



**FINANCIAL
AND FISCAL
COMMISSION**

ANNUAL REPORT

2001 - 2002

FINANCIAL AND
FISCAL COMMISSION
ANNUAL REPORT
2001 - 2002

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There can be no doubting the fact that considerations of equity in Revenue sharing remain intrinsically bound to issues of transformation and development. Nowhere is this point given credence than in contemplating some of the issues on the national political agenda regarding the role and transformation of local government.

The FFC is having to live up to the challenge of, on the one hand, being responsive to the urgency of the delivery imperative facing local government, and on the other hand, to remain true to its own mission of delivering a quality recommendations and advisory product, undiluted in its rigor and depth by the exigencies of time that seem to be always facing those that have to deliver services to ordinary people.

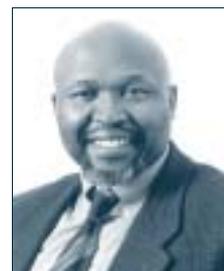
Indeed, the Commission has consistently sought to take into account the various concerns invariably raised by stakeholders on whether they thought there was allocative fairness in the system or not. From the array of reports produced during the fiscal year under review, is reflected the Commission's commitment to be alert to what is important for the development of our intergovernmental fiscal relations processes. And here I must express the Commission's deepest appreciation for the insights, suggestions and criticisms that stakeholders voiced during the various consultations that took place last year.

From addressing the subject of Municipal Borrowing and finance markets, the Municipal Finance Management Bill, 2001, the Remuneration of Municipal Councillors and the Restructuring of the Electricity Distribution Industry, to the vexing issues of Provincial Tax Regulation and the provincial equitable share issues, the Commission remained mindful of the broader macro-economic constraint within which all of this has to take place.

FUTURE CHALLENGES

Given the increasing recent acknowledgement by the intergovernmental fiscal forums of the need for a comprehensive review of the current fiscal system, the future challenge for the work of the Commission will rest on crafting a longer-term view of the fiscal system upon which its research and recommendations programme will be based. Realizing that the system has undergone six years of reform, it would, indeed be an opportune moment for reflection and discussion on the future trajectory of the system over a time-span of the next five to fifteen years.

This challenge has implications for the type, nature and quality of resources the Commission has to draw upon to meet this task. Over the next few years, the Commission envisages the need for additional resources, a diversified approach to the use of internal, local and international expertise, and outputs geared for medium to long-term consideration of recommendations on financial and fiscal matters.



"Realizing that the system has undergone six years of reform, it would, indeed be an opportune moment for reflection and discussion on the future trajectory of the system over a time-span of the next five to fifteen years."



A matter raised before by the Commission, on which more attention would be paid in forthcoming period relates to the finalization of an agreement on a set of protocols between the Commission, Parliament and the Government. This will help in closing some of the crucial communication gaps existing between the FFC and some of its primary stakeholders like parliament, legislatures and general government.

To meet the above challenges, and particularly those of a human resource nature, the Commission also recognizes that it would, in the future, have to adopt a multi-faceted approach which combines both the use of its own internal capacity and the international expertise it draws on with, the resources, skills and expertise at South African Universities, local research institutions, local consultants, and least but not last, provisions in the FFC Act for secondments from government departments, and current research funding of national departments.

This year, a number of Commissioners' terms of office has come to an end. From the beginning of 2003 the size of the Commission will reduce from the current 22 to 9 members. I salute all the Commissioners in the FFC who were, in the first instance, the initiators of this radical shaving of the size of the Commission. It was indeed a measure of their maturity that nothing more than pure objectivity was applied in generating this proposal which eventually resulted in the amendment to the Constitution to facilitate this reduction in size. I know that those who may not be re-appointed will not be lost to the Commission and its work, as their accumulated depth of knowledge of our Intergovernmental Fiscal Relations system remains an asset to be tapped into from time to time.

I must also thank the fantastic staff at the FFC who often times have had to put up with what at times might have seemed to be unreasonable deadlines. I know that there are many things that management could have done better to make their work environment even more pleasant and challenging than has been achieved so far. But then, even that has to be a joint effort, and remains a challenge for all of us, as we engage with the tasks of the year that lies ahead.

Siyabonga.



1. MANAGEMENT REPORT

1.1 COMMISSIONERS

1.1.1 In accordance with the Constitutional requirements, the President appoints 22 Commissioners to the FFC. This status quo remains until the end of 2002 where after, in terms of a new Constitutional amendment, the total number of Commissioners to be appointed by the President will be nine (9) - Constitution of the Republic of South Africa Second Amendment Act, No 34, 2001. During the reporting period the composition of the Commission was constituted in terms of the following:

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

1.1.2 MEMBERS OF THE COMMISSION AS OF 1st APRIL 2001- 31st MARCH 2002



Murphy Morobe, a national nominee, appointed as Chairperson in October 1994, and re-appointed in January 1998 for a further five years.



Jaya Josie, for the period covered by this report, has been Acting Deputy Chairperson of the FFC. He is a nominee of Gauteng. (Re-appointed for a further term of five years as Deputy Chairperson)



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 served as a member of the FFC Audit Committee. (His term of office came to end in January 2002)





John Douw is a Councillor at Klerksdorp City Council and Chairperson of the Council's Audit Committee. He also serves as Deputy-Chairperson and member of the Norweloga and SALGA Finance Working Committee respectively. He is a nominee of SALGA and serves on the FFC Local Government task group. (Current term ends 2004)



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. (Re-appointed for a further one year term from January 2002)



Francois le Roux is currently Deputy Director-General in the National Treasury responsible for Pensions Administration and the Government Employees Pension Fund (GEPF). He is a National nominee and served on the FFC Budget Analysis task group. (Term expired in January 2002)



Monde Limekhaya is the Deputy Permanent Secretary, Accountant General, in the Eastern Cape Province Department of Finance. He served on the FFC task group on Budget Analysis and was nominated to the FFC by the Eastern Cape. (His term expired in January 2002)



Lieb Loots is a Professor of Economics at the University of Western Cape. He is a National nominee. (Re-appointed for further one year term from January 2002)



Louis Kathan was nominated by the Western Cape and served on the FFC task group on Health, Education and Welfare. (Term expired in January 2002)





Renosi Mokate is Chief Executive Officer of the Central Energy Fund (CEF). She is a National nominee and serves on the FFC Steering Committee and its task group on Health, Education and Welfare. (Re-appointed for a further term of five years to 2007)



Ebrahim Patel is the Deputy General Secretary of the Southern African Clothing and Textile Workers Union (SACTWU) and National Executive Committee Member of the Congress of South African Trade Unions (Cosatu). He is a National nominee. (Term expired in January 2002)



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 served as a member of the FFC Audit Committee and the task group on Budget Analysis. (Term expired in January 2002, however to remain as external member of Audit Committee)



Marius van Blerck is Director: Group Tax for the Standard Bank Group, and is a member of the Income Tax Special Court. He is a National nominee and served on the FFC task group on Tax Policy. (Re-appointed for further one year term from January 2002)



Philip van Ryneveld is a National nominee and served on the FFC Local Government task group. (Term expired in January 2002)



1.1.3 **RECENT CONSTITUTIONAL AMENDMENTS RELATING TO THE SIZE AND COMPOSITION OF THE FFC**

Constitutional amendments pertaining to the FFC were enacted by the Constitution of the Republic of South Africa Second Amendment Act, No 34, 2001. The Act provides for the reduction of the composition of the Commission from 22 members to nine. In terms of the Second Amendment Act, the new composition profile of the Commission will be as follows:

1. A Chairperson and Deputy Chairperson;
2. Three persons selected, after consulting the Premiers, from a list compiled in accordance with a process prescribed by national legislation;
3. Two persons selected after consulting organized local government, from a list compiled in accordance with a process prescribed by national legislation; and
4. Two other persons.

Current terms of existing commissioners

Murphy Morobe: current term of office ends 31 January 2003 (Chairperson)

Jaya Josie: current term of office ends 31 January 2007 (Deputy Chairperson)

