739
Gauteng	14 234 920
KwaZulu-Natal	18 894 363
Mpumalanga	6 423 250
Northern Cape	2 302 133
Northern Province	12 625 835
North West	8 009 019
Western Cape	9 059 151

SCHEDULE 3A

Grants to provinces

Vote	Name of Grant	Purpose	Total R'000	Provincial Allocations	Amount R'000	Additional Conditions
Education (Vote 8)	Financial Management and Quality Enhancement for Education Departments	To support financial management and quality-enhancing initiatives in school education	202 000	Eastern Cape Free State Gauteng KwaZulu-Natal Mpumalanga Northern Cape Northern Province North West Western Cape	38 854 12 096 23 616 45 765 14 016 3 648 33 477 15 360 15 168	
Finance (Vote 10)	Supplementary allocation to provinces	To supplement provincial revenue in support of improvements in financial management and budget practice	2 212 000	Eastern Cape Free State Gauteng KwaZulu-Natal Mpumalanga Northern Cape Northern Province North West Western Cape	389 622 148 303 322 358 451 032 152 522 51 809 305 049 185 803 205 502	<p>1) The province's Appropriation Act for the financial year must reflect adequate funding of projected spending on health, education and welfare and must reflect adequate steps to be taken to improve the collection of own revenue.</p> <p>2) The province must comply with generally recognised financial management practices, internal controls, treasury norms and standards, borrowing rules and other legislation.</p> <p>3) The province must comply with agreements of the Budget Council and comply with deadlines for the budgetary process.</p> <p>4) The province must supply information required by the Minister timeously and in the prescribed format, including the monthly early warning reports and information related to the 2001/02 budget, to facilitate transparency and effective monitoring.</p>
Health (Vote 13)	a) Central Hospitals	To support central health services	3 112 000	Eastern Cape Free State Gauteng KwaZulu-Natal Western Cape	13 000 237 538 1 492 868 406 645 961 949	
	b) Professional training and research	To support health professional training and research	1 174 000	Eastern Cape Free State Gauteng KwaZulu-Natal Mpumalanga Northern Cape Northern Province North West Western Cape	52 830 84 528 503 646 146 750 23 480 23 480 23 480 23 480 292 326	
	c) Redistribution of Specialised Health Services	To fund the redistribution of tertiary services to provinces which do not currently provide them	176 000	Eastern Cape Mpumalanga Northern Cape Northern Province North West	32 510 44 804 16 458 45 296 36 932	

Vote	Name of Grant	Purpose	Total R'000	Provincial Allocations	Amount R'000	Additional Conditions
	d) Durban Academic	To fund construction and development of the Durban Academic Hospital (capital grant)	273 000	KwaZulu-Natal	273 000	
	e) Rehabilitation of Hospitals	To fund the rehabilitation of hospitals (capital grant)	400 000	Eastern Cape Free State Gauteng KwaZulu-Natal Mpumalanga Northern Cape Northern Province North West Western Cape	84 000 31 000 55 000 70 000 35 000 7 000 52 000 40 000 26 000	
	f) Integrated Nutrition Programme		582 411	Eastern Cape Free State Gauteng KwaZulu-Natal Mpumalanga Northern Cape Northern Province North West Western Cape	131 838 39 394 54 673 132 471 39 728 10 096 106 032 39 390 28 789	
Housing (Vote 15)	a) SA Housing Fund	To finance capital housing programmes (capital grant)	2 997 680	Eastern Cape Free State Gauteng KwaZulu-Natal Mpumalanga Northern Cape Northern Province North West Western Cape	422 178 218 306 718 904 587 650 173 461 58 125 257 021 220 569 341 466	
	b) Human Settlement Redevelopment Programme	To improve the quality of urban environment	20 000	Free State Gauteng KwaZulu-Natal Mpumalanga Northern Cape Northern Province North West Western Cape	1 700 3 500 3 000 500 1 200 1 000 100 9 000	
	c) Resettlement: Doornkop	Resettlement of Doornkop community (capital grant)	3 000	Gauteng	3 000	
Provincial and Local Government (Vote 22)	R293 town personnel grant	To fund personnel costs in respect of R293 town staff	463 000	Eastern Cape Free State KwaZulu-Natal Mpumalanga Northern Province North West	59 936 68 101 142 870 36 015 106 319 49 759	1) The province must commit to pay the full cost resulting from all the salary increases that come into effect prior to the date personnel are transferred to the municipality. 2) The province must submit to the national accounting officer for local government by 14 May a detailed report outlining the names of R293 personnel, their rank, reporting station and remuneration as at 31 March 2000 as listed in PERSAL and elsewhere which: (a) have been transferred to municipalities; (b) have been identified for transfer to an identified municipality; and (c) will be retained by the province.

