**1. REPORT OF THE STANDING COMMITTEE ON APPROPRIATIONS ON THE DIVISION OF REVENUE AMENDMENT BILL [B15 – 2019], DATED 19 NOVEMBER 2019**

The Standing Committee on Appropriations having considered the *Division of Revenue Amendment Bill [B15 - 2019]* (National Assembly – section 76 (the Bill), reports as follows:

1. **Introduction**

The Minister of Finance tabled the Division of Revenue Amendment Bill (henceforth referred to as the Bill) in Parliament on 30 of October 2019 during the presentation of the 2019 Medium Term Budget Policy Statement (MTBPS). The Bill was referred to the Committee on 13 November 2019 and the Committee received a briefing thereon from the National Treasury the following day. To facilitate public participation, the Committee published adverts in print media in all 11 official languages from 3 November 2019 to 8 November 2019. The Organisation Undoing Tax Abuse (OUTA) and Equal Education made submissions on the Bill in response to the afore-mentioned advertisements. The Committee further invited National Treasury to brief the Committee on the Bill in its entirety and the Financial and Fiscal Commission commented on the Bill.

The Bill and its annexures address the following matters:

* Changes in the equitable division of nationally raised revenue among the spheres of government;
* Adjustments to Provincial Allocations;
* Adjustments to Local Government Allocations; and
* Changes to Conditional Grant frameworks.

This report focuses on the proposed amendments to the 2019 Division of Revenue Act as tabled by the Minister of Finance and the matters raised during the engagements with National Treasury, the Financial and Fiscal Commission, and the Organisation Undoing Tax Abuse, as well as the submission made by Equal Education.

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

Table 1 below outlines the equitable division of revenue raised nationally among the three spheres of government (National, Provincial and Local). The net effect of the 2019 adjustments is an increase in the 2019/20 budget allocation by R24 644 884 000, increasing the budget allocation from R1 658 707 425 000 to R 1 683 352 309 000. The R24 644 884 000 adjustment allocation is attributed largely to the government financial support to Eskom though the *Special Appropriation Bill [[B10 – 2019] (Reprint)],* and to a lesser extent, debt services costs, the contingency reserve, and provisional allocations.

**Table 1:** Schedule 1: Equitable Division of Revenue Raised Nationally Among the Three Spheres of Government

|  |  |  |  |
| --- | --- | --- | --- |
| **Spheres of government** | **Column A** | | |
| **2011/20 Main Allocations** | **Adjustment** | **2019/20 Adjusted Allocation** |
|  | **R’000** | **R’000** | **R’000** |
| **National[[1]](#footnote-1) [[2]](#footnote-2)** | 1 084 180 207 | 24 644 884 | 1 108 825 091 |
| **Provincial** | 505 553 753 |  | 505 553 753 |
| **Local** | 68 973 465 |  | 68 973 465 |
| **Total** | **1 658 707 425** | **24 644 884** | **1 683 352 309** |

Source: National Treasury (2019 Division of Revenue Amendment Bill)

1. **Adjustments to provincial government conditional grant allocations** 
   1. **Shifting of funds to support disaster recovery**

***Provincial Road Maintenance Grant:*** A total of R60. 733 million has been shifted to, and ring-fenced in the provincial road maintenance grant for the Eastern Cape Department of Transport to repair flood-damaged roads in the province. The funds were shifted from the Municipal Disaster Recovery Grant for Joe Gqabi District Municipality and ring-fenced to the Provincial Roads Maintenance Grant to repair flood-damaged roads within Joe Gqabi District Municipality. The R60.7 million was erroneously allocated to the Joe Gqabi Distrct Municipality in EC under Municipal Disaster Recovery Grant (MDRG) as the damaged roads are provincial roads, the funds will be shifted to the Provincial Roads Maintenance Grant and ring fenced to fund the repair of these roads.

* 1. **Creation of new indirect grant**

***Ilima/Letsema Project Grant:*** A total of R45.268 million has been shifted from the Ilima/Letsema Direct Grant in order to create an Ilema/Letsema Indirect Grant to fund the National Food and Nutrition Survey to be conducted by the Human Sciences Research Council (HSRC). The survey is aimed at setting a baseline of poverty and vulnerability, for food security forecasting purposes. The R45.268 million was originally ring-fenced within the direct grant, which required each of the nine provinces to transfer the funds to the HSRC, whereas the new indirect grant allows the national Department of Agriculture, Land Reform and Rural Development to transfer the funds directly to the HSRC.

