

REPUBLIC OF SOUTH AFRICA

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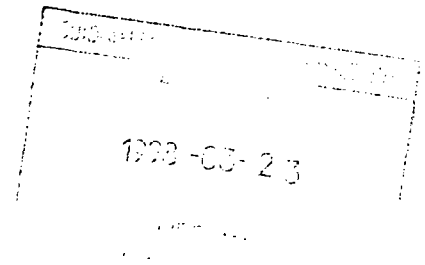
# DIVISION OF REVENUE BILL

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*(As introduced in the National Assembly)*

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(MINISTER OF FINANCE)



[B 27—98]

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REPUBLIEK VAN SUID-AFRIKA

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# WETSONTWERP OP DIE VERDELING VAN INKOMSTE

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*(Soos ingedien in die Nasionale Vergadering)*

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(MINISTER VAN FINANSIES)

[W 27—98]

ISBN 0 621275972

# BILL

To provide for the equitable division of revenue raised nationally among the national, provincial and local spheres of government; and 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 ENACTED by the Parliament of the Republic of South Africa, as follows:—

## Definitions

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

- (i) “accounting officer” means the head of a department or a statutory fund in 5 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; (xi)
- (ii) “**Bargaining Council**” means the Public Service Coordinating Bargaining Council referred to in section 35 of the Labour Relations Act, 1995 (Act No. 10 66 of 1995); (i)
- (iii) “**Budget Council**” means the council established by section 2 of the Intergovernmental Fiscal Relations Act, 1997 (Act No. 97 of 1997); (ii)
- (iv) “**Constitution**” means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996); (viii) 15
- (v) “**Director-General**” means the Director-General: Finance; (vi)
- (vi) “**financial year**” means the period commencing on 1 April 1998 and ending on 31 March 1999; (vii)
- (vii) “**gazette**” means the national Government Gazette; (xiv)
- (viii) “**head of the provincial treasury**” means the chief executive officer of the 20 provincial department charged with the responsibility for provincial expenditure or, if a province does not have a separate provincial department charged with the responsibility for provincial expenditure, the head of the department of finance in the province concerned; (ix)
- (ix) “**Minister**” means the Minister of Finance; (x) 25
- (x) “**next financial year**” means the period commencing on 1 April 1999 and ending on 31 March 2000; (xv)

- (xi) **“payment schedule”** means a schedule setting out—  
 (a) the amount of each installment of an equitable share or an allocation to be transferred to a province or local government for the financial year;  
 (b) the date on which each such installment must be paid; and  
 (c) to whom each such installment must be paid; (iii) 5
- (xii) **“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, and, in respect of the Consolidated Municipal Infrastructure Programme and Masakhane, the members of the executive councils of the provinces responsible for those matters; (iv) 10
- (xiii) **“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 and Masakhane, the Minister responsible for local government; (v)
- (xiv) **“R293 town”** means a township within the meaning of Proclamation R293 of 1962; (xii) 15
- (xv) **“SALGA”** means the organisation recognised in terms of the Organised Local Government Act, 1997 (Act No. 52 of 1997), as the national organisation representing municipalities in the Republic. (xiii)

### **Equitable division of revenue raised nationally amongst the spheres of government 20**

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

(2) The Director-General, after considering any recommendations of the Director-General: Constitutional Development, must determine a payment schedule in respect of 25 the equitable share for the local sphere of government.

(3) Before making a recommendation contemplated in subsection (2), the Director-General: Constitutional Development must consult SALGA and take its views into account.

(4) The payment schedule referred to in subsection (2) may provide for payments to 30 organised local government.

### **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 as set out in Schedule 2.

(2) Except where a transfer has been stopped in terms of section 216 of the 35 Constitution, 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 heads of the provincial treasuries.

(3) The Director-General, on conditions determined by the Minister, may advance 40 funds to a province in respect of its equitable share for a financial year. Such advances must be set off against payments to the province in respect of its equitable share as and when those payments become due during that financial year.

### **Shortfalls and excess revenue**

4. (1) If actual revenue raised nationally in respect of the financial year falls short of 45 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.

### **Other allocations to provinces, local government or municipalities 50**

5. (1) Other allocations to provinces, local government or 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 as set out in Schedule 3.