Tania Ajam: current term of office ends 31 January 2002

John Douw: current term of office ends 31 January 2004

Philip Hourquebie: current term of office ends 31 December 2002

Professor Lieb Loots: current term of office ends 31 December 2002

Dr A Melck: current term of office ends 31 December 2007

Gugu Moloi: current term of office ends 31 December 2002

Dr Renosi Mokate: current term of office ends 31 December 2007

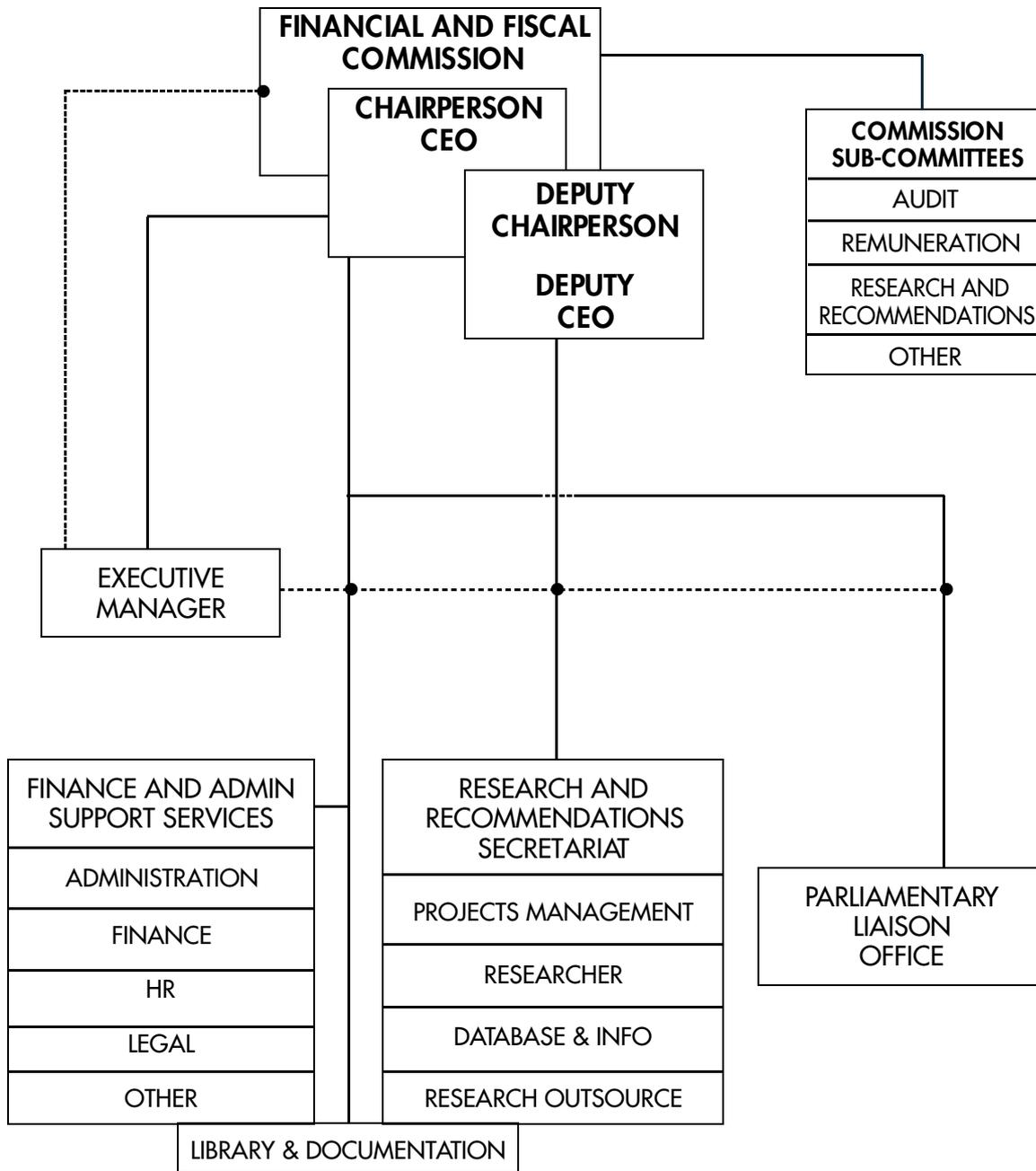
Dr Pundy Pillay: current term of office ends 31 December 2002

Khehla Shubane: current term of office ends 31 December 2002

Marius C van Blerck: current term of office ends 31 December 2002



1.2 STRUCTURE OF THE FFC AS AT 31 MARCH 2002



1.2.1 THE FFC SECRETARIAT

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

STAFF:

Murphy Morobe	Chairperson and Chief Executive Officer (CEO)
Jaya Josie	Deputy Chairperson and Deputy Chief Executive Officer (CEO)
Myron Peter	Secretary of the Commission
Mavuso Vokwana	Financial Officer
Nkem Abonta	Programme Manager, Recommendations and Research Programme
Conrad van Gass	Deputy Programme Manager, Recommendations and Research Programme
Hildegarde Fast	Manager: Parliamentary Office, and Research Co-ordinator, Cape Town
Betty Kaseke	Research Co-ordinator
Bongani Khumalo	Research Co-ordinator
Patrick Mabuza	Research Co-ordinator
Rossana Achterberg	Research Co-ordinator
Vincent Makinta	Database Information Researcher
Cindy Bruce	Admin/Network Manager
Antonette Smit	Librarian/Information Technologist



Annaleeze Prosee	Secretary (Recommendations and Research Programme)
Kim Biko	Administration/Secretary. Parliamentary Office, Cape Town
Lyn Desai	PA to the Chairperson and Deputy Chairperson
Deliswa Schoeman	Accounts Clerk
Anna Mosiane	Receptionist

Outsourced functions:

Chief Financial Officer (CFO)	: Outsourced
Human Resources	: Outsourced
Legal Services	: Outsourced

TECHNICAL ADVISORY GROUP

As has been the tradition, the Commission has continued to use the services of various experts (local and international) in the pursuit of its objective of developing sound and well researched recommendations and advice. It, nonetheless, is still the Commission's intentions to have access to a greater number of local experts in the fields of endeavour relevant to its mandate.

1.3 HUMAN RESOURCES AND CAPACITY BUILDING

- 1.3.1 A continuous quest for the FFC is to position itself as a model employer, one, for which bright aspirants and experienced researchers should be desirous to work. Hence a great deal of attention was paid, during the 2000-2001 fiscal year, to improving on and ensuring the comprehensiveness of the FFC's HR Policies and Procedures. These Policies and Procedures were further updated during 2001-2002 to bring them into alignment with changes in South African labour legislation. These include, inter alia, changes relating to UIF payments by all employees, changes in the BCOE and LRA relating to leave and other issues (e.g. subsistence payments).
- 1.3.2 During 2001/02 the FFC also started the process to align HR reporting formats and monitoring of HR trends in the organisation with that of the reporting guidelines published by National Treasury. These reporting guidelines



respond to the reporting requirements of the Public Finance Management Act (PFMA), 1999 and the Public Service Regulations, 2001.

- 1.3.3 Of critical importance to the FFC's mission is the fact that job profiles for employees and 2001-2002 performance contracts were revised and finalized through agreement with all employees during the reporting period, laying the basis for the management of performance at the FFC during the 2001/2002 fiscal year, and set the FFC firmly on a course of a more effective performance based regime.
- 1.3.4 Indeed, this Performance Management System, has provided a structured environment within which performance was assessed, rated and monitored and rewarded at the FFC.
- 1.3.5 Of significance is the fact that bonuses are linked directly to Performance Management System.
- 1.3.6 In conjunction with the implementation of the Performance Management System and in compliance the provisions of the Skills Development and Employment Equity Acts, the FFC conducted an extensive Skills Audit of all staff and developed an Organizational Skills Development Plan. This has provided the basis for increasing the Commission's investment in skill development and training of its staff.

As part of its programme of developing a fulfilled and focused workforce, the FFC invested in two major capacity and team building initiatives toward the end of 2001. These covered personal, organizational and transformation issues. From a skills point of view research staff have been enrolled for a Diploma in Project Management to be conducted through Cambridge University.

- 1.3.7 As a follow up to the FFC's Employment Equity Report submitted to the Department of Labour on 1 December 2000, the Commission updated the Report which was submitted to the Department in October 2001. The process undertaken to update the report was in line with the provisions of the Employment Equity Act, and entailed the establishment of an Employment Equity Committee, the appointment of an Employment Equity Manager, and a series of consultative workshops with staff to identify



barriers to employment equity, review equity profiles and agree on methods for addressing barriers and identifying equity targets. A detailed Employment Equity Plan was ratified by the staff and included in the updated Report. The report guides the Commission in its strategies for recruitment and internal development. During the year under review, the following appointments were made, a financial officer, and an administrative secretary for our Cape Town office. In addition, two members of the staff were promoted from the position of a receptionist and general assistant to Accounts Clerk and Receptionist respectively.

1.3.8 The strategic approach to recruitment and staffing will follow the guidelines as per the HR Policies and Procedures of the FFC. Over and above these guidelines the FFC set out in its strategic plan (during the latter part of 2001) several considerations outlined below. These considerations are emphasized in executing its strategic approach to recruitment. The principle aim of this approach will be to cope with the changing policy environment and the demands placed on the FFC. These considerations are:

- Employment Equity objectives and targets;
- Affirmative action;
- The need for and appropriateness of specialist local and international expertise;
- The need for internships vis-a-vis permanent or longterm employment;
- Short-term, medium and long term renewable contract employment;
- The need to outsource some functions of the FFC;
- The value for money principle;
- The use of donor funding and collaborative international partnerships;
- The use of secondments particularly from state departments;
- The use of temporary staff;
- Collaboration with existing research institutes and bodies;
- The avoidance of institutional rigidities and the need for flexibility in recruitment approaches and strategies;
- Major shifts in policy, data and research demands;
- Institutional and research restructuring, rationalization and prioritization.



Together with the FFC's HR Policies and Procedures, these considerations are aimed at ensuring that the FFC's approach to recruitment is holistic and comprehensive, allowing for a variety of options.

- 1.3.9 Given the ongoing need to continuously enhance organizational effectiveness and efficiency, the FFC undertook, during January-March 2002, an organizational structuring exercise that involved the re-alignment of roles, responsibilities and work processes. This exercise was aided by a responsibility charting exercise (RACI). This exercise is due for completion in the first quarter of the next financial year.

1.4 INFORMATION TECHNOLOGY

- 1.4.1 The strategic design and use of information technology is, undoubtedly, an essential ingredient in the management of strategies for communication, administrative planning, and data collection and analysis. During the fiscal year under review, the Commission began the process of enhancing its capability in these areas. The ultimate aim will be to improve information gathering, data analysis, administrative planning and, above all communication with the public at large.
- 1.4.2 The FFC website is envisaged to play a crucial role in interfacing with stakeholders, the public and interested parties. The Commission views the website as an important communication tool for enabling stakeholders and the public to gain an understanding of the activities of the Commission. In this regard, the Commission is guided by the overriding principle to encourage and promote greater transparency of its activities through the use of the website. During the fiscal year under review the website was redesigned as part of the restructuring the FFC information technology programme and infrastructure. It will be re-launched during the latter half of 2002.



1.5 INTERNAL AND EXTERNAL ACCOUNTABILITY

1.5.1 INTERNAL COMPLIANCE

- 1.5.1.1 Given its evolving nature, some procedures for recruitment and procurement have been implemented in compliance with legal recruitment practices and as a function of the financial management of resources of the Commission.
- 1.5.1.2 Monthly reviews of the use of resources according to standard procedures for ensuring accountability have been conducted by the Executive of the Commission in terms of current legal requirements.
- 1.5.1.3 The Commission devoted 2001 to finalising, operationalising and implementing all procedural and structural issues to enhance capacity.
- 1.5.1.4 During 2001-2002 the Commission engaged the services of a consultant to assist in a review of its Human Resource and financial procedures and to redraft a more comprehensive set of procedures in keeping with new legislation.

1.5.2 EXTERNAL COMPLIANCE

- 1.5.2.1 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.
- 1.5.2.2 The Commission's financial management practices were conducted within the provisions of the legal prescripts of the regulations promulgated by the Treasury. This included treasury regulations as applicable to the fiscal year.
- 1.5.2.3 The mandate and scope of the FFC's operation derive from the provisions of Chapter 13 of the Constitution of the Republic of South Africa, Act No. 106 of 1996, as amended.
- 1.5.2.4 Further compliance requirements of the Commission are expanded upon by the Financial and Fiscal Commission Act, 1997.



1.5.2.5 With respect to its role in the national budget process, the Commission is guided by the mandate and processes set out in the Intergovernmental Fiscal Relations Act, 1997. This Act provides for any recommendations of the FFC with regard to the Annual Division of Revenue 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 a process of consultation between the Commission and the Minister of Finance, no later than 14 days before the Bill is tabled in Parliamentary by the Minister of Finance.

1.6 STRATEGIC PLAN

The FFC this year fulfilled its obligation in terms of the PFMA and Treasury Regulations to submit - as is required of all constitutional institutions - its strategic plan within 15 days of the Minister of Finance having tabled the budget in Parliament. The FFC was, at the time of finalising this annual report, establishing procedures for quarterly reporting to Parliament. The strategic plan identifies four key performance targets and indicators in its strategic plan for 2001/02. These are as follows:

A. OBJECTIVE

The development and submission, annually, of recommendations for the MTEF budget cycle as per the Intergovernmental Fiscal Relations Act.

INDICATOR

Annual Submission made to Parliament, the provincial legislatures and SALGA at least 10 months before the start of the annual budget cycle.

OUTPUT/OUTCOMES

Printed document submitted to the Clerk of Papers, Parliament, and distributed to provincial legislatures, SALGA, and the Minister of Finance by the 1 April of each fiscal year or on a later date as agreed to with the Minister of Finance.



B. OBJECTIVE

The development of and submission, annually, of recommendations on the annual Division of Revenue Bill in accordance with requirements of the Intergovernmental Fiscal Relations Act.

INDICATOR

The Commission has to comment and submit any recommendations it may have on the Division of Revenue Bill, at least 14 days before the introduction of the Bill in Parliament, to the Minister of Finance and Parliament.

OUTPUT/OUTCOME

Written submission made to the Minister of Finance and Parliament in terms of the Intergovernmental Fiscal Relations Act.

C. OBJECTIVE

To respond to requests from stakeholders, other policy issues, and to fulfill the FFC obligations as per the prescripts of relevant legislation, and in that respect evaluate various policy options, advance any proposals and or recommendations it may have on, and give advice to stakeholders on fiscal matters.

INDICATOR

Number of stakeholder requests, policy issues, and legislative obligations responded to as per mandates of the FFC provided for the relevant legislation. This would provide a reflection of the extent to which various stakeholders interact via FFC outputs.

OUTPUT/OUTCOME

Number of written submissions made to stakeholders and to Parliament.

D. OBJECTIVE

Submission, annually, to Parliament, provincial legislatures and relevant organs of state, an Annual Report and audited financial statements.

INDICATOR

Annual Report and audited financial statements submitted to Parliament within five months of the end of the financial year in terms of the Public Finance Management Act, Treasury Regulations and the FFC Act.

OUTPUT/OUTCOME

Printed copies of the Annual Report and audited financial statements are submitted to the Clerk of Papers (Parliament) and National Treasury.



1.7 FINANCES

1.7.1 FINANCIAL FRAMEWORK

1.7.1.1 The FFC is annually funded through the national budget as appropriated through Parliament. On an annual basis, and as part of the MTEF, the funds so appropriated are channelled through the National Treasury, which the FFC then receives as a Transfer.

1.7.1.2 The total revenue budget of R 9,903 914 was committed to the FFC for the financial year 2001-2002. Total expenditure against the total budget was R 9,480 951. The balance re-presents funds to be committed in the following year.

1.7.2 REPORT FROM THE CHAIRPERSON OF THE AUDIT COMMITTEE

Internal control measures have been in operation in the FFC in the past and these are being improved as and when necessary. During the year under review a Financial Policies and Procedures Manual was developed and it streamlined financial operations in the FFC making for greater effectiveness and efficiency in the systems of internal controls. Further more, a risk assessment exercise was completed and this further contributes to enhancing the effectiveness and efficiency of the FFC's systems of controls.

The functions of the Chief Financial Officer (CFO) are, at this stage, still outsourced. The control over budgets and the monthly reporting has been excellent, ably formulated by a financial officer who joined the FFC early in the financial year.

In the opinion of the Audit Committee, the financial statements for the year ended 31 March 2002 read together with the Report of the Auditor-General contained in this Annual Report, once again attest to a healthy state of financial management and control at the FFC.

1.7.3 FINANCIAL STATEMENTS AND AUDITOR'S REPORT

The audited financial statements for the year, together with the Auditor-General's report, are presented in Chapter 5 of the Annual Report.



2. THE FFC IN A SYSTEM OF INTERGOVERNMENTAL RELATIONS

2.1 CONSTITUTIONAL AND LEGISLATIVE MANDATE

- 2.1.1 The relevant Provisions of the South African Constitution provide the mandate for the FFC within the intergovernmental fiscal relations system in South Africa.
- 2.1.2 Chapter 3 of the Constitution provides for three spheres of government and requires adherence to principles of co-operative governance and intergovernmental relations.
- 2.1.3 The equitable division of national revenue lies at the heart of the function of the Financial and Fiscal Commission (FFC). Section 214 of the Constitution states that an Act of Parliament must provide for the equitable division of revenue raised nationally among the national, provincial, and local spheres of government, and that the FFC should be consulted in this regard.
- 2.1.4 Since 1998, the process for the establishment of the equitable division of revenue 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, Parliament, the Budget Council, the Budget Forum, and provincial and organised local governments.
- 2.1.5 In terms of Part 3 of the Intergovernmental Fiscal Relations Act a process extending over a period of ten months, preceding the tabling in Parliament of the Annual Budget by the Minister of Finance, is determined whereby the Financial and Fiscal Commission may put forward any recommendations it has with respect to the equitable division of revenue. Furthermore it provides for the FFC to be consulted before the budget for the next financial year is introduced in the National Assembly.
- 2.1.6 While adhering to the formal explicit requirements of relevant legislation, the FFC has to participate in other intergovernmental forums for it to remain apprised of all relevant information.



2.2 THE ROLE OF THE FFC

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

2.2.2 Given its unique position and the role assigned to it in the Constitution and legislation, the FFC remains a key participant in the unfolding debate on the equitable sharing of national revenue. But it has and continues to pursue this mission in such a way that its independence and impartiality cannot at any point be called into question by relevant stakeholders.

2.2.3 In playing this role effectively, the FFC has as its key reference points the following:

- Respect for the constitutional status of each sphere of government ensuring that the letter and spirit of the Constitutional principles always guide its recommendations.
- The Constitution's Bill of Rights which mandates the provision of basic services to all citizens.
- Key principles for good intergovernmental relations. These have been outlined in detail in previously published FFC documents.
- The FFC has to undertake extensive research activities to help informed decisions underpinned by quality research and analysis.
- Over the past year, the FFC has undertaken to enhance its relationship with stakeholders by establishing strong consultative arrangements with key stakeholders in the fiscal system.

2.2.4 As an independent and impartial body, the FFC has at all times to study and prepare its recommendations on the basis of a transparent relationship between principles, stated program objectives, examination of facts and analytical proficiency.

2.2.5 It is indeed not a requirement of its *raison d'être* to be always in concord with National Treasury or any other sphere of government for that matter, even where circumstances require otherwise. However, the Commission being cognizant of the intentions of Chapter 3 of the Constitution remains alive to the importance of co-operative arrangements with all other organs of state, and will seek to respect political processes through which government's policies are ordinarily established.



3. COMMISSION ACTIVITIES

3.1 SUMMARY OF THE FFC'S RECOMMENDATIONS FOR 2002-2003

3.1.1 Summary of FFC Recommendations for 2002-2003

The FFC Recommendations for 2002-2003 contained in its report are made in terms of Sections 214 (2), 228(2b), 229(5) and 230(2) of the Constitution of the Republic of South Africa, read together with Section (9) of the Intergovernmental Fiscal Relations Act of 1997.

These Recommendations followed closely those made in May 2000 for the 2001-2004 MTEF cycle. They however, as an advance on the May 2000 submission, focused on all three spheres of government and were submitted to Parliament in June 2001.

Below is a summary of the key recommendations for 2002-2003. The full version of the submission will become available on the FFC's website <http://www.ffc.co.za> once operational.

Towards an Equitable Sharing of National Revenue

- As a first step in the review of the current FFC/Treasury equitable share formula, the commission argues that clear definitions of constitutionally mandated basic services and other constitutionally obligations will be necessary.
- Together with these Constitutionally mandated basic services and other Constitutional obligations, the Commission suggests that the review of the ES formula will also have to take into account the appropriate institutional (I) element of each sphere of government, other defined constitutional functions with specified norms and standards and also the need for infrastructure funding that varies according to policy priorities.



National Government

The following recommendations were made with respect to the obligations of national government.

- The determination of the equitable shares of nationally collected revenue must proceed from the principle that constitutionally mandated basic services and other constitutional obligations should be prioritized and progressively realized.
- The determination of a set of objective criteria for the utilization of the contingency reserve.

Provincial Government

Provincial Own Revenue

- A review is proposed of the current equitable share formula to take account of pending legislation relating to Section 228 (Provincial Taxes) of the Constitution and the proposed introduction of a capital grants scheme.
- The Commission reaffirmed its previous recommendation that, in the absence of anything else of significance, the surcharge on personal income tax remains the most significant of revenue options for provinces.
- Provinces are allowed the flexibility to determine their own tax rates within rates bands determined by the Minister of Finance.
- To implement any of the provincial own revenue measures, tax room should be created in order to maintain the tax burden within nationally determined targets.

Conditional Grants Proposal

- A capital grant model is proposed for use as a method for allocating infrastructure grants. Though not yet applicable, the Commission is still committed to investing further resources to developing this nascent model.

Local Government

Local Government Equitable Share Proposals

- The FFC takes the view that the LG formula needs to take account of the cost of service responsibilities,



institutional costs and fiscal capacity. The various formula components should be operationalised as data becomes available.

- Government identify and define basic municipal services and that existing constitutional and legislative provisions guide this process.

Funding Basic Municipal Services

- National government should fund lifeline tariffs as these are intended to benefit low-income households and are an important instrument of redistribution.

