



Paper Laid by Sen.
Mueva Kionzo Sr.
on Wednesday, 30/03/16

[Signature]

REPUBLIC OF KENYA



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ELEVENTH PARLIAMENT – FOURTH SESSION

REPORT OF THE SENATE STANDING COMMITTEE ON FINANCE,
COMMERCE & BUDGET ON THE SECOND BASIS FOR EQUITABLE
SHARING OF REVENUE AMONG THE COUNTY GOVERNMENTS

Approved
[Signature]
SEN
29/3/16

Hon. Speaker
You may approve for
tabling.
[Signature]
17/03/16

PARLIAMENT BUILDINGS
NAIROBI

MARCH, 2016

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PREFACE

Mr. Speaker Sir, on behalf of the Members of the Finance, Commerce and Budget Committee and as required under the second schedule of the Senate Standing Orders, I hereby present to this House, the Committee's Report on the on the second basis for equitable sharing of revenue among the county governments.

In accordance with the provisions of Article 216 (1)(b), read together with Article 217 (2)(b) and Schedule 6 (16), the Commission on Revenue Allocation (CRA) is tasked with recommending a basis for sharing revenue among county governments to the Senate for consideration. Thereafter in accordance with the provisions of Article 217 (1), 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. Section 16 of the Sixth Schedule of the Constitution provides that preparation of the first and second basis of sharing revenue will be made at three-year intervals.

Mr. Speaker Sir, it is significant to note that this resolution if passed, it will be the first one passed by this Senate. The First Generation Revenue Sharing Formula, which we are retiring, was approved by the 10th Parliament in November 2012 and has been used to share revenue for financial years 2012/13; 2013/14; 2014/15 and 2015/16.

Mr. Speaker Sir,

The Standing Committee on Finance, Commerce and Budget is established pursuant to Standing Order No. 208 and is mandated, to investigate, inquire into and report on all matters relating to coordination, control and monitoring of the county budgets and to:

- A. Discuss and review the estimates of County governments and make recommendations to the Senate;
- B. Examine the Medium term Budget Policy Statement presented to the Senate;
- C. Examine and report on the Budget allocated to constitutional commissions and independent offices;
- D. Examine bills related to the Counties;
- E. Examine the Budget, including the Division of Revenue Bill; and
- F. Examine and consider all matters related to resolutions and Bills for appropriations, share of national revenue amongst the counties and all matters concerning the National Budget, including public finance, monetary policies

and public debt, trading activities and commerce, tourism, investment and divestitures policies, planning and development policy.

Mr. Speaker Sir,

The Committee on Finance, Commerce and Budget was constituted by the House on Thursday 13th March 2014 during the Second Session of the Eleventh (11th) Parliament and as currently constituted, comprises the following members:

1. The Hon. Sen. Billow Kerrow, MBS, MP. -Chairperson
2. The Hon. Sen. Peter Ole Mositet, MP. -Vice-Chairperson
3. The Hon. Sen. G. G. Kariuki, EGH, MP.
4. The Hon. Sen. Moses Wetang'ula, EGH, MP.
5. The Hon. Sen. Beatrice Elachi, CBS, MP.
6. The Hon. Sen. Mutahi Kagwe, EGH, MP.
7. The Hon. Sen. (Dr.) Boni Khalwale, MBS, MP.
8. The Hon. Sen. (Prof.) Peter Anyang' Nyong'o, EGH, MP.
9. The Hon. Sen. (Dr.) Zipporah Kittony, MBS, OGW, MP.
10. The Hon. Sen. James Mungai, MP.
11. The Hon. Sen. Catherine Mukite Nabwala, MP.
12. The Hon. Sen. Mutula Kilonzo Junior, MP.
13. The Hon. Sen. (Prof.) John Lonyangapuo, CBS, MP.
14. The Hon. Sen. Paul Njoroge Ben, MP.
15. The Hon. Sen. (Dr.) Wilfred Machage, MGH, MP.
16. The Hon. Sen. (Dr.) Agnes Zani, MP.

The Finance, Commerce and Budget Committee is further given legal backing under the Public Finance Management Act, 2012 as well as the Constitution.