(2) Subject to subsection (3), the allocations to provinces set out in Schedule 3 in respect of health professional training and research, central hospital services, R293 towns and the local government transitional reserve, respectively, must be transferred in accordance with a payment schedule determined by the Director-General after consultation with—

- (a) the accounting officer for the vote concerned; and
- (b) the heads of the provincial treasuries.

(3) An accounting officer may withhold from a province the transferor a portion of it in respect of an allocation referred to in subsection (2), or a portion of the allocation, only if—

- (a) the accounting officer has submitted to the Minister and the province a written report setting out facts evidencing failure on the part of the province to comply with the conditions on which that allocation is made and recommending the withholding of the transfer of the allocation or the stated portion of it; and
- (b) the Minister has approved the withholding of the transfer of that allocation or portion of it.

(4) Subject to subsection (5), the allocation to a province set out in Schedule 3 in respect of the item “Supplementary Allocations to Provinces” in the Finance Vote, must be transferred to a province in accordance with a payment schedule determined by the Director-General after consultation with the head of the provincial treasury concerned.

(5) Transfers to a province in respect of the allocation referred to in subsection (4) must commence in the calendar month subsequent to the month in which that province’s legislature adopts a budget for the financial year which complies with the conditions on which that allocation is made.

(6) Subject to subsection (7), the allocation to provinces set out in Schedule 3 in respect of improvements 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 accounting officer concerned; and
- (b) the heads of the provincial treasuries.

(7) Transfer to a province in respect of the allocation referred to in subsection (6) must commence in the calendar month in which the improvements take effect.

(8) The amount allocated in Schedule 3 to each province in respect of the South African Housing Fund, the Consolidated Municipal Infrastructure Programme and Masakhane, respectively, may be adjusted with the approval of the relevant Minister either—

- (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.

### General

6. (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 accounting officer responsible for the transfer.

(2) Money transferred to local government or a municipality in error must be recovered without delay by the accounting officer responsible for the transfer.

(3) The Director-General may amend a payment schedule in the interests of improved debt and cash flow management, after consulting the person or persons whom the Director-General was required to consult before determining that payment schedule.

(4) An accounting officer may effect a transfer to a province, local government 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 determining—

- (a) the purpose of the allocation;
- (b) the amount of the allocation;

- (c) to whom the allocation is made; and
- (d) any conditions on which the allocation is made.

(5) If a transfer contemplated in subsection (4) was effected to a province, local government or municipality between 1 April 1998 and the date on which this Act took effect— 5

- (a) the accounting officer concerned must inform the Minister of that transfer within seven days after the date on which this Act took effect; and
- (b) the Minister must without delay publish a notice in the gazette containing the information required by subsection (4).

#### **Next financial year** 10

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

- (a) An amount equal to a maximum of fifty-five per cent of the equitable share of local government set out in Schedule 1 may be transferred to local government or municipalities 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 Director-General: Constitutional Development; and 15

- (b) an amount equal to a maximum of fifty-five per cent of the equitable share of 20 each province as 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 heads of the provincial treasuries.

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

#### **Short title**

8. This Act is called the Division of Revenue Act, 1998.

**SCHEDULE 1**

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

<b>Sphere</b>	<b>Share (R 000)</b>
National	78456 862
Provincial	79117435
Local	1 024 000

## 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	14073061
Northern Cape	1964190
Western Cape	7964599
KwaZulu-Natal	15507854
Free State	5432 157
Mpumalanga	5 213 416
Northern Province	10424106
North West	6837145
Gauteng	11700907

**SCHEDULE 3**  
**(To be appropriated from the National Revenue Fund)**

Vote	Name of Grant	Purpose	Channel		Total R 000	Allocation		Conditions
			Prov.	Mun.		Province	R 000	
Constitutional Development (Vote 9)	a) Consolidated Municipal Infrastructure Programme	To provide internal bulk and connector infrastructure for low income households	Agent	Beneficiary	583 000	Eastern Cape Northern Cape Western Cape KwaZulu-Natal Free State Mpumalanga Northern Province North West Gauteng	108 742 11 205 44 191 117 83 31 412 41 288 69 593 46 051 113 335	<ol style="list-style-type: none"> <li>Submission for approval by the DG: Constitutional Development of business plans in accordance with departmental requirements.</li> <li>Submission to DG: Constitutional Development of a municipal council resolution approving each project.</li> <li>Compliance with the provisions of the prescribed implementation agreement.</li> <li>A maximum of 3,5% of each allocation may be utilised by the provinces for programme management services.</li> </ol>