Vote	Name of Grant	Purpose	Total R'000	Provincial Allocations	Amount R'000	Additional Conditions
						<p>3) The province must submit a monthly report not later than 7 days after the end of each month, beginning in April and up to the stipulated deadline for transfers indicating progress made with each of the staff members identified in (2)(b) above in the month ended, and the expected monthly allocation required for the staff members identified in paragraphs (2)(a) and (b) in the following month.</p> <p>4) The national accounting officer responsible for local government must, after receiving the monthly report, transfer the allocation to the province or municipality for the month in question.</p> <p>5) The national accounting officer responsible for local government may transfer funds directly to a municipality where staff have been transferred to.</p> <p>6) The province to transfer funds for transferred staff to municipalities in terms of any agreement with the national accounting officer.</p>
Welfare (Vote 35)	Child support implementation grant	To provide an enabling environment for the take-up rate of the child support grant	16 900	Eastern Cape Free State Gauteng KwaZulu-Natal Mpumalanga Northern Cape Northern Province North West Western Cape	3 200 900 1 000 3 400 500 900 4 000 1 000 2 000	

SCHEDULE 3B

Grants for Local Government functions

Vote	Name of Grant	Purpose	Transfer mechanism		Total R'000	Allocation	Amount R'000	Additional Conditions
			Transferring dept	Municipal				
Finance (Vote 10)	a) Local Government financial management grant	To build financial management capacity in municipalities, and to pilot budget reforms	Funds to be transferred to municipality by the national department	Conditional grant to be included in municipal budget	50 000	Unallocated		<ol style="list-style-type: none"> 1) A category A and C municipality which has agreed to appoint a municipal manager and head of finance to prepare for the newly demarcated municipality may apply for these funds. 2) Category B municipalities with budgets exceeding R300 million may also apply, subject to condition (1). 3) Municipalities to submit to the Director-General outlining its plans to improve financial management, or to pilot budget reforms.
	b) Local Government restructuring grant	To assist municipalities with restructuring	Funds to be transferred to municipality by the national department	Conditional grant to be included in municipal budget	300 000	Unallocated		<ol style="list-style-type: none"> 1) A municipality facing a fiscal crisis that may pose a significant threat to national economic stability may apply for this grant. 2) Such municipality must demonstrate that it has taken significant steps for at least a period of 6 months to address such fiscal imbalance, including taking adequate steps to collect revenue due to it. 3) Such municipality to apply to the Director-General by submitting a restructuring plan approved by its Council, along with any other documents that the Director-General may require. 4) The Director-General may charge an administrative fee of up to R200 000 to cover the costs of assessing any application.

Vote	Name of Grant	Purpose	Transfer mechanism		Total R'000	Allocation	Amount R'000	Additional Conditions
			Transferring dept	Municipal				
Provincial and Local Government (Vote 22)	a) Consolidated Municipal Infrastructure Programme b) capital grant	To provide internal bulk, connector and internal infrastructure and community services and facilities for low income households		Conditional grant to be included in municipal budget	883 000	Eastern Cape Free State Gauteng KwaZulu-Natal Mpumalanga Northern Cape Northern Province North West Western Cape	145 302 58 820 168 874 186 282 56 432 19 834 90 022 70 710 86 724	1) Submission to the national accounting officer responsible for local government of a municipal council resolution approving each local government project. 2) A maximum of 3.5% or an agreed amount on each province's allocation may be utilised by the province for programme management services.
	b) Local Government Support Grant	To provide assistance to municipalities and to fund municipal structural adjustment programmes			150 000	Unallocated		1. The national accounting officer responsible for local government must determine the division between provincial and local spheres after consultation with SALGA. 2. Funds to be transferred to a municipality directly or to a district council or province.
	c) Social Plan Measures	To provide funding for local economic regeneration studies in localities affected by large-scale retrenchments		Conditional grant to municipalities	2 550	Unallocated		1. Municipalities to apply to the national accounting officer.

