

**JOINT SUBMISSION TO THE STANDING COMMITTEE ON APPROPRIATIONS ON THE 2018 DIVISION OF  
REVENUE BILL**

**11 April 2018**

**SUBMITTED BY:**

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## **Overview**

Equal Education welcomes the opportunity to submit comments on the 2018 Division of Revenue Bill to the Select Committee on Appropriations. Our submission is structured as follows:

1. In Part 1, we provide an overview and background of Equal Education and Equal Education Law Centre.
2. In Part 2, we call for a conditional grant to fund scholar transport.
3. In Part 3, we discuss how the Select Committee, along with Provincial Treasuries, can ensure the effective spending of school infrastructure grants.
4. In Part 4, we qualify our call for the revision of the Equitable Share formula.

### **Part 1: Background**

Equal Education (EE) is a membership-based, democratic movement of learners, parents, teachers and community members. Our core objective is to work towards achieving quality and equality in the South African education system. In order to do this, we conduct a broad range of activities. These include campaigns grounded in research and policy analysis, in support of public action and mobilisation. Where necessary, we use legal processes to advance the value of, and to contribute to, a strong civil society that holds government, private interests and individuals accountable.

EE's core membership base is high school learners, known as 'Equalisers', who actively advocate for quality education for all across five provinces: Eastern Cape, Limpopo, KwaZulu-Natal, Western Cape and Gauteng.

The Equal Education Law Centre (EELC) is a public interest law centre using legal advocacy to advance an equitable and quality basic education for all. The EELC has specialist expertise in the field of education law and policy, and works closely with EE to advance the core objectives of the social movement.

### **Part 2: Scholar Transport**

We have been involved in the struggle for the provision of learner transport since July 2014: when Equalisers based in Nquthu, northern KZN, raised the lack of transport to school as a serious barrier to education. Equalisers testified to the great difficulties they face when walking to school and back everyday - that includes walking very long distances in extreme heat and in thunderstorms, and crossing rivers and mountains - all the while finding themselves at risk of violent crime, including sexual assault.

Learners without access to safe and reliable scholar transport arrive at school very late (missing out on valuable teaching time), find it exceedingly difficult to concentrate in class due to exhaustion, and cannot participate in extra lessons offered after school. Sometimes, learners will opt to not attend school due to the long distances they must walk, making the lack of learner transport a barrier to their right to an education. The table below indicates the number of learners that live far from their school,

and the number of those that lack the required transportation. This illustrates the desperate need for a national scholar transport programme.

**Table 1: Barriers to school attendance**

Year	Remoteness From School		Lack School Transport		Total
	N	%	N	%	
2009	59611	62,24	36174	37,77	95785
2010	95441	63,95	53812	36,06	149253
2011	92658	79,51	23886	20,5	116544
2012	92071	78,64	25015	21,37	117086
2013	90640	70,48	37973	29,53	128613
2014	87127	58,35	62211	41,66	149338
2015	64441	54,43	53957	45,58	118398
2016	63106	64,94	34079	35,07	97185

*Source: Human Science Research Council presentation to the Standing Committee on Appropriations, 2018.<sup>1</sup>*

EE and EELC have engaged with government, made submissions to Parliament, protested, and made a film to raise awareness about learners' long and dangerous walk to school. We have presented and made recommendations on the 2016 and 2017 Division of Revenue Bills to the Standing Committee on Appropriations. In these submissions, we have repeatedly called for effective funding mechanisms for learner transport. Foremost among these has been our call for a scholar transport conditional grant which will ring-fence money for this purpose.

National government has responded positively to our calls for a conditional grant. During her 2017 Council of Education Ministers (CEM) Speech, Basic Education Minister Angie Motshekga announced her commitment to look into "the ring-fencing of the learner transport budget in the form of a conditional grant to ensure that the budget is spent in the area it is intended for". Later that year, a further commitment was made by the Department of Basic Education (DBE) Director General, Mathanzima Mveli, stating to the Portfolio Committee on Basic Education that "if all goes according to plan in the discussion with National Treasury, a conditional grant will be introduced in 2018/2019".