Vote	Name of Grant	Purpose	Channel		Total R 000	Province		R 000	
			Prov.	Mun.					
	Settlement of outstanding external debts	To financially assist transitional councils to settle the balance of outstanding external debts inherited from former municipalities	Agencies	Beneficiary	129 902	Eastern Cape Northern Cape Western Cape Free State Mpumalanga Northern Province North West Gauteng	37 459 2 693 28 421 13 562 396 594 2 637 44 140	1. Submission to the DG: Constitutional Development of certified claims regarding external debts.	
	R293 towns	To fund R293 towns until the transfer of staff and functions takes effect	Conditional grant in estimates of expenditure in provincial Main Budget		951 000	Eastern Cape KwaZulu-Natal Free State Mpumalanga Northern Province North West	130 466 563 915 26 956 32 347 122 918 74 398	1. Submission for approval by the DG: Constitutional Development of a cash flow plan in accordance with departmental requirements. 2. Submission of a detailed plan to DG: Constitutional Development by 30 April 1998 for the total transfer of R293 functions to municipalities by 31 March 1999.	

Vote	Name of Grant	Purpose	Channel		Total R 000	Allocation		Conditions
			Prov.	Mun.		Province	Province	
	(d) Municipal Management Audits	To fund management audits of municipalities	Program		2 090	Unallocated		1. Submission of a written request from provinces to DG: Constitutional Development in accordance with departmental requirements.
	(e) Municipal Financial Support Programme	To provide technical support to municipalities to assist them in improving financial management	Agent		7 240	Unallocated		1. Submission of written request from provinces to DG: Constitutional Development in accordance with departmental requirements.
	(f) Masakhane	To fund provincial Masakhane campaigns	Agent		3 870	Eastern Cape Northern Cape Western Cape KwaZulu-Natal Free State Mpumalanga Northern Province North West Free State	430 430 430 430 430 430 430 430 430	1. Submission for approval by DG : Constitutional Development of business plans in accordance with departmental requirements.

Vote	Name of Grant	Purpose	Channel		Total R 000	Allocation		R 000	
			Prov.	Mun.		Province			
Education (Vote 2)	(g) Local Government Transition Grant  (a) Financial Management and Quality Enhancement for Education Departments	To provide a lump sum to provinces to enable them to smoothen allocations to selectively support municipalities disadvantaged by the new equitable share allocation  To support financial management and quality-enhancing initiatives in school education	Provincial Main Budget		181 000	42 617 5 671 29 654 27 871 11 991 12 639 12 315 11 343 26 899	Eastern Cape Northern Cape Western Cape KwaZulu-Natal Free State Mpumalanga Northern Province North West Gauteng	1. Submission to DG: Constitutional Development outlining the criteria for allocation and breakdown of the projected allocation by municipality. 2. This allocation will only be available after 1 July 1998 for the 1998/99 municipal financial year.	
		Conditional grant in estimates of expenditure in provincial Adjustments Budget			200 000		Division between national and provincial education departments to be negotiated.	1. Allocations to national and provincial departments to be finalised after consultation with MECs for education. 2. Submission for approval by the DG: Education of business plan in accordance with departmental requirements.	

