



FINANCIAL
AND FISCAL
COMMISSION

ANNUAL REPORT

1999 - 2000

FINANCIAL AND
FISCAL COMMISSION

ANNUAL REPORT

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LIST OF ABBREVIATIONS/ACRONYMS

FFC	Financial and Fiscal Commission
MTEF	Medium Term Expenditure Framework
SALGA	South African Local Government Association
DBSA	Development Bank of Southern Africa
HSRC	Human Sciences Research Council
SACTWU	Southern African Clothing and Textile Workers Union
PA	Personal Assistant
CIDA	Canadian International Development Agency
IGFR	Intergovernmental Fiscal Relations
PFMA	Public Finance Management Act
MINMECS	Ministerial Meeting of MECS
AUS-AID	Australian Agency for International Development





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This report marks another milestone in the ongoing transformation of the intergovernmental fiscal relations system in South Africa and the role of the Financial and Fiscal Commission therein. The Commission's contribution to fiscal matters has gained increasing relevance in the complex problems facing the intergovernmental fiscal system. Great progress has been made, thus far, with greater clarity being brought to the fiscal system, procedurally, legally and otherwise.

Given government's ongoing efforts to refine the intergovernmental fiscal system in South Africa, the Commission has remained conscious of the complexities and intricacies of dealing with the legacy of apartheid and proposing improvements in line with its Constitutionally defined role and obligations. Paramount in the work of the FFC has been the recognition that the societies and governments going through transitions to democracy are often inevitably faced with significant social, economic and political difficulties. Given this milieu, the FFC has striven to contribute to enhancing clarity and accountability in the methods and approaches for fiscal and financial allocations among the three spheres of government.

In this context, the FFC maintains the view that its recommendations must be viewed and understood in terms of the ongoing objective to establish a more equitable dispensation with regard to the allocation of fiscal resources to the functions assigned to the three spheres of government.

Over the past year (1999 - 2000), the Commission has seen its relationship with stakeholders grow from strength to strength. While this is welcomed, much more still has to be done particularly where the development of a structured system of protocols and procedures to consolidate the role of the FFC in regard to the budget process is concerned.

The financial statements contained in this report demonstrate that the FFC, while careful in its use of resources, has managed to execute its responsibilities within the parameters of its budget. Due to the restructuring of the FFC envisaged in the next financial year, the budget is expected to grow in response to an expected increase in demand for advice and recommendations arising out of greater interaction and consultation with stakeholders.

A key project for the next financial year, will be the restructuring of the secretariat. Once completed, it is expected to allow space for the growth of the staff complement, particularly with regard to the employment of highly skilled staff and, in general, staff development and training.

In presenting this report, I wish to thank the Commissioners and staff for their unwavering support and dedication despite all the difficulties normally associated with work of institutions such as the FFC. I am confident that this report is a fair reflection of their contributions to the development of an equitable financial and fiscal system for South Africa.



Murphy Morobe



Great progress has been made, thus far, with greater clarity being brought to the fiscal system, procedurally, legally and otherwise.





1. ADMINISTRATION

1.1 MEMBERS

1.1.1 The FFC is structured according to the Constitution and comprises 22 Commissioners and a full time secretariat.

1.2 COMMISSIONERS

1.2.1 Currently the President appoints 22 Commissioners to the FFC, each for a term not exceeding five years (though the Commissioners may be re-appointed at the end of their term):

- A chairperson and a deputy chairperson who **may** be full time members;
- One person nominated by the executive councils of **each of the nine provinces**;
- **Two persons** nominated by organised local government in the form of the South African Local Government Association (SALGA); and
- Nine other persons.

1.3 MEMBERS OF THE COMMISSION AS OF 31 MARCH 2000



Murphy Morobe has served as chairperson of the FFC since its inception in 1994. He is a National nominee.



Jaya Josie is Acting Deputy chairperson of the FFC while a formal appointment by the President is awaited. He is a nominee of Gauteng.

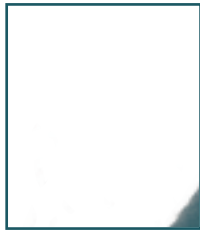


Mustaq Brey is the chairperson of Brimstone, a well known black empowerment corporation based in Cape Town. He is a nominee of the Northern Cape and is a member of the FFC Audit Committee.





John Douw is an executive member of the North West Local Government Association and serves as the chairperson of its finance working group. He is a nominee of SALGA and serves on the Local Government task group.



Mandla Gantsho is an executive manager at the Development Bank of Southern Africa (DBSA). He is a National nominee.



Philip Hourquebie is the CEO of Ernst & Young (Southern Africa) and is a member of the Ernst & Young International Council. He is the chairperson of the FFC Audit Committee and was nominated to the FFC by KwaZulu-Natal. He serves on the FFC Steering Committee.



Francois le Roux is currently deputy director-general in the Department of Finance responsible for international development finance, pensions administration, the Public Investment Commissioners, and corporate services. He is a National nominee.



Monde Limekhaya is the deputy permanent secretary, accountant general, in the Eastern Cape Province Department of Finance. He serves on the task group on Budget Analysis and was nominated to the FFC by the Eastern Cape.



Lieb Loots is Director of the Economic Policy Research Project at the University of the Western Cape. He is Director of the Sekunjalo Investments Limited and serves on the FFC Steering Committee. He is a National nominee.



Louis Kathan was nominated by the Western Cape and is a member of the FFC task group on Health, Education and Welfare.



Renosi Mokate was Executive Director (economic and social analysis) at the Human Sciences Research Council (HSRC). She is a National nominee and serves on the FFC Steering Committee and its task group on Health, Education and Welfare.

Audrey Mokhobo was nominated by the North West Province but has subsequently resigned from the FFC as a Commissioner.

Carol Mpapele was nominated by SALGA but is no longer a Commissioner for the FFC.



Ebrahim Patel is the Deputy General Secretary of the Southern African Clothing and Textile Workers Union (SACTWU) and serves on the National Executive Committee of the Congress of South African Trade Unions (Cosatu). He is a National nominee.



Jerry Sithole is a chartered accountant and has been Director of his own auditing and accounting practice since 1984. He was nominated by the Northern Province and is a member of the FFC Audit Committee and the task group on Budget Analysis.





Marius van Blerck is Executive Vice President: Tax with Anglo American plc. and is a member of the Income Tax Special Court. He is a National nominee and serves on the FFC task group on Tax Policy.



Philip van Ryneveld is Executive Director (Corporate Finance), City of Cape Town. He is a National nominee and serves the FFC Local Government task group.

1.4 VACANCIES AT THE TIME OF PUBLICATION

During the period covered by this report, a number of vacancies occurred in the Commission. The President's decision on the replacements was still awaited. Procedures for such replacements are laid down in the FFC Act. The following vacancies were still to be filled:

- | | | |
|-----------------------|---|--------------------|
| 1) Deputy Chairperson | – | National Nominee |
| 2) Mpumalanga | – | Provincial Nominee |
| 3) Free State | – | Provincial Nominee |
| 4) North West | – | Provincial Nominee |
| 5) Local Government | – | SALGA |
| 6) Two other | – | National Nominee |