It is encouraging that national government is starting to recognise the need for a conditional grant. However, despite these public commitments, there is no mention of the introduction of a scholar

<sup>1</sup> Available: <https://pmg.org.za/committee-meeting/25873/>

transport conditional grant in the 2018 Division of Revenue Bill in the Annexure W2 Frameworks for Conditional Grants to Provinces.

Provincial Education Departments (PEDs) usually cite inadequate funds as one of the main reasons that they are not providing transport to all learners who qualify. PEDs are expected to fund the provision of scholar transport using their equitable share allocations. However, simply increasing the equitable share is not likely to solve the scholar transport funding shortfall. Provinces have to weigh up different budget priorities against each other and EE has observed that the budget for scholar transport is often the first to be cut when provinces face budgetary pressures. Although it still has significant shortcomings, the National Scholar Transport Policy that was adopted in 2015 was an important first victory in securing scholar transport for all learners. However, it remains unclear how it will be implemented without ring-fenced funding.

A conditional grant would further ensure that better information around the number of learners in need of scholar transport is collected - this would have to be investigated by National Treasury before it can establish a conditional grant.

EE and EELC have for over three years advocated for government-subsidised transport to be provided to 12 schools in Nquthu, that we discovered had a significant number of learners that qualified for scholar transport. The continued lack of a decent response from the KZN Department of Education (KZN DoE) and KZN Department of Transport (KZN DoT) to our demands, and the lack of cooperation between the two provincial Departments in providing scholar transport, led us to litigate against them. In November 2017, our legal challenge in the Pietermaritzburg High Court succeeded in securing an undertaking from the KZN DoE to provide learner transport to these schools by the start of the second school term of 2018.

On 10 April, buses and taxis were finally delivered to the 12 Nquthu schools - a hard-earned and momentous victory for Equalisers, teachers and parents. Crucially, the agreement that was made an order of court in November 2017 was not just about the 12 Nquthu schools – KZN Education MEC Mthandeni Dlungwane was required to file a report with the court on the status of the provincial government's plans to address the scholar transport backlog throughout KZN. EE and EELC are analysing the report, and we anticipate filing a response in May 2018.

Although a significant victory, EE is painfully aware that there are learners all over South Africa that are in need of scholar transport. We thus urge this Committee, along with the Provincial Treasuries over which it plays an oversight role, to call on National Treasury to provide a conditional grant for scholar transport to aid learners throughout the country.

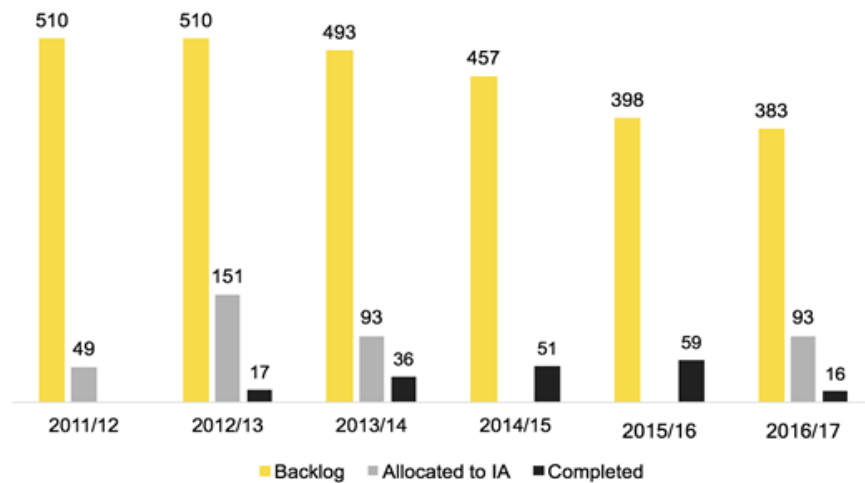
### **Part 3: Avoiding underspending of School Infrastructure Grants**

EE and EELC are deeply concerned about the baseline reductions to the school infrastructure conditional grants. Over the 2018 MTEF period, the Education Infrastructure Grant (EIG) has been reduced by a total

of R3.58 billion and the School Infrastructure Backlogs Grant (SIBG) by R3.57 billion. Together, these reductions amount to R7.15 billion over the MTEF.