SCHEDULE 3C

Agency and Other Grants on national budget

Vote	Name of Grant	Purpose	Type of Grant	Total R'000	Allocation	Amount R'000	Additional Conditions
Transport (Vote 33)	Bus subsidies		Agency payment	1 409 269	Eastern Cape Free State Gauteng KwaZulu-Natal Mpumalanga Northern Cape Northern Province North West Western Cape	46 263 78 239 577 235 274 499 125 746 5 385 77 558 33 362 190 982	
Water (Vote 34)	Water Supply and Sanitation Capital Programme	To provide the capital infrastructure for basic water services where local authorities currently lack such capacity	Capital grant-in-kind to municipalities	609 151	Eastern Cape Free State Gauteng KwaZulu-Natal Mpumalanga Northern Cape Northern Province North West Western Cape	150 463 10 945 2 356 166 102 99 191 4 379 121 938 50 552 3 225	<ol style="list-style-type: none"> 1. Funds may only be committed to new projects once a formal agreement has been reached between the national accounting officer for water affairs and the municipality regarding the division of responsibility for ongoing financial responsibilities in regard to the project concerned. Such agreement must be submitted to the national accounting officer prior to the commencement of the project. 2. A maximum of 5% of the allocation may be used for national and regional programme management services. 3. The national accounting officer must submit a list of all such agreements and allocations per municipality to the Director-General on a quarterly basis.

SCHEDULE 3C

Grants still to be divided between spheres

Vote	Name of Grant	Purpose	Transfer mechanism	Total R'000	Provincial Allocation	Amount R'000	Additional Conditions
Finance (Vote 10)	Infrastructure grant	To fund provincial infrastructure like roads and school buildings	Any allocation to provinces will be a Schedule 3A grant	300 000	Unallocated		
Housing (Vote 15)	Provincial & Local Government Capacity Building	To fund the building of capacity and skills amongst personnel.		10 000	Unallocated		
Land Affairs (Vote 20)	Land development objectives	To improve the strategic management capacity of municipalities		43 525	Unallocated		<p>1. Funds to be allocated in concurrence with the national accounting officer for local government and the Director-General to ensure co-ordination with other capacity building and planning grants.</p> <p>2. Funds may be transferred to programmes under the local government financial management grant or support grant by direction of the Director-General, with the concurrence of the national accounting officers of land affairs and local government.</p>
Public Works (Vote 26)	Community-based public works programme capital grant	To promote poverty-alleviation projects		274 000	Unallocated		Funding for grants to provinces or municipalities. Programmes for capital and/or job-creation activities
State Expenditure (Vote 31)	Financial and personnel management systems support	To improve the quality of financial management in government.	Any allocation to provinces will be a Schedule 3A grant	100 000	Unallocated		
Welfare (Vote 35)	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.		50 000	Unallocated		

**MEMORANDUM ON THE OBJECTS OF THE DIVISION OF
REVENUE BILL, 2000**

1. The Division of Revenue Bill, 2000 gives effect to section 214 (1) of the Constitution, which 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.
2. 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 must introduce in the National Assembly a Division of Revenue Bill for the financial year to which that annual budget relates.
3. The Act requires that the Bill 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 Financial and Fiscal Commission (FFC) submitted to the Minister or as a result of consultations with the FFC; and
 - (c) any assumptions or formulae used in arriving at the respective shares of the three spheres of government and the division of the provincial share between the nine provinces.
4. The Division of Revenue Bill, 2000, is introduced to comply with the abovementioned requirements of the Constitution and the Act. The memorandum required by section 10 (5) of the Act will be attached as annexure E in the Budget Review on Budget Day.
5. The Bill sets out three separate schedules—
 - (i) Schedule 1 contains the respective shares of revenue raised nationally that are allocated to the national, provincial and local spheres of government;
 - (ii) Schedule 2 contains the respective shares of each province; and
 - (iii) Schedules 3A, 3B and 3C contain other allocations to provinces or municipalities from the national government's share of revenue. These Schedules also set out any conditions that may be associated with these allocations.
6. The Division of Revenue Bill, 2000 builds on the previous year's provisions and deals with a number of consequential matters. Key improvements relate to addressing difficulties in the Division of Revenue Act of 1999. These improvements include—
 - clause 7 on conditional grants which attempts to clarify the division of responsibilities between the transferring and receiving accounting officers, and introduces reporting mechanisms for the various stakeholders to enable them to perform their oversight functions;
 - many of the conditions previously specified in Schedules 3A, 3B and 3C are now covered by the normal reporting mechanisms required in terms of clauses 7, 8 and 9;
 - clause 8 on agency payments which attempts to clarify the responsibilities of national accounting officers and the mechanisms for accounting for such payments;
 - clause 9 which deals with capital grants provides that funds for capital grants may not be put up as security for other expenditure but must only be used for the purpose set out in a transfer agreement; and
 - dividing Schedule 3 into three subsections, with Schedule 3A focusing on grants to provinces, Schedule 3B on grants to local government, and Schedule 3C on agency payments or other grants.
7. The following is a brief summary of the Bill:

Clause 1 of the Bill contains 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 determines what happens to actual revenues should there be an excess or shortfall of anticipated revenue for the financial year.

Clause 4 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 5 provides for the local government's equitable share and a process for determining the allocations to municipalities and R293 towns.

Clauses 6 to 11 refer 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 Schedules 3A, 3B and 3C of the Bill. They are made in respect of the departments of Provincial and Local Government, Education, Finance, Health, Housing, Public Works, Land Affairs, State Expenditure, Transport, Water Affairs and Welfare. In particular, clause 7 deals with conditional grants, clause 8 with agency payments and clause 9 with grants for capital projects. Clause 10 details the payment schedule for the supplementary allocation to provinces and clause 11 sets out the process and conditions for withholding payments of transfers. In cases where a province has failed to comply with the conditions of a grant, clause 11 provides for a fair process to stop payments.

Clauses 12 to 15 cover a number of general matters.

Clauses 13 and 14, respectively, specifically provide for the amendment of a payment schedule for grants and for mechanisms to recover funds transferred in error. Provision is made in clause 13 that the payment schedule may be amended in the interests of improved debt and cash flow management.

Clause 16 contains specific provisions for the gazetting of transfers not contained in Schedules 3A, 3B or 3C. This clause stipulates that a national department can make a transfer to a province or municipality that is not contained in Schedules 3A or 3B or 3C of this Bill only if the Minister of Finance has published a notice in the *Gazette* approving the allocation.

Clause 17 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 effectively manage its allocation.

Clause 19 deals with transfers to provinces, local government and municipalities in respect of their anticipated equitable shares in the first six months of the 2001/02 financial year before the enactment of the Division of Revenue Bill for the 2001/02 Budget. The provision is similar to the deeming expenditure provisions in the Exchequer Act. Clause 18 further requires that any national department wishing to have a grant under clauses 3A, 3B or 3C in the next financial year must submit relevant information to the Director-General before 31 August 2000.

Clause 20 requires that division of revenue transfers be done in terms of this Act.

Clause 21 provides that non-compliance with this Act or with the conditions of any grant may constitute financial misconduct.

Clause 22 provides that division of revenue transfers which should have been made in terms of the Division of Revenue Act, 1999, but were not so made, are deemed to have been made in terms of that Act.

Clause 23 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 this Act.

PARLIAMENTARY PROCEDURE

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

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