2. RESOURCES

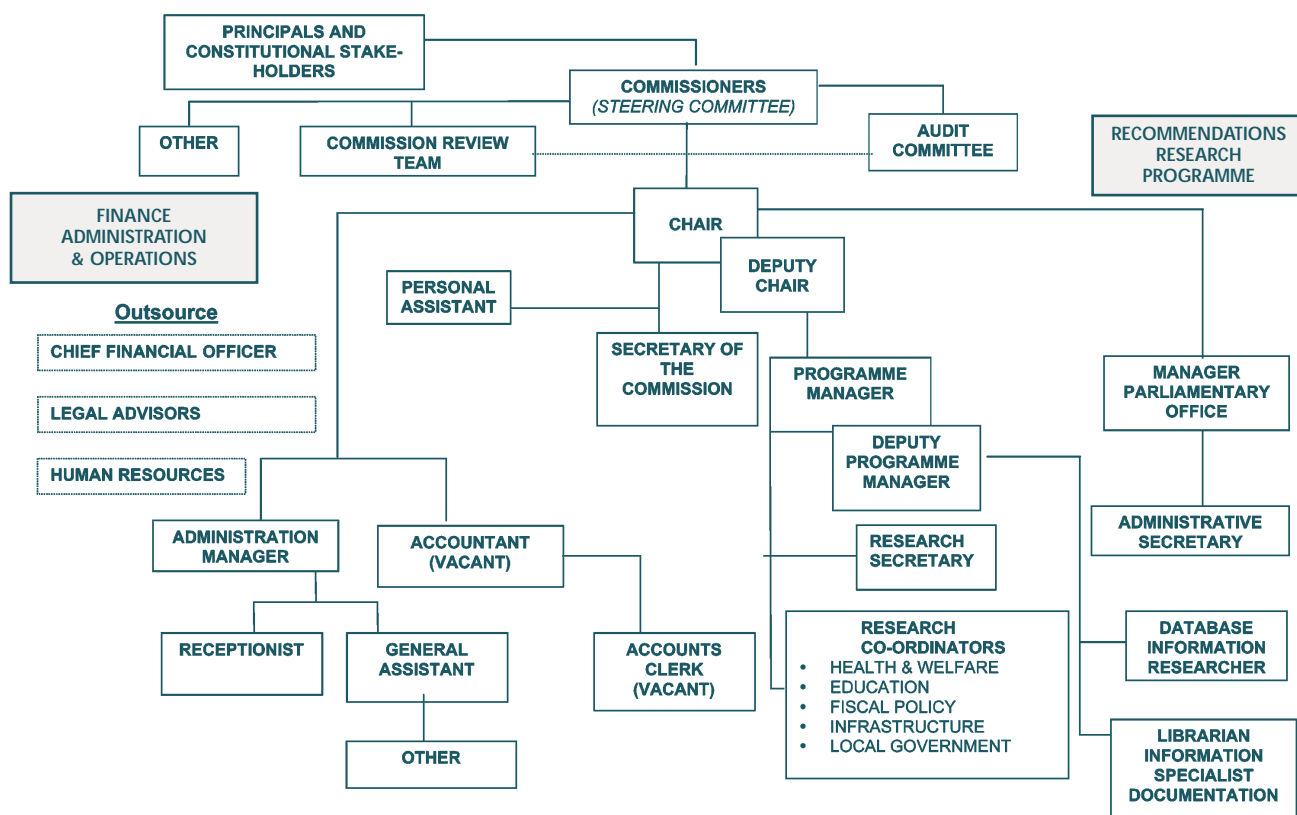
2.1 FINANCES

2.1.1 The FFC is funded with funds appropriated through Parliament. On an annual basis, and as part of the MTEF, the funds so appropriated reside generally in the budget of the Department of Finance, which the FFC then access unconditionally on the basis of its own plans.

2.1.2 Against a total budget allocation of R5,850,000.00, the total expenditure for the year amounted to R6,022,330.00 the major portion of which was designated to personnel.

2.1.3 The audited financial statements for the year together with the Auditor-General's report are attached (see Chapter 9).

2.2 STRUCTURE OF THE FINANCIAL AND FISCAL COMMISSION AS AT MARCH 2000



2.3 THE FFC SECRETARIAT

2.3.1 The FFC Secretariat is currently housed in Midrand, providing research, analytical and administrative support to the Commission. All staff listed below were employed by the Commission for the period covered by this report.

STAFF:

Murphy Morobe	Chairperson / Accounting Officer
Jaya Josie	Acting Deputy Chairperson
Colin Donian	Acting Research Coordinator
Hildegarde Fast	Parliamentary Manager and Research Coordinator, Cape Town
Paul Ledwaba	Accountant/Finance
Rosanna Achterberg	Researcher
Dirk Besdzick	Researcher
Selwyn Jehoma	Researcher
Bongani Khumalo	Researcher
Cindy Bruce	Admin/Network Manager
Antonette Smit	Librarian/Information Technologist
Lyn Desai	PA to the Chairperson and Deputy
Annaleeze Prosee	Secretary (Director and Research Component)
Annah Mosiane	General Assistant
Deliswa Schoeman	Receptionist/Typist



2.4 TECHNICAL ADVISORY GROUP

Ron Newman	Director to the Manitoba Department of Finance, Canada. Sponsored by CIDA (Canadian International Development Agency).
Michael Rennie	Economic Analyst to the Manitoba Department of Finance, Canada. Sponsored by CIDA (Canadian International Development Agency).
Prof. Andrew Reschovsky	University of Wisconsin-Economics, USA, FFC Advisor on Financing Social Policy.
Prof. Howard Chernick	Department of Economics Hunter College, USA, FFC Advisor on Financing Social Policy.
Prof. Raja Chelliah	Madras School of Economics, India, FFC Advisor on Fiscal Policy.
Prof. Robin Boadway	Queens University, Canada, FFC Advisor on Inter Governmental Fiscal Relations (IGFR).
Dr. A. Johnson	FFC Advisor on IGFR, Canada.
Prof. Giorgio Brosio	University of Turin, Italy, FFC Advisor on Local Government.
Prof. Jeff Petchey	Curtin University, Australia, FFC Advisor on Capital Expenditure.



2.5 HUMAN RESOURCES AND CAPACITY BUILDING

- 2.5.1 The FFC is committed to building the capacity of staff members in order to enhance the functioning of the Commission. Given the increasing demands on the FFC and the complexity of fiscal matters, the FFC has sought to improve the skills base of its existing personnel within the constraints of budgetary provisions.
- 2.5.2 The Commission has an equal opportunity policy coupled with the provisions, in the main, of Public Service Regulations, the Labour Relations Act, the Basic Conditions of Employment Act and legislative prescripts governing remuneration and taxation matters. In addition the FFC Act empowers the Commission to establish internal rules on these matters.
- 2.5.3 In the next financial year greater attention will be paid to restructuring the Secretariat in order to improve the technical and research capacity of the FFC.
- 2.5.4 In tandem with the restructuring the Secretariat, the FFC also intends to establish structured relationships with stakeholders in the next financial year. In order to meet stakeholder requests, the FFC intends to build capacity to respond to these requests through agreed protocols and timeframes.
- 2.5.5 The training of staff members has been identified as a priority by the Commission. Staff training and empowerment has taken place in two important areas, namely: administration and planning; and programme/research-based training. During the next financial year, a survey of the training needs of staff members will inform the development of a comprehensive human resource training plan for the FFC.

2.6 INFORMATION TECHNOLOGY

- 2.6.1 The Commission is acutely aware of the challenge to improve information gathering and communication through constantly enhancing its technological capability for data collection and analysis, administrative planning, and its communication with the public at large.
- 2.6.2 The FFC website has played a crucial role in interfacing with stakeholders and the public and interested parties. There is however a recognition that to remain relevant, it will have to undergo significant review and up-dating as a matter of urgency.



- 2.6.3 Given the problematic nature of data pertaining to fiscal matters, the FFC will continue to explore opportunities to overcome the problem of insufficient and disparate data sets currently available.
- 2.6.4 The Commission has earmarked, in the next financial year, the establishment of a model-building and database management system as an important facet of building the capacity of the Commission's research and analysis programme.



3. INTERNAL AND EXTERNAL ACCOUNTABILITY

3.1 INTERNAL COMPLIANCE

- 3.1.1 Given its evolving nature, some procedures for recruitment and procurement have been implemented in compliance with generally accepted recruitment practises and in terms of financial management of resources of the Commission.
- 3.1.2 Monthly reviews of the use of resources according to standard procedures for ensuring accountability have been conducted by the Executive of the Commission.
- 3.1.3 The Commission devoted 1999 to reviewing all procedural and structural issues to enhance capacity and has resolved to implement them in the 2001/02 financial year.
- 3.1.4 The Commission resolved to engage the services of a consultant, in the next (2000 - 2001) financial year, to focus on the review of its Human Resource and financial procedures and to redraft a more comprehensive set of procedures in keeping with current developments, legislative and otherwise. These HR and Financial procedures and policies are expected to be operational before the end of the 2000/2001 financial year.

3.2 EXTERNAL COMPLIANCE

- 3.2.1 The activities and finances of the Commission are subject to scrutiny by bodies such as the Office of the Auditor-General and the relevant Parliamentary committees.
- 3.2.2 The Commission's financial management practices were conducted within the provisions of the legal prescripts of the regulations promulgated by the Departments of Finance and State Expenditure. This included treasury regulations as applicable to the fiscal year.
- 3.2.3 The Commission exists and acts in terms of Chapter 13 of the Constitution of the Republic of South Africa, 1996. The provisions of the Constitution provide the mandate and scope of the Commission within the intergovernmental fiscal system.
- 3.2.4 Flowing from the relevant provisions of the Constitution, the Commission's activities are further regulated by the Financial and Fiscal Commission Act, 1997.



3.2.5 In its role in the national budget process, the Commission's key terms of reference are to be found in the Intergovernmental Fiscal Relations Act, 1997. The Act provides for recommendations to be submitted by the FFC, ten months before the introduction of the Division of Revenue Bill in Parliament by the Minister of Finance. It also provides for consultation with the Commission by the Minister of Finance, at least 14 days before the Bill is introduced in Parliament.