EE has long [campaigned](#) for safe and adequate school infrastructure. In 2013 the Minister of Basic Education, Angie Motshekga, published legally-binding Minimum Norms and Standards for School Infrastructure in response to our campaign work. These legally-binding norms set out the minimum school infrastructure standards that every Provincial Education Department (PEDs) should work towards and against which it can be held accountable. PEDs have been slow at delivering basic infrastructure to meet these standards. The graph below illustrates the national DBE has been equally slow in building schools through the nationally administered ASIDI programme.

## ASIDI Backlog vs Built



This backlog should have been addressed by 29 November 2016, the first infrastructure delivery deadline set out in the Norms and Standards. By this deadline all schools made of inappropriate materials should have been replaced, and all schools should have been provided with access to electricity, water and sanitation. Any school without such amenities is illegal as of 29 November 2016. All nine PEDs have failed to meet this deadline.

In a Basic Education Portfolio Committee [meeting](#) in March this year, the Department of Basic Education presented to members that the current national backlog was as follows:

- 178 projects of inappropriate structures still need to be addressed
- 539 sanitation projects still need to be completed
- 586 water projects still need to be completed
- 393 electricity projects still need to be completed

The slow pace at which PEDs have been complying with the Norms and Standards will only be exacerbated by reductions in the school infrastructure grants. This will further delay the realisation of the right of many South African children to safe and decent school infrastructure.

The reductions to the EIG and SIBG have in part been a result of the baseline spending cuts introduced over the MTEF period. The other contributing factor to these reductions has been the incapacity of PEDs to adequately spend their school infrastructure grant allocations within a specified financial year. Historically underfunded and under-resourced rural provinces such as the Eastern Cape that have struggled the most in this regard. In 2015, the Eastern Cape Department of Education underspent its EIG allocation by R530 million.

A number of factors contribute to this underspending. In a Basic Education Portfolio Committee [meeting](#) last year, the Department of Basic Education revealed that across all PEDs, there were 252 vacant posts. Furthermore, the responsibility of building schools has not fallen on the DBE or to PEDs alone, due to a lack of technical and project management capacity within the state. Instead, the government allocates construction projects to organisations which are called implementing agents. Implementing agents give both managerial and project implementation support to DBE and PEDs. In the 2016/17 DBE Annual Report, when discussing the significant deviations from planned infrastructure delivery targets of the ASIDI programme, one of the reasons given was the poor performance of implementing agents which are themselves often under-capacitated to manage infrastructure projects.

EE and EELC call on the Select Committee to recommend the following to Provincial Treasuries:

- Provincial treasuries must publish the Infrastructure Reporting Model (IRM) reports in order to make public information on underperforming implementing agents.
- Provincial treasuries should provide training to implementing agents as well as PEDs on the importance of adding delinquent contractors to National Treasury's Database of Restricted Suppliers.
- Provincial treasuries should issue a report with recommendations on how to expedite PEDs' payment of invoices to implementing agents and contractors.
- Provincial treasuries should assist PEDs in properly spending, and not wasting, the funds allocated to hire qualified professionals in the PED Infrastructure unit
- Provincial treasuries should train PED infrastructure units in how to properly use the Standard for Infrastructure Procurement and Delivery Management (SIPDM), which would facilitate proper and detailed infrastructure planning.

#### **Part 4: Review of the Equitable Share Formula**

EE has previously highlighted to the Standing Committee on Appropriations, the problems with the Equitable Share formula. In particular, we remain concerned about the failure of the ES formula to cater for the higher costs of education provision in rural provinces as compared to urban areas.

EE has welcomed National Treasury's commitment to reviewing the ES formula, yet still await time frames for the review process to be made public. According to the Explanatory Memorandum to the DoRB 2018, this review will take place over a number of years, and includes assessing the continued appropriateness of all aspects of the formula. We note that the implementation of the first phase of the review has begun.