Vote	Name of Grant	Purpose	Channel		Total R 000	Allocation		Conditions
			Prov.	Mun.		Province	R 000	
	(b) KwaZulu-Natal Peace Initiative	To fund KwaZulu-Natal Peace Initiatives	Conditional grant in estimates of expenditure in provincial Adjustments Budget		80 000	KwaZulu-Natal		1. Approval of education programmes for peace submitted to DG: Education in accordance with departmental requirements.
	(c) Classrooms backlog		Conditional grant in estimates of expenditure in provincial Main Budget		51 012	KwaZulu-Natal Northern Province	38 512 12 500	Submission of claims for completion of RDP classroom building projects to DG: Education in accordance with departmental requirements.
Finance (Vote 14)	(a) Supplementary Allocations to Provinces	To supplement provincial revenues to fund education, health and welfare	Conditional grant in estimates of expenditure in provincial Main Budget		2 800 000	Eastern Cape Northern Cape Western Cape KwaZulu-Natal Free State Mpumalanga Northern Province North West Gauteng	502 919 63 710 270 086 561 760 188 691 191 570 377 545 235 978 407 741	1. The province's budget as enacted by its legislature must reflect adequate funding of health, education and welfare. 2. The province's budget must reflect adequate steps to be taken to improve the collection of own revenue.

Vote	Name of Grant	Purpose	Channel		Total R 000	Allocation		Conditions
			Prov.	Mun.		Province	R 000	
								<p>3. A province must comply with generally recognised financial management practices and treasury norms and standards.</p> <p>4. A province must comply with agreements in the Budget Council on borrowing and comply with all relevant legislation.</p> <p>5. The province must supply information required by the Minister to facilitate transparency and effective monitoring of expenditure.</p>

Vote	Name of Grant		Channel		Total R 000	Allocation		Conditions
			Prov.	Main		Province	R 000	
Health (Vote 16)	Health Professional Training and Research	To support neuro professional training and research	Contribution of expenditure in provincial Main Budget		1 060 000	Eastern Cape Northern Cape Western Cape KwaZulu-Natal Free State Mpumalanga Northern Province North West Gauteng	47 700 21 200 263 940 132 500 76 320 21 200 21 200 21 200 454 740	1. Submission by 1 October 1998 to the DG: Health of strategic plans, in a prescribed format, for health professional training and research for the 1999/2000 and 2000/01 financial years after consultation with other provinces and the Department of Health, and taking into account national policies and guidelines for health professional training and research. 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 DG: Health.

Vote	Name of Grant	Purpose	Channel		Total R 000	Allocation		Conditions
			Prov.	Mun.		Province	R000	
	(D) Central Hospital services	to support central hospital services	provides expenditure in provincial Main budget		000	KwaZulu-Natal Free State Gauteng	937 737 396 410 231 559 455 294	<p>Submission by 1 October 1998 to the DGI: Health of strategic plans, in a prescribed format, for central hospital services for the financial years after 1999/2000 and 2000/01 consultation with other provinces and the Department of Health, and taking into account national policies and guidelines for central hospital services.</p> <p>2. Non-discrimination in admissions or tariff policies between residents and non-residents or against patients referred by hospitals, clinics or health personnel of other provinces.</p>

Vote	Name of Grant	To fund the construction and development of the Durban Academic Hospital	Channel		Total R 000	Allocation		Conditions
			Prov.	Mun.				
	Durban Academic Hospital (to be voted in Supplementary Estimates)		Conditional grant in estimates of expenditure in provincial budget		200 000	KwaZulu-Natal		<p>3. Adherence to agreements with the Minister of Health regarding the planning and provision of central hospital services.</p> <p>4. Compliance with reporting requirements prescribed by the DG: Health.</p> <p>1. Payments will be made on receipt of appropriate documentation certifying expenditure and project progress, and subject to approval by the DG: Health of a detailed plan for the construction and development of this hospital.</p>



Vote	Name of Grant	Purpose	Channel		Total R 000	Allocation		Conditions
			Prov.	Mun.		Province	R 000	
	(d) Umhata Regional Hospital	To fund the construction and development of the Umhata Regional Hospital	Conditional grant in estimates of expenditure in provincial Main budget		100 000	Eastern Cape		1. Payments will be made on receipt of appropriate documentation certifying expenditure and project progress, and subject to approval by the DG: Health of a detailed plan for the construction and development of this hospital.
	(e) Redistribution 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		53 000	Eastern Cape Northern Cape Mpumalanga Northern Province North West	Unallocated	1. Proposals for the establishment or extension of specialised health services must be submitted to the DG : Health by 1 June 1998, including service delivery plans and expenditure estimates for the 1998/99, 1999/2000 and 2000/01 financial years taking into account the national policies and guidelines for hospital service development.