3.3 THE MANDATE OF THE FFC

3.3.1 The relevant Provisions of the South African Constitution provide the mandate upon which the FFC acts within the intergovernmental fiscal relations system in South Africa.

3.3.2 Chapter 3 of the Constitution provides for three spheres of government and requires adherence to principles of co-operative governance and intergovernmental relations. Sections 40 and 41 read as follows:

- (1) In the Republic, government is constituted as national, local and provincial spheres of government, which are distinctive, interdependent and interrelated.
- (2) All spheres of government must observe and adhere to the principles in this Chapter and must conduct their activities within the parameters that the Chapter provides.
- (3) The equitable division of national revenue lies at the heart of the function of the Financial and Fiscal Commission (FFC). Chapter 13 of the Constitution presents the financial framework for the Republic.

Section 214 reads as follows:

- (1) An Act of Parliament must 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 the 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) The Act referred to in subsection (1) may be enacted only after the provincial governments, organised local government and the Financial and Fiscal Commission have been consulted, and any recommendations of the Commission have been considered, and must take into account -
- (a) the national interest;
 - (b) any provision that must be made in respect of the national debt
 - (c) and other national obligations;
 - (d) the needs and interests of the national government determined by objective criteria;
 - (e) the need to ensure that the provinces and municipalities are able to provide basic services and perform the functions allocated to them;
 - (f) the fiscal capacity and efficiency of the provinces and the municipalities;
 - (g) developmental and other needs of provinces, local government and municipalities;
 - (h) economic disparities within and among the provinces;
 - (i) obligations of the provinces and municipalities in terms of national legislation;
 - (j) the desirability of stable and predictable allocations of revenue shares; and
 - (k) the need for flexibility in responding to emergencies or other temporary needs, and other factors based on similar objective criteria.

3.3.3 The instructions under Section 214 lie at the heart of the function of the Financial and Fiscal Commission's role. However, the role extends beyond commenting on Parliament's Division of Revenue Bill. The provisions of the Constitution with respect to the establishment and



functions of the Financial and Fiscal Commission and reporting requirements are found in Sections 220 and 222, as follows:

220. (1) There is a Financial and Fiscal Commission for the Republic which makes recommendations envisaged in this Chapter, or in national legislation, to Parliament, provincial legislatures and any other authorities determined by national legislation.

(2) The Commission is independent and subject only to the Constitution and the law, and must be impartial.

(3) The Commission must function in terms of an Act of Parliament and, in performing its functions, must consider all relevant factors, including those listed in section 214(2).

222. The Commission must report regularly both to Parliament and to the Legislatures.

3.3.4 Other legislation and processes also guide the involvement of the FFC. Since 1998, the process for the establishment of the equitable division of revenue, as required under Section 214 of the Constitution, has been governed by the Intergovernmental Fiscal Relations Act. This Act outlines the roles of various parties including the Minister of Finance, the Financial and Fiscal Commission and others, including Parliament, the Budget Council, the Budget Forum, and provincial and organised local governments. Parts 1 and 2 create the Budget Council and the Budget Forum. Part 3 provides processes for revenue-sharing.

3.3.5 Part 3 of the Intergovernmental Fiscal Relations Act also establishes a process extending over a period of ten months, preceding the tabling in Parliament of the Annual Budget and the accompanying Division of Revenue Bill, by the Minister of Finance. The Financial and Fiscal Commission is called upon, through the Act, to put forward recommendations with respect to the development of the framework for the division of revenue



and must be consulted before the Division of Revenue Bill is introduced in the National Assembly, as follows:

9. (1) At least ten months (or at a later date agreed to between the Minister and the Commission) before the start of each financial year, the Commission must submit to both Houses of Parliament and the provincial legislatures, for tabling in the Houses and legislatures, and also to the Minister, recommendations for that fiscal year regarding –
 - an equitable division of revenue raised nationally, among the national, Provincial and local spheres of government;
 - the determination of each province's equitable share in the provinces' share of that revenue; and
 - 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 should be made.
10. (1) 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 Budget relates.
 - (2) The Division of Revenue Bill must specify –
 - the share of each sphere of government of the revenue raised nationally for the relevant fiscal year;
 - each province's share of the provincial share of that revenue; and any other allocations to the provinces, local governments or municipalities from the national government's share of that revenue, and any conditions on which those allocations are or must be made.



- (3) After receiving any recommendations of the Commission in terms of Section 9(1), but before the Division of Revenue Bill is introduced in the National Assembly, the Minister must consult –
 - the provincial governments, either in the Budget Council or in another way;
 - organised local government, either in the Budget Forum or in another way; and the Commission.
- (4) The Commission must be consulted in terms of subsection (3) at least 14 days before the Division of Revenue Bill is introduced.
- (5) When the Division of Revenue Bill is introduced, it must be accompanied by a memorandum explaining –
 - how the Bill takes account of each of the matters listed in section 214 (2) (a) to (j) of the Constitution;
 - the extent to which account was taken of any recommendations of the Commission submitted to the Minister in terms of section 9 or as a result of consultations with the Commission in terms of subsection (3) of this section; and
 - any assumptions and formulae used in arriving at the respective shares mentioned in subsection (2)(a) and (b).

3.3.6 While adhering to the formal requirements of this legislation, the FFC is prepared to participate in other forums in which it may be appropriate to discuss intergovernmental fiscal relations, the equitable division of revenue and related matters. Within the past year, a number of opportunities arose for the FFC to discuss the program “parameters” and “needs” with national, provincial and local government senior officials.

3.4 THE ROLE OF THE FFC

3.4.1 The FFC is keenly aware that it is a part of an elaborate mechanism for establishing policy and balancing the myriad interests of a modern, democratic and progressive nation.



- 3.4.2 Given its unique position and the role assigned to it in the Constitution and legislation, the FFC is expected to play a role in the unfolding debate on the equitable sharing of national revenue. Therefore, FFC has to consider the interests of each of the national, provincial and local government spheres with equal objectivity.
- 3.4.3 In order to prepare for this leadership role, the FFC relies on a number of key reference points:
- The heavy onus on the FFC to respect the constitutional status of each sphere and to ensure that the letter and spirit of the Constitutional principles guide its recommendations.
 - The Constitution's Bill of Rights mandates the provision of basic services.
 - Other principles for good intergovernmental relations are studied, considered and balanced within the FFC recommendations. These were outlined in detail in the FFC documents published last year.
 - The FFC has to undertake extensive research activities to better inform the basis for decisions.
 - Over the past year, the FFC has undertaken to strengthen its processes for consultations with stakeholders.
- 3.4.4 An independent and impartial FFC has to study and prepare recommendations based on a transparent relationship among principles, stated program objectives, examination of facts and analytical development.
- 3.4.5 The FFC appreciates that, in this role, it may often make recommendations which depart from the current framework for intergovernmental fiscal relations as outlined in the Division of Revenue Bill proposed by the Department of Finance. Indeed, it is incumbent upon the FFC to advocate change whenever it determines that it is necessary or desirable. The processes outlined in the Constitution and the Intergovernmental Fiscal Relations Act provide for a reasoned debate around the issues raised. In this regard, the FFC believes that it is particularly important to work co-operatively with the Department of Finance and to respect the political processes that ultimately establish the policies of governments in the three spheres.



3.5 SUCCESSES AND CHALLENGES

3.5.1 Through the consultations process, the FFC believes that significant strides have been made in stimulating debate on the need to improve the links between political decisions, constitutional requirements and the budgetary process.

Government has adopted the key recommendations proposed by the FFC pertaining to the Medium Term Expenditure Framework (MTEF) and the formula approach for the division of revenue for provincial and local government equitable shares.

3.5.2 The FFC believes that even if the final recommendations flowing from Project 2001 are not fully adopted and that significant research still has to be carried out, the exercise has stimulated interest in revisiting the fiscal relations system. The challenge that lies ahead is the need to develop and extend the application of the costed norms approach to areas of service delivery over and above the social services of education, health and welfare.

3.5.3 There are other issues which pose a great challenge to the fiscal relations system that have significant implications for expenditure in the three spheres of government. The issues of HIV/AIDS and migration between provinces and illegal international migration are of significance from the point of view of placing budgetary allocations for provision of basic services under pressure. While it may not be necessarily wise to give special treatment to selected diseases in a revenue-sharing formula, the AIDS impact nevertheless poses a significant challenge. It is also true that the migration of people from one province to another while being within individual rights does however, have implications for spending and requires careful investigation. A way of dealing with the problem needs to be found.