* 1. **Grant funding reprioritisation**

***Reprioritisation to the Human Resources Capacitation Grant:*** A total of R300 million has been added to the grant in order fund the carry-through costs of post filled in the Health Sector in 2018/19 financial year. This is funded through reprioritisation that included R115 million from the National Health Insurance (NHI) Indirect Grant: non-personnel services component, R40 million from the NHI Indirect Grant: personnel services component, R43 million from the Human Papillomavirus Vaccine Grant. R11 million has also been declared in savings in the Human Papillomavirus Vaccine Grant and funds have also been reprioritised from programmes within the National Department of Health to the Human Resources Capacitation Grant.

***Reprioritisation from the NHI Indirect Grant:*** A total of R289.3 million is shifted from the NHI Indirect Grant: personnel services component to the NHI Direct Grant for health professionals contracting. Provinces already contract these professions and this shift will allow provinces to make payments directly, rather than claiming reimbursement from the national department.

* 1. **Roll-over funds from grants allocation**

***NHI Grant:*** A total of R89.3 million is rolled-over for the NHI Indirect Grant on the health revitalisation component. These funds will be used for settling payments to service providers for medical equipment procured for hospitals in Limpopo.

* 1. **Reductions to indirect conditional grants allocations**

A total of R310 million is reduced from indirect grant allocations to provinces in order to stay within the 2019/20 expenditure ceiling and due to projected underspending as follows:

* A total reduction of R40 million from the School Infrastructure Backlogs Grant;
* A total reduction of R230 million from the NHI Indirect Grant: personnel services component;
* A total reduction of R10 million from the NHI Indirect Grant: non personnel component; and
* A total reduction of R30 million from the NHI Indirect Grant: health facility revitalisation component.

1. **Changes to local government indirect conditional grant allocations**
   1. **Conversion of a direct to indirect grant allocation**

A total of R19.5 million is converted from the Neighbourhood Development Partnership Grantdirect component to the indirect component as follows;

* A total of R12 million is converted for the West Rand District Municipality for road widening and upgrades, and
* A total of R7.5 million for road upgrade projects at Emfuleni Local Municipality, which were approved in 2017.
  1. **Roll-over funds from grant allocation**

***Regional Bulk Infrastructure Grant:*** A total of R241.9 million is rolled-over for the regional bulk infrastructure indirect grant for the Vaal River System (VSR) pollution remediation intervention in the Emfuleni Local Municipality.

* 1. **Reductions to indirect grant allocations**

A total of R445.5 million in reductions to indirect grant allocations are made as follows in order stay within the expenditure ceiling and due to projected underspending:

* A total reduction of R10.5 million from the Municipal Systems Improvement Grant;
* A total reduction of R185 million from the indirect Regional Bulk Infrastructure Grant; and
* A total reduction of R250 million from the Integrated National Electrification Programme (Eskom) Grant.

1. **Corrections to gazetted conditional grant frameworks**

Together with the tabling of the Division of Revenue Amendment Bill, National Treasury also submitted to Parliament, the proposed changes to the gazetted conditional grant frameworks and allocations. Section 16(4) of the Division of Revenue Act, 2019, requires National Treasury to consult Parliament on any proposed changes to a conditional grant framework for the purposes of correcting an error or omission, as envisaged in Section 16(2) of the Division of Revenue Act, 2019. The following proposed changes were submitted by the Minister of Finance with the Bill;