Name of Grant	Channel	Total		Allocation		Conditions	
		Prov. R 000	Mun. R 000	Province R 000	R 000		
(f) Primary School Nutrition Programme	To fund primary school nutrition programmes	Conditional grant in estimates of expenditure in provincial budget			525 760	<p>Eastern Cape 119 013</p> <p>Northern Cape 9 114</p> <p>Western Cape 25 989</p> <p>KwaZulu-Natal 119 586</p> <p>Free State 35 562</p> <p>Mpumalanga 35 864</p> <p>Northern Province 95 718</p> <p>North West 35 559</p> <p>Gauteng 49 355</p>	<p>1. The submission of business plans in a prescribed format to the DG: Health.</p> <p>2. Expenditure of funds strictly in accordance with the business plan.</p> <p>3. Submission of monthly reports in the prescribed format to be certified by the provincial head of the department responsible for these funds.</p>

Vote	Name of Grant	Purpose	Channel		Total R 000	Allocation		Conditions
			Prov.	Mun.		Province	R 000	
Housing (Vote 18)	(a) Special Presidential Projects on Urban Renewal	To fund urban renewal projects	Agent	Beneficiary	419 442			1. Compliance with Letters of Allocation:
						Eastern Cape (Ibhayi)	4 973	5/5/1997
						Eastern Cape (Duncan Village)	76 820	16/3/1995
						Western Cape (Serviced Land Projects)	169 008	20/12/1994
						KwaZulu-Natal (Cato Manor)	52 689	18/12/1997
						KwaZulu-Natal (Urban Renewal Fund)	4 112	17/12/1996
						Free State (Thabong)	5 848	14/5/1997
						Free State (FSS Projects)	10 443	No date: 12/12/95—Botshabelo
						Mpumalanga (Masoyi)	4 192	5/5/1997
						Mpumalanga (Siyabuswa)	6 010	5/5/1997; 18/4/1996
						North West (Molopo River Basin)	1 975	15/1/1996
						Gauteng (Katorns)	83 372	5/5/1997; 9/5/1997; 30/3/1995; 9/5/1996; 19/6/1995; 7/12/1994

Vote	Name of Grant	Purpose	Channel		Total R 000	Allocation		Conditions
			Prov.	Mun.		Province	R 000	
	(b) Capacity Building	To fund the training of capacity and skills amongst provincial personnel	Provincial Adjustments Budget		10 000	Unallocated		To be finalised by agreement between the Minister of Housing and the members of the provincial executive councils responsible for housing.
	(c) Housing Support	To assist local community bodies to access housing subsidies	Agent		50 000	Unallocated		Submission for approval of the DG : Housing of business plans in accordance with departmental requirements.
	(d) Hostel Redevelopment	To fund the upgrading of hostels	Agent		90 000	Unallocated		To be finalised by agreement of the Minister of Housing and the members of the provincial executive councils responsible for housing.

Vote	Name of Grant	Purpose	Channel		Total R 000	Allocation		Conditions
			Prov.	Min.		Province	R 000	
Improvement of Conditions of Service (Vote 19)	(a) Improvements of Conditions of Service	To effect improvements in conditions of service of provincial personnel	Conditional grant in estimates of expenditure in provincial Adjustments Budget	Beneficiary	2 880 000	Unallocated	437 800 51 900 328 300 561 600 198 700 152 600 247 700 201 600 699 800	Compliance with conditions in housing subsidy manual.
Land Affairs (Vote 23)	(a) Land Development Objectives	To assist in the development of land development objectives in poor rural areas			26 000	Unallocated		<ol style="list-style-type: none"> <li>1. Submission for approval by the DG: Land Affairs of a work plan in accordance with departmental requirements.</li> <li>2. Compliance with the provisions of the prescribed implementation agreement.</li> </ol>

Vote	Name of Grant	Purpose	Channel		Allocation		Conditions
			Prov.	Mun. Beneficiary	Province	R 000	
Sport and Recreation (Vote 32)	(a) Stabilisation of Youth	To fund 9 indoor sport / recreation facilities	Agent		Unallocated		1. Submission to the DG : Sports and Recreation of business plans in accordance with the requirements contained in the White Paper on Reconstruction and Development (Notice 1954 of 1994).
State Expenditure (Vote 33)	(a) Financial and personnel management systems support	To improve the quality of financial and personnel management in government	Conditional grant in estimates of expenditure in provincial Adjustments Budget		Amount to be divided between national and provincial governments		1. The DG: State Expenditure to allocate to national departments or provinces after consultation in the Budget Council.