3.5.4 The FFC is of the view that several issues of concern pertaining to the social sector needs to be addressed. After a careful review of its first set of recommendations on the division of revenue, the FFC decided to revisit the grants transfer formula. A careful examination of provincial budgets indicated to the FFC that spending pressures in provinces are concentrated in the social sector, namely health, education and welfare. As much as 90% of provincial expenditure in some provinces is on



these three sectors, even though in other provinces the percentage may be lower. In considering how to ensure that the resources expended in these sectors actually reflect the requirement in the provinces, the FFC believes that a link has to be established between norms and standards and their relation to budgets. There is, therefore, a need to develop a formula-based method for calculating the resource requirements for the delivery of basic social services, given a set of nationally mandated norms and standards.



4. COMMISSION ACTIVITIES FOR 1999/2000

4.1 SYNOPSIS OF KEY AREAS

4.1.1 During the 1999-2000 fiscal year the FFC embarked on Research Project 2001 with the aim of developing recommendations for the 2001/2004 MTEF cycle. Project 2001 focused on the following areas:

4.1.1.1 A method for financing constitutionally basic services in Education, Health and Social Security;

4.1.1.2 The development of the Capital Grants model;

4.1.1.3 Further analysis of local government revenue sources and the formula for local government equitable share; and

4.1.1.4 Improving stakeholder consultations and communication to complement the research and recommendations programme.

4.1.2. In addition to the above, the FFC embarked on a restructuring of the Secretariat to be implemented in the fiscal year 2001-2002. This was also accompanied by the initiation of the development and refinement of procedures for streamlining its operations and improving accountability.

4.2 PROJECT 2001

4.2.1 The issues raised in 3.5.4 and the proposed approach set the basis for embarking on Project 2001. The project focused on developing an approach for financing constitutionally mandated basic services in Education, Health and Welfare.

4.2.2 This approach requires significant amounts of data on the characteristics of recipient demographic groups and in most cases the data needs to be disaggregated. The approach also requires clear norms and standards for service delivery and knowledge of resource requirements for certain output achievements. The data requirements are certainly overwhelming and may not be available immediately in South Africa.



- 4.2.3 Due to the non-existence of output data, and in some cases the lack of clear norms and standards, the FFC interacted with national and provincial social sector stakeholders and adopted an input-based approach, and where necessary opted to explore the use of certain proxies and assumptions to develop the costed norms approach. It was intended that the proxies that were selected would be flexible and could be brought in line with current policy as more reliable data became available.
- 4.2.4 The FFC hopes that because the approach is data-intensive, it will establish a demand for relevant data to be collected. It will also contribute to the necessary sensitization of national departments to move aggressively forward and develop the necessary funding norms and standards that need to be implemented so that constitutional mandates can be fulfilled.
- 4.2.5 In developing its model, FFC workshops were held with stakeholders at the Commission's Midrand offices and in Cape Town to solicit stakeholder views on the choice of variables to be included in the formula. Issues that needed further research were also identified.
- 4.2.6 The consultation process for Project 2001 began in January 2000 and involved presentations of preliminary recommendations to stakeholders, which were followed up with discussions between the FFC technical teams and the respective departments.

4.3 SUMMARY OF THE "PROJECT 2001" RECOMMENDATIONS SUBMITTED TO PARLIAMENT IN 2000

- 4.3.1 The FFC's **first recommendation** noted that provincial governments are mandated by the Bill of Rights (Chapter 2) of the Constitution to provide basic services and suggested that the process start with defining basic education, primary health care and social security. It was noted that provincial governments are accountable for the delivery of basic services and that the progressive realisation of these basic rights should consequently be provided for in the calculation of the Provincial Equitable Share (PES).
- 4.3.2 A methodology for calculating the PES was proposed in the FFC's **second recommendation**. The approach suggested that basic services be defined in terms of cost per beneficiary, with allowances made for variations in the cost of delivery for different target groups and the inclusion of policy parameters determined by Government.



- 4.3.3 The FFC's **third recommendation** noted the trade-offs in the provincial budget allocation process between providing for basic services (the S-Element), fixed institutional costs (the I-Element) and other provincial functions (the B-Element).
- 4.3.4 The FFC's **fourth recommendation** suggests that a tax capacity (T-Element) measure be retained within the Provincial Equitable Shape formulae but that it be set at zero for the medium-term.
- 4.3.5 The Commission's **fifth recommendation** proposed that, over the medium term, provincial infrastructure backlogs be funded through conditional grants from national government.

4.4 PARLIAMENTARY LIAISON

- 4.4.1 The FFC is required to formally submit its recommendations to Parliament, and as a constitutional institution it is accountable to Parliament. While the FFC has had regular communication with Parliament since its inception, the Commission has increasingly become aware of the need to strengthen its relationship with Parliament, to whom it is ultimately accountable.
- 4.4.2 Consequently, an office was established in Cape Town in September 1999 and a Parliamentary Liaison Officer was appointed. The office is located in Regis House, Adderley Street, which accommodates members of the National Council of Provinces and is close to the Parliament Buildings.
- 4.4.3 The Parliamentary Office serves a number of functions. It provides a permanent link between Parliament and the FFC offices in Midrand and facilitates the flow of information and the dissemination of pertinent documents. Secondly, it is the task of the Parliamentary Office to analyse policy and legislation tabled in Parliament and to monitor Parliamentary meetings. Issues identified as relevant to the FFC's mandate are then communicated to the FFC Secretariat in Midrand and to the Commission.
- 4.4.4 Since its establishment, the Parliamentary Office has played a key communication role. Numerous presentations have been made to Parliament, particularly to the Finance, Local Government, and Welfare Committees. The Office is also involved in a process of developing protocols to clarify the relationship between Parliament and the Commission. It is hoped that the final product will also have relevance for other constitutional institutions.



5. INTERNATIONAL RELATIONS

- 5.1 In developing its approach, the FFC engaged the services of technical experts from Canada, India, Australia, the United States and South Africa. These experts worked closely with the Commission's research staff. International advisors provided the FFC with the technical advice and international perspectives on intergovernmental transfers. Assisted by the FFC staff, their inputs were critical in developing the revenue-sharing formulae for the horizontal division, with particular emphasis on social services. The local experts provided perspectives on the applicability of such formulae to the local context.

- 5.2 The FFC wishes to express its gratitude to Canadian International Development Agency (CIDA), whose assistance made it possible for the FFC to secure the services of experts from Canada.



6. KEY ISSUES FOR 2000 - 2001 WORK PROGRAMME

6.1 THE PROMOTION OF ACCESS TO INFORMATION BILL

6.1.1 It is anticipated that the said Bill will be promulgated in the 2000. In terms of the Bill, the FFC is obliged to ensure access to information concerning the Commission's activities, procedures and documentation. During the fiscal year 2000-2001, the FFC will engage in preparations for the organisation and documentation of its records so as to ensure easy and user-friendly access to information by the public at large and other interested parties.

6.2 THE PROMOTION OF THE ADMINISTRATION OF JUSTICE BILL

6.2.1 The said Bill is due to be enacted in 2000. The Bill seeks to ensure the just, fair and equitable administration of processes and procedures based on the rights of individuals methods and procedures for handling matters as per the provisions of the Bill.

6.3 PUBLIC FINANCE MANAGEMENT BILL

6.3.1 The Bill is expected to come into effect in 2000. It regulates the financial management of government departments, public entities, constitutional institutions and other related organs of state. During the coming fiscal year, the FFC will ensure that its existing financial procedures and processes are revisited in order to bring them into line with the obligations of the Public Finance Management Bill when it is enacted.

6.3.2 To meet the above objective, the FFC will by end of year 2000 have developed a new financial procedures manual for ensuring internal financial control and accountability as per the requirements of the Public Finance Management Bill and the treasury regulations that flow from its provisions.

6.4 SKILLS DEVELOPMENT ACT

6.4.1 A comprehensive training and human resource development plan will be finalised which is aimed at building and enhancing the skills base of the Commission.



6.5 PROPOSED RECOMMENDATIONS RESEARCH FOR 2000 - 2001

6.5.1 PROJECT 2001

6.5.1.1 During the fiscal year 2000-2001, the Commission will focus on the refinement, updating and finalisation of the data for developing its model for financing constitutionally mandated basic services.

6.5.1.2 The model will also be used to determine the Commission's proposals and response to the annual Division of Revenue Bill, 2001.

6.5.2 PROJECT 2002

6.5.2.1 In 2000, the Commission will prepare a set of recommendations for submission to Parliament in 2001. It is intended that the recommendations cover financial and fiscal issues relating to the three spheres of government for the 2002 Division of Revenue Bill.

6.5.2.2 The fiscal issues that will be covered in Project 2002 are:

- Principles for the division of revenue raised nationally among the three spheres of government, national, provincial and local;
- Provincial revenue sources;
- The capital grants model; and
- The local government equitable share formula, local government borrowing, local government infrastructure financing, the devolution of health functions to local government, criteria for the definition of basic municipal services and the division of powers and functions between category B and C municipalities.

6.6 PROTOCOLS WITH STAKEHOLDERS

6.6.1 The experience of the Commission over the past five years has pointed to the need for the further refinement and streamlining of the relations with key stakeholders in terms of the Financial and Fiscal Commission Act, and Chapter 3 (co-operative governance) of the Constitution.



- 6.6.2 To this end, the Commission has been in the process of developing a set of protocols aimed at strengthening the activities, procedures and processes between the Commission, Parliament and the relevant organs of state based on the prescripts of the above-mentioned laws.

6.7 DATABASE MANAGEMENT

- 6.7.1 In view of the data needs and requirements necessary for effective, reliable and accurate research results, and the critical role these results play in formulating recommendations, the Commission has as of 2000 began the process of establishing a data management facility as an essential part of its research activities.

6.8 RESTRUCTURING THE FFC SECRETARIAT

- 6.8.1 In the coming year (2000-2001) the FFC will embark on strengthening the Secretariat of the Commission with a view to increasing its capacity for research and meeting other legal and administrative obligations.
- 6.8.2 New staff will be employed in terms of a new structure for the Secretariat that was approved by the Commission in January 2000. The new structure will cater for three additional personnel to manage research activities and a secretary to service the activities of the Commission as a whole.
- 6.8.3 The following management posts will be filled by September 2000:
- Secretary to the Commission;
 - Program Manager for the Recommendations Research Program (RRP);
 - Deputy Programme Manager for the RRP;
 - Data and Information Researcher.

By the beginning of 2001 the FFC will be restructuring its administration and finance section. The Accountant post will be upgraded to Financial Officer and an Accounts Clerk will be employed. The Chief Financial Officer (CFO) function will continue to be outsourced until the Financial Officer is able to take over this function.



6.9 STRENGTHENING STAKEHOLDER CONSULTATION

6.9.1 In the past year the FFC has established and consolidated relationships with key stakeholders. The FFC has identified three important categories of stakeholders, namely legislative, executive and civil society. The process of finalising recommendations of the FFC have, at all times, included consultation, debate and discussion with the various stakeholders. This approach has seen the FFC chart for itself a role that, in relation to stakeholders, promotes and facilitates co-operative governance. This role will be strengthened in the subsequent financial years. More attention will be paid to defining a systematic and structured set of relationships.

6.10 RECOMMENDATIONS FOR 2001/02

- 6.10.1 In terms of the fiscal projects outlined in 6.5.2, the FFC will prepare its Submission on the Division of Revenue 2002 during 2000/01. This annual Submission will be in compliance with the obligations placed on the Commission as per the Intergovernmental Fiscal Relations Act. The Act stipulates that the Commission must submit its recommendations to Parliament and the relevant legislatures, at least, ten months before the Division of Revenue Bill is introduced in Parliament.
- 6.10.2 The Submission of the Commission will be printed and distributed to all stakeholders concerned.
- 6.10.3 The essence of the recommendations for 2002 will focus on local government, the development of a capital grants scheme model. The issues for research are summarised below.



7. LOCAL GOVERNMENT FISCAL ISSUES

- 7.1 The local government sphere is embarking on the final phase of its transition to a system of governance that is fully democratic and capable of executing its constitutional obligations. The final phase will be ushered in by local government elections, which will take place within the next year.
- 7.2 The three legislative pillars of the new system are being put in place, with the Municipal Demarcation Act and Municipal Structures Act having been passed and the Municipal Systems Bill in the drafting process.
- 7.3 The implementation of this legislation will require the complete restructuring of local government, which will take two forms. On the one hand, the boundaries of municipalities are being re-determined by the Municipal Demarcation Board, and this will result in the amalgamation and/or division of existing municipalities. Establishing the new entities will be a task of monumental proportions, as municipal resources and systems will have to be harmonised. On the other hand, new systems of governance will be introduced through the Municipal Systems Bill, which will require municipalities to implement mechanisms such as performance management and the development of tariff and credit control policies.
- 7.4 One component of the Project 2001 research programme was the analysis of local government revenue sources and the equitable share formula, and the FFC was assisted in this task by international consultants. In the context of significant upheaval in the municipal sector and the decision of the Budget Forum to postpone a thorough review of the equitable share formula, the research findings were not included in the Recommendations for 2001-2004.
- 7.5 With the finalisation of the new boundaries and holding of municipal elections, the FFC will build upon the Project 2001 findings and conduct research into the factors that impact upon the local government equitable share. The research will examine the two sides of the local government finance equation, namely expenditure and revenue sources. The research findings will form a significant component of the Commission's recommendations for 2001/2002. In addition, the Commission will formulate recommendations on legislation relating to local government revenues, such as property rates and electricity charges.



8. CAPITAL GRANTS MODEL

- 8.1 The newly created provinces of South Africa have inherited widely different levels of public capital for the provision of services such as health, education, welfare and general infrastructure. These differences, or capital backlogs, are much larger than those found in more mature economies. As is well known, they are the result of past policies. There is also a general concern that the present rate of capital spending by provinces is less than desirable because of their inability to finance capital expenditures.
- 8.2 Thus, provinces face two capital related problems: inherited capital backlogs (the severity of which varies greatly across provinces) and an on-going level of capital expenditure that is perceived as insufficient to fund efficient levels of service provision. In addition, provinces have virtually no access to significant own source revenues (e.g. income or consumption taxes) and only very limited access to capital markets. Also, private provision of public services seems to be limited. Most provincial spending is, therefore, financed from national government transfers, with provinces acting as spending agents for the national government.
- 8.3 In its previous recommendations, the FFC held the view that a capital grant from the national government is one way of addressing these problems. The aim of such a grant should be to supplement provinces' capital spending to allow their stocks of public capital to converge to some desired level over a period of time.
- 8.4 The FFC is currently developing and refining a capital grants model for making allocations for infrastructure financing to provincial governments. It is expected that this model will be completed in the 2000-2001 fiscal year.



AUDITED FINANCIAL STATEMENTS

FINANCIAL YEAR ENDING
31 MARCH 2000



These Financial statements once more reflect the FFC's commitment to continuously improve the efficiency of its utilisation of resources allocated to it by parliament.

Typical of many South African institutions operating within the context of a country in transition, one of its greatest challenges had been posed by, at times, debilitating staff turnovers. 1999 was such a year.

Despite its lower than desirable research staff levels, it was with much pride that the commission's "Recommendations for the 2001- 2004 MTEF Cycle" was produced and submitted timeously. This marked yet another milestone in the Commission's contribution to the development of an equitable Intergovernmental Fiscal Relations system.

A significant investment was placed this time around on increasing the level of consultations with stakeholders before the finalisation of the report. There is no doubt in my mind that we could have done with more of stakeholder consultations as the value from these cannot be ignored.

Given budgetary constraints, the Commission was able to deliver its core product on time and within those constraints. However, for the future, greater effort will have to be made to establish a budget that will be more realistic in taking into account the full extent of the FFC's mandate.

The Commission remains mindful of the fact that each set of recommendations it puts forward increases the likelihood of greater demands being placed on it by stakeholders in government. As a result, it has not always been easy to accurately project the expenditure requirements to be assigned to this kind of expenditure. This however we'd been able to manage through utilisation of savings derived from other items in the budget.

It is expected that the proposals the Commission is developing on protocols to guide the FFC's relationship with other stakeholders will go a long way toward the regularising of various activities, and thus increase the scope for certainty in our budgeting for specific activities. These proposals are to be tabled during the 2000 - 2001 financial year.

The success in producing these statements has been largely due to the commitment of the Commissioners at the FFC. They've understood and respected the need to treat the funds at our disposal prudently. Even though improvements are still needed in our internal procedures, everyone understood the meaning of accountability, and each in their various ways ensured that the Commission could produce an unqualified audit.



Mr. Murphy Morobe
Chairperson of the Commission
6 December 2000





A U D I T O R - G E N E R A L

REPORT

OF THE

AUDITOR-GENERAL

ON THE

FINANCIAL STATEMENTS OF THE FINANCIAL AND FISCAL COMMISSION

FOR

THE YEAR ENDED 31 MARCH 2000

PUBLISHED BY AUTHORITY



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REPORT OF THE AUDITOR-GENERAL ON THE FINANCIAL STATEMENTS OF THE FINANCIAL AND FISCAL COMMISSION FOR THE YEAR ENDED 31 MARCH 2000

1. AUDIT ASSIGNMENT

The financial statements as set out on pages 45 to 52, for the year ended 31 March 2000 have been audited in terms of section 188 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), read with sections 3 and 5 of the Auditor-General Act, 1995 (Act No. 12 of 1995) and section 25 of the Financial and Fiscal Commission Act, 1997 (Act No. 99 of 1997). These financial statements, the maintenance of effective control measures and compliance with relevant laws and regulations are the responsibility of the accounting officer. My responsibility is to express an opinion on these financial statements and compliance with relevant laws and regulations, applicable to financial matters, based on the audit.