* **Ilima/Letsema grant framework:** The framework is amended to include conditions for the new indirect component and allow the national Department of Agriculture, Forestry and Fisheries to make payments directly to the HSRC to undertake the National Food and Nutrition Survey using funds that were previously ring-fenced on the direct grant for the survey.
* **School Infrastructure Backlogs Grant:** The framework is amended to reflect an increase in the number of schools provided with improved sanitation from 195 to 717 schools and water from 177 to 227 schools. This is the result of an additional R700 million being allocated in 2019/20, shifted from the Education Infrastructure Grant, to cater for the Sanitation Appropriate for Education (SAFE) infrastructure initiative.
* **NHI Direct Grant:** A new grant framework for the NHI Direct Grant will be gazetted for 2019/20. This grant framework did not form part of the Division of Revenue Act, 2019, but it is introduced as a result of the shift in funds for health professionals contracting. This will allow provinces to make direct payments for health professionals already contracted by provinces rather than claiming reimbursement from the national department.
* **Human Papillomavirus Vaccine Grant:** The grant framework is amended to include the vaccination of grade 5 school girls since the original framework only catered for grade 4 girls.
* **Human Resources Capacitation Grant**
* The grant framework is corrected to rectify the grant purpose and outcome statement to be in line with the intended function of the grant,
* A condition for the procurement of statutory posts is corrected to allow the grant to be used for non-statutory posts, if the posts were filled in 2018/19. This correction allows for the grant to pay for the carry-through costs of posts already funded from the grant in the previous financial year, without requiring approval from National Treasury.
* **NHI Indirect grant: health facility revitalisation component:** The grant framework is amended to allow for the payment for linen and beds that were procured under the discontinued beds and laundry services component that was introduced in 2018/19 and this allows for the completion of outstanding projects from 2018/19.
* **Provincial Roads Maintenance Grant:** The grant framework is amended to ring-fence the R60.7 million added to the grant for the repair of flood damaged roads in the Joe Gqabi District Municipality in the Eastern Cape.
* **Integrated Urban Development Grant**
* The grant framework is amended to rephrase a condition for the transfer of the second tranche to align the requirements of the spending on the first tranche with the payment schedule.
* The condition “the second transfer will only be released to municipalities that spent at least 50 per cent of their transfer funds by the end of the second quarter” is replaced with “the second transfer will only be released to municipalities that have spent at least 50 per cent of their first tranche.” This correction is needed because the second tranche is transferred before the end of the second quarter of the municipal financial year.

1. **Changes to local government grant allocations**

***Municipal Infrastructure Grant (Sports allocation):*** To correct allocations ring-fenced for sports project in the Municipal Infrastructure Grant (MIG), a total of R3.6 million is proposed to be shifted to Prince Albert Local Municipality in the Western Cape, consisting of:

* A total of R1.6 million from Emthanjeni Local Municipality in Northern Cape; and
* A total of R2 million from Magareng Local Municipality in the Northern Cape.

The allocations were not captured correctly in MIG allocations, necessitating this correction and this will ensure that sufficient funds are available to complete all planned sports infrastructure projects in the three affected municipalities.

***Municipal Disaster Recovery Grant:*** A total of R133.2 million in the grant that was unallocated at the beginning of the financial year is allocated to eThekwini Metropolitan Municipality and Ugu District Municipality in KwaZulu-Natal for the repair of roads damaged by floods in 2017 as follows;

* A total of R113 million is allocated to eThekwini Metropolitan municipality, and
* A total of R20.3 million is allocated to Ugu District Municipality.

1. **Submissions from Interested Stakeholders**

**7.1. Financial and Fiscal Commission**

The Financial and Fiscal Commission (FFC) provided an overview of actual expenditure in 2019/20, by reporting highlights based on an analysis of aggregate spending for the first six months of the financial year. Total government spending by mid-year was at R816 billion, or 48 per cent; spending by all votes at R448 billion, or 48 per cent, and transfers of the Provincial Equitable Share (PES) at 50 per cent, as expected. However, the FFC reported that an assessment of individual departmental performance showed somewhat uneven spending patterns. The Department of Higher Education and Training had spent 71 per cent of its budget and the Department of Basic Education 58.5 per cent. Other departments such as Environmental Affairs, Water and Sanitation, Human Settlements and Rural Development and Land Reform had registered below average spending or just at 40 per cent. According to the Commission, excessive deviations below or above the average were generally perceived as undesirable from a budget planning and execution point of view; unless a department’s annual plan explicitly identify unusual spending patterns.

Regarding the revised division of revenue for 2019/20, the FFC reported that declared unspent funds returned to the fiscus amounted to R3.9 billion in 2019/20; which was a significant increase from the R329 million declared in the 2018/19 financial year. The largest amount of unspent funds was for the Department of Higher Education and Training (R897.1 million) due to slow capital expenditure, and the Department of Health (R346 million) as a result of slow expenditure on the National Health Insurance (NHI) Indirect Grant. The Commission expressed concerns over the unspent funds on these programmes, given their critical role in addressing shortfalls at institutions of higher learning as well as the imminent health reforms through the NHI programme implementation.

Projected under-spending for national government was reportedly estimated at a total R1.183 billion in 2019/20, a decline compared to the R2.7 billion projected in 2018/19. The largest roll-overs funds were registered for the Department of Water and Sanitation (R241.9 million) and the Department of Health (R89.3 million), which was 96 per cent of the total roll-overs of R344.9 million in 2019/20. The FFC reiterated the importance of departments using roll-overs as per Treasury Regulations section 6.4 to avoid fruitless and wasteful expenditure.

**7.2. Organisation Undoing Tax Abuse**

The Organisation Undoing Tax Abuse (OUTA) submitted that the amendment of the Division of Revenue act was a fundamentally stagnant budgeting process that largely excludes the ordinary citizens. OUTA submitted that budgets and expenditure needed to be more heavily scrutinised by Parliament. In terms of public participation, OUTA suggested that the budgeting processes in Parliament needed to prioritise constituency demands over political expediency. It further asked that Parliament make public access to the budgeting process easier through producing searchable PDFs, collation of budget documents on National Treasury’s website, and summaries of key budget documents, particularly in different languages. OUTA recommended that the budget cycle in the Executive be harmonised with the Parliamentary calendar to ensure that meaningful public participation in expenditure decisions is facilitated timeously.

OUTA submitted that the precarious state of local government was an obstacle to attracting foreign direct investment and stated that there was an urgent need reassess the local government business model as the present one has failed. It further alluded to the fiscal pressures facing municipalities and submitted that municipal funding was based on population statistics with migration not being sufficiently taken into account. It recommended that National Treasury should revisit the intergovernmental fiscal relations framework, which have culminated in mutually destructive operations of municipalities and Eskom.

Regarding the equitable share determinations for municipalities, OUTA recommended the withholding of the equitable share tranches due to be transferred on 2 December 2019 to municipalities which are heavily indebted to Eskom and/or water boards or who have failed to honour payment agreements on those debts. It also recommended that the withholding of aforementioned tranches to municipalities which passed unfunded budgets for the 2019/20 financial year and have not rectified these in line with National Treasury’s instructions.

In terms of Conditional Grants, OUTA suggested that the Integrated National Electrification Programme Grants (Municipal and Eskom) be reassessed, with consideration being given to withholding grants from municipalities which are in default to Eskom, particularly those which failed to sign debt agreements or to adhere to those agreements.

OUTA also submitted that the funding allocated to the Vaal River System for emergency pollution remediation intervention in the Emfuleni Local Municipality was incoherent. Whilst the South African National Defence Force estimated the cost for the aforementioned at about R1 billion, the R241.9 million allocated in the form of a grant to Emfuleni has effectively not been spent and will be rolled over.

Regarding the NHI, OUTA submitted that it was in full support of the goal of universal health coverage as this will help make section 27 of Constitution a reality for South African citizens. It however expressed concerns about the inadequate fiscal planning relating to the NHI as well as the question regarding its affordability as stated in the 2019 MTBPS.

OUTA recommended that the Schools Infrastructure Backlogs Grant not be reduced as this funding was essential to supporting some of the most vulnerable and voiceless people in South Africa. It further recommended that government seek expert advice from health experts before reducing the Human Papillomavirus Vaccine Grant as this reduction will affect some of the most vulnerable and voiceless section of the society. It further submitted that government needed to give assurance that limiting the vaccination to prevent cervical cancer to just one grade of school children will pose no significant risk in terms of prevention.

**7.3. Equal Education**

The focus of Equal Education submission was on the Basic Education sector. Equal Education (EE) submitted that if inflation was taken into account, the total basic education sectoral allocation was growing at an achingly slow pace, which would be 0.8 per cent real growth anticipated in 2020/21 financial year. EE added that based on current projections, R7 billion less was to be spent on education in the 2020/21 financial year than their 2017 plans.

Regarding conditional grants, EE submitted that they noted reductions in conditional grants such as the school infrastructure conditional grants. EE stated that these cuts to conditional grants remain a threat to eradicating school infrastructure backlogs. EE explained that allocations to almost all provinces declined for the upcoming financial year, including provinces with major infrastructure backlogs such as the Eastern Cape and Kwazulu-Natal. EE emphasised that the budget for the School Infrastructure Backlogs Grant (SIBG), which allocates money to the Department of Basic Education (DBE) to build schools, continued to decline in the 2020/21 financial year, with a projected R350 million in real decrease. It further highlighted the Bill cuts amounting to R40 million from provinces due to the slow implementation of water and sanitation projects. EE added that a further R100 million was moved out of the national infrastructure budget as it was incorrectly classified in the 2019 Estimates of National Expenditure. These reductions follow a R7 billion cut from infrastructure grants in 2018.

Regarding the scholar transport, EE submitted that over the last few years, the Department of Basic Education and National Treasury have committed to introducing a conditional grant for scholar transport, but have thus far failed to deliver on this promise. EE explained that the finalisation of a Department of Planning Monitoring and Evaluation (DPME) evaluation on scholar transport provision was cited as one of the two main barriers to introducing a scholar transport conditional grant. According to EE submission, the evaluation was now completed, yet there was still no mention in budget documents and speeches of the introduction of such a grant.

In respect of the equitable share allocation, EE submitted that in previous submissions to the Committee, they highlighted the problems with the equitable share (ES) formula. EE submitted that the current formula failed to cater for the higher costs of education provision in rural provinces as compared to urban areas. However, EE welcomed National Treasury’s intention to review the current equitable share formula even though they were still expecting time-frames for the review process to be made public. EE added that the information provided in various Division of Revenue Bill Explanatory Memorandums was vague, such that it was impossible to ascertain when the public can expect to interact with the process and to provide comments. EE claimed that it was unclear to what extent the education component of the ES formula was to be reviewed. EE added that the existing formula was not taking into account the factors contributing to the high cost of providing education in rural provinces when allocating funds for education.

In conclusion, EE submitted the following recommendations on the Bill:

* That drastic steps should be taken to ensure that bailouts for State Owned Entities cease to divert funds from critical social spending priorities such as basic education;
* That the Committee evaluate National Treasury’s Medium Term Expenditure Framework projections for basic education funding and insist that the basic education sectoral budget be considered for an annual real increase greater than 0.8 per cent in the 2020/21 financial year.
* That the Committees halt the proposed decreases to all education conditional grants, particularly school infrastructure grants which were drastically reduced in 2018.
* That the Committees ensure stakeholders such as National Treasury provide support to the Department of Basic Education (DBE) and Provincial Education Departments (PEDs) to strengthen their ability to efficiently spend allocated funds. EE said they recommend that the Committee request the DBE and PEDs to report on interventions to improve spending and delivery.
* That the Committee should request National Treasury to strengthen oversight of conditional grants and intervene in provinces that are under-resourced or under-capacitated.
* That the Committees should call on National Treasury, the DBE and other relevant departments to urgently finalise the development of a conditional grant for scholar transport, which should be put into effect in the 2020/21 financial year. In addition, the Committee should follow-up on the status of the Evaluation Report conducted by the DPME on scholar transport.
* That a progress update and timelines on the ES review process be made publicly available, as a matter of urgency, and that details of the process be included in the 2020 Division of Revenue Bill.
* That further phases of the ES formula review take into account the factors contributing to the high cost of providing education in rural provinces

1. **Findings**

The Standing Committee on Appropriations made the following findings during its deliberations with identified stakeholders on the 2019 Division of Revenue Amendment Bill:

* 1. The Committee welcomes the additional allocation of R300 million to the Human Resources Capacitation Grant for funding the carry-through costs of post filled in the Health Sector in 2018/19 financial year. Even though the committee views this a critical component, the Committee is concerned by the R145 million reduction in the NHI Indirect Grant component. The Committee is concerned because it views the NHI programme is a very important programme if government has to fully comply with Section 27 of the Constitution through the provision of universal access to health for all the citizens. The Committee also welcomes the R89.3 million roll-over of funds for the NHI Indirect Grant, in the Health Facility Revitalisation Component to pay for medical equipment procured for hospitals in Limpopo.
  2. The Committee welcomes the R310 million that will be reduced from indirect conditional grants to provinces due to projected underspending of R40 million from the School Infrastructure Backlogs Grant R230 million from the Personal Services Component of the NHI Indirect Grant; R10 million from the Non Personal Services Component of the NHI grant; R30 million from the Health Facility Revitalisation Component of the NHI Indirect Grant. The Committee is of the view that funds must be shifted from underspending programme in order to allow these funds to be used in other key government programmes. However, the Committee is very concerned about the continued underspending on infrastructure grants like the School Infrastructure Backlog Grant, in particular when you consider the backlog that needs to be addressed in various school infrastructure projects. The Committee is of the view that there is a need for a collaborative effort by the national Department of Basic Education and provincial departments of basic education in order to ensure that school infrastructure grants are spent speedily in order to address the known infrastructure backlogs in schools, with particular reference to school in rural areas. Furthermore, the Committee is concerned by the under expenditure in the School Infrastructure Backlog Grant because there seem to be no plans to improve expenditure in this grant and there have been reductions in the grant for the past three financial years which the Committee also raised its concern during those period. The Committee will continue to monitor the implementation of these grant by the department of basic education.
  3. The Committee is concerned by the R445.5 million reductions from local government indirect conditional grants due to projected underspending of R185 million from the Regional Bulk Infrastructure Grant; R250 million from the Integrated National Electrification Programme (Eskom) Grant and R10.5 million from the Municipal Systems Improvement Grant. The Committees’ concerns emanate from the fact that local government is at the cold face of service delivery and the continued reduction in these grant will surely have negative impact on the level of service delivery that these grants were expected to address. The Committee feels strongly that National Treasury and the Department of Cooperative Governance must collaboratively provide assistance to municipalities who are consistently underspending on these grants in order to improve service delivery. The Committee is of the view that instead of the continued budget cuts on these grants by National Treasury, National Treasury and the Department of Cooperative Governance should assist these municipalities in developing plans on how to improve spending in order to improve service delivery.
  4. The Committee welcomes the roll-over of funds for the indirect Regional Bulk Infrastructure Grant of R241.9 million which will be used for the emergency Vaal River System pollution remediation intervention. However, the Committee notes that Emfuleni Local Municipality is largely responsible for the pollution of the Vaal River, however the Committee is of the view that National Treasury must ensure that other individuals or organisations responsible are also held accountable for these costs and face the legal consequences.

1. **Recommendations**

The Standing Committee on Appropriations, having considered submissions from various stakeholders on the 2019 Division of Revenue Amendment Bill, recommends as follows:

**9.1** The Minister of Finance should ensure that National Treasury gazettes the following corrections to the Conditional Grant Frameworks as well as the New Conditional Grant Frameworks as set out in annexures 2 and 3 of the Bill, in accordance with section 16(4) of the Division of Revenue Act, 2019:

Corrections to Conditional Grant Frameworks:

* Ilima/Letsema grant framework
* School Infrastructure Backlogs Grant
* NHI Direct Grant
* Human Papillomavirus Vaccine Grant
* Human Resources Capacitation Grant
* NHI Indirect grant: health facility revitalisation component
* Provincial Roads Maintenance Grant; and
* Integrated Urban Development Grant.
  1. That the Minister of Finance should ensure that there is a consequence management framework and actions is taken against government institutions who continuously underspend on their appropriated budgets.

1. **Committee Recommendation on the Bill**

The Standing Committee on Appropriations, having considered the Division of Revenue Amendment Bill [B15 - 2019] (National Assembly) referred to it and classified by the Joint Tagging Mechanism (JTM) as a Section 76 Bill, recommends that the Bill be adopted, without amendments.

**Report to be considered**

1. *National share includes conditional allocations to provincial and local spheres, general fuel levy sharing with metropolitan municipalities, debt-service costs, the contingency reserves, provisional allocations and special appropriations.*  [↑](#footnote-ref-1)
2. *The direct charges for the provincial equitable share are netted out.* [↑](#footnote-ref-2)