Noting that the Equitable Share formula directly affects provinces, we request that this Committee and the Provincial Treasuries recommend to National Treasury that further phases of the ES formula review takes into account the high cost of providing education in rural provinces.

Factors that increase the cost of rural education include:

- Historic underfunding due in part to the fact that the former homeland areas account for a large part of the country's rural regions, and the outright and systematic discrimination against these areas in terms of access to resources under apartheid.
- Geographic disadvantage includes the costs involved when learners and staff live greater distances from schools, as well as the reduced potential for economies of scale when schools have relatively small learner numbers. For example, smaller schools are likely to have smaller learner-to-educator ratios.
- Infrastructural disadvantage also exists with disparities in access to basic services when comparing rural and urban areas, and thus there is greater cost attached to ensuring basic service delivery to all schools.
- Demographically, in rural areas the population has a high proportion of children and of older people, while the working-age population is more dominant in urban areas.
- In terms of poverty, Statistics South Africa (Stats SA) has noted that the poverty rate stood at 68,8% in rural areas in 2011, as compared to 30,9% in urban areas.

In 2017, National Treasury made explicit commitments to "exploring the possibility of adding rural-focused indicators to the provincial equitable share formula to further strengthen the equity of intergovernmental transfers"<sup>2</sup>. In addition, in the Explanatory Memorandum to the DORB 2018, National Treasury has noted that in further phases of the review an assessment of the impact of weighted learner socio-economic profiles will be considered, as recommended by the Financial and Fiscal Commission (FFC).

These commitments are welcomed, particularly in light of EE's previous submissions on this score. In this regard, EE and EELC commissioned a report on the mechanisms by which the ES formula could be adjusted to ensure more effective redress. The report, which was presented to representatives of National Treasury along with Provincial treasuries, included exploring ways in which the formula could be improved by investigating two options:

- Adjusting the provincial shares by a geographical factor that proxies rurality; and

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<sup>2</sup> National Treasury, Annexure W1: Explanatory Memorandum, Division of Revenue Bill , 2017

- Adjusting the provincial share by a factor that takes into account the relative distribution of schools in each province across the five income quintiles.

For each of the two options, the investigation included sensitivity testing<sup>3</sup>. We attach the full report to our submission and do not repeat the conclusions here, other than to note that all approaches considered had the effect of increasing allocations to rural provinces in an equitable way.

We note that the issue of rurality is often rejected as a legitimate factor by urban provinces, who note that they receive learners who migrate from the rural provinces. However, it is important to note that the historical underfunding of rural provinces, the low population densities, and Apartheid-era infrastructure backlogs ensue that these provinces remain on the back foot, and require far more resources than their urban counterparts.

For example, only 46,7% of Gauteng's schools are quintile 1 to 3 schools compared to 71.6% of schools in the Eastern Cape and 65.5% in KwaZulu-Natal<sup>4</sup>. This means that less than half of Gauteng schools are completely dependant on government support, as opposed to the Eastern Cape and KwaZulu-Natal (both rural provinces), where these schools are the majority. Furthermore, in 2017, learners enrolled in Eastern Cape schools made up 14% of national school enrolments but the province was home to 23% of all schools in the country. In the same year Gauteng enrolments made up 18% of national enrolments, but schools in the province only amounted to 9% of all schools. KwaZulu-Natal had 25% more learners than Gauteng in 2017, but 166% more schools! Each school comes with its own costs (for instance a school principal) and therefore pushes up the cost of providing education. There is also a larger demand for services such as scholar transport in rural provinces, and providing these services is substantially more expensive than in urban provinces<sup>5</sup>.

Noting this, EE and EELC would therefore request that the Select Committee on Appropriations, along with the Provincial Treasuries, encourage National Treasury to consider adding a rurality factor to their ES formula review.

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<sup>3</sup> That is, an exploration of the impact of different weights or other adjustments for rurality and poverty.

<sup>4</sup> Department of Education, *National Norms and Standards for School Funding. Notice 2362 of 1998*, Pretoria: Government Printers

<sup>5</sup> Department of Basic Education, *2017 School Realities Report*, Pretoria: Government Printers, 2017