2. REGULARITY AUDIT

2.1 Nature and scope

2.1.1 Financial audit

The audit was conducted in accordance with generally accepted government auditing standards which incorporate generally accepted auditing standards. These standards require the audit to be planned and performed to obtain reasonable assurance that the financial statements are free of material misstatement. An audit includes:

- examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements,
- assessing the accounting principles used and significant estimate made by management, and
- evaluating the overall financial statement presentation.

I believe that the audit provides a reasonable basis for my opinion.

2.1.2 Compliance audit

Furthermore, an audit includes an examination, on a test basis, of evidence supporting compliance in all material respects with the relevant laws and regulations, which came to my attention and are applicable to financial matters. I believe that the audit provides a reasonable basis for my opinion.



2.2 Audit opinion

2.2.1 Financial audit

In my opinion, the financial statements fairly present, in all material respects, the financial position of the Commission at 31 March 2000 and the results of its operations and cash flows for the year then ended in accordance with generally accepted accounting practice.

2.2.2 Compliance audit

Based on the audit work performed, nothing has come to my attention that causes me to believe that material non-compliance with laws, rules and regulations, applicable to financial matters, has occurred.

3. APPRECIATION

The assistance rendered by the staff of the Commission during the audit is sincerely appreciated.



W G OPPERMAN
for Auditor-General

Pretoria
07/11/2000.



FINANCIAL AND FISCAL COMMISSION ANNUAL FINANCIAL STATEMENTS 31 MARCH 2000

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APPROVAL

The annual financial statements for the year ended 31 March 2000 were approved by the Commission and signed on their behalf by:



M. MOROBE
(CHAIRPERSON)



J. JOSIE
(ACTING DEPUTY CHAIRPERSON)



FINANCIAL AND FISCAL COMMISSION

BALANCE SHEET
31 MARCH 2000

	NOTES	2000 R	1999 R
ASSETS			
Non-current assets			
Property, plant and equipment	2	439 435	364 209
Current assets			
Trade and other debtors		1 086	5 798
Bank and other cash balances	3	15 979	296 252
Total assets		<u>456 500</u>	<u>666 259</u>
RESERVES AND LIABILITIES			
Capital and reserves			
Capital	4	918 752	918 752
Accumulated deficit		(548 695)	(417 195)
Current liabilities			
Trade and other creditors	5	86 443	164 702
Total reserves and liabilities		<u>456 500</u>	<u>666 259</u>



FINANCIAL AND FISCAL COMMISSION

INCOME STATEMENT FOR THE YEAR ENDED 31 MARCH 2000

	NOTES	2000 R	1999 R
INCOME	9	5 850 000	3 800 000
Operating and administrative expenses		(6 022 330)	(4 002 084)
Excess expenditure over income		<u>(172 330)</u>	<u>(202 084)</u>
Interest received		40 830	45 665
Net deficit for the year	6	<u>(131 500)</u>	<u>(156 419)</u>
Accumulated deficit at beginning of year		(417 195)	(260 776)
Accumulated deficit at end of year		<u><u>(548 695)</u></u>	<u><u>(417 195)</u></u>



FINANCIAL AND FISCAL COMMISSION
 STATEMENT OF CHANGES IN RESERVES
 FOR THE YEAR ENDED 31 MARCH 2000

	NOTES	2000 R	1999 R
Capital and reserves at beginning of year		501 557	657 976
Changes in reserves			
Net deficit for the year		(131 500)	(156 419)
Capital and reserves at end of year		<u>370 057</u>	<u>501 557</u>



FINANCIAL AND FISCAL COMMISSION

CASH FLOW STATEMENT FOR THE YEAR ENDED 31 MARCH 2000

	2000 R	1999 R
Cash generated from operating activities	27 965	281 407
Net deficit from operations	(131 500)	(156 419)
<i>Adjusted for:</i>		
Depreciation	233 011	423 328
Interest received	(40 830)	(45 665)
Cash generated by operations	60 681	221 244
<i>Working capital adjustments</i>		
Decrease in accounts receivable	4 713	3 888
Increase in accounts payable	(78 259)	10 610
Cash generated by operations after working capital adjustments	(12 865)	235 742
Interest received	40 830	45 665
Cash utilised in investing activities		
Additions to fixed assets	(308 238)	(132 588)
Net movement in cash and cash equivalents for the year	(280 273)	148 819
Cash and cash equivalents at beginning of year	296 252	147 433
Cash and cash equivalents at end of year	<u>15 979</u>	<u>296 252</u>



FINANCIAL AND FISCAL COMMISSION
NOTES TO THE ANNUAL FINANCIAL STATEMENTS
FOR THE YEAR ENDED 31 MARCH 2000

1. ACCOUNTING POLICY

The principal accounting bases which are followed by the Commission are set out below. These are in agreement with those followed in previous years except where otherwise indicated.

1.1 Basis of presentation

The financial statements are presented on the historical cost basis.

1.2 Fixed assets and depreciation

Fixed assets are shown at cost less accumulated depreciation. No depreciation is written off on paintings which are considered investment assets. All other fixed assets are depreciated over their expected economic life on the straight line basis. The most important rates of depreciation are as follows:

Computer equipment	33.33%
Computer software	50%
Furniture and fittings	20%
Motor vehicles	20%
Office equipment	20%

1.3 Revenue recognition

Revenue from government grants is recognised when the income is received. Interest income is recognised on a time proportion basis which takes into account the effective yield of the asset over the period it is expected to be held.

1.4 Cash and cash equivalents

Consists of cash on hand, balances with banks and all highly liquid investments with a maturity of three months or less at the date of purchase.

1.5 Retirement benefits

The employees of the Commission are members of a provident fund.



FINANCIAL AND FISCAL COMMISSION

NOTE TO THE ANNUAL FINANCIAL STATEMENTS (Continued) FOR THE YEAR ENDED 31 MARCH 2000

2. PROPERTY, PLANT AND EQUIPMENT

	Computer equipment R	Computer software R	Furniture & fittings R	Motor vehicles R	Office equipment R	Paintings R	Total R
2000							
<i>Balance at beginning of year</i>							
Cost	804 651	558 654	356 282	64 828	207 954	38 805	2 031 174
Accumulated depreciation	(748 196)	(512 835)	(265 138)	(40 247)	(100 550)	-	(1 666 966)
Net book value	56 455	45 819	91 144	24 581	107 404	38 805	364 208
<i>Movements for the year</i>							
Additions	91 486	16 890	325	-	199 537	-	308 238
Depreciation	(57 844)	(49 354)	(71 256)	(12 966)	(41 591)	-	(233 011)
Balance at end of year	90 097	13 355	20 213	11 615	265 350	38 805	439 435
Made up as follows:							
Cost	896 137	575 544	356 607	64 828	407 491	38 805	2 339 412
Accumulated depreciation	(806 040)	(562 189)	(336 394)	(53 213)	(142 141)	-	(1 899 977)
Net book value	90 097	13 355	20 213	11 615	265 350	38 805	439 435
1999							
<i>Balance at beginning of year</i>							
Cost	748 392	543 310	356 282	64 828	146 970	38 805	1 898 587
Accumulated depreciation	(532 722)	(420 349)	(193 837)	(27 281)	(69 449)	-	(1 243 638)
Net book value	215 670	122 961	162 445	37 547	77 521	38 805	654 949
<i>Movements for the year</i>							
Additions	56 259	15 344	-	-	60 985	-	132 588
Depreciation	(215 474)	(92 486)	(71 301)	(12 966)	(31 101)	-	(423 328)
Balance at end of year	56 455	45 819	91 144	24 581	107 405	38 805	364 209
Made up as follows:							
Cost	804 651	558 654	356 282	64 828	207 955	38 805	2 031 175
Accumulated depreciation	(748 196)	(512 835)	(265 138)	(40 247)	(100 550)	-	(1 666 966)
Net book value	56 455	45 819	91 144	24 581	107 405	38 805	364 209



FINANCIAL AND FISCAL COMMISSION

**NOTE TO THE ANNUAL FINANCIAL STATEMENTS (Continued)
FOR THE YEAR ENDED 31 MARCH 2000**

	2000 R	1999 R
3. BANK AND OTHER CASH BALANCES		
Cash on hand	500	500
Cash in bank	15 479	295 752
	15 979	296 252
4. CAPITAL		
Value of assets acquired from Department of Finance	918 752	918 752
5. TRADE AND OTHER CREDITORS		
Trade creditors payable	56 443	134 702
Provision for audit fee	30 000	30 000
	86 443	164 702
6. NET DEFICIT FOR THE YEAR		
Net deficit for the year has been arrived at after taking the following into account:		
Audit fees	30 000	30 000
Commissioners' expenses	535 332	83 397
Depreciation	233 011	423 328
Operating lease rentals – office equipment	41 854	41 940
Professional fees	567 864	307 262

7. FINANCIAL ASSETS

The Commission has cash and cash equivalents and is therefore exposed to interest rate risk in this regard. Surplus cash is invested with banks of high standing, earning interest at rates which vary in accordance with market conditions.