Vote	Name of Grant	Purpose	Channel		Total R 000	Allocation		Conditions
			Prov.	Mun.		Province	R 000	
Welfare (Vote 37)	(a) Developmental programme for unemployed women with children under 5 years of age	To fund projects under the Flagship Programme	Agent		2 700	Eastern Cape Northern Cape Western Cape Kwazulu-Natal Free State Mpumalanga Northern Province North West Gauteng	300 300 300 300 300 300 300 300 300	<p>1. Submission to the DG : Welfare of business plans in accordance with departmental requirements.</p> <p>2. Compliance with the provisions of the prescribed implementation agreement.</p> <p>3. Transfers to the Province will only be made on receipt by the DG : Welfare of original documentation regarding expenditure incurred.</p>



Vote	Name of Grant	Purpose	Allocation		100 000	10 000	18
	(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				Welfare of business plans in accordance with a prescribed format.

**MEMORANDUM ON THE OBJECTS OF THE DIVISION OF  
REVENUE BILL, 1998**

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.

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, 1998, is introduced to comply with these requirements of the Constitution and the Act.

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

Clause 2 of the Bill 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. This Clause makes provision for a payment schedule in respect of local government's equitable share in order to meet the constitutional requirement that the Bill must take into account the desirability of stable and predictable allocations of revenue shares. It also makes provision for payments to organised local government.

Clause 3 provides for each province's equitable share which is set out in Schedule 2 to the Bill. This Clause also provides for a payment schedule on the basis of weekly instalments to the provinces in order to establish stability and predictability of transfers. These scheduled transfers are made subject to section 216 of the Constitution which allows transfers to be stopped in certain circumstances. The Director-General of Finance is authorised to make conditional advances of funds to a province in respect of its equitable share for the financial year.

Clause 4 determines what will happen to actual revenues should there be an excess or shortfall of anticipated revenue for the financial year.

Clause 5 refers to all other allocations to provinces, local government or municipalities from the national government's share of revenue. These allocations, most of which take the form of conditional grants, are set out in Schedule 3 to the Bill. They are made in respect of the departments of Constitutional Development; Education; Finance: Health; Housing; Public Service and Administration; Sports and Recreation; Transport; Water Affairs; and Welfare.

This Clause provides for a payment schedule for the major grants. It also provides for a fair process for the stopping of funding in respect of those allocations for which such stoppage could have adverse effects on significant provincial obligations like central health services and payments to R293 towns (towns formerly administered by self-governing Bantustans).

Clause 5 also contains specific provisions relating to the supplementary allocations for provinces under the Finance vote, allocations in respect of improvement of conditions of service under the Public Service and Administration vote and the amount allocated to each province in respect of the allocation for the SA Housing Fund under the Housing vote, the Consolidated Municipal Infrastructure Programme and allocations for Masakhane under the Constitutional Development vote.

Clause 6 covers a number of general matters. It provides that transfers made in error must be recovered without delay by the accounting officer responsible for the transfer. It authorises the Director-General: Finance to amend payment schedules in the interests of improved debt and cash flow management, and it stipulates the procedures that must be followed by an accounting officer in a national department who wishes to make a transfer or allocation which is not authorised by Schedule 3 of this Bill.

Clause 7 authorises transfers to be made to the provinces and local government in respect of their anticipated equitable shares in the first six months of the 1999/2000 financial year, prior to the enactment of the Division of Revenue Bill, 1999. These transfers will be deemed to be instalments of the equitable share transfer for that financial year.

As this is a Bill mentioned in section 76(4)(b) of the Constitution, the Department and the State Law Advisers are of the opinion that the Bill must be dealt with in accordance with the procedure established by section 76(1) of the Constitution.