Municipal Powers and Functions

- The report proposes that funding, including lifeline tariff funding, be directed to the relevant service providing authority.
- The Commission proposes that the reform process ensure that the revenue accruing to district municipalities through regional service council levies be retained within the local government sphere, and that any new revenue instrument chosen be subject to local control.
- These regional service levies be converted into a general revenue source for funding municipal services assigned by legislation. Infrastructure should be financed through national government's infrastructure programme and own revenue sources. Should any additional functions be transferred to district municipalities by the relevant MEC for local government, appropriate revenue-sharing instruments must be instituted.
- Given the need for clarity on the division of powers and functions between district and local municipalities, the FFC indicated that it will, during the course of the year, submit a comprehensive view on the issue.

Municipal Health Services provision

- In the long term, the FFC proposes that the funding of municipal health services be included in the equitable share.
- An interim measure is proposed whereby provincial allocation to local government for primary health care provision be disaggregated to district level using a formula. Municipalities may supplement any proposed allocation from own revenues in order to achieve or maintain a preferred higher level of service.



Infrastructure Funding

- The FFC expresses its support for a formula-based approach to Government's infrastructure funding. Such a formula should take account of existing infrastructure backlogs, the number of poor households, and the outcomes of previous infrastructure spending.
- Owing to the complexities of funding capital infrastructure in district and local municipalities, the FFC proposed a study to determine the nature and mechanisms for capital grant disbursement to non-metropolitan municipalities.

Local Government Borrowing

- The Commission emphasises the importance of Government creating the conditions necessary for the emergence of a local government borrowing market through, inter alia,
 - enhancing local government debt management capacity;
 - Implementation of a rules based approach to complement market discipline; and
 - Ensuring that municipalities with limited own revenue bases have access to steady and predictable revenue streams.
- The Commission also proposed that Government give consideration to the extent to which different categories of local government may pledge their equitable share revenue to access debt. However, an effective regulatory framework must be in place when this is considered.

3.1.2 Government Response

Government's response to the Commission's report on recommendations, contained in Annexure E of the Division of Revenue Act 2002/2003, was generally positive. It (the Government) has committed to considering a review of the existing formula once the 2001 Census results become available. This review will of course involve the participation of the FFC.

Furthermore, Government also concurs with the FFC on the need for the development of more precise information to be able to determine the cost of constitutionally mandated basic services (CMBS). With respect to the



proposals relating to infrastructure, the Commission will work in consultation with Government in its preparation of proposals for an acceptable mechanism for the allocation of capital grants on an equitable basis. Indeed, the FFC already had a project in the pipeline focussed on refining its capital grants model with a view to enabling more comprehensive coverage of provincial infrastructure needs.

Where local government was concerned, Government has expressed support for most of the proposals made, welcoming them as substantive and timely given the policy issues currently under discussion concerning the local government sphere.

3.2 SUMMARY OF THE FFC RECOMMENDATIONS FOR THE DIVISION OF REVENUE 2003-2004

3.2.1 Summary of FFC Recommendations for 2003-2004

In terms of Section 3 (2) of the Financial and Fiscal Commission Act and the provisions of other relevant legislation, the Commission responded to requests from stakeholders and submitted comments on policy issues impacting or having a bearing on financial and fiscal matters. These responses (in the form of submissions) were made to Parliament during the fiscal year under review.

The responses were incorporated in the Commission's Annual Submission on the Division of Revenue 2003-2004 presented to Parliament on the 30 April 2002. For ease of reference a summary of the recommendations in the Annual Submission for 2003-2004 is provided below. The full version of the submission will become available on the FFC's website <http://www.ffc.co.za> once operational.

Local Government

Municipal Borrowing and Municipal Finance Markets

- The FFC reiterates its proposal that there should be a combination of market discipline and the rules-based approach applied to the municipal borrowing market.
- There should be a differentiated approach to the



borrowing market, allowing for different categories of municipalities being treated differently rather than a one size fits all approach.

- There should be deliberate policy measures to assist poorer municipalities to build their creditworthiness over the medium to long-term.
- Larger municipalities should continue to issue bonds and access other forms of loan finance, while smaller municipalities should be allowed more access to intergovernmental capital grants and DBSA funding.

Municipal Finance Management Bill, 2001

- There should be clear lines of accountability and relationships between the spheres of government with respect to municipal borrowing.

Division of Powers and Functions between District and Local Municipalities.

- The Commission highlights key principles that should inform the division of powers and functions, and these are:
 - that existing local government policy should inform the division. Local municipalities should therefore be responsible for the delivery of municipal services, and district municipalities should be responsible for district-wide and support functions; and
 - that issues of redistribution should not determine the division of powers and functions between local and district municipalities, given the primary role that national government should play in funding redistribution.
- District municipalities should be the service authorities for municipal health services, except in selected large Category B municipalities.
- District municipalities should play no role in the distribution of electricity.
- Local municipalities should be the service authorities for water and sanitation services, and district municipalities should be responsible for sanitation promotion (as part of their municipal health function).
- There is no need to assign service authority over municipal enterprises such as abattoirs and fresh produce markets. District municipalities should bear responsibility for regulating the public health aspect of these enterprises.

Remuneration of Municipal Councillors

- Resources for the remuneration of councillors should be channelled through the existing Institutional grant of the local government equitable share.
- The current Institutional grant should be reviewed in light of the most recent legislation and regulations concerning councillor remuneration.

Restructuring of the Electricity Distribution Industry

- No stakeholder should experience a deterioration in its circumstances owing to the restructuring process, unless this is an explicit policy decision.
- Tariff support to low-income consumers be financed primarily by a national grant to REDs for the provision of free electricity, and to a lesser extent by a consumer cross-subsidy.
- Capital electrification for low-income consumers should be financed by national government, and provision for this should be made in the MTEF Estimates.
- The local government levy should be made available to all municipalities, therefore:
 - Municipalities should be allowed to set the levy up to a maximum level.
 - The possibility of allowing a higher cap for distributing municipalities should be investigated, so as to take account of the net loss experienced by some municipalities.
 - The local government levy should not be phased out unless fiscal mechanisms are in place to fully compensate for the loss of revenue.
 - The figure of R2.4bn as a cap on local government revenue should be re-examined.
 - Given the increasing loss in receipts to local government implied by the restructuring process, consideration should be given to regular increases to the absolute cap on local government revenue.
- Consideration should be given to introducing a "local government levy" for large customers, with the levy being imposed by national government and disbursed through the local government equitable share.
- The restructuring process should focus on compensation to municipalities through the local government levy and not through dividend income.
- The structure of the REDs should ensure that accountability for efficient service delivery is promoted in a simple and effective way.



- Municipalities should be compensated for all losses related to the transfer of electricity distribution to REDs.
- The advantages and disadvantages of retaining consolidated billing systems with municipalities should be carefully weighed, and measures should be implemented to retain the advantages.
- RED boundaries should be co-terminus with municipal boundaries to ensure that residents of a given municipality do not fall within different REDS and hence under different tariff structures.
- Implementation of any proposals should be carefully phased in owing to the integral role played by electricity provision in the system of local government finance.

Provincial Government

Provincial Tax Regulation Process Bill

The Bill should:

- Specify criteria against which the Minister measures provincial tax proposals;
- Clarify the implications and procedures relating to capacity limitations of SARS in advance;
- Allow provinces maximum flexibility in determining tax rates within tax rate bands;
- Develop guidelines with regard to tax room and equalisation measures, where certain taxes have implications for the equitable share revenue pool;
- Specify regulations for dispute resolution, especially where a province may fail to reach an agreement with SARS on certain tax proposals; and
- Include a clause for dealing with the impact on local government finances of a proposed provincial tax or surcharge.

Early Childhood Development (ECD)

- The current conditional grant funding arrangements for ECD should continue until ECD can be incorporated into the Provincial Equitable Share formula.



HIV/AIDS

- The FFC confirms its previous position that conditional grants remain the most appropriate mechanism for targeting spending on HIV/AIDS.
- The development of a suitable data and information base on HIV/AIDS that includes long-term projections should be prioritised.

Cross-cutting Equitable Share Issues

Social Security

- The FFC proposes some guidelines that roleplayers could use in reviewing the Comprehensive Social Security Review Report. The guidelines pertain to:
 - The principles and criteria which may be used;
 - The background and context which must be developed;
 - The range of services which might be encompassed; and
 - The financial and administrative frameworks needed for the implementation of social security policy.
- For the interim, the FFC still maintains the view that old age and veteran pensions should be budgeted and administered by national government.
- In the medium to long-term, the Commission emphasises the point that social security should be a national responsibility which can be administered through the establishment of a national social security agency. Among other functions, the core business of the agency would be the payment of old age and child support grants.

Review of the Intergovernmental Fiscal System

- In anticipation of the review of the current intergovernmental fiscal mechanisms and processes, the FFC wishes Parliament and Government to consider:
 - The possible incorporation of elements and parameters in the intergovernmental transfer formulae that will balance the need to provide constitutionally mandated obligations with the considerations listed in Section 214(2)(a-j) of the Constitution.
 - The need for substantial improvement in data collection to enhance the development of inter-



governmental fiscal mechanisms consistent with constitutional requirements.

- The development of specific intergovernmental fiscal capacity-building programmes, both inside and outside of Government.

Disaster Management Funding

- Central funding mechanisms for disaster management should be introduced, so as to ensure that budget frameworks and the delivery of constitutionally mandated basic services are not compromised.
- Local municipalities should be primarily responsible for the co-ordination and management of local disasters, unless they lack the necessary capacity.
- Start-up costs for emergency preparedness for local government should be funded from a national conditional grant targeted primarily at municipalities with little capacity.
- On-going institutional costs for emergency preparedness should be incorporated into the equitable share.
- Funding for prevention/mitigation projects should be provided by national government to provinces and municipalities on a matching-grant basis.
- A portion of the contingency reserve should be used to fund emergency response activities once provinces and municipalities have exceeded a specified financial threshold of disaster response expenditure.
- National departments, provinces, and municipalities should submit requests for reconstruction funding to national government. A budget appropriation would be requested based upon the sum of the approved claims.
- The three relief funds administered by the Department of Social Development should be combined and administered centrally. Where budgeted funds are exceeded, the contingency reserve could be drawn upon.

Central Contingency Reserve

- A legal framework for the contingency reserve should be put in place. This framework should ensure that the reserve is indeed used for emergency purposes.
- The contingency reserve for the budget year should be allocated for two emergency purposes, namely macroeconomic stability and response to natural or human-made disasters.



- "New spending priorities" of the outer years of the MTEF should be categorized separately as the "policy reserve".
- The Municipal Finance Management Bill should include a provision that empowers municipalities to make appropriations to defray expenditure of an exceptional nature (similar to the provisions of Sections 16 and 25 of the PFMA).
- Provinces and municipalities should exercise their discretion in determining how to build flexibility into their budgets.

3.2.2 Government Response

Government response to the above recommendations will be published, next year, in the Division of Revenue Act for 2003 and contained in Annexure E of that Act as well as in Annexure E of the Budget Review 2002.

3.3 SUMMARY OF THE FFC COMMENT ON THE DIVISION OF REVENUE BILL FOR 2002

Section 214 of the Constitution establishes that an Act of Parliament must provide for the equitable division of revenue raised nationally among national, provincial and local spheres of government, among provinces and other allocations to provinces, local government or municipalities from the national government's share of that revenue.

In accordance with Section 214 (2) of the Constitution, the Annual Division of Revenue Bill may be enacted only after the provincial governments, organized local government and the FFC have been consulted, and any recommendations considered taking into account Section 214 (a-j) of the Constitution.

In addition, Section 10 of the Intergovernmental Fiscal Relations Act, 1997, provides for consultation between the Minister of Finance and the FFC after receiving the Commission's Annual Submission before the Division of Revenue Bill is introduced in Parliament.

The FFC's Submission on the Division of Revenue Bill for 2002 responds to the above legislative obligations. A summary of the FFC's analysis of the Draft DOR (2002) for its submission is provided below. The full version of the submission will become available on the FFC's website <http://www.ffc.co.za> once operational.



3.3.1 Analysis of the National Budget

- Macro-economic growth averaged 2.4 % p.a. in real terms between 1997/98 and 2001/02. This and improved tax collection efficiency have enabled
 - (a) a significant reduction of the national deficit, and through the retirement of debt a reduction of debt servicing costs;
 - (b) A real growth in revenue available for division in contrast to recent past trends; and
 - (c) An increase in the allocation to the contingency reserve to accommodate macro-economic shocks and emergency responses to natural disasters.
- Overall the vertical division of revenue in the Bill reflected a distributional shift away from provincial to the national and local spheres of government. This shift appears to indicate a functional shift of resources towards infrastructure spending primarily the preserve of local and national governments. Such a shift has the effect of counteracting the "crowding out pressures" whereby capital spending is displaced by personnel and social services. Alternatively, it is posited that this shift of resources to local government may reflect anticipated pressures in personnel budgets as municipalities amalgamate and as functions shift between local and district municipalities.

3.3.2 Analysis of Provincial Budgets

- A preference towards the Provincial Equitable Share (PES) over Provincial Conditional Grants (PCG) was noted. This trend may reflect greater capacity and willingness by the provinces to assume responsibility for the delivery of recent national policy initiatives and/or assume greater provincial budgetary autonomy.
- It was observed that while policy measures aimed at reducing provincial deficits succeeded during the period 1998/1999-2001/2002, the new Budget Framework anticipates that, during 2002, the provincial sphere may shift into deficit due to spending pressures and the declining importance of its own revenue.
- While Housing, Infrastructure and Welfare showed increases in allocations, allocations for Health and Education functions were most at risk of showing real declines in value.

- The continuing shift of provincial resources towards the Welfare function has been recognized in adjustments to the Provincial Equitable Share (PES). This shift is, by and large, a response to increased take-up of the child support, foster care and care-dependency grants.
- The allocations in the Bill also indicate resource shifts towards Housing and Transport functions to counteract recent past trends in allocations.
- In response to new national policy initiatives (HIV-AIDS, Early Childhood Development Programme (ECDP) and provincial infrastructure grants) Provincial Conditional Grants have, in general, increased their share of provincial expenditure to 4.54% in the 2002/03 Budget. However, an exception is the Child Nutrition Grant that has experienced a real decline in allocation. It is anticipated that this decline may disable previous efforts at the progressive realization of a socio-economic right.

3.3.3 Financing Municipal Budgets

- The FFC noted in its Submission that while it provided an analysis on the financing of municipal budgets it did so with the acknowledgement of fiscal data constraints.
- While, on the average 8% of municipal revenue was derived from Intergovernmental Fiscal Transfers (averaging 5% of the Local Government Equitable Share (LES) between the period 1997-1998 to 2000-2001) this average hides own revenue differences between the Metros, urban and rural local and district councils. As a result, it is the view of the FFC that a dis-aggregation of the official record indicating that 90% of all municipal spending is derived from own revenue sources will provide greater insight into our understanding of municipal revenue sources.
- In its Submission, the FFC observed that there has been a substantial increase in the LES (15%) and Local Government Conditional Grants (33%) that have been budgeted for 2002-2003. Local Government Conditional Grants are mainly geared towards infrastructure spending and institutional capacity building.
- In contrast, it was pointed out that, in the recent past, municipal deficits have been rising and averaging 2.5% of municipal spending.



3.3.4 Trends in the provision of Constitutionally Mandated Basic Services (CMBS)

- In its Submission, the FFC contended that Constitutionally Mandated Basic Services be defined and, perhaps, ultimately ring-fenced. It is the prerogative of provincial governments to determine what proportion of their unconditional provincial equitable share allocations (PES) are devoted to basic service provision.
- For purposes of its analysis the FFC limited its definition of CMBS to the ordinary and special school education, district health and provincial hospital, and social security spending programs of provincial governments. The analysis indicated that despite real declines in PES allocations, the proportion of provincial expenditure on CMBS had increased from 73% to 77% between 1997/98 and 2001/02. This enabled a low real growth of spending on CMBS of approximately 0.48% per annum.
- Statistics SA estimates annual population growth (factoring in AIDS deaths) to be 1.83%. This implies real per capita growth of spending on CMBS of -1.32%. The national average masks important provincial differences. In some of the poorer provinces (such as the Eastern Cape) real per capita spending has increased due to both (a) budgetary re-allocations, and (b) out-migration. Real per capita spending declines are highest in the most affluent provinces, which have attracted in-migrants.
- Real growth in spending on basic education has averaged 1% p.a. over the previous 4 years. During the same period, learner enrolments declined in all provinces but Western Cape and Gauteng. In consequence, per learner expenditure has increased in real terms in all but the 2 most affluent provinces. There remain wide differences between provinces in terms of per learner expenditure.
- Real growth in spending on primary and secondary health care has increased very marginally over the previous 4 years and, in many provinces, has declined. The rate of growth in the patient population is not known but is expected to be positive (especially with HIV-related illnesses). This implies real declines in per patient spending.

- There has been significant take-up of the Child Support Grant (CSG). Between 1999/00 and 2001/02, the proportion of those eligible for the CSG and in receipt has increased from 3.5% to 42.2%. Because the CSG is a lower value grant (R 110 in 2001/02) than the other child-care grants, pensions and disability grants, the overall effect has been a decline in per-beneficiary spending but a wider distribution of benefits.

3.3.5 Assessment of Provincial Conditional Grants

- The FFC's Submission also responded to a Parliamentary brief requesting the need for an assessment of the performance of conditional grants to provinces. The FFC noted that conditional grants could be considered part of the national government sphere's equitable share and, as such, an important fiscal instrument with which to transmit national policy to provincial delivery agents.
- It was noted that the new Conditional Grant Framework requires national departments to define conditional grants in terms of their purpose, degree of conditionality, intended use, projected lifespan and reasons for choosing against the Equitable Share funding mechanism. Further, reporting and disbursement schedules as well as inter-provincial allocation criteria are required. The FFC commented that inclusive planning for conditional grants within the broader budget process was an important step towards consolidating and streamlining the system.
- The FFC's budget analysis revealed that approximately 1/8 of provincial revenue took the form of conditional grants. Conditional grants are the major and an important component of the Housing and Health budgets respectively.
- Approximately 40% of the value of provincial conditional grants was intended to provide infrastructure, 54% for institutional capacity building and the remaining 6% for new policy initiatives in poverty and HIV-AIDS alleviation.
- Reported under-spending increased from 5% to 16% between 1999/00 and 2001/02, although this may simply reflect greater coverage, which reveals the extent of under-spending. Under-spending is most apparent on infrastructure grants and those deemed transitional or of a short lifespan.



- Late or infrequent disbursements by national departments may contribute to provincial under-spending by disrupting the planning process. Conversely, inadequate reporting schedules and standards may prompt delays in disbursements. Generally, the more established the conditional grant program, the more regular the disbursement and reporting schedules.
- Most provincial conditional grant schemes have identified measurable outputs. However, insufficient evidence has been accumulated with which to evaluate actual delivery performance.

3.4 SYNOPSIS OF RESEARCH ACTIVITIES FOR 2002/03 FISCAL YEAR

Within the context of its evolving long term perspective for research and recommendations on intergovernmental fiscal arrangements, the Commission has identified several areas for research pertaining to the three spheres of government for 2002/03. In addition to these areas for research, the Commission will also respond to request from stakeholders in terms of the legislative obligations prescribed in various other legislation and the Financial and Fiscal Commission Act (FFC Act, 1997). Some of the research areas described below follow on from the proposals and recommendations stated in previous Annual Submissions of the Commission.

While it is envisaged that these research areas will guide the work of the Commission during 2002-2003 fiscal year, it must be noted that their relevance and efficacy will be subjected to continual assessment and the need for adjustments arising out of new policy developments during the fiscal year, the availability of data, the timing and sequencing of the FFC's recommendations over the next three to five years within the context of a longer term vision for its research and recommendations programme.

3.4.1 Local Government

- An estimation of the costs of basic municipal service provision to assist with the further development of the local government equitable share formula.
- An assessment of the relationship between municipal economic services and the adequacy of revenue sources for expenditure to support these services within the context of the intergovernmental fiscal system.
- The identification of an appropriate municipal revenue-

raising capacity measure for further development of the local government equitable share formula.

- The development of a classification system for municipalities that could assist in the design of a coherent framework for intergovernmental transfers and sources of own revenue.

3.4.2 Provincial Fiscal Policy

- The analysis of trends in provincial own revenues and the identification of obstacles to improved collection of revenues.
- Within the context of the review of the equitable share formula for basic education, financing options will be explored for Early Childhood Education and Adult Basic Education
- Within the context of the Intergovernmental Fiscal Relations System, the impacts on the equitable share of certain health and welfare programmes, and the proposal for Comprehensive Social Security Reform will be assessed.

3.4.3 Cross Sphere Fiscal Issues - Review of the IGFR system

- A review of the intergovernmental fiscal relations system and its processes will be undertaken in the context of which proposals will be explored for a capital grants scheme and for both the local and provincial equitable share formulae.

3.4.4 Division of Revenue Bill 2003-Budget Analysis

- Annual FFC comment and Submission on the Division of Revenue Bill for 2003.

3.5 PARLIAMENTARY LIAISON

3.5.1 The FFC's Parliamentary Office in Cape Town is responsible for monitoring Parliamentary meetings, analysing policy and legislation tabled in Parliament, and then regularly updating the Head office on issues of relevance to the Commission.

3.5.2 The Parliamentary Office also facilitates regular contact between the Commission and Parliament. Typically, the FFC liaises extensively with the Portfolio and Select



Finance Committees, but also interacts with other Committees that are dealing with issues of relevance to the FFC. For example, a suite of legislation relating to local government finances has resulted in significant interaction with the Portfolio Committee on Local Government over the past two years.

- 3.5.3 Since the Parliamentary Office was established in September 1999, a series of processes and events has developed around the FFC's submissions to Parliament. This has allowed the Commission and Parliament to prepare in advance for important events, which include:
- FFC Submission on the Division of Revenue for the next financial year (typically in April/May)
 - FFC presentations to Parliamentary Committees on its Submission (June - August)
 - FFC presentations to Provincial Legislatures on its Submission (June - August)
 - FFC response to the Division of Revenue Bill after the Budget Speech (February/March)

During 2001/02, the FFC formally submitted its proposals to Parliament on 15 June 2001, and presented its response to the Division of Revenue Bill 2002 to the Finance Committees on 25 February 2002 and 6 and 8 March 2002.

- 3.5.4 In addition to these regular events, the Parliamentary Office engages with issues as they arise in Parliament. For example, the FFC monitored and contributed to the extensive discussions on the Municipal Finance Management Bill that took place throughout 2001/02. The Parliamentary Office also participated in the strategic planning workshop convened by the Select Committee on Finance.



4 INTERNATIONAL RELATIONS

- 4.1 The Commission enjoyed a very useful and beneficial relationship with the **Canadian** government in terms of the provision of technical expertise to the Commission. This was made possible through sponsorship of the Canadian International Development Agency (CIDA). In addition to the technical expertise provided to the Commission, members of the Commission and the Secretariat undertook a study tour of fiscal institutions in Canada and attended lectures and seminars on intergovernmental fiscal relations.
- 4.2 Through the assistance of the **Australian** government and via AUSAID, the Commission has been able to secure technical advice and assistance for the revision and refinement of its capital grants model.
- 4.3 Assistance from the **French** government provided the Commission with an opportunity to undertake a study tour of key government institutions in France as well as training for its research staff. The French government also sponsored the provision of technical expertise for local government issues addressed by the Commission during the year under review. This assistance was further complemented with a grant for local government policy issues for the year 2002-2003.
- 4.4 During the period under review, the Commission also met with a delegation of the **IMF**. This meeting was part of the IMF's annual visit to South Africa in lieu of its yearly consultations with member countries.
- 4.5 The Commission and a delegation of officials from the **Ugandan** government led by Dr. Dick Odur (Chairman – Local Government Finance Commission) met in Cape Town (Parliament) to exchange experiences and discuss issues relating to the intergovernmental fiscal systems of South Africa and Uganda.

During the next financial year and beyond, the Commission will explore opportunities for further engagement with international bodies, and government officials and national institutions working in the area of public sector fiscal and financial matters.





FINANCIAL STATEMENTS AND AUDITOR'S REPORT





**FINANCIAL AND FISCAL COMMISSION
MANAGEMENT REPORT FOR THE YEAR ENDED
31 MARCH 2002**



MANAGEMENT REPORT for the year ended 31 March 2002

Report by the Accounting Officer to the Executive Authority and Parliament of the Republic of South Africa.

1. General review of the state of financial affairs

As was the case in previous years, the Commission has no cost overruns. While the accounts will reflect a surplus amount of R 422 963, this amount however had been already earmarked for capital expenditure and is to be expended in the 2002/2003 financial year.

It should be mentioned that, given the role of the Commission, as per the Constitution and other subordinate legislation, estimates suggest a more sustainable budget level would be in the region of R10m per annum. This level will obviously be a function of both the Commission's obligations in terms of the Constitution and that of various interventions required of it by various organs of state, from time to time. These cannot always be predicted.

Naturally, a significant part of the expenditure is taken up by personnel together with the contracting in of various expertise. Researchers, analysts and various experts (local and international) represent the most essential input factor for the Commission.

2. Services rendered by the department

Not applicable.

3. Trading activities

Not applicable.

4. Trading entities

Not applicable.

5. Public entities

Not applicable.

6. Public/private partnerships

Not applicable.



7. Risk management and fraud prevention

As a precursor to the development of a fraud prevention plan and the establishment of an internal audit unit, Deloitte and Touche were during the financial year under consideration commissioned to conduct a risk assessment. It was completed in February 2002. This forms part of the process of establishing an internal audit unit and fraud prevention plan.

Arising from this report, and taking into account procedures that had already been put in place by the Commission, a fraud prevention plan will be developed. This however will only take place once the institutionalisation of an internal audit function has been effected. Because of the Commission's relative size, it had been decided to go the shared service route with the Department of the Treasury. At the time of completing this report, we were still awaiting Treasury to complete its internal processes of contracting an appropriate service provider.

The Financial Year under consideration has seen the Commission invest significantly in Human Resources, and Financial Management Systems. This has been done so as to ensure that a stimulating and more productive environment for staff is created, and to ensure that all systems are compliant and consistent with all current labour relations, financial management and employment equity laws of the country.

The employment of a financial officer in the financial year 2001/2002 has indeed facilitated the strengthening of our controls even further.

Our human resources and financial procedures manual(s) does contain all the important internal control elements that embrace procedures necessary for the detection and prevention of fraud. This has been acknowledged in the AG report for 2000/2001. However, the risk assessment recently conducted is aimed at enhancing this situation even further, and will form an important point of departure for the new Internal Audit function.

8. Discontinued activities/activities to be discontinued

Not applicable.

9. New/proposed new activities

Over and above the standard areas of work relating to revenue sharing and the division of revenue, reports like that of the Committee on the Comprehensive Social Services Review is expected to result in new activity for the Commission. While we anticipated the release of the report, we could not fully anticipate the nature and extent of work it would generate for the FFC. Similarly, other new activities may arise on account of stakeholders utilising Section 3 (2)(b)(ii) of the Financial and Fiscal



Commission Act, Act No.99 of 1997.

As per the last fiscal year, consultations with a wide variety of stakeholders, (such as the National Treasury, provincial legislatures, the NCOP, Parliament's Portfolio Committee on Finance, National Departments, the Minister of Finance), continue to be an important part of the Commission's activities. Issues raised by the various parties warrant consideration by the Commission. These financial implications which the Commission will assess, as they have the effect of adding pressures on existing allocations for the MTEF period 2002-2004.

While originally earmarked for implementation during the 2001/2002 financial year, the revamping of our IT - server network will only take effect in the 2002/03 financial year.

As part of commitment to invest in skills development of our human resources, attention was paid to staff development and skills training.

To enhance our communication efforts, the FFC website will be revamped and launched with a much more user-friendly approach and with much easier access to key documents of the Commission.

10. Events after the accounting date

See 7 above with respect to the implementation of Internal Audit Unit.

11. Other

Statement of Foreign Aid Assistance received (refer to page 43)

Approval



MURPHY MOROBE
CHAIRPERSON 11 June 2002

STATEMENT OF FOREIGN AID ASSISTANCE RECEIVED: for the year ended 31 MARCH 2002

Source of Funds	Intended Use	Amount Received	Amount spent	Balance unspent
The French Embassy (for fiscal year 2001/02)	Research on local government issues, procurement of expertise both local and international, and sponsorship of internships	R447,912	R76,538	R371,374
		R447,912	R76,538	R371,374

VALUE RECEIVED IN KIND

Source of foreign aid	Intended Use	Value
French Government	Tour of fiscal Institutions and Training for 2 researchers	R36,069.00 (estimate)
US Embassy/US AID	Training in Local Govt Fiscal Issues for 3 researchers	R112,974.00 (estimate)
Total		R149,043.00

PERFORMANCE INFORMATION ON USE OF ASSISTANCE

PENDING APPLICATIONS FOR ASSISTANCE

Source of assistance	Intended Use	Amount
Aus Aid (for fiscal year 2002/03)	International expertise for refinement of capital grants model and study tour of Australia for Commissioners	Actual value (estimate)
Total	Aus \$	274,090.00





**THE FINANCIAL AND FISCAL COMMISSION
ANNUAL FINANCIAL STATEMENTS
31 MARCH 2002**



FINANCIAL AND FISCAL COMMISSION ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2002

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APPROVAL OF ANNUAL FINANCIAL STATEMENTS

The annual financial statements which appear on pages 51 to 62 have been approved and authorised for issue on date of signature by the Executive Committee and are signed on its behalf by:



M. MOROBE
Chairperson

31 May 2002





REPORT

OF THE

AUDITOR-GENERAL TO MEMBERS OF PARLIAMENT

ON THE

FINANCIAL STATEMENTS OF THE FINANCIAL AND FISCAL COMMISSION

FOR

THE YEAR ENDED 31 MARCH 2002

PUBLISHED BY AUTHORITY



REPORT OF THE AUDITOR-GENERAL TO MEMBERS OF PARLIAMENT ON THE FINANCIAL STATEMENTS OF THE FINANCIAL AND FISCAL COMMISSION FOR THE YEAR ENDED 31 MARCH 2002

1. AUDIT ASSIGNMENT

The financial statements as set out on pages 51 to 62, for the year ended 31 March 2002, 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, based on the audit.

2. NATURE AND SCOPE

The audit was conducted in accordance with Statements of South African Auditing Standards. Those standards require that we plan and perform the audit 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 estimates made by management, and
- evaluating the overall financial statement presentation.

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.

3. AUDIT OPINION

In my opinion, the financial statements fairly present, in all material respects, the financial position of the Financial and Fiscal Commission at 31 March 2002 and the results of its operations and cash flows for the year then ended in accordance with South African Statements of Generally Accepted Accounting Practice.



4. EMPHASIS OF MATTER

Without qualifying the audit opinion expressed above, attention is drawn to the following matter:

Internal audit

The Commission obtained treasury approval for the sharing of the internal audit function with National Treasury on 22 October 2001. However, the internal audit function as required by Treasury Regulation 3.2.3 was not operational during the financial year as National Treasury obtained exemption until 30 April 2002.

5. APPRECIATION

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



WG Oppermann
for Auditor-General

Pretoria
02/07/2002





FINANCIAL AND FISCAL COMMISSION

BALANCE SHEET AS AT 31 MARCH 2002

	Notes	2002 R	2001 R
ASSETS			
Non-current assets			
Plant and equipment	14	425 882	1 082 366
Current assets			
Accounts receivable	3	2 803	16 968
Cash and cash equivalents	2	1 260 199	235 959
Total assets		<u>1 688 884</u>	<u>1 335 293</u>
RESERVES AND LIABILITIES			
Capital and reserves			
Capital contribution	1	918 752	918 752
Accumulated surplus/(deficit)		371 418	(51 545)
Current liabilities			
Accounts payable	4	398 714	396 086
Provisions	5	–	72 000
Total reserves and liabilities		<u>1 688 884</u>	<u>1 335 293</u>



**FINANCIAL AND FISCAL COMMISSION
INCOME STATEMENT
FOR THE YEAR ENDED 31 MARCH 2002**

	Notes	2002 R	2001 R
Operating income			
Transfers from National Treasury	10	9 258 000	7 994 000
Foreign donations received	10 & 12	447 912	–
Other income			
Interest received	11	196 102	58 936
Profit on sale of assets		1 900	–
Total income		<u>9 903 914</u>	<u>8 052 936</u>
Operating expenses			
Staff costs		(5 101 408)	(3 927 242)
Depreciation		(718 877)	(211 816)
Professional services		(844 822)	(899 840)
Other operating expenses		(2 811 729)	(2 515 636)
Total operating expenses		<u>(9 476 836)</u>	<u>(7 554 534)</u>
Surplus from operating activities		427 078	498 402
Interest paid		(4 115)	(1 252)
Net surplus for the year	6 & 13	<u>422 963</u>	<u>497 150</u>



**FINANCIAL AND FISCAL COMMISSION
STATEMENT OF CHANGES IN RESERVES
FOR THE YEAR ENDED 31 MARCH 2002**

	2002 R	2001 R
Capital and reserves at beginning of year	867 207	370 057
Capital contribution	918 752	918 752
Accumulated deficit	(51 545)	(548 695)
Changes in reserves		
Net surplus for the year	422 963	497 150
Capital and reserves at end of year	1 290 170	867 207
Capital contribution	918 752	918 752
Accumulated surplus/(deficit)	371 418	(51 545)



FINANCIAL AND FISCAL COMMISSION

CASH FLOW STATEMENT FOR THE YEAR ENDED 31 MARCH 2002

	Notes	2002 R	2001 R
Cash received from Government and donors		9 705 912	7 994 000
Cash paid to suppliers and employees		(8 813 166)	(6 976 957)
Cash generated by operations	7	892 746	1 017 043
Interest received		196 102	58 936
Interest paid		(4 115)	(1 252)
Cash flows from operating activities		1 084 733	1 074 727
Cash flows from investing activities		(60 493)	(854 747)
Purchase of furniture and equipment		(31 794)	(66 752)
Purchase of computer equipment		(27 943)	(684 393)
Purchase of office equipment		–	(77 066)
Purchase of computer software		(2 656)	(26 536)
Proceeds on disposal of fixed assets		1 900	–
Net increase/(decrease) in cash and cash equivalents for the year		1 024 240	219 980
Cash and cash equivalents at beginning of year		235 959	15 979
Cash and cash equivalents at end of year	2	1 260 199	235 959



FINANCIAL AND FISCAL COMMISSION

STATEMENT OF ACCOUNTING POLICIES FOR THE YEAR ENDED 31 MARCH 2002

The financial statements have been prepared in accordance with the Statements of Generally Accepted Accounting Practice. The following are the principal accounting policies of the Commission which are consistent in all material respects with those applied in the previous year, except as otherwise indicated.

1. Basis of presentation

The financial statements have been prepared on the historical cost basis.

2. Plant and equipment

Plant and equipment (owned or leased) is stated at historical cost less accumulated depreciation. Depreciation is calculated on the straight-line method to write off the cost of each asset (less its residual value) over its estimated useful life as follows:

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

No depreciation is written off on paintings, which are considered investment assets.

3. Income recognition

Income from government grants and donations are recognised when received by the Commission.

Interest is recognised on a time proportion basis, taking account of the principal outstanding or invested and the effective rate over the period to maturity.

4. Financial instruments

Financial instruments carried on the balance sheet include cash and bank balances, receivables and trade creditors. These instruments are generally carried at their estimated fair value.

5. Cash flows

For the purposes of the cash flow statement, cash includes cash on hand and where relevant, deposits held on call with banks, investments in money market instruments and bank overdrafts.



FINANCIAL AND FISCAL COMMISSION STATEMENT OF ACCOUNTING POLICIES FOR THE YEAR ENDED 31 MARCH 2002(Contd.)

6. Foreign currencies

Transactions in foreign currencies are accounted for at the rates of exchange ruling on the date of the transactions.

7. Unauthorised, irregular, and fruitless and wasteful expenditure

Unauthorised, irregular, and fruitless and wasteful expenditure is treated as a current asset in the balance sheet until such expenditure is either recovered, authorised by Parliament or set off against future funds.

8. Post employment benefit costs

The Commission operates a defined contribution plan, the assets of which are generally held in separate trustee-administered funds. This plan is funded by payments from employees and the Commission. The contributions to the defined contribution plan are charged to the income statement in the year to which they relate.

9. Comparative figures

Where necessary, comparative figures have been adjusted to conform with changes in presentation in the current year.



FINANCIAL AND FISCAL COMMISSION

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2002

	2002 R	2001 R
1. Capital contribution		
Value of assets acquired from National Treasury	<u>918 752</u>	<u>918 752</u>
2. Cash and cash equivalents		
Cash and cash equivalents consist of cash on hand and balances with banks. Cash and cash equivalents included in the cash flow statement comprise the following balance sheet amounts:		
Cash on hand	500	500
Cash in bank	<u>1 259 699</u>	<u>235 459</u>
	<u>1 260 199</u>	<u>235 959</u>
3. Accounts receivable		
Staff loans	2 803	16 696
Amount paid in advance	–	272
	<u>2 803</u>	<u>16 968</u>
The accounts receivable are of a sundry nature and the Commission is not exposed to any significant credit risks.		
4. Accounts payable		
Trade creditors	27 476	18 904
Provident Fund contributions	57 469	127 739
Accruals	<u>313 769</u>	<u>249 443</u>
	<u>398 714</u>	<u>396 086</u>
5. Provisions		
Auditor-General – audit fees	<u>–</u>	<u>72 000</u>

No provision for audit fees has been made in the current year.



FINANCIAL AND FISCAL COMMISSION

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2002(Contd.)

	2002 R	2001 R
6. Net surplus for the year		
<i>Net surplus for the year has been arrived at after debiting:</i>		
Audit fees:		
Current year	–	72 000
Prior year under-provision	166 072	111 828
Professional services	844 822	899 840
Commissioners' expenses	280 611	236 794
Depreciation:		
Computer hardware	529 087	101 293
Computer software	26 371	13 632
Furniture and fittings	66 508	21 208
Motor vehicles	–	11 615
Office equipment	96 911	64 068
	<u>718 877</u>	<u>211 816</u>
Staff costs		
Included in staff costs are:		
Defined contribution plan expense	798 485	452 225
<i>And after crediting:</i>		
Interest received:		
Current account	194 818	58 454
Staff loans	1 284	482
	<u>196 102</u>	<u>58 936</u>



FINANCIAL AND FISCAL COMMISSION

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2002(Contd.)

	2002 R	2001 R
7. Cash generated by operations		
<i>Reconciliation of surplus from ordinary activities to cash generated by operations:</i>		
Surplus from ordinary activities	422 963	497 150
Adjusted for:		
Depreciation	718 877	211 816
Movement in provisions	(72 000)	–
Profit on sale of fixed assets	(1 900)	–
Interest received	(196 102)	(58 936)
Finance costs	4 115	1 252
Surplus before working capital changes	875 953	651 282
Working capital changes:		
(Decrease)/increase in accounts payable	2 628	381 643
Decrease/(increase) in accounts receivable	14 165	(15 882)
	892 746	1 017 043

8. Financial instruments

Credit risk

Financial assets which potentially subject the Commission to concentrations of credit risk consist principally of cash and receivables. The Commission's cash equivalents are placed with high credit quality financial institutions. Receivables are of a sundry nature and the credit risk is therefore limited. Accordingly the Commission has no significant concentration of credit risk.

The carrying amounts of financial assets included in the balance sheet represent the Commission's exposure to credit risk in relation to these assets.

Interest rate risk

The Commission has cash and cash equivalents and is therefore exposed to interest rate risk.



FINANCIAL AND FISCAL COMMISSION

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2002(Contd.)

Fair values

At 31 March 2002 the carrying amounts of cash and cash equivalents, accounts payable and accounts receivable approximated their fair values due to the short term maturities of these assets and liabilities.

9. **Post employment benefit information**

The Commission has made provision for a provident scheme covering substantially all employees. All eligible employees are members of the defined contribution scheme administered by the Commission. The assets of the scheme are held in administered trust funds separated from the Commission's assets. The fund is governed by the Pension Funds Act of 1956.

10. **Income**

Income comprises grants received from Government, donations and interest on available funds held in current accounts with financial institutions.

11. **Interest received**

Interest received is applied in the training and development, and skills enhancement, of staff of the Commission.

12. **Foreign donations received**

**2002
R**

Donation from the French Embassy	<u>447 912</u>
----------------------------------	----------------

Donations in-kind were also received from the French Government and the US Embassy.

13. **Surplus funds**

Surplus funds represents funds committed for capital expenditure in progress. Application has been made to National Treasury for the roll-over of the funds to complete the project in the 2002/03 financial year.



FINANCIAL AND FISCAL COMMISSION

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2002(Contd.)

14. Plant and equipment

	Computer Hardware R	Computer software R	Furniture & fittings R	Motor vehicles R	Office equipment R	Paintings R	Total R
2002							
<i>Balance at beginning of year</i>							
Cost	1 580 531	602 083	423 359	64 828	484 553	38 805	3 194 159
Accumulated depreciation	(907 333)	(575 825)	(357 602)	(64 827)	(206 206)	-	(2 111 793)
Net book value	673 198	26 258	65 757	1	278 347	38 805	1 082 366
<i>Movements for the year</i>							
Additions	27 943	2 656	31 794	-	-	-	62 393
Depreciation	(529 087)	(26 371)	(66 508)	-	(96 911)	-	(718 877)
Balance at end of year	172 054	2 543	31 043	1	181 436	38 805	425 882
<i>Made up as follows:</i>							
Cost	1 608 474	604 739	455 153	64 828	484 553	38 805	3 256 552
Accumulated depreciation	(1 436 420)	(602 196)	(424 110)	(64 827)	(303 117)	-	(2 830 670)
Net book value	172 054	2 543	31 043	1	181 436	38 805	425 882



FINANCIAL AND FISCAL COMMISSION

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2002(Contd.)

14. Plant and equipment (contd.)

	Computer Hardware R	Computer software R	Furniture & fittings R	Motor vehicles R	Office equipment R	Paintings R	Total R
2001							
<i>Balance at beginning of year</i>							
Cost	896 138	575 547	356 607	64 828	407 487	38 805	2 339 412
Accumulated depreciation	(806 040)	(562 193)	(336 394)	(53 212)	(142 138)	-	(1 899 977)
Net book value	90 098	13 354	20 213	11 616	265 349	38 805	439 435
<i>Movements for the year</i>							
Additions	684 393	26 536	66 752	-	77 066	-	854 747
Depreciation	(101 293)	(13 632)	(21 208)	(11 615)	(64 068)	-	(211 816)
Balance at end of year	673 198	26 258	65 757	1	278 347	38 805	1 082 366
<i>Made up as follows:</i>							
Cost	1 580 531	602 083	423 359	64 828	484 553	38 805	3 194 159
Accumulated depreciation	(907 333)	(575 825)	(357 602)	(64 827)	(206 206)	-	(2 111 793)
Net book value	673 198	26 258	65 757	1	278 347	38 805	1 082 366



FINANCIAL AND FISCAL COMMISSION

SCHEDULE OF EXPENDITURE FOR THE YEAR ENDED 31 MARCH 2002

	2002 R	2001 R
Advertising	10 178	31 433
Auditor's' remuneration	166 072	148 828
Bank charges	9 579	9 071
Commissioners' expenses	280 611	236 794
Computer maintenance	250 883	109 783
Courier expenses	23 291	26 634
Depreciation	718 877	211 816
Diginet lines rental	44 760	34 046
Entertainment	13 990	14 939
Fines and penalties	11 485	3 620
General repairs and office maintenance	347 218	180 839
Interest paid	4 115	1 252
Meetings and conferences	333 558	44 455
Motor vehicle expenses	19 191	21 574
Postage, printing and stationery	290 274	190 617
Professional services	844 822	899 840
Research costs	436 787	890 441
Rsc levies	15 975	10 890
Staff costs	5 101 408	3 780 625
Skills development	79 641	52 963
Telephone and fax	204 820	188 063
Travel and accommodation	273 416	467 263
	9 480 951	7 555 786



FINANCIAL AND FISCAL COMMISSION STATEMENT OF APPLICATION OF FOREIGN DONATIONS RECEIVED FOR THE YEAR ENDED 31 MARCH 2002

	2002 R
Donations received	
Transfer from France Embassy	447 912
Utilized in:	
Consultants costs: Professor Guy Gilbert	(30 925)
Travelling	(8 711)
Subsistence	(34 570)
Accommodation	(2 332)
Unutilised donations received carried forward to next year	<u>371 374</u>



ANNEXURE A



LIST OF CONSULTATIONS AND PRESENTATIONS BY THE FFC AND WORKSHOPS/PUBLIC HEARINGS ATTENDED

February 2001	Attended Public Hearings on the Municipal Finance Management Bill. Parliament. Cape Town.
5-6 April 2001	Attended the SALGA National Conference. Bloemfontein. Free State Province.
5-16 May 2001	FFC Delegation: Study Tour of France – Local Government structures and finances.
1 June 2001	FFC Presentation to Afesis-Corplan workshop on Local Government finances. East London.
3-18 June 2001	FFC undertook a Study Tour of Canadian Fiscal Institutions and attended seminar and lectures by prominent international experts on fiscal policy. Manitoba. Canada.
4-5 June 2001	FFC participation in Local Government Fiscal Reform workshop hosted by the Department of Provincial and Local Government. Stakeholder consultations on DPLG's Financial Reform Project. Johannesburg. Gauteng.
12 June 2001	FFC Presentation to the Portfolio Committee on Local Government. Issue addressed – local government finances. Cape Town.
15 June 2001	Formal presentation of the FFC's Annual Submission for 2002-2003 to Parliament. Cape Town.
19 June 2001	FFC Presentation to the Portfolio Committee on Finance. Issue addressed – FFC Submission for 2003-2003. Cape Town.
22 June 2001	FFC Presentation to the Ministerial Advisory Committee on Local Government ("Leon Committee"). Cape Town.
27 June 2001	FFC Presentation to the NCOP's Select Committee on Finance. Issue addressed – FFC Submission for 2002-2003. Cape Town.
20 July-4 Aug 01	FFC Researchers attended Study Programme at the University of Georgia, Atlanta, USA. Programme on Fiscal Decentralisation in Developing Countries.
7 August 2001	FFC attendance at DPLG's Fiscal Reform Project Reference Group meeting. Pretoria.

**LIST OF CONSULTATIONS AND PRESENTATIONS BY THE FFC AND
WORKSHOPS/PUBLIC HEARINGS ATTENDED(contd.)**

16 August 2001	Provincial Public Hearings on the FFC Submission for 2002-2003, Middleburg, Mpumalanga Provincial Parliament. Presentation by the FFC.
	Provincial Public Hearings on the FFC Submission for 2002-2003, Nelspruit, Mpumalanga. Presentation by the FFC.
24 August 2001	Provincial Public Hearings on the FFC Submission for 2002-2003, Gauteng Provincial Parliament. Presentation by the FFC
27 August 2001	Provincial Public Hearings on the FFC Submission for 2002-2003, Western Cape (Parliament). Presentation by the FFC.
29 August 2001	Provincial Public Hearings on the FFC Submission for 2002-2003, Pietersburg. Limpopo Province Parliament. Presentation by the FFC.
30 August 2001	Provincial Public Hearings on the FFC Submission for 2002-2003, Bisho, Eastern Cape Parliament. Presentation by the FFC.
30 August 2001	Provincial Public Hearings on FFC Submission for 2002-2003, North West Provincial Legislature. Presentation by FFC.
19 September 2001	Meeting of the NCOP's Select Committee on Finance. Issue addressed – To discuss issues raised by provinces during the recent public hearings on the FFC's Submission for 2002-2003. Cape Town.
21 September 2001	Budget Forum. FFC presentation on the local government proposals contained in its Submission for 2002-2003.
27 Sept-2 Oct 01	FFC Presentation on its Capital Grants Model to finance officials of the KZN Province. Pietermaritzburg.
30 October 2001	Matjhabeng Municipality. FFC presentation on additional tax and revenue sources for local governments. Welkom.
14 December 2001	Attended and submitted summary of the FFC's proposals on local government to the President's Co-ordinating Council Workshop. Pretoria.



LIST OF CONSULTATIONS AND PRESENTATIONS BY THE FFC AND WORKSHOPS/PUBLIC HEARINGS ATTENDED(contd.)

- 13-25 Feb 2002 Hearings on the Municipal Finance Management Bill. Portfolio Committee on Finance, NCOP Select Committee on Finance and Portfolio Committee on Provincial and Local Government. Presentation by the FFC on the Bill on 13 February 2002. Cape Town.
- 14 February 2002 Committee on Finance, Economic Affairs, Environmental Affairs and Tourism. Legislature of Limpopo. FFC presentation on the Division of Revenue Bill 2002 and on the Role of the FFC. Pietersburg.
- 21 February 2002 Attended the Minister of Finance's Budget Speech. Cape Town.
- 25 February 2002 Public Hearings on the Division of Revenue Bill 2002. Portfolio Committee on Finance, Parliament. FFC presentation on its Submission on the Division of Revenue Bill 2002. Cape Town.
- 1-2 March 2002 Attendance at the Strategic Planning Workshop of the Parliamentary Select Committee on Finance. Cape Town.
- 6 & 8 March 2002 Public Hearings on the Division of Revenue Bill 2002. NCOP Select Committee on Finance. FFC presentation on its Submission on the Division of Revenue Bill 2002. The presentation on the 6 March 2001 included a presentation on the performance of Capital Grants. Cape Town.

Other key meetings attended throughout the year:

- Budget Council Meetings
- Budget Lekgotla
- Budget Forum
- Technical Committee on Finance (TCF)
- MINMECs and 4x4 Meetings in Health, Education, Welfare and Local Government
- Local Government Finance Task Team
- Local Government Fiscal Reform Reference Group



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

15

Part 3

Operating procedure of Commission

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

25

- 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
- 22. Services of non-employees

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Part 5**Finances of Commission**

23. Funding	
24. Accountability	
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Part 6**Miscellaneous**

26. Annual report	
27. Information required by Commission	
28. Liability of Commission	10
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Part 7**Transitional arrangements**

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32. Members of previous Commission	
33. Transfer of assets, liabilities, staff, etc.	
34. Financial and administrative records	
35. Short title and commencement	

Definitions	20
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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 re-appointed 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—
 (a) the formation and development of an efficient administration;
 (b) the organisation, control and management of the staff; 50
 (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 auditor's.

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 offense 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.



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