The accounts receivable are of a sundry nature and the Commission is not exposed to any significant credit risk.

Management are of the opinion that the fair value of all financial instruments approximates their carrying value.

8. RETIREMENT BENEFITS

The employees of the Commission are members of the provident fund.

9. INCOME

Income comprises grants received from Government.



FINANCIAL AND FISCAL COMMISSION ACT (Act No. 99, 1997)



ACT

To give effect to the constitutional requirements relating to the Financial and Fiscal Commission; and to provide for matters in connection therewith.

(English text signed by the President.)
(Assented to 26 November 1997.)

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

ARRANGEMENT OF SECTIONS**1. Definitions**

Part 1 5

Status, functions and powers of Commission

- 2. Status
- 3. Functions
- 4. Powers

Part 2 10

Membership of Commission

- 5. Composition
- 6. Chairpersons
- 7. Qualifications
- 8. Terms of office
- 9. Remuneration, allowances and benefits
- 10. Resignations
- 11. Removal from office
- 12. Vacancies
- 13. Acting Chairperson

Part 3

Operating procedure of Commission

- 14. Meetings
- 15. Quorums
- 16. Rules of procedure
- 17. Committees

- 18. Assignment of powers and duties

Part 4

Administration and staff matters

- 19. Administrative responsibilities of Chairperson
- 20. Terms and conditions of employment
- 21. Pension benefits
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Part 5**Finances of Commission**

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33. Transfer of assets, liabilities, staff, etc.	
34. Financial and administrative records	
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1. In this Act, unless the context indicates otherwise—

“Commission” means the Financial and Fiscal Commission referred to in section;

“employee”, except in sections 20(1), 21 and 33, includes a member of the public service seconded to the Commission; **25**

“financial year” means the financial year of the Commission, which is the same as that of state departments;

“Minister” means the Minister of Finance;

“organ of state” means the same as in section 239 of the Constitution;

“President” means the President acting as head of the national executive in terms of section 85 of the Constitution; **30**

“state department” means a department, administration or office listed in Schedule 1 or 2 of the Public Service Act, 1994 (Proclamation No. 103 of 1994);

“this Act” includes any regulations made in terms of section 30.

PART 1 **35****STATUS, FUNCTIONS AND POWERS OF COMMISSION****Status**

2. The Financial and Fiscal Commission established by section 220 of the Constitution is a juristic person, independent and subject only to the Constitution, this Act and the law. **40**

Functions

3. (1) The Commission acts as a consultative body for, and makes recommendations and gives advice to, organs of state in the national, provincial and local spheres of government on financial and fiscal matters.

(2) The Commission— **45**

(a) must perform the functions mentioned in subsection (1) to the extent that its performance of those functions are envisaged in the Constitution or required by national legislation; and



- (b) may perform those functions—
 - (i) on its own initiative; or
 - (ii) on request of an organ of state.
- (3) The Commission must be impartial.
- (4) No person or organ of state may interfere with the functioning of the Commission. 5
- (5) All organs of state, when appropriate, must assist the Commission to perform its functions effectively.
- (6) The Commission must submit for tabling copies of all its recommendations made in terms of a provision of the Constitution to both Houses of Parliament and to the provincial legislatures. 10

Powers

- 4. (1) The Commission may do all that is necessary or expedient to perform its functions effectively, which includes the power to—
 - (a) determine its own staff establishment and appoint employees in posts on the staff establishment 15
 - (b) obtain the services of any person, including any organ of state or institution to perform any specific act or function;
 - (c) confer with any person or organ of state;
 - (d) acquire or dispose of any right in or to property, but ownership in immovable property may be acquired or disposed of only with the consent of the Minister; 20
 - (e) open, and operate on, its own bank accounts; insure itself against any loss, damage, risk or liability;
 - (g) perform legal acts, or institute or defend any legal action in its own name;
 - (h) do research and publish reports; and
 - (i) do anything that is incidental to the exercise of any of its powers. 25
- (2) The Commission may not borrow money or overdraw its bank accounts.

PART 2

MEMBERSHIP OF COMMISSION

Composition

- 5. In terms of section 221(1) of the Constitution, the Commission consists of the following women and men appointed by the President: 30
 - (a) A chairperson and a deputy chairperson;
 - (b) nine persons, each of whom is nominated by the Executive Council of a province, with each province nominating only one person after nominations have been invited in the provincial gazette and in at least two newspapers circulating in the province; 35
 - (c) two persons nominated by organised local government in accordance with the Organised Local Government Act, 1997; and
 - (d) nine other persons.

Chairpersons

40

- 6. The Chairperson and Deputy Chairperson of the Commission are appointed in terms of section 221(1)(a) of the Constitution.

Qualifications

- 7. A member of the Commission must have appropriate expertise

Terms of office

45

- 8. (1) The members of the Commission must be appointed for a term not exceeding five years.



(2) A member may be reappointed when that member's term expires.

Remuneration, allowances and benefits

9. (1) The remuneration, allowances and other benefits of members of the Commission must be determined by the President, taking into account—

- (a) the recommendations of the Minister; 5
- (b) the remuneration, allowances and other benefits of members of other commissions established by the Constitution;
- (c) the role, duties and responsibilities of a member of the Commission;
- (d) affordability in relation to the responsibilities of the Commission;
- (e) the level of expertise and experience required of a member of the Commission; and; 10
- (f) any relevant recommendations of the independent commission referred to in section 219(2) of the Constitution.

(2) The remuneration of a member may not be reduced during the term of the member.

Resignations 15

10. A member of the Commission may resign by giving at least three months' written notice to the President, but the President may accept a shorter notice period in a specific case.

Removal from office

11. (1) The President may remove a member of the Commission from office, but only on the ground of misconduct, incapacity or incompetence. 20

(2) A decision to remove a member on the ground of misconduct or incompetence must be based on a finding to that effect by a tribunal appointed by the President.

(3) The President may suspend a member of the Commission from office while awaiting the finding of the tribunal concerning that member. 25

(4) The President must consult—

- (a) the Premier of a province before removing from office a member nominated by that province in terms of section 5(b); or
- (b) organised local government before removing from office a member nominated in terms of section 5(c). 30

Vacancies

12. As soon as practical after a vacancy has occurred in the Commission, the President must appoint another person in accordance with section 5 to fill the vacancy.

Acting Chairperson

13. If the Chairperson of the Commission is absent from office or otherwise unable to perform the functions of office, or during a vacancy in the office of Chairperson, the Deputy Chairperson acts as Chairperson. 35

PART 3

OPERATING PROCEDURE OF COMMISSION

Meetings 40

14. (1) The Commission decides when and where it meets, or may authorise the Chairperson to decide on its behalf.

(2) At least four meetings must be held each year.

(3) The Chairperson or the Deputy Chairperson presides at meetings of the Commission. but if both are absent from a meeting, the members present must elect another member to preside at that meeting. 45



(4) A member who has a personal or financial interest in any matter before the Commission, must disclose that interest and withdraw from the proceedings of the Commission when that matter is considered.

Quorums

15. (1) The majority of the members of the Commission constitutes a quorum for a meeting of the Commission., 5

(2) A question before the Commission is decided with a supporting vote of at least two thirds of the members present.

Rules of procedure

16. The Commission must— 10
 (a) determine rules of procedure for the conduct of its business; and
 (b) keep minutes of its proceedings and decisions.

Committees

17. (1) The Commission may— 15
 (a) appoint one or more committees to assist the Commission in the performance of any of its functions or the exercise of any of its powers; or
 (b) dissolve a committee at any time
 (2) A committee consists of—
 (a) two or more Commission members; or
 (b) at least one Commission member and at least one other person. 20
 (3) The Commission—
 (a) must determine the functions of a committee;
 (b) must appoint the chairperson and, members of a committee, but only a Commission member may be appointed as the chairperson;
 (c) may dismiss a member of a committee at any time; 25
 (d) may determine a committee's procedure; and
 (e) must determine, after consulting the Minister, the remuneration, allowances and other benefits of office of members of a committee who are not Commission members or employees.