DELIBERATIONS ON THE 2ND GENERATION REVENUE SHARING FORMULA

In reviewing the second basis for equitable sharing of revenue among the county governments, the Committee held numerous consultations with the Commission on Revenue Allocation (CRA), Council of Governors (CoG), National Treasury and the general public who were all invited to give their views on the basis for revenue sharing among the county governments.

Mr. Speaker Sir,

RECOMMENDATIONS

- 1) **Mr. Speaker Sir,** The Committee received useful submissions from various stakeholders and keenly considered all the proposals submitted to it on the matter.
- 2) **Mr. Speaker Sir,** following on deliberations by the Committee and after extensive consultations with various stakeholders on the most suitable basis for allocating among the counties the share of national revenue that is annually allocated to the county level of government, the Committee on Finance, Commerce and Budget recommends that this House approves as recommended by CRA the following basis for equitable sharing of revenue among the county governments that will apply for three years commencing in the financial year 2016/17.

No	Parameter	Recommendation
1	Population	45%
2	Basic Equal Share	26%
3	Poverty	18%
4	Land Area	8%
5	Fiscal Responsibility	2%
6	Development Factor	1%
	TOTAL	100%

Table 1: Basis for Revenue Sharing among County Governments

ACKNOWLEDGEMENT

Mr. Speaker Sir,

The Committee is grateful to the Commission on Revenue Allocation (CRA), Council of Governors, National Treasury and the general public who appeared before the Committee and also acknowledges the contributions made via written submissions by various stakeholders.

The Committee is also particularly grateful to the Offices of the Speaker and the Clerk of the Senate for the support received as it discharged its mandate of determining 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,

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

Signed



**THE HON. SENATOR BILLOW KERROW, MBS, MP
CHAIRMAN, FINANCE, COMMERCE AND BUDGET COMMITTEE**

Date: 16th March, 2016

I. INTRODUCTION

- 3) **Mr. Speaker, Sir,** The Constitution of Kenya 2010 establishes Counties which by law are entitled to receive an allocation from total revenues raised by the national government for the execution of their functions. This necessitated the development of a formula for revenue sharing between National and County Governments as well as among county governments;
- 4) **Mr. Speaker, Sir,** In accordance with Article 216 (5) The CRA submitted to the Senate the recommended basis for sharing revenue among county governments for the three financial years commencing 2015/2016. Subsequently the Committee on 11th February, 2015, tabled in the House its first report on the recommendations.
- 5) The House on 26th February, 2015 voted against the proposed formula and the Finance, Commerce and Budget Committee was charged with undertaking further consultation and building consensus on the matter.

II. BACKGROUND ON THE REVENUE SHARING FORMULA

- 6) **Mr. Speaker Sir,** 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;
- 7) 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;
- 8) Article 217 requires Parliament to determine the basis of revenue sharing for the county governments.
- 9) **Mr. Speaker, Sir,** Article 217 of the Constitution states that the Senate shall by resolution every five years determine the basis for allocating among the counties from the share of national revenue that is annually allocated to the County level of Government.

10) Article 203 (1) (d) to (k) provides for the criteria to be taken into account in determining the equitable shares among the national and county governments and in all national legislation concerning county government.

11) The basis for the revenue sharing formula shall take into account the following:

- i.* Ability of the county governments to perform the functions allocated to them;
- ii.* The fiscal capacity and efficiency of county governments;
- iii.* The developmental and other needs of counties;
- iv.* The economic disparities within and among counties and the need to remedy them;
- v.* The need for affirmative action in respect of disadvantaged areas and groups;
- vi.* The need for economic optimization of each county and to provide incentives for each county to optimize its capacity to raise revenue;
- vii.* The desirability of stable and predictable allocations of revenue; and,
- viii.* The need for flexibility in responding to emergencies and other temporary needs, based on similar objective criteria.

12) The Constitution in Section 16 of the Sixth Schedule further provides that the first and second determination of the basis of division of revenue among the counties would be made at three-year intervals rather than five years.

III. THE FIRST REVENUE SHARING FORMULA

13) **Mr. Speaker, Sir**, in accordance with the provisions of Art.216 (10 9(a)(b) the CRA prepared the first revenue sharing formula which was approved by the 10th Parliament in November 2012.

14) The formula was based on five parameters, namely: population, poverty, land area, basic equal share and fiscal responsibility. This is summarized in Table 2 below.

Parameter	Population	Equal Share	Poverty Gap	Land Area	Fiscal Responsibility	Total
Weights (%)	45	25	20	8	2	100

Table 2: First Generation Basis for Revenue Sharing among County Governments

- 15) The formula sought to achieve two main objectives: service delivery and redistribution. To achieve the service delivery objective, the Commission used population, equal share, land area, and fiscal responsibility parameters.
- 16) The poverty gap parameter was used to achieve the redistribution objective. Population was used as a measure of the expenditure needs of counties. On the basis of a county's share of population, counties shared 45 per cent of revenues. To enable counties meet the fixed costs of setting up and running the government machinery, 25 per cent of the revenues were allocated equally among all the counties.

IV. PRESENTATIONS ON THE SECOND REVENUE SHARING FORMULA BY THE COMMISSION ON REVENUE ALLOCATION

- 17) Cognizant of the role of the Senate and its Committees, the CRA invited the Sessional Committee on Devolved Government and the Standing Committee on Finance, Commerce and Budget to a Consultative Forum to deliberate on the parameters of the second revenue sharing formula. The workshop was held at the Enashipai Resort and Spa between Monday 27th and Tuesday 28th October, 2014.
- 18) The Commission of Revenue Allocation (CRA) in presenting its proposals for the Second Generation Sharing Formula, stated that; In accordance with the legislative provisions of Articles 216(1) and 217 (1) together with section 16 of the Sixth Schedule, the second determination of the basis of the division of revenue among counties needed to be in place for the sharing of revenues for the financial year 2015/16; 2016/17 an 2017/18.
- 19) In exercise of the principles of transparency and public participation as required by law, CRA had used a participatory approach in the preparation of the new formula. The CRA held discussions with various stakeholders such as county executives, County Assembly Budget and Appropriations Committee members, academia, civil society organizations, trade unions and the general public in the counties.

- 20) The County Governments and other stakeholders had recommended the retention of the previous 5 parameters used in the first sharing formula but recommended a review of the weights assigned to each of the parameters.
- 21) They had also recommended the addition of new parameters such as infrastructure, terrain, population density, urbanization, absorption capacity of counties, dependency ratio, county contribution to GDP, land productivity, fiscal gap, level of marginalization, sector based approach, among others.
- 22) That the new formula had also taken into account best practices and lessons from various jurisdictions such as India, Ethiopia, South Africa, Philippines, which had implemented intergovernmental transfers over a long time.
- 23) CRA in its recommendations to the Senate advised that an ideal formula for sharing of revenue among counties should be: simple; based on available official data; contain incentives for efficient fiscal management; minimizes inequalities among counties; and be in line with the provisions of the Constitution of Kenya.
- 24) CRA recommended the use of seven parameters and whose weights were stated as follows;

	Parameter	Assigned Weight (%)
1	Population	45
2	Poverty index	18
3	Land area	8
4	Equal Share	25
5	Fiscal Responsibility	1
6	Development Factor	1
7	Personnel Emolument	2

- 25) Members of the Committee were taken through multiple simulations varying the parameters to evaluate the impact on the revenue allocations for each of the 47 counties.

26) From the deliberations that ensued, the Committee resolved to:

- i.* Have the Commission of Revenue Allocation incorporates issues raised during the retreat and submit its final proposal to the Senate for approval;
- ii.* Have the Committee of Finance, Commerce and Budget and the Committee on Devolved Government conduct a benchmarking visit to the countries with best practice and experience on intergovernmental transfers in order to enrich the formula;
- iii.* Have the Senate holds more consultative meetings and collect more views from Kenyans through public hearing and other forms of consensus building on the parameters and their weights;

V. REPRESENTATIONS FROM THE PUBLIC HEARING

27) **Mr. Speaker, Sir,** The Committee held public hearings on 29th January, 2015 to receive input from the public on the second generation criteria for resource allocation. Two groups were present, a delegation from Nyeri County and representative from the civil society. The submissions received were as follows:

- i.* That the weight given to fiscal responsibility should be enhanced rather than contracted and should be calculated on incremental revenue collection rather than on absolute revenue figures since these depended on a county's historical advantage in revenue collection;
- ii.* That the weight attached to the basic equal share continues to be too large;
- iii.* That while population is a critical weight in a formula, it should gradually be replaced with a more direct measure of population needs which would focus on trying to measure the actual need/demand for health, agriculture, Early Childhood Development services, among others which would be consistent with the attempts to introduce direct measures through the development parameter to gradually replace poverty;
- iv.* That the support to personnel emolument should instead be provided through a conditional grant so that eligibility requirements can be tightened to ensure it does not become an entitlement or incentive towards a bloated payroll;

- v. That the final criterion should also encompass areas for conditional grants, such as debt relief to counties that inherited high debts, or a grant to deal with severe inequalities within counties.

VI. DELIBERATIONS ON THE SECOND GENERATION REVENUE SHARING FORMULA

28) Mr. Speaker, Sir, On 26th February, 2015, the House voted against the proposed formula tabled by the Finance, Commerce and Budget Committee. The Committee was charged with undertaking further consultation and building consensus on the matter.

29) Mr. Speaker, Sir, Following rejection of the second revenue sharing formula, the Senate committee on Finance, Commerce and Budget held a consultative meeting with CRA on 14th October 2015 to deliberate on the way forward. A three-day retreat of the Senate, CRA, National Treasury and the Parliamentary Budget Office was also held from 15th to 18th October, 2015.

30) CRA was tasked with considering proposals and amending its first recommendation following on the consultations held with the Senate, National Treasury and the Parliamentary Budget Office. Some of key issues that emerged from that consultation included:

- i.* The need to remove personnel emolument compensation parameter from the equitable share formula and make it a conditional allocation;
- ii.* The Increase of allocation to counties with smaller populations;
- iii.* Uncapping of the land area parameter;
- iv.* Incentives to counties to maximize their potential to raise more revenue; and
- v.* Consideration of developmental needs of counties.

31) Mr. Speaker, Sir, In addition to the consultations with stakeholders, the Committee undertook a benchmarking visit to India from 3rd to 10th of May, 2015, to examine and borrow best practice from their process of intergovernmental transfers.

32) The Committee observed a few key things from the study visit that it considered important to bear in mind when designing the framework for Kenya's intergovernmental transfers:

- i.* The Commission of Revenue Allocation should base its findings on facts and figures obtained from each County Government, with each county government being required to indicate the basis on which it has arrived at its findings while simultaneously making available the estimates of receipts and expenditure;
- ii.* Governments (national and county level) should put in place policy incentives to promote growth of counties;
- iii.* The Commission should work on reviewing and ensuring equalization of all public services across the counties in efforts to bring uniformity in delivery of services across counties.

33) **Mr. Speaker, Sir,** The Committee held a final consultative meeting with the Council of Governors on 2nd December, 2015, to discuss the second recommendation on sharing revenue as proposed by CRA following incorporation of proposals made during the three day retreat held in October with Senate, National Treasury and Parliamentary Budget Office.

34) **Mr. Speaker, Sir,** On 10th March, 2016 at a retreat for the full Senate and CRA, Senators resolved to adopt and support a revised formula for sharing revenue with the following parameters:

i. **Population**

Population is a good measure of expenditure needs of a county. It is a simple, objective and transparent measure that ensures predictability. Article 203 (1) (j) provides for stable and predictable allocations of revenues to counties. The population parameter guarantees this predictability and also ensures equal per capita transfers to all counties. Use of population in the formula also ensures that counties are able to deliver the functions allocated to them. The data used for this parameter is based on the 2009 population census.

ii. **Basic Equal Share**

Provision of a basic equal share in a transfer system is meant to guarantee a minimum funding for certain key functions, such as administrative costs of setting up and a running a government. This is based on the assumption that a number of expenditures are, to some extent, similar for all county governments.

iii. **Poverty**

A poverty index provides a measure of welfare of citizens. It is a good proxy of developmental needs and economic disparities among counties. The parameter uses the poverty gap index. This ensures that the poorest of the poor get the highest allocations.

Use of this parameter in the formula guarantees allocations of revenue to disadvantaged areas which also happen to be the counties with the greatest need in line with Article 203 (1)(f)(g)(i). The data used in the second recommendation for this parameter is based on the 2009 data from the KNBS. The highest change in allocations to various counties arises from the change on the data on poverty gap from 2005/06 used in the first formula to that of 2009 in the recommendation for the second formula.

iv. **Land Area**

A county with a larger area is faced with additional administrative costs to deliver a comparable standard of service to its citizens. The use of the size of a county (land area) as a parameter in the formula for sharing of revenues compensates counties for additional costs incurred in providing services. The parameter is based on the actual proportion of size of county relative to the country. The changes arising from this parameter in the second recommendation are as a result of uncapping of land. The first formula capped land between 1% and 10%.

v. **Fiscal Responsibility**

County governments receive transfers, collect and utilize public resources. Fiscal responsibility entails implementation of sound economic and budgetary practices to ensure citizens get value for money. The first formula allocated two percent of the shareable revenue equally across all counties for the last four financial years. The allocations were to enable counties set up financial management systems and achieve fiscal prudence. The changes arising from this parameter in the second recommendation are as a result of utilization of data on increase in county own sources revenues per capita between financial years 2013/14 and 2014/15. The allocation based on this parameter will change annually as an incentive for counties to optimize their capacity to raise money and encourage fiscal prudence, in accordance with Article 216 (3) (c) and Section 107 of the PFM Act 2012.

vi. **Development Factor**

This parameter considers access to water, electricity and roads, to capture economic disparities and developmental needs of counties. This parameter compliments the parameter on poverty to ensure that counties with the greatest developmental needs get

additional resources to bring services to the level enjoyed in other counties in accordance with the provisions of Article 203(f), (g). In brief, the document is supposed to set out the broad objectives, policy goals and strategic priorities that guide the National and County Governments in preparing their budgets both for the following financial year and over the medium term.

VII. COMMITTEE RECOMMENDATIONS

35) **Mr. Speaker, Sir,** Following numerous deliberations of recommendations made by the Commission on Revenue Allocation and after considering representations from numerous stakeholders and members of the public, the Committee on Finance, Commerce and Budget recommends that this House approves as recommended by CRA the following basis for equitable sharing of revenue among the county governments that will apply for three years commencing in the financial year 2016/17.

No	Parameter	CRA Revised Recommendation
1	Population	45%
2	Basic Equal Share	26%
3	Poverty	18%
4	Land Area	8%
5	Fiscal Responsibility	2%
6	Development Factor	1%
	TOTAL	100%

Basis for Revenue Sharing among County Governments

Annex 1: CRA Recommendation on the Basis for Revenue Sharing among County Governments

MINUTES OF THE FORTY FORTH SITTING OF THE STANDING COMMITTEE ON FINANCE, COMMERCE AND BUDGET HELD AT MINI CHAMBER, COUNTY HALL, PARLIAMENT BUILDINGS ON WEDNESDAY, 16TH MARCH, 2016, AT 10.00 A.M.

PRESENT

- | | |
|-----------------------------------|----------------------|
| 1. Sen. Billow Kerrow | - Chairperson |
| 2. Sen. Peter Ole Mositet | -Vice Chairperson |
| 3. Sen. (Dr.) Wilfred Machage | -Member |
| 4. Sen. Moses Wetang'ula | -Member |
| 5. Sen. Beatrice Elachi | -Member |
| 6. Sen. Zipporah Kittony | -Member |
| 7. Sen. (Dr.) Boni Khalwale | -Member |
| 8. Sen. Mutahi Kagwe | -Member |
| 9. Sen. (Prof.) John Lonyang'apuo | -Member |
| 10. Sen. Catherine Mukite | -Member |

ABSENT WITH APOLOGY

- | | |
|---------------------------------------|---------|
| 1. Sen. Paul Ben Njoroge | -Member |
| 2. Sen. Mutula Kilonzo Junior | -Member |
| 3. Sen. (Dr.) Agnes Zani | -Member |
| 4. Sen. (Prof.) Peter Anyang' Nyong'o | -Member |
| 5. Sen. James Mungai | -Member |
| 6. Sen. G.G Kariuki | -Member |

SENATE SECRETARIAT

- | | |
|-----------------------|-------------------|
| 1. Ms. Brenda Ogembo | -Committee Clerk |
| 2. Ms. Lucy Radoli | -Legal Counsel |
| 3. Mr. Chelanga Maiyo | -Research Officer |
| 4. Ms. Fatuma Abdi | - Audio Recording |

MIN NO.269/2016:

PRELIMINARIES

The chair called the meeting to order at 10.15 am followed by a word of prayer and introductions.

MIN NO.270/2016:**ADOPTION OF THE AGENDA**

The agenda was adopted as follows;

1. Preliminaries
 - (i) *Prayer*
 - (ii) *Remarks by the Chairperson*
2. Adoption of the Agenda
3. Meeting with the Finance Committee of Vihiga County Assembly
4. Review and Adoption of Committee Report on 2nd Generation Revenue Sharing Formula
5. Presentation and Consideration of Briefs on:
 - County Assemblies Forum Concerns on The Public Finance Management (County Government) Regulations
 - The Petition by Hon. Teddy Mwambire on Timelines for Disbursement of Funds by the National Treasury to County Governments
 - The Petition by Residents of Bukhayo Central Ward, Busia County, Concerning Application of Funds Set Aside Under the Busia County Ward Development Fund for the FY 2014/15
 - The Petition by David Gesicho Concerning a Proposed Formula for Division and Allocation of Revenue Towards Realisation of the Sustainable Development Goals
6. Any Other Business
7. Date of Next Meeting
8. Adjournment

Min. 271/2016 Meeting with the Finance Committee of Vihiga County Assembly

The Chairman informed members that the Finance Committee of Vihiga County Assembly had sent a request to meet with the Senate Committee dealing with financial matters to benchmark and borrow best practice in management of the affairs of their Finance Committee. The Chairman briefly highlighted the mandate of the Senate Finance committee as per the Senate Standing Orders and the Constitution. He emphasized the importance of ensuring that the Committee distinguishes itself from the Assembly Budget Committee so as to ensure clear demarcation of roles.

Members of the Senate Finance Committee challenged the County Assembly Members to ensure they cultivated a clear understanding of Public Finance requirements as this would ensure they were well equipped to carry out their law making oversight functions.

Min. 272/2016: Review and Adoption of Committee Report on 2nd Generation Revenue Sharing Formula

The Committee deliberated and adopted its report on The Second Basis For Equitable Sharing of Revenue Among the County Governments.

The following observations and recommendations were adopted as part of the report.

- 1) That, the Committee received useful submissions from various stakeholders and keenly considered all the proposals submitted to it on the matter of the 2nd Generation Revenue Sharing Formula.
- 2) That, following on deliberations by the Committee and after extensive consultations with various stakeholders on the most suitable basis for allocating among the counties the share of national revenue that is annually allocated to the county level of government, the Committee on Finance, Commerce and Budget recommends that this House approves as recommended by CRA the following basis for equitable sharing of revenue among the county governments that will apply for three years commencing in the financial year 2016/17.

<u>No</u>	<u>Parameter</u>	<u>Recommendation</u>
<u>1</u>	<u>Population</u>	<u>45%</u>
<u>2</u>	<u>Basic Equal Share</u>	<u>26%</u>
<u>3</u>	<u>Poverty</u>	<u>18%</u>
<u>4</u>	<u>Land Area</u>	<u>8%</u>
<u>5</u>	<u>Fiscal Responsibility</u>	<u>2%</u>
<u>6</u>	<u>Development Factor</u>	<u>1%</u>
	<u>TOTAL</u>	<u>100%</u>

Min. 273/2016: Presentation and Consideration of Briefs

The Committee considered the matter of the Public Finance Management (County Government) Regulations that had been brought before it by the County Assemblies Forum.

The Forum had raised concerns with the Senate on the Regulations with an emphasis on-

- (1) regulation 37 which limits the power of county assemblies to adjust the budget estimates presented by county executive in the following terms-

Where a county assembly approves any changes in the annual estimates of budget under section 131 of the Act, any increase or reduction in expenditure of a Vote, shall not exceed one (1%) percent of the Vote's ceilings'.

- (2) regulation 25(1)(d) which caps the county assembly expenditure in the following terms-

the approved expenditures of a county assembly shall not exceed seven per cent of the total revenues of the county government or twice the personnel emoluments of that county assembly, whichever is lower;

The Committee resolved to invite the Cabinet Secretary, National Treasury, on Wednesday, 23rd March, 2016, to discuss the two matters.

The Committee considered the matter of the Petition by Hon. Teddy Mwambire on Timelines for Disbursement of Funds by the National Treasury to County Governments and observed that –

1. section 17 of the Public Finance Management Act provided that monies due to counties should be disbursed on a quarterly basis and no later than the fifteenth day from the commencement of the respective quarter;
2. section 17 as read together with the relevant provisions of the County Allocation of Revenue Act provided that the cabinet secretary should disburse monies due to the counties in accordance with a schedule approved by the Senate; and
3. the Senate adopted a payment schedule providing for the disbursement of monies to the county on a monthly basis which could be construed to be in contradiction with the provisions of section 17(6) and (7) of the Public Finance Management Act.

The Committee therefore resolved that the report on the petition should recommend that the National Treasury must indicate explicitly to counties the amount of money due to them in any particular quarter. The Committee further recommended that the National Treasury should indicate that this sum assigned for the respective quarter would be disbursed on a monthly basis. The Committee noted that the issue of monthly disbursements had been extensively canvassed with the National Treasury and Council of Governors and had informed the decision to send monthly disbursements to county governments.

The Committee considered the matter of the Petition by Residents of Bukhayo Central Ward, Busia County, Concerning Application of Funds Set Aside Under the Busia County Ward Development Fund for the FY 2014/15 and resolved to defer its consideration to the next committee sitting.

The Committee considered the matter of the petition by David Gesicho Concerning a Proposed Formula for Division and Allocation of Revenue Towards Realisation of the Sustainable Development Goals and resolved to invite the Petitioner to meet with the Committee to discuss the proposals made in his petition. The Committee also directed that a copy of the Petition be sent to the Commission on Revenue Allocation to prepare a brief on the proposals made therein. The Committee directed that the Commission, the Parliamentary Budget Officer and the Petitioner should appear before the Committee on Tuesday, 22nd March, 2016, to discuss the proposals made by the Petitioner.

MIN NO.275/2016: Any Other Business

The Committee considered several correspondences and resolved that the matters be considered at the next committee meeting.

MIN NO.274/2016: Date of Next Meeting

The date of the next meeting was agreed to be Tuesday, 22nd March, 2016 at 10.00am.

MIN NO.275/2016: Adjournment

There being no other business and the time being forty minutes past 11.00am the meeting adjourned.

SIGNED:
CHAIRPERSON

DATE:

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Email: info@crakenya.org
Website: www.crakenya.org



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COMMISSION ON REVENUE ALLOCATION

OUR REF: CRA/CSO/P&S/11/Vol.1/(25)

DATE: 14th March, 2016

Mr. J.M. Nyegenye
Clerk of the Senate
Clerks's Chambers
Parliament Buildings
NAIROBI

① *D/Com*
For the urgent
attention of
Committee
OOO
14/03/16

14 MAR 2016
② *Mr. Charis*
Reply.

Dear Mr. Nyegenye

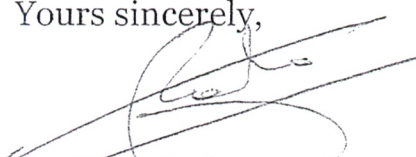
**RE: CRA RECOMMENDATION ON THE SECOND BASIS FOR
EQUITABLE SHARING OF REVENUE AMONG THE COUNTY
GOVERNMENTS FOR FINANCIAL YEARS 2016/17; 2017/2018
AND 2018/2019**

In accordance with Article 216(5), the Commission on Revenue Allocation is mandated to make recommendations concerning the basis for the equitable sharing of revenue raised by national government between national and county governments.

Article 216(5) requires the Commission to submit its recommendations to the Senate, National Assembly, the National Executive, County Assemblies and County Executives accordingly.

Following extensive consultations with various stakeholders, the Commission hereby submits its revised recommendation on the second basis for equitable sharing of Revenue among the County Governments.

Yours sincerely,


George Ooko
Commission Secretary/CEO



② *Clerk Assist I - F, C & Budget*
Please place this on the agenda
for consideration and deal
appropriately
15/03/16



COMMISSION ON REVENUE ALLOCATION
Promoting an Equitable Society

**CRA RECOMMENDATION ON THE SECOND BASIS FOR
EQUITABLE SHARING OF REVENUE AMONG THE COUNTY
GOVERNMENTS FOR FINANCIAL YEAR 2016/2017; 2017/2018
AND 2018/2019**

A. INTRODUCTION

1. Article 216 mandates the Commission to make recommendations on the equitable basis for revenue sharing among county governments.
2. Article 217 (1) mandates the Senate to determine once every five years the basis for allocating among counties the share of national revenue that is annually allocated to county governments.
3. The Sixth Schedule Section 16 provides for preparation of the first and second basis of sharing revenue be made at three year intervals.
4. The first formula was approved by the 10th Parliament in November 2012. The first Formula has been used to share revenue for financial years 2012/13; 2013/14; 2014/15 and 2015/16.

B. SECOND REVENUE SHARING FORMULA

Following extensive consultations with various stakeholders, the Commission submits its revised recommendation on the second basis for revenue sharing among counties.

Table 1: Basis for Revenue Sharing among County Governments

No	Parameter	Current Formula	CRA Revised Recommendation
1	Population	45%	45%
2	Basic Equal Share	25%	26%
3	Poverty	20%	18%
4	Land Area	8%	8%
5	Fiscal Responsibility	2%	2%
6	Development Factor	-	1%
	TOTAL	100%	100%

Source CRA 2016

C. PARAMETERS AND RATIONALE FOR THEIR CHOICE

1.1. Population

- (i). Population is a good measure of expenditure needs of a county.
- (ii). It is a simple, objective and transparent measure that ensures predictability.
- (iii). Article 203 (1) (j) provides for stable and predictable allocations of revenues to counties. The population parameter guarantees this predictability and also ensures equal per capita transfers to all counties. Besides, use of population in the formula also ensures that counties are able to perform the functions allocated to them.
- (iv). The data used for this parameter is based on the 2009 population census.

1.2. Basic Equal Share

- (i). Provision of a basic equal share in a transfer system is meant to guarantee a minimum funding for certain key functions, such as administrative costs of setting up and running a government.
- (ii). This is based on the assumption that a number of expenditures are, to some extent, similar for all county governments.

1.3. Poverty

- (i). A poverty index provides a measure of welfare of citizens. It is a good proxy of developmental needs and economic disparities among counties.
- (ii). The parameter uses the poverty gap index. This ensures that the poorest of the poor get the highest allocations.
- (iii). Use of this parameter in the formula guarantees allocations of revenue to disadvantaged areas which also happen to be the counties with the greatest need in line with Article 203 (1)(f)(g)(i).
- (iv). The data used in the second recommendation for this parameter is based on the 2009 data from the KNBS. The highest change in allocations to various counties arises from the change on the data on poverty gap from 2005/06 used in the first formula to that of 2009 in the recommendation for the second formula.

1.4. Land Area

- (i). A county with a larger area has to incur additional administrative costs to deliver a comparable standard of service to its citizens.
- (ii). The use of the size of a county (land area) as a parameter in the formula for sharing of revenues compensates counties for additional costs incurred in providing services.
- (iii). The parameter is based on the actual proportion of size of county relative to the country.
- (iv). The changes arising from this parameter in the second recommendation are as a result of uncapping of land. The first formula capped land between 1% and 10%.

1.5. Fiscal Responsibility

- (i). County governments receive transfers, collect and utilize public resources. Fiscal responsibility entