Report Laid by the Hon. Sambu on 22/11/2012

REPUBLIC OF KENYA

KENYA NATIONAL ASSEMBLY

TENTH PARLIAMENT – FOURTH SESSION

THE BUDGET COMMITTEE REPORT ON THE BASIS FOR ALLOCATING RESOURCES AMONG THE COUNTIES FOR THE PERIOD 2012-2015

November 22, 2012

TABLE OF CONTENTS

BACKGROUND

Mr. Speaker Sir, on behalf of the Members of the Budget Committee and as required under Article 217 (1) of the Constitution, I hereby present to the House, the Budget Committee's Report on the basis for allocating among the counties the share of national revenue that is annually allocated to the county level of government.

Mr. Speaker Sir, the Budget Committee as currently constituted comprises the following Members:-

1. The Hon. Elias P. Mbau, M.P. – Chairperson
2. The Hon. Alfred Wekesa Sambu, M.P. – Vice-Chairperson
3. The Hon. Martin Ogindo, M.P.
4. The Hon. Danson Mungatana, M.P.
5. The Hon. Moses Lessonet, M.P.
6. The Hon. Omari Mbwana Zonga, M.P.
7. The Hon. Nemeysus Warugongo, M.P.
8. The Hon. Sheik Dor, M.P.
9. The Hon. John Mututho, M.P.
10. The Hon. Nelson Gaichuhie, M.P.
11. The Hon. Emilio Kathuri, M.P.
12. The Hon. Abdul Bahari, M.P
13. The Hon. Johnstone Muthama, M.P.
14. The Hon. Jackson Kiptanui, M.P.

Mr. Speaker Sir, in addition to the above members, the following Chairpersons of all Departmental Committees are ex-officio members of the Budget Committee:

1. The Hon. (Eng.) James Rege, MP. – Chairperson, Energy, Information and Communications

2. The Hon. David Koech, MP. – Chairperson, Education, Research and Technology
3. The Hon. Mutava Musyimi, MP.- Chairperson, Lands and Natural Resources
4. The Hon. John Mututho, MP. – Chairperson, Agriculture, Livestock and Cooperatives
5. The Hon. (Dr.) Robert Monda, MP. - Chairperson, Health
6. The Hon. David Were, MP. – Chairperson, Transport, Public Works and Housing
7. The Hon. Adan Keynan, MP. – Chairperson, Defence and Foreign Relations
8. The Hon. Fred Kapondi, MP. - Chairperson, Administration and National Security
9. The Hon. Chris Okemo, MP. - Chairperson, Finance, Planning and Trade
10. The Hon. Sophia Abdi Noor, MP. – Chairperson, Labour and Social Welfare
11. The Hon. David Ngugi, MP. – Chairperson, Local Authorities
12. The Hon. Njoroge Baiya, MP. – Justice and Legal Affairs Committee
13. The Hon. Mithika Linturi, MP. - Chairperson, Public Investments Committee
14. The Hon. Thomas Mwadeghu, MP. - Chairperson, Local Authorities and Funds Accounts Committee
15. The Hon. Ekwe Ethuro, MP. - Chairperson, Constituencies Fund Committee
16. The Hon. Mohamed Abdikadir, MP. - Chairperson, Constitutional Implementation Oversight Committee

Mandate of the Committee

The Budget Committee was initially set up by the Standing Orders (190) and reinforced further under the repealed *Fiscal Management Act, 2009.* The Committee currently operates as set up under Section (7) of the *Public Finance Management Act, 2012* which was enacted in August this year and which repealed the aforementioned *Fiscal Management Act, 2009.* The Committee is mandated to, among other things;

a) Provide general direction on budgetary matters;

b) Monitor all budgetary matters falling within the competence of the National Assembly under this Act and report on those matters to the National Assembly;
c) Monitor adherence by Parliament, the Judiciary and the national government and its entities to the principles of public finance and others set out in the Constitution, and to the fiscal responsibility principles of this Act;
d) Review the Division of Revenue Bill presented to Parliament and ensure that it reflects the principles under Articles 187(2)(a), 201 and 203 of the Constitution; and
e) Examine financial statements and other documents submitted to the National Assembly and make recommendations to the National Assembly for improving the management of Kenya's public finances.

In line with this mandate, **Mr. Speaker Sir** the criterion for resource allocation remains the cornerstone for the clamour for the new constitutional dispensation. Indeed, the design and implementation of revenue sharing formula that will be used to allocate to the counties requires careful thought, lest Kenyans do not experience the fruits of devolution.

THE CRITERIA FOR REVENUE SHARING

Mr. Speaker sir, the Constitution in Article 203 set out the criterion that shall be taken into account in determining the equitable shares of revenue raised nationally to be shared among the national and county governments. Towards the realisation and actualization of this criterion, the Committee held three sittings and one ***Consultative Workshop on the Formula for Resource Allocation.***

In addition to this, **Mr. Speaker Sir**, the Committee also held public hearings to solicit public comments on the proposed CRA Formula alongside the Public Budget Hearings earlier in May 2012 shortly after the release of the initial Commission on Revenue Allocation's (CRA's) Preliminary Report. The Public Hearings were held in 17 centres across the country, namely; Nairobi, Nyeri, Machakos, Kisii, Malindi, Kisumu, Meru, Nakuru, Nyandarua, Wajir, Kakamega, Bungoma, Kitale, Isiolo, Voi, Lodwar and Kericho.

Mr. Speaker Sir, the Committee also met with professional bodies amongst them the Kenya Institute of Public Policy Research and Analysis (KIPPRA), the Institute of Economic Affairs (IEA) and the Institute of Certified Public Accountants of Kenya (ICPAK) who gave their inputs on what parameters the formula should consider. The Committee also received views from the civil society under the leadership of The Institute of Social Accountability (TISA) who spearheaded public participation from civil society organizations (CSOs). We are grateful for the time the citizens took to attend the consultations and to provide their input which we have taken into account in this report.

Acknowledgement

Mr. Speaker Sir,

The Committee is particularly grateful to the Office of the Speaker and the office of Clerk of National Assembly for the support received as it discharged its mandate of coming up with the Formula for resource allocation.

The Committee is also grateful to the Commission on Revenue Allocation (CRA), the Ministry of Finance, and other institutions and individuals who appeared and gave very insightful submissions on the criteria.

The Committee is also grateful to the Members of Parliament who participated in the process, especially the public hearings as well as the 3 day workshop held in Naivasha.

Mr. Speaker Sir,

It is therefore my pleasant duty and privilege, on behalf of the Budget Committee to table this Report and recommend it to the House for adoption.

Signed: ---

THE HON. Elias P. Mbau, MP

CHAIRMAN, BUDGET COMMITTEE

Date: 22.11.12

I. INTRODUCTION

1. **Mr. Speaker Sir**, in line with the Constitution, the preliminary recommendations on the basis for sharing of revenue among counties was released to the public in April 2012 by the Commission on revenue allocation. The Commission shared the Preliminary report with the Budget and Finance Planning and Trade Committees at a breakfast meeting held at Serena hotel on 25th April 2012.

2. Thereafter, **Mr. Speaker Sir**, the Commission on Revenue Allocation (CRA) conducted public participation in line with the spirit and letter of the Constitution and revised their formula. Weights were assigned to each parameter and were used to generate simulations and from this, the CRA generated scenarios which were also based on consultations, including county visits.

3. **Mr. Speaker Sir**, the CRA then refined their recommendations in line with this and undertook to consult with the two Parliamentary Committees and based on these Consultations, along with the input from the Public hearings and the professional bodies, the Committee came up with a consultative and inclusive criteria that was arrived at as a result of consensus between all stakeholders at a workshop in Naivasha. This journey involved several scenarios which were examined and subjected to scrutiny and input and they are as follows;

PARAMETER	PRELIMINARY REPORT APRIL 2012	REVISED AFTER COUNTY CONSULTATIONS	CONSENSUS AFTER NAIVASHA WORKSHOP
Population	60	45	45
Equal share	20	22	25
Poverty Index	12	20	20
Land area	6	7	8
Fiscal responsibility	2	6	2

II. LEGAL BASIS FOR THE DETERMINATION OF THE BASIS FOR ALLOCATION OF REVENUE

4. **Mr. Speaker Sir,** the Constitution of Kenya, 2010, Article 203 (2) stipulates that for every financial year, the equitable share of the revenue raised nationally that is allocated to county governments shall be not less than fifteen per cent of all revenue collected by the national government. Furthermore, Articles 201 to 204 stipulates that revenue raised nationally shall be shared equitably among national and county governments and expenditure shall promote the equitable development of the country, including making special provision for marginalized groups and areas.

5. Article 215 of the Constitution, then establishes the Commission of Revenue Allocation (CRA) with the principal function of making recommendations concerning the basis for the equitable sharing of revenue raised by the national government between the national and county governments and among the county government.

6. In addition, **Mr. Speaker Sir,** Article 217 of the Constitution requires Parliament to determine the basis of revenue sharing for the county governments. To undertake this, Parliament should take the criteria in Article 203 (1) into account, consider the recommendations from the Commission on Revenue Allocation (CRA), and consult the county governors, Cabinet Secretary responsible for Finance & any organizations of county governments. Parliament is also required to invite the public, including professional bodies to make submissions to it on this matter. Article 217 (1) of the Constitution also states that once every five years, the senate shall by resolution, determine the basis for allocating among the counties the share of national revenue that is annually allocated to the county level of government.

7. Mr. Speaker sir, the sixth schedule, Part 3, section 11 of the Constitution bestows this responsibility of determination of the basis of allocation of resources to the National Assembly.

III. INTERNATIONAL EXPERIENCE IN FORMULA FOR RESOURCE DISTRIBUTION

8. **Mr. Speaker Sir**, in reviewing the formula, cognizance of the distribution methodologies in other countries was taken in order to have as inclusive a view as possible and to learn from the experiences of other jurisdictions. Countries reviewed include Nigeria, South Africa, Philippines and Turkey, as follows;

Table 1: Country comparison of parameter weights

PARAMETER	S. AFRICA	NIGERIA	TURKEY	PHILIPPINES
Population	N/A	25.6	70	50
Population Density	N/A	1.45	N/A	N/A
Equal Share	14	45.23	N/A	25
Land/Mass	N/A	5.35	N/A	25
Terrain	N/A	5.35	N/A	N/A
Internal Revenue Effort	N/A	8.31	N/A	N/A
Poverty	3	N/A	N/A	N/A
Fiscal Capacity/ Performance Indicators	N/A	N/A	10	N/A
Needs Assessment/ Local Development Index	N/A	N/A	20	N/A
Institutional Support	5	N/A	N/A	N/A
Portable Water	N/A	1.50	N/A	N/A
Education	51	3	N/A	N/A
Health	26	3	N/A	N/A
Economic Output	1	N/A	N/A	N/A
Rural Roads & Inland Waters	N/A	1.21	N/A	N/A
Total	**100**	**100**	**100**	**100**

9. **Mr. Speaker Sir**, the Committee noted that in South Africa, the formula is reviewed annually. Assessment of needs is done for South Africa, Australia and Ethiopia and funds allocated as per the needs. The Committee further noted that in Ethiopia, the funds are allocated depending on the Population, differences in relative revenue

raising capacity, differences in relative expenditure needs, and performance incentives. Experiences from these country show that each on has its own tailor-made and customised Formula for resource distribution in line with its own peculiarity.

IV. PUBLIC PARTICIPATION IN RESOURCE ALLOCATION

10. **Mr. Speaker Sir,** the Budget Committee held public hearings on the budget in seventeen (17) centres in the country and sought public view on the initial Formula submitted by the Commission on Revenue Allocation (CRA) where the weights that were assigned to each parameter were as follows:

VARIABLE	PERCENTAGE
Population	60%
Equal share	20%
Poverty	12%
Land Area	6%
Fiscal Responsibility	2%
TOTAL	**100%**

11. Mr. Speaker Sir, the Committee sought input from the public on this formula during this year's public consultations on the **Estimates of Revenue and Expenditure For The Budget 2012/13,** and members of the public gave different views on the same as indicated in the centres as follows;

(i) Kericho

12. **Mr. Speaker Sir,** the participants from Kericho expressed that the 60% weight given to population by CRA should be scaled down to between 40% - 50%. It was observed that population tends to be dense in areas with relatively abundant resources and therefore allocating more resources to such places because of its population would disadvantage resource-poor regions. This will ultimately perpetuate any existing inequalities.

(ii) Bungoma

13. **Mr. Speaker Sir,** the Bungoma, participants requested an increase in the weight assigned to population and were also concerned about the credibility of the data provided by the Kenya National Bureau of Statistics (KNBS) as it was collected a long time ago. They further noted that the Poverty index would be an important parameter for revenue sharing and Counties with high poverty indices should benefit from the revenue allocation so that they can be brought to par with other more developed counties.

(iii)Kakamega

14. The Residents of Kakamega felt there was an urgent need to adjust the weights assigned to the various parameters. **Mr. Speaker Sir,** they further proposed that 50% weight should be assigned to population, 25% to be shared equally and 25% to be shared according to poverty index. A number of participants also felt that "land area" should be replaced with another parameter in determining revenue allocation while others felt that "fiscal responsibility" should also not be a factor determining revenue allocation but others felt that it should be maintained with a weight of 5%.

(iv)Kisumu

15. The Kisumu residents, **Mr. Speaker Sir,** were unanimously unhappy about the proportion of 60% being allocated using population size. They proposed that population variable should constitute only around 10% to 15% as more weight should be given to the **level of existing development level in the counties.** In addition, the participants proposed that poverty level should also be a major determinant of the revenue allocation. They were, however, concerned about the computation of poverty index.

(v) Kitale

16. **Mr. Speaker Sir**, participants were concerned that the population parameter had been given a large percentage and this made the formula biased towards counties

with large populations which they felt were predominantly the richest counties. They proposed that the formula should accommodate the accessibility to healthcare facilities, the mortality rate, the level of marginalization and the level of poverty as core parameters for allocation of revenue.

(vi) Lodwar

17. **Mr. Speaker Sir,** the Lodwar public expressed that the population parameter had been given a large percentage which they felt was unhelpful to national development since it would encourage over population and increase the rural – urban migration and therefore went against the spirit of devolution. They proposed that the parameter's percentage should not exceed 50% and much of the allocation should be based on poverty, illiteracy and land area.

(vii) Nyeri

18. **Mr. Speaker Sir,** the Nyeri participants were concerned that the percentage given to population was too high since the costs of service delivery depend on terrain not population. They proposed that the population percentage allocation should therefore be at most 20% while the Land area should not be used as a criterion as there are large pieces of land that are not inhabited. They further proposed that Poverty levels should not be used as the same has been used by CDF for the last 8 years yet there was still need for devolution which demonstrated that the situation had not improved.

(viii) Nakuru

19. **Mr. Speaker Sir,** the Nakuru participants expressed that the proposed CRA revenue sharing formula is good and reflects their aspirations and therefore if the weight given to population is to be changed, it should only be increased.

(ix) Nyandarua

20. The Nyandarua participants on the other hand noted that the proposed formula for sharing revenue did not reflect development levels of various counties and there was therefore need to review the weighted formula used to ensure areas like Nyandarua County with a high poverty index receive more resources.

(x) Isiolo

21. **Mr. Speaker Sir,** the Isiolo participants were concerned that the Commission should consider the historical injustices and development gap into the formula and proposed that a minimum of Kshs 3 billion should be given to all counties before any formula is used to allocate the remaining resources. They further proposed the percentage allocated to population be scaled downwards while those of poverty and land area be reviewed upwards with the poverty index getting the highest weight.

(xi) Wajir

22. The Wajir participants, **Mr. Speaker Sir**, proposed that the 60% weight given to population by CRA should be scaled down significantly and more emphasis given to land area, poverty index as well as the "equal share" component of the criteria. They noted that giving population high emphasis would exacerbate the inequalities of the past and result in further marginalization of the Arid and Semi-Arid Lands in the northern parts of the country.

(xii) Nairobi

23. The Nairobi participants **Mr. Speaker Sir** noted that the allocation given to the "population" segment in the criteria may be misleading as Nairobi and other major cities ordinarily host large populations that are not registered as residing within its boundaries and yet they utilized services provided by the municipalities and cities. They noted that there was therefore a need to adopt alternate Formula for allocating resources such as on poverty as well as "needs assessment"

(xiii) Kisii

24. **Mr. Speaker Sir,** in Kisii, participants made a contribution as regards the revenue allocation formula proposed by CRA and they proposed that the weights be reviewed especially one for the population which should be reduced.

(xiv) Malindi

25. Mr. Speaker Sir, the Malindi residents noted that the proposed population weight of 60% based on the population was too high since some regions such as Nairobi have already developed infrastructure and other social amenities. They noted that if the 60% population criterion would be adopted some historically marginalized counties were bound to suffer thereby creating a wider gap.

(xv) Machakos

26. The participants in Machakos **Mr. Speaker sir,** proposed that the final formula should consider rural-urban migration and that more allocation should be given to less populated areas than the populated ones. They further proposed that population should be allocated 40% with part of it, i.e. 30%, to be dedicated less populated areas and the remaining 10% to the more populated areas. They noted that this would allow natural migration.

(xvi) Voi

27. **Mr. Speaker Sir**, in Voi, various scenarios were proposed but no final agreed weights were given to the various parameters. The Voi public however agreed that poverty should take the highest weight and 60% of the resources and the remainder should be shared according to the development needs.

V. PROPOSED FORMULA FOR RESOURCE ALLOCATION

28. **Mr. Speaker Sir**, as already mentioned, the Committee held a three day workshop to finalize on the draft *Criteria for Revenue Allocation* to the Counties as per Article 217 of the Constitution. During the workshop, the draft ***Criteria for Revenue Allocation*** was discussed and various presentations from key stakeholders made. The workshop firmed up the various parameters and weights for each parameter.

29. **Mr. Speaker Sir,** after wide consultations with key stakeholders and after taking into consideration views emerging from members of the public, the Committee has agreed on key parameters that will form the basis for revenue allocation namely; Population, Poverty Index, Land Area, Basic Equal Share and Fiscal Discipline for the next three years. This is a living formula and could be amended in the subsequent years should the need arise. It is as follows;

    a) Population – 45%
    b) Poverty index – 20%
    c) Land area – 8%
    d) Basic equal share – 25%
    e) Fiscal responsibility – 2%

It is therefore my pleasure to present this report to the House and implore Members to adopt the Recommendations as proposed by the Commission on Revenue Allocation.

VI. APPENDIX 1: MINUTES OF THE BUDGET COMMITTEE SITTINGS

MINUTES OF THE 122ND SITTING OF THE BUDGET COMMITTEE HELD ON TUESDAY, 17TH JULY 2012, IN THE COMMITTEE ROOM, 5TH FLOOR CONTINENTAL HOUSE PARLIAMENT AT 11.00 AM

PRESENT

1) Hon. Elias Mbau, M.P. - Chairperson
2) Hon. Danson Mungatana, M.P.
3) Hon. Jackson K. Kiptanui, M.P.
4) Hon. Martin Ogindo, M.P.
5) Hon. Moses Lessonet, M.P.
6) Hon. Chris Okemo, M.P.
7) Hon. Sophia Noor, M.P.

APOLOGIES

1) Hon. Alfred Sambu, M.P. - Vice Chairperson
2) Hon. Emilio Kathuri, M.P.
3) Hon. Nelson Gaichuhie, M.P.

KENYA NATIONAL ASSEMBLY STAFF

1) Ms Phyllis Makau - Director, Parliamentary Budget Office
2) Mr. Fredrick Muthengi - Parliamentary Budget Office
3) Ms. Lucy Makara – Parliamentary Budget Office
4) Mr.Gilbert Kipkurui - Parliamentary Budget Office
5) Mr. Benjamin Ngimor - Parliamentary Budget Office
6) Mr. Eric Kanyi - Parliamentary Budget Office

AGENDA

1) Preliminaries/Confirmation of Agenda
2) Confirmation of previous meeting minutes
3) Matters arising
4) Revenue Allocation Formula
5) Status of house resolution on Budget 2012/13 against the budget report
6) Any other Business

MIN.NO. 120/2012: PRELIMINARIES

The meeting started with a word of prayer at 11.00 am. The chairman of the Budget Committee welcomed all present to the meeting and thanked them for finding time to attend. The chairman gave the background information on the subject matter of the meeting.

MIN.NO. 121/2012: REVENUE ALLOCATION FORMULA

The members were informed that there was need for the discussion on the development of a revenue allocation formula for sharing of revenue between the county governments to be dealt with and subsequently approved by the House in September, 2012. The committee agreed on timelines for the process.

The Committee scheduled a meeting with professional bodies that included Kenya Institute of Public Policy Research and Analysis (KIPPRA), Institute of Economic Affairs (IEA and Institute of Certified Public Accountants of Kenya (ICPAK) to give their inputs on what the criteria for 25th July, 2012.

It was also agreed that a meeting with Ministry of Finance and Ministry of state for Planning, National development and Vision 2030 to give their inputs on revenue allocation criteria be held on 31st July, 2012.

A retreat where the committee will discuss with the CRA and finalize preparation of revenue sharing formula for discussion and approval by the House was scheduled for 5th to 7th August, 2012.
The secretariat was directed to invite the above bodies' and Ministries accordingly. The Ministry of Finance was to make further submission to the committee on the cost for devolution on Tuesday 31st July, 2012.

The Parliamentary Budget Office was requested to develop a prototype of the county budget which will incorporate at least eight (8) counties. The sampling of these counties should take into consideration the diverse locations of counties, both urban and rural, the different sizes of counties and population per county.

MIN.NO. 122/2012: STATUS OF HOUSE RESOLUTION ON BUDGET 2012/13 AGAINST THE BUDGET REPORT

The committee resolved that the agenda to the next meeting. However the Director, PBO was invited to allude to the implementation status of the report's resolutions. The Director pointed out that Treasury was in the process of reprinting the estimates of expenditure to reflect the amendments as passed by the House in the Appropriation Act, 2012. Once finalized, the PBO would go through the estimates to verify if the amendments were taken aboard for the various Ministries and Agencies. This will then be shared with the committee.

MIN.NO. 123/2012: ADJOURNMENT

There being no any other business, the meeting ended at 12.12 pm.

Signed...
(Hon. Elias Mbau, M.P)

Date....22 : 11 : 12.........................

MINUTES OF THE 123rd SITTING OF THE BUDGET COMMITTEE HELD ON WEDNESDAY, 25TH JULY 2012, IN THE COMMITTEE ROOM, 5TH FLOOR CONTINENTAL HOUSE PARLIAMENT BUILDINGS AT 10.30 AM

PRESENT
1. Hon. Alfred Sambu, M.P. - Vice Chairperson (Chairing)
2. Hon. Abdul Bahari, M.P
3. Hon. Danson Mungatana, M.P.
4. Hon. Jackson K. Kiptanui, M.P.
5. Hon. Moses Lessonet, M.P.
6. Hon. Chris Okemo, M.P.
7. Hon. Sophia Noor, M.P.
8. Hon. Njoroge Baiya, M.P

IN ATTENDANCE
1. Phyllis Makau - Director, Parliamentary Budget Office
2. Gilbert Kipkirui - Parliamentary Budget Office
3. Dr. Eric Aligula – Ag. Executive Director, KIPPRA
4. Prof. Joseph Kieyah, KIPPRA
5. Dr. Dickson Khainga, KIPPRA
6. Kwame Owino - CEO, IEA
7. John Mutua, IEA
8. Raphael Wainaina, IEA

AGENDA
1. Preliminaries/Confirmation of Agenda
2. Presentations on the Formula for Resource Allocation
    a. KIPPRA
    b. IEA
    c. ICPAK
3. Any other Business

MIN. 124/2012: PRELIMINARIES/CONFIRMATION OF AGENDA

The meeting started with a word of prayer at 10.40 am. The chairman of the meeting welcomed all present noting that the Constitution requires that Parliament consult stakeholders including professional bodies when determining criteria to allocate resources to counties. He noted that KIPPRA, IEA and ICPAK, among other key institutions had been invited to make their submissions to the Committee. Members were informed that ICPAK had requested for more time to prepare.

MIN. 125/2012: PRESENTATIONS ON THE CRITERIA FOR RESOURCE ALLOCATION

KIPPRA, in its presentation, informed members that the criteria for sharing revenue between the 47 counties should be informed by actual costing of functions of the devolved governments. It is necessary to ensure that responsibilities are clearly demarcated and that funds are allocated according to the functions assigned. This was emphasized as vital especially during the transition period since not all counties would be capable of providing all services immediately after establishment. This is to safeguard services from disruption in the transition period, which has potential of causing discontent against devolution among the ordinary citizens.

Members were also informed that for equity purposes, the criteria should take into account variables, including counties' ability to raise own revenue. Using property tax and single business permits as basis for raising domestic revenue by the counties, members were informed that only seven counties would be able to raise funds above the national average.

Although KIPPRA did not propose a specific formula for sharing of revenue, it presented five different scenarios to the Committee. These scenarios were;

a.) Option1 the CRA formula;
b.) Option 2 of considering population and land size only;
c.) Option 3 of considering poverty levels using 2005/06 KIHBS data;
d.) Option 4 using CDF formula; and the
e.) Option 5 of sharing equally among counties.

It was noted that all scenarios yielded different per capita allocation. It was observed that capacity of counties to provide services was not uniform and thus there was need to determine minimum standards to be observed across the country.

In its presentation, Institute of Economic Affairs reiterated on the need to estimate the amount to fund county government functions. The Institute referred to the CRA proposal recommending a consolidation of population and land size with its weight pegged at 40%. It also suggested an increase of the equal share component to 40%, poverty index to 15% and fiscal discipline be raised to 5%.

Members were urged to ensure that accurate and reliable data are used to determine revenue sharing.

Reacting to the presentations, members asked the institutions to come up with definitive figures they propose as the basis for sharing of the national resources to counties. KIPPRA and IEA requested to submit their proposals to PBO within a week, providing detailed analysis for the Committee.

MIN 126/2012: ADJOURNMENT

The Chairman thanked the Institutes for their presentations which were informative. Members were informed that Ministry of Finance and Ministry of Planning had been invited to make their presentations to the Committee the following Tuesday, 31st July, 2012 on the same.

There being no any other business, the meeting ended at 1.10 pm.

Signed...
(Hon. Elias Mbau, M.P)

Date....22.11.12..

MINUTES OF THE 124TH SITTING OF THE BUDGET COMMITTEE HELD ON TUESDAY, 31ST JULY 2012, IN THE COMMITTEE ROOM, 5TH FLOOR CONTINENTAL HOUSE PARLIAMENT AT 11.00AM

PRESENT

1. Hon. Elias Mbau, M.P. - Chairperson
2. Hon. Alfred Sambu, M.P. - Vice, Chairperson
3. Hon. Jackson K. Kiptanui, M.P.
4. Hon. Fred Kapondi, M.P.
5. Hon. Moses Lessonet, M.P.
6. Hon. Chris Okemo, M.P.
7. Hon. Sophia Noor, M.P.
8. Hon. Emilio Kathuri, M.P.
9. Hon. Abdulkadir Mohhamed, M.P.
10. Hon. Nelson Gaichuhie, M.P.
11. Hon. David Koech, M.P.
12. Hon. Lucas Chepkitony

APOLOGIES

1. Hon. John Mbadi
2. Hon. David were

KENYA NATIONAL ASSEMBLY STAFF

1. Mr. Martin Masinde - Parliamentary Budget Office
2. Mr. Fredrick Muthengi - Parliamentary Budget Office
3. Ms. Lucy Makara - Parliamentary Budget Office
4. Mr. Gilbert Kipkurui - Parliamentary Budget Office
5. Mr. Gichohi Mwaniki - Parliamentary Budget Office
6. Mr. Benjamin Ngimor - Parliamentary Budget Office

INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS OF KENYA

1. Mr. Patrick Mtange
2. Ms. Caroline Kigen
3. Josephat Mwaura
4. Mr. Benjamin Kamanga
5. Mr. Frederick Riaga
6. Mr. Chris Chepkoit

MINISTRY OF FINANCE

1) Mr. Mutua Kilaka - Finance Secretary
2) Dr. Kamau Thuge
3) Ms. Elizabeth Nzioka
4) Mr. Goeffrey Malombe

AGENDA

1. Preliminaries/Confirmation of Agenda
2. Confirmation of previous meeting minutes
3. Matters arising
4. Meeting with ICPAK
5. Meeting with Ministry of Finance
6. Status of house resolution on Budget 2012/13 against the budget report
7. Any other Business

MIN.NO. 127/2012: PRELIMINARIES

The meeting started with a word of prayer at 11:20 am. The Chairman of the Budget Committee welcomed all present to the meeting and thanked them for finding time to attend. The Chairman gave the background information on the subject matter of the meeting. The Chairman indicated that the Committee was to meet with the Ministry of Planning National Development and Vision 2030 but the ministry had forwarded an apology letter since the Permanent Secretary was out of the country on official business.

MIN.NO. 128/2012: MEETING WITH INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS OF KENYA (ICPAK)

The Chairman welcomed the officials from ICPAK and introduced the Members of the Committee. The Chairman reiterated the importance of public participation and specifically the inputs of professional bodies to the process of determining the criteria for resource allocation.

The Chairman of ICPAK thanked the Committee for inviting them to give their views on the criteria for resource allocation. He indicated that ICPAK was in the process of finalizing a written document on the criteria and would furnish the Committee with it as soon as it is ready. However, their insights that firmed up the paper will be presented in the meeting.

ICPAK indicated that the formula for resource allocation should be objective and enhance equity on revenue sharing for efficient and effective distribution across the counties. ICPAK noted that the parameters that should be considered in the formula should include;

a) **Population, with a weight of forty percent (40%):** ICPAK indicated that allocating sixty percent (60%) to population as in the case of the Commission on Revenue Allocation (CRA) proposed formula might create a risk of enhancing inequality and hampering development.

b) **Land Mass with a weight of twenty percent (20%);** With relation to the land mass, ICPAK indicated that larger counties had higher costs of provision of services. Similarly, large counties needed more infrastructures.
c) **Poverty Index with a weight of twenty percent (20%);** On poverty, ICPAK indicated that there was need to correct the economic disparities among counties as stipulated in Article 203(1(g)) of the Constitution.
d) **Equal Share with a weight of twenty percent (20%).** On equal share, ICPAK indicated that there was need to ensure that the government will continue running its present services and the transition to county governments will not hamper service delivery.

ICPAK indicated that there was no need for fiscal discipline to be included in the formula since it was only an incentive for good performance. However, since the counties have not been set up, there is still no procedure on how the fiscal responsibility can be used. Therefore, ICPAK proposes that this measure can be taken up after the third year when a review of the formula should take place.

ICPAK indicated the need for an equalization and development index for each county so as to have a more objective and measurable idea on how to distribute resources. This should be done by the government.

The Committee requested ICPAK to do simulations for the allocations to each county using their proposed formula and also produce a prototype budget for a small, medium and large county for both for the recurrent and development expenditure. The Committee also requested the ICPAK to identify the total amount of revenue each county can collect and how this can be applied to determine the fiscal responsibility. The Committee agreed that there was need to update the poverty index since the base year of calculation was 2005 yet the population statistics was for 2009.

ICPAK indicated that most of the present expenditure for the county councils, which will form the basis of transition to the county governments, was recurrent. There was need for a thorough needs assessment for the counties, both for recurrent and development expenditures. ICPAK also indicated that the parameters to be used in the criteria should be simple, objective and based on available and verifiable data. The capacity of the counties was critical and the regulations for at least 30% of the budget to go to development expenditure as stipulated on the Public Financial Management Act were to be adhered to by all counties. ICPAK also noted that the national government can also supplement the allocations to counties with conditional grants to specific projects that are to be run by the counties.

The Chairman thanked ICPAK for their contributions and extended an invitation for them to attend the retreat for the Committee in Naivasha for deliberation on the criteria.

MIN. NO. 129/2012: MEETING WITH THE MINISTRY OF FINANCE

The Chairman welcomed the officials from Ministry of Finance and introduced the Members of the Committee. The Chairman indicated that the constitution had provided for the Parliament to consult the Cabinet Secretary responsible for Finance when determining the basis of sharing revenue.

Treasury indicated that the Article 203 of the Constitution clearly provided for criteria for ensuring equitable share of revenue. This should be entrenched in the process of sharing revenue. The first step should be to determine the optimal aggregate vertical split between the National and County Governments in such a way as to adequately fund each level of government to carry out its mandated functions. The second step will involve sharing of revenue between the forty seven (47) counties in such a way as to recognize their different needs and also address inequalities between them.

Treasury informed the Committee that it had undertaken an exercise of costing the functions assigned to county government. This amounted to Kshs. 165 billion. This cost did not include the costs for new administration or infrastructure. The figure was about twenty seven percent (27%) of the most recent audited revenues (FY 2010/11) and therefore well above the constitutional minimum of fifteen percent (15%). Treasury indicated that it is important both levels of government to be sufficiently funded to carry out the functions assigned to them.

Treasury indicated that the criteria for determining when functions will be transferred from the national to county government had been set out in the transition to devolved government act, 2012 which provided for two steps for transfer of resources: (i) immediate transfer of functions after the first election of county assemblies; and (ii) phased transfer of functions. So the full amount due to counties might not be transferred at the beginning of the transition.

Treasury indicated that the CRA revenue sharing formula was similar to what other countries used though with different weights on the parameters. Though the formula was easy to explain, it was likely to be contentious since the data was not perfectly available. It is important for the revenue sharing criteria to help counties meet the minimum common county administration costs of setting them up. The basis of the CRA to peg the allocations to counties on the per capita was skewed since some counties will receive capital revenues several times higher than other counties. It is therefore important for the rationale of the basic equal share to be explained.

If the weight of the basic share were to be reduced, Treasury suggested that the weight of the fiscal discipline should be raised since this will make the county residents hold the county governments accountable for the use of resources and also it will address the constitutional provision under Article 201 of equitable tax burden by rewarding counties that contribute the largest amount of resources to the national government.

Treasury indicated that there was a huge difference between costing of the devolved funds and the allocations through the proposed revenue formula by the CRA. This difference reflected the unequal allocation of resources and the fact that the parameters in the formula were not the only determinants of resource allocation.

Treasury proposed that the distribution of sharable revenue could be based on historical spending by the national government on future county functions. The main challenge to this might be seen in the perpetuation of historical marginalization by assigning costs on basis of past trends. But this will ensure that government will still continue delivery of services through the counties. If the proposed formula by the CRA will be used, Treasury foresees a risk of disruption of service delivery to counties that will suffer drastic reductions in their budget and a possibility of wastage of resource by counties that will get significant increases in their budgetary allocations.

Treasury also raised the issue of shared resources like provincial hospitals which have not been picked up in the formula. There was need to harmonize this through conditional grants in order to avoid affecting the service delivery.

The Committee acknowledged the input of the Treasury but requested for the actual weights Treasury was proposing for the parameters in the formula. Committee also indicated that some of the counties already have the necessary structures and infrastructure. The Committee also requested Treasury to undertake a development index for the counties. Treasury indicated that it will undertake this in conjunction with the Ministry of Planning, National Development and Vision 2030 and the Kenya National Bureau of Statistics.

The Chairman thanked the Ministry of Finance for their contributions and invited them for the retreat of the Committee in Naivasha to deliberate on the criteria.

MIN.NO. 130/2012: ADJOURNMENT

There being no any other business, the meeting ended at 12.12 pm.

Signed...
(Hon. Elias Mbau, M.P)

Date...22-11-12..

MINUTES OF THE 130th SITTING OF THE BUDGET COMMITTEE HELD ON WEDNESDAY, 21ST NOVEMBER 2012, IN CONTINENTAL HOUSE FIFTH FLOOR AT 11.00 A.M.

PRESENT

1) Hon. Elias Mbau, M.P. - Chairperson
2) Hon. Alfred Sambu, M.P. - Vice, Chairperson
3) Hon. Omar Bwana Zonga, M.P
4) Hon. Moses Lessonet, M.P.
5) Hon. Danson Mungatana, M.P.
6) Hon Nelson Gaichuhie, M.P
7) Hon. David Koech, M.P.
8) Hon. Martin Ogindo, M.P.
9) Hon. Abdul Bahari, M.P
10) Hon. Jackson Kiptanui, M.P
11) Hon. Chris Okemo, M.P
12) Hon. Shakeel Shabbir, M.P
13) Hon. Ekwe Ethuro, M.P

KENYA NATIONAL ASSEMBLY STAFF

1) Mr. Fredrick Muthengi - Parliamentary Budget Office
2) Mr. Martin Masinde - Parliamentary Budget Office
3) Ms Lucy Makara - Parliamentary Budget Office
4) Mr. Gilbert Kipkirui - Parliamentary Budget Office
5) Mr. Gichohi Mwaniki - Parliamentary Budget Office

AGENDA

1. Preliminaries/ Confirmation of Agenda
2. Confirmation of Previous Meeting Minutes
3. Matters arising
4. **Adoption of the Budget Committee Report on the CRA's Resource Allocation Formula**
5. **Brief on the Budget Review and Outlook Paper (BROP) 2012**
6. Any Other Business

MIN.NO.134/ 2012: PRELIMINARIES

The Chair called the meeting to order at 11.20am. He welcomed all present and thanked them for finding time to attend the meeting. Members present agreed that Confirmation of previous meetings minutes and Matters arising would be considered in the next meeting.

The Chairman then called upon the Chair Finance committee to make remarks. He acknowledged the work done by the current parliament stating that parliament has been engaged in a lot of legislative activities that involved the passing of the constitution and a number of bills. He further stated that the resources to be allocated to the national government should be on county basis so that there is equitable sharing of resources after the necessary deductions to cover expenses of CFS and other recurrent costs that include staff salaries.

MIN.NO. 135/2012: ADOPTION OF THE BUDGET COMMITTEE REPORT ON THE CRA'S RESOURCE ALLOCATION FORMULA

The Committee went through the report paragraph by paragraph and made some amendments which were incorporated in the final report. The Committee ultimately adopted the report on the basis for allocating resources among the counties for the period 2012- 2015 as per the Commission for Revenue Allocation (CRA) recommendations on sharing of revenue raised by the national government between national government and county government and among county governments for the fiscal year 2012/2013-2014/15. The Committee observed that this was a living document and the Formula can be amended should the need arise.

The Committee agreed that the report should be tabled in the House on 22nd November, 2012. Members further agreed that a table indicating the international experience on revenue allocation to various levels of government should be clearly indicated as well as the initial CRA formula, the Revised Formula after county consultations and the final formula that was agreed after consensus in Naivasha.

Members agreed to support the debate on the report when it is tabled. The Chair directed the secretariat to send a copy of the report once tabled to every Parliamentary Committees Chair to share it with their members with chairman's Forwarding memo to seek support from other Committees.

MIN.NO. 136/2012: BRIEF ON THE BUDGET REVIEW AND OUTLOOK PAPER (BROP) 2012

A brief on BROP was given to members for information. It was reported that the same would be used when reviewing the Budget Policy Statement (BPS).

MIN.NO. 137/2012: ANY OTHER BUSINESS

The following were deliberated under any other business

i) The meeting deliberated on pre-election economic and fiscal update budget that should be published by the National Treasury as per the Public Finance Management Act, 2012 section 27. The meeting recommended that a letter be written to the Minister for Finance on the same so that the budget can be submitted together with the BPS.

ii) The secretariat was directed to do an audit on the amendment suggested for the PFM bill, 2012 before it was finally approved.

MIN.NO. 138/2012: ADJOURMENT

There being no other business the meeting ended at 12.30pm.

Signed ....

(Hon Elias Mbau, M.P)

Date ..22.11.12..

VII. APPENDIX II: THE BUDGET COMMITTEE REPORT ON THE WORKSHOP TO DETERMINE THE CRITERIA FOR RESOURCE ALLOCATION

REPUBLIC OF KENYA

KENYA NATIONAL ASSEMBLY

TENTH PARLIAMENT-FOURTH SESSION

PARLIAMENTARY BUDGET COMMITTEE

REPORT ON THE WORKSHOP TO DETERMINE THE CRITERIA FOR RESOURCE ALLOCATION

AUGUST, 2012

VOLUME 1

REPORT OF BUDGET COMMITTEE CONSULTATIVE WORKSHOP ON CRITERIA FOR RESOURCE ALLOCATION HELD IN ENASHIPAI RESORT IN NAIVASHA FROM 5TH – 7TH, AUGUST, 2012.

SESSION 1: Welcome and Introductory Remarks.

The workshop started at 9:30am with a word of prayer.

1. **Hon. Mbau:**

The chairperson, Budget committee welcomed the participants to the workshop and emphasized the importance of the meeting and the critical nature of Parliament being informed by the various stakeholders present. He explained that this was both in line with the stipulations of the Constitution as well as best practice and called for sobriety and civility in debates as opposed to the adoption of hard-line positions in the execution of this responsibility. He also thanked the Parliamentary Budget Office as well as the Commission on Revenue Allocation for the effort that they had put in ensuring that there were 2 working drafts from the respective institutions that had generated constructive debate.

2. **Hon. Sambu:**

He emphasized the importance of the workshop and explained that resource allocation is the reason for most conflicts in the world. He further stated that skewed resource allocation was the reason why the country was faced with problems following the last general elections and urged open discussion and honest dialogue in the workshop.

3. **Silvia Nyagah – SUNY KENYA**

She stated the success of the partnership between SUNY-Kenya and the Kenya National Assembly with particular emphasis on the working relationship with the Parliamentary Budget Office. USAid and DFID which are principal SUNY partners and financiers were important in ensuring that the relationship is further entrenched, exemplified by the workshop

4. **Mrs. Phyllis Makau – on behalf of the Clerk of the National Assembly**

The Director of the Parliamentary Budget Office apologized for the Clerk and read the Clerk's speech on his behalf verbatim. She specifically thanked development partners and explained the difference in the devolution process in the country in relation to other devolved systems of government such as South Africa which are bottom up as opposed to top down in ceding powers and responsibility as is the case for Kenya. She further explained that the data on population and poverty index being used in the formula proposed by the CRA was contentious and had a number of court cases and there was need for clarification on that.

SESSION 2: Proposals on the Criteria for Resource Allocation

1. Presentation by the Commission on Revenue Allocation

5. Mr. Cheserem:

The Chairman of the Commission for Revenue Allocation explained that this was the first time that the Country was going through devolution and it was therefore a learning process for all. He stated the importance of expedient and speedy provision of funds for the counties in order that they could be in a position to execute their duties and provide service for all Kenyans. He implored Members not to be too critical to the Commission since their output was recommendations as opposed to stipulations and could be altered. He proceeded to acknowledge that population parameter in the formula adopted by the Commission was rather high and could be altered.

2. Presentation by the Commission on Revenue Allocation Chief Executive

6. The Chief Executive Officer of the Commission on Revenue Allocation gave the CRA mandate under Article 216 of the constitution; the principal function of CRA is to make recommendations concerning the basis for the equitable sharing of revenue raised by the national government. The CRA recommendations are also based on a statutory provision, CRA Act No. 16 of 2011. He emphasized that CRA is the only institution that has a legal mandate to provide revenue sharing recommendations to parliament.
7. The Chief Executive gave the definition of the sharable revenue inline with Article 203 (3) which stipulates that such revenue shall be calculated on the basis of the most recent audited accounts of revenue received, as approved by the National Assembly. He also referred to the CRA Act 2(1) which defines shareable revenue as all taxes imposed by the national government under Article 209 of the constitution and any other revenue(including investment income) that may be authorized by an Act of Parliament, but excludes revenues referred to under Articles 209(4) and 206 (1) (a)(b) of the Constitution.

8. The CEO further informed the participants that the CRA had obtained the report of the Audited 2010/2011 Financial Year Government Exchequer receipts indicating a total of Kshs.610, 739 million as shareable revenue while Kshs.220,290 is non- shareable revenue. He informed those present that the Treasury had estimated 2012/13 County Government Budget at Kshs.148,000 million; estimated remunerations of County Executive and County Assemblies was reported to be Kshs.15,000 million while estimated cost of running expenses for County executive and county assemblies was reported to be Kshs.7,500 million.
9. The running expenses for County and Sub-County public service that included procurement, Accounting, Auditing, Financial System, Human Resource Management and ICT Kshs 13,800 Million and 10% contingency Kshs 18,430 giving a total of Kshs 202,730 Million for total share of counties. The CRA had therefore recommended that the total of Kshs. 610, 739 Million should be shared by county and national governments at 33 % and 67% of the total respectively.
10. The formula used for revenue to be shared among County government was reported to have the following attributes;
    a) To be as simple as possible;
    b) T o be based on available official data;
    c) To have incentives for efficient fiscal management;
    d) To minimize inequalities among counties; and
    e) To give effect to the provisions of the constitution.
11. Participants were informed that CRA considered the following parameters used in other countries for example Nigeria, Ethiopia, India, South Africa, Philippines and Indonesia and chose the following parameters to be used in sharing revenue in Kenya.
    a) Population
    b) Poverty Index
    c) Basic Equal Share
    d) Land Area
    e) Fiscal Responsibility
12. Other parameters that were considered by CRA but not chosen include; Human Development Index, County GDP, Gender Development Index and Fiscal Capacity. Population was selected because costs of services depend on population size and to promote equitable society on per capita basis official data from KNBS was used. On the other hand, poverty was selected

because it captures material deprivation in terms of satisfaction of basic needs and the poverty gap index used considers the average extent to which individuals fall below the poverty line.

13. The Basic Equal share was selected since every county has basic fixed expenses irrespective of size, population and poverty levels which are critical for effective governance and administration at county level while Land size was used because cost of service delivery depends on the size of county and to ensure equity, CRA placed minimum and maximum contribution to total land mass at 1% and 10% respectively. Fiscal Responsibility was also used because of the need to ensure fiscal management and exploitation of revenue potential. Participants were informed that initial equal weight is recommended since there are no historical fiscal performance evaluation measures.

14. The weights were assigned based on extent to which a parameter gives effect to the provisions of the constitution, CRA generated scenario and broad based consultations, including county visits. The weights given to each parameter by CRA is as follows;

    a) Population - 45%
    b) Equal share - 22%
    c) Poverty - 20%
    d) Land area 7%
    e) Fiscal responsibility - 6%

15. The amount to be allocated to each county was shown *(see annex I)*. The following issues were raised concerning the CRA presentation;

    (i) Why there is a minimum 1% and maximum 10% on land size while the same is not done on other parameters? Especially population?
    (ii) Whether the % in land area also considers the unsettled places?
    (iii) Whether the amount to be used for recurrent and development has been considered.
    (iv) How fiscal responsibility will be quantified. If it must be included it should get not more than 2.5% of the total allocation.
    (v) Reliability of data especially on population. why such a big decline from 60% in the initial CRA formula to 45%
    (vi) Since devolution was to ensure equitable development how development needs was being addressed in the formula?

(vii) Need to address issues to uplift the standard of living in counties to almost the same level in all counties.

(viii) Clarification on page 12 on the amount given 148,000 millions whether it includes recurrent and development expenditure.

3. Presentation by KIPPRA

16. The participants were informed that allocating revenue per capital basis should be avoided as it ignores differences in local preferences, local needs, local costs and local revenue raising capacity. Measure discouraging promoting county revenue raising efforts and discourage prudent county expenditure restraint should be avoided. The goal should be to provide each county with sufficient revenue, equitable share plus own revenue, to deliver on the constitutional mandates.

17. The participants were further informed that revenue formula will not address all the funding needs of county governments. Minimum national service standards must be in place to be able to understand where affirmative action will be taken. The objective of the formula should be to ensure no one suffers a deficit in service levels and financing needs of urban areas and cities should be carefully considered.

18. The presenter went on to inform those present that the first three years should focus on building capacity, including capacity to mobilize county own revenue. The focus should be to encourage county governments to raise their own revenue. The participants were also informed that the country should also invest in building adequate and effective databases to inform the next cycle of the formula. KIPPRA recommended that the formula should be simple and transparent as proposed by the commission on revenue allocation and the weights should be restructured as follows;

a) Population share to be reduced from 60% to 45%
b) Equal share at 20%
c) Poverty share be increased from 12% to 15%
d) Area share to be raised from 6% to 10%
e) Fiscal responsibility share to be increased from 2% to 10%

19. KIPPRA further suggested that there should be a grant system that focuses on Education, Roads, Water and Health as key priorities and subjects of matching conditional grants to support the shift towards equity across the country. (See annex II)

4. Presentation by the ICPAK

20. The concept of devolution has been enshrined in the Constitution of Kenya, 2010 and was intended to achieve the objectives listed in Article 174 of the constitution. The Constitution acknowledged and sought to address the diverse economic and development needs of the various parts of the country. To address the disparity in levels of economic development, the Constitution proposed the creation of County Governments to whom certain functions as well as political and economic decision making was delegated from the National Government as listed in the Fourth Schedule of the Constitution of Kenya

21. The functions and operations of County Governments are not mutually exclusive from those of the National Government and that the two levels are expected to work in cooperation and consultation with each other. In addition to this, in order to deliver the various services in line with the functions and to facilitate effective governance, it is expected that County Governments shall have reliable sources of revenue. The Constitution provides for three main ways of financing County Governments:-

    a) Internal revenues (Article 209
    b) Transfers from the National Government (Article 203 (2)): The Constitution provides that the National Government will make transfers of revenues to the County Governments on the basis of criteria recommended by the Commission for Revenue Allocation (CRA) and approved by Parliament. The Constitution has proposed that the National Government shall transfer at least 15 per cent of national revenues to the County governments.
    c) The National Government may allocate more funds to the County Governments either conditionally or unconditionally.
    d) County Governments are also able to borrow funds domestically or externally with the guarantee of the national government.

22. ICPAK proposed that County Governments should not rely on borrowing particularly to fund recurrent expenditures. In addition to this, the presenter cautioned against using the

equalization fund when determining the revenues to be allocated to the County Governments since it is relatively small and designed to address only a specific need

i. **Revenue Sharing Between the National and County Governments**

23. Allocation of revenues either between the national government and county governments or among county governments must be on the basis of the principles set out in Article 203(1) of the Constitution. Article 203(2) of the Constitution provides that revenue raised nationally will be shared equitably and that County Governments shall be allocated not less than 15 per cent of the revenue.

ii. **The determination of the amount to be shared between the National and County level of government.**

24. The participants were informed that there are various approaches to determining the amount of National Revenues to be allocated to the National Government and to the County Governments. The amount to be shared to the Counties can be determined as a share of National Government Revenue, on an ad-hoc basis, or it may be determined on a basis of cost reimbursement where the National Government guarantees to cover the cost incurred by the County governments to deliver their services and perform the functions delegated to them. The national government may cover the entire cost or prescribe maximums that they will cover. Most countries use one or more of these three methods.

25. For Kenya ICPAK proposed an approach that is guided by the principle that each level of Government should be able to perform the functions assigned to it by the Constitution effectively and to deliver services within their jurisdictions.

iii. **Revenue Sharing among the County Governments**

26. The representative from Kippra explained that the development of the formula-based allocations should be guided by the following generally accepted principles:
    a) Provide adequate resources to the county governments to perform their mandated functions
    b) Enhance equity and fairness and support a fair allocation of resources.
    c) Ensure stability by providing transfers in a predictable manner

d) The formula should be simple and transparent,

e) The formula should not create negative incentives for local revenue mobilization, and should not induce inefficient expenditure choices.

f) Focus should be on service delivery

g) As a principle the equal shares should not be a major allocation factor since this assumes that all Counties are at the same level yet this is not the case.

h) While the allocation mechanism would favour marginalised areas and communities in the effort to bring them closer to the other communities, care should be taken to avoid making these other communities worse off.

iv. Proposal on Revenue Sharing among the Counties by KIPPRA

27. The primary aim of the revenue allocation is to address inequality through simple and transparent criteria, and KIPPRA therefore proposed that the Formula should comprise the following elements and percentage;

a) Population 40%

b) Land Area 20%

c) Poverty 20%

d) Equal Share 20%

e) Fiscal Responsibility – Percentage to be agreed upon after implementation of county government and evaluation of their performance.

28. The participants were informed that the above approach is transparent, simple and objective but faces various challenges including accessing the necessary data and ensuring that the data is credible, accurate and up to date. It is therefore important ensure that the entities responsible for the data collection and generation are re-energised such that they can provide relevant, accurate, credible data to support decision making at the National and County levels. (See *annex III)*

5. Presentation by the Parliamentary Budget Office

29. The participants were informed that the constitution gave the criteria in Article 203 and this was to be followed in coming up with the formula. The formula should guarantee delivery of service to every Kenyan in the wake of devolution. Thus the needs assessment is key in arriving at the

formula. The ability of a county to raise internal revenue should also be considered as well as the cost of delivery of services versus allocation which is also critical.

30. Participants were also informed that there is pressure on the authenticity of the data used in the formula. The figures for the last census should be validated. The participants were further informed that Article 203 (2) of the constitution stipulates that for every financial year, the equitable share of the revenue raised nationally that is allocated to county governments shall be not less than 15% of all revenue collected by the national government.

31. Further to this, the participants were reminded that Articles 201 to 204 stipulate that revenue raised nationally shall be shared equitably among national and county governments and expenditure shall promote the equitable development of the country, including making special provision for marginalized groups and areas. The participants were informed that studies have been done for the following countries and weights given to each parameter as follows;

Country comparison of parameter weights

Parameter	S. Africa	Nigeria	Turkey	Philippines
Population		25.6	70	50
Population Density		1.45		
Equal Share		45.23		25
Land/Mass		5.35		25
Terrain		5.35		
Internal Revenue Effort		8.31		
Poverty	3			
Fiscal Capacity/ Performance Indicators			10	
Needs Assessment/ Local Development Index			20	
Basic Share	14			
Institutional Support	5			
Portable Water		1.50		
Education	51	3		
Health	26	3		
Economic Output	1			
Rural Roads & Inland Waters		1.21		
Total	**100**	**100**	**100**	**100**

<u>N/b.</u> South Africa formula is reviewed annually. Assessment of needs is done for South Africa, Australia, Ethiopia and Uganda and funds allocated as per the needs.

32. The participants were informed that in Ethiopia the funds are allocated depending on the Population, Differences in relative revenue raising capacity, differences in relative expenditure

needs, the performance incentives. After studying the above the budget office had considered the following parameters

a) Basic equal share
b) Population
c) Needs assessment
d) Land size
e) Level of Poverty
f) Fiscal performance

33. The goal of using fiscal performance as a parameter in revenue allocation is that it encourages prudent fiscal policies and proper use of public resources at the local levels. A devolved unit with strong fiscal and financial discipline would therefore receive slightly more resources than others. Fiscal performance also includes revenue collection capacity of counties. A county that collects more revenue may either receive additional compensation, or for the sake of equitable resource allocation such a county could receive slightly reduced revenues to a limited extent.

34. PBO, however, informed the meeting that the fiscal performance variable is not without problems. Fiscal misappropriation or indiscipline is precarious and difficult to define and justify as a basis for revenue allocation. For example, it would be wrong to punish residents of a county for the direct policy failure of their elected representatives or other officers if this can be addressed legally through the courts (PFM Act).

35. PBO therefore suggested that fiscal performance be introduced after a few years of implementation of county government when parameters on which to compare one county from another would have been agreed upon.

The allocated weight for the parameters was as follows;

a) Basic equal share	30%
b) Population	30%
c) Needs assessment	10%
d) Land size	15%
e) Level of Poverty	15%

(See *annex VI)*

6. Presentation by the IEA/TISA

36. The participants were informed that there is need for CRA get data to back every parameter percentage of weight allocated to each. The Cost of running the county government should be established, revenue rising capacity of each county should as well be established. Accountability process should also be well highlighted.

37. The meeting was further informed that there is a need for the introduction of guidelines for the allocation of grants as well as the issue of transition to the devolved system of government.

The CRA responded to issues raised by the participants as follows;

a) No capping of population because of needs for service delivery.
b) National park, water mass cannot be deducted when considering land size parameter because of logistics.
c) Population numbers to be used will be what is available from Central Bureau of Statistics.
d) Inequality will be addressed after implementation of county government has taken place for some time. Inequality will also be addressed by use of equalization funds.
e) There will be no allocation to fiscal responsibility in the initial year of implementation of county governments. The percentage allocated for the same will be shared equally for all counties.

Session 3: Plenary

38. During plenary the following parameters to be used when allocating revenue were agreed upon

a) Population
b) Poverty index
c) Land area
d) Basic equal share
e) Fiscal responsibility

39. The participants agreed needs assessments will be considered in subsequent years of implementation of county government. The following table indicates the percentage weights given by the various organizations that made presentations.

PARAMETER	CRA	KIPPRA	ICPAK	IEA
Population	45	45	40	50

Land/Mass	7	10	20	10
Equal share	22	20	20	20
Poverty	20	15	20	15
Fiscal capacity/ performance indicators	6	10		5
Needs assessment/ local development index				
Total	100	100	100	100

40. After deliberation some suggestions for various weights were given as follows;

PARAMETER	Hon Ogindo	Hon. Ngugi/ Mbadi	Hon Sophia Noor	Hon. Ekwe Ethuro
Population	50	47	42	45
Land/Mass	10	10	12	10
Equal share	20	22	22	22
Poverty	18	18	20	20
Fiscal capacity/ performance indicators	2	3	4	3
Total	100	100	100	100

41. Participants agreed by consensus to the following;

a) Population – 45%

b) Poverty index – 20%

c) Land area – 8%

d) Basic equal share – 25%

e) Fiscal responsibility – 2%

Way Forward.

42. The participants agreed that;

(i) Committee to meet and adopt the report for the retreat

(ii) Send the final report to CRA

(iii) Budget committee to hold Kamukunji for parliamentarians

(iv) Presentation of the report parliament

(v) Discussion and adoption by parliament

(vi) Complete the process by September, 2012.

Budget Committee Retreat on the Criteria for Revenue Allocation held on 5th -7th August 2012 at the Enashipai Hotel

List of Participants

Name	Organization
1. Hon. Elias Mbau, M.P.	Kenya National Assembly
2. Hon. Alfred Sambu, M.P.	Kenya National Assembly
3. Hon. John Mbadi, M.P.	Kenya National Assembly
4. Hon. Nelson Gaichuhie, M.P.	Kenya National Assembly
5. Hon. Thomas Mwandeghu, M.P.	Kenya National Assembly
6. Hon. Moses Lessonet, M.P.	Kenya National Assembly
7. Hon. Abdul Bahari, M.P.	Kenya National Assembly
8. Hon. Danson Mungatana, M.P.	Kenya National Assembly
9. Hon. Emilio Kathuri, M.P.	Kenya National Assembly
10. Hon. David Ngugi, M.P.	Kenya National Assembly
11. Hon. John Mututho, M.P.	Kenya National Assembly
12. Hon. Njoroge Baiya, M.P.	Kenya National Assembly
13. Hon. Sophia Noor, M.P.	Kenya National Assembly
14. Hon. Jackson Kiptanui, M.P.	Kenya National Assembly
15. Hon. Ekwe Ethuro, M.P.	Kenya National Assembly
16. Hon. Martin Ogindo, M.P.	Kenya National Assembly
17. Hon. Ababu Namwamba	Kenya National Assembly
18. Mrs. Phyllis Makau	Kenya National Assembly
19. Ms. Linet Misati	Kenya National Assembly
20. Mr. Fredrick Muthengi	Kenya National Assembly
21. Mr. Bonnie Mathooko	Kenya National Assembly
22. Mr. Martin Masinde	Kenya National Assembly
23. Ms. Lucy Makara	Kenya National Assembly
24. Mr. Robert Nyaga	Kenya National Assembly
25. Mr. Gichohi Mwaniki	Kenya National Assembly
26. Mr. Gilbert Kipkirui	Kenya National Assembly
27. Mr.Benjamin Ng'imor	Kenya National Assembly
28. Mr. Eric Kanyi	Kenya National Assembly
29. Ms. Alice Thuo	Kenya National Assembly
30. Mr. Daniel Munyao	Kenya National Assembly
31. Mr. Micah Cheserem	Commission on Revenue Allocation (CRA)
32. Ms. Fatma Abdikadir	Commission on Revenue Allocation (CRA)
33. Mr. George Ouko	Commission on Revenue Allocation (CRA)
34. Prof. Wafula Masai	Commission on Revenue Allocation (CRA)
35. Prof. Raphael Munavu	Commission on Revenue Allocation (CRA)
36. Ms. Amina Ahmed	Commission on Revenue Allocation (CRA)
37. Mr. Meshack Onyango	Commission on Revenue Allocation (CRA)
38. Ms. Rose Osoro	Commission on Revenue Allocation (CRA)
39. Dr. Moses Sichei	Commission on Revenue Allocation (CRA)
40. Ms. Caroline Kigen	Institute of Certified Public Accountants of Kenya
41. Mr. Patrick Mtange	Institute of Certified Public Accountants of Kenya
42. Frederick Orega	Institute of Certified Public Accountants of Kenya
43. Dr. Eric Aligula	KIPPRA

44. Mr. Dickson Khainga	KIPPRA
45. Mr. Kwame Owino	Institute of Economic Affairs
46. Mr. Raphael Muya	Institute of Economic Affairs
47. Mr. John Mutua	Institute of Economic Affairs
48. Ms. Wanjuru Gikonyo	The Institute of Social Accountability
49. Mr. Elias Wakhisi	The Institute of Social Accountability
50. Mr. M.J.Gitau	DFID
51. Ms. Sylvia Nyagah	SUNY-Kenya
52. Mr. G.K. Ndungu	SUNY- Kenya
53. Mr. Hussein Haile	SUNY- Kenya