Assignment of powers and duties 30

18. (1) The Commission may—
 (a) delegate any of the Commission's powers to a Commission member, committee or employee; or
 (b) instruct any Commission member, committee or employee to perform any of the Commission's duties. 35
 (2) A delegation instruction in terms of subsection (1)—
 (a) is subject to any conditions the Commission may impose; and
 (b) does not divest the Commission of the responsibility concerning the exercise of the power or the performance of the duty.
 (3) The Commission may confirm, vary or revoke any decision taken by a Commission member, committee or employee in consequence of a delegation or instruction. 40

PART 4

ADMINISTRATION AND STAFF MATTERS

Administrative responsibilities of Chairperson 45

19. (1) The Chairperson of the Commission is the chief-executive officer and also the accounting officer of the Commission.

(2) As chief-executive officer the Chairperson is responsible for— 50
 (a) the formation and development of an efficient administration;
 (b) the organisation, control and management of the staff;
 (c) the maintenance of discipline; and



- (d) the carrying out of the decisions of the Commission.
- (3) As accounting officer the Chairperson is responsible for—
- (a) all income and expenditure of the Commission;
 - (b) all assets and the discharge of all liabilities of the Commission; and
 - (c) the proper and diligent implementation of Part 5. 5

Terms and conditions of employment

20. (1) An employee of the Commission is employed subject to the terms and conditions of employment determined by the Commission.
- (2) Persons in the public service seconded to the Commission perform their duties subject to the control and discipline of the Chairperson of the Commission. 10

Pension benefits

21. (1) A person appointed as an employee of the Commission may become a member of the Government Employees' Pension Fund mentioned in section 2 of the Government Employees' Pension Law, 1996 (Proclamation No. 21 of 1996).
- (2) An employee of the Commission who becomes a member of that pension fund, is entitled to pension and retirement benefits as if that person is an official in the public service. 15

Services of non-employees

22. If the Commission contracts for the services of any person, other than an employee, to perform any specific act or function, the Commission may remunerate that person, and may reimburse that person for expenses. 20

PART 5

FINANCES OF COMMISSION

Funding

23. (1) The Commission is entitled to money appropriated annually by Parliament to enable it to perform its functions effectively. 25
- (2) For the purposes of subsection (1) the Chairperson of the Commission—
- (a) must submit to the Minister during each financial year, but before a date set by the Minister, estimates of the Commission's income and expenditure for the next financial year; and 30
 - (b) may submit to the Minister at any time during a financial year estimates of the Commission's income and expenditure supplementary to those mentioned in paragraph (a).
- (3) When submitting estimates the Chairperson must disclose full particulars of any income which has accrued, or is expected to accrue, to the Commission from a source other than an appropriation by Parliament. 35
- (4) The Commission must refund to the National Revenue Fund any money paid to the Commission in terms of subsection (1) that has not been used at the end of a financial year, unless the Minister agrees that the Commission may retain the money.

Accountability 40

24. As accounting officer of the Commission, the Chairperson must—
- (a) keep full and proper records of—
 - (i) all income and expenditure of the Commission; and
 - (ii) all the Commission's assets, liabilities and financial transactions;
 - (b) ensure that the Commission's available resources are properly safeguarded and used in the most efficient and effective way; 45
 - (c) ensure that all statutory measures applicable to the Commission are complied with; and



- (d) within three months after the end of each financial year, prepare annual financial statements in accordance with generally accepted accounting practice.

Audits

25. The Auditor-General must audit the accounts and financial records of the Commission. 5

PART 6

MISCELLANEOUS

Annual report

26. (1) The Commission must annually submit to both Houses of Parliament, to each provincial legislature and to the national organisation representing organised local government recognised in terms of the Organised Local Government Act, 1997, a report on the activities of the Commission during a financial year. 10
- (2) The report must be submitted within six months after the end of the financial year to which it relates, and must include— 15
- (a) a summary of all recommendations made by the Commission in terms of a requirement of the Constitution; and
 - (b) audited financial statements reflecting the Commission's financial affairs during the year, consisting of at least— 20
 - (i) a balance sheet;
 - (ii) an income statement;
 - (iii) a cash flow statement; and
 - (iv) a report of the auditors.

Information required by Commission

27. (1) The Commission may obtain information it requires for the performance of its 25 functions from the Central Statistical Service.
- (2) Any information which the Commission requires for the performance of its functions and which is available to an organ of state or to any institution that derives any funds from the National Revenue Fund, a Provincial Revenue Fund or a municipality, must be supplied free of charge to the Commission, on the Commission's request, by that organ of state or institution. 30

Liability of Commission

28. (1) The State Liability Act, 1957 (Act No. 20 of 1957), applies, with the necessary changes, in respect of the Commission, and in such application a reference in that Act to the Minister of a department concerned must be construed as a reference to the Chairperson of the Commission. 35
- (2) No person, including the Commission, is liable for anything done or omitted in good faith when performing a function or exercising a power in terms of this Act.

Protection of confidential information

29. (1) No person may disclose any information acquired on a confidential basis in the course of the application of this Act, except when— 40
- (a) necessary for the purposes of this Act;
 - (b) required in terms of other legislation or the law;
 - (c) required in the course of legal proceedings; or
 - (d) a court so orders. 45
- (2) A person who contravenes subsection (1) is guilty of an offence and on conviction liable to a fine or to imprisonment not exceeding one year or to a fine and imprisonment.



Regulations

30. The Minister, with the concurrence of the Commission, may make regulations, not inconsistent with this Act or any other Act of Parliament, prescribing procedures to facilitate the performance by the Commission of its functions.

PART 7

5

TRANSITIONAL ARRANGEMENTS**Definitions**

31. In this Part—

- “new Commission” means the Commission referred to in section 2;
- “previous Commission” means the Financial and Fiscal Commission established by section 198 of the previous Constitution; 10
- “previous Constitution” means the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993).

Members of previous Commission

32. (1) A person who held office in the previous Commission immediately before this Act took effect:— 15
- (a) as the Chairperson or Deputy Chairperson, is regarded as having been appointed as the Chairperson or the Deputy Chairperson of the new Commission in terms of section 5(a) of this Act;
 - (b) as a member designated by a provincial Executive Council in terms of section 200(1)(b) of the previous Constitution, is regarded as having been nominated by that Council and appointed to the new Commission in terms of section 5(b) of this Act; and 20
 - (c) as a member appointed in terms of section 200(1)(c) of the previous Constitution, is regarded as having been appointed to the new Commission in terms of section 5(d) of this Act. 25
- (2) The Chairperson and Deputy Chairperson are regarded as having been appointed to the new Commission for a term of five years as from the date this Act took effect.
- (3) The members referred to in subsection (1)(b) and (c) are regarded as having been appointed to the new Commission for a term of four years as from the date this Act took effect. 30

Transfer of assets, liabilities, staff, etc.

33. When this Act takes effect—
- (a) all assets, liabilities, rights and obligations of the previous Commission are vested in the new Commission; 35
 - (b) an employee of the previous Commission becomes an employee of the new Commission—
 - (i) subject to the terms and conditions of employment that were applicable to that person as an employee of the previous Commission, until altered in terms of section 20; and 40
 - (ii) with retention of all accrued pensionable service, leave and other benefits: and
 - (c) anything done by or on behalf of the previous Commission is regarded as having been done by or on behalf of the new Commission.

Financial and administrative records 45

34. The new Commission is entitled to all financial, administrative and other records of the previous Commission.



Short title and commencement

35. This Act is called the Financial and Fiscal Commission Act, 1997, and takes effect on 1 January 1998.



PUBLICATIONS AND ARTICLES

- **Allocation of financial resources between the national and provincial governments: recommendations for the 1996/97 fiscal year** – Rev. version 18 December 1995/ financial and Fiscal Commission – Midrand: Financial and Fiscal Commission, 1995. (Report).
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- **Allocation of Financial Resources to national, provincial and local governments for the 1998/99 fiscal year**, submitted in terms of section 9 of the Intergovernmental Fiscal Relations Act, 1997 Financial and Fiscal Commission – Halfway House: Financial and Fiscal Commission, 1998. (Report).
- **Public Expenditure on Basic Social Services in South Africa.** An FFC Report for UNICEF and UNDP 1998.
- **Public Expenditure on basic social services in South Africa/Financial and Fiscal Commission** – Halfway House: Financial and Fiscal Commission, 1998. (Report).
- **Financial and Fiscal Commission, Preliminary recommendations for 2001.** A Costed Norms Approach for the division of Revenue. Consultation Document. February 2000.
- **Financial and Fiscal Commission. Recommendations 2001-2004 MTEF Cycle.** May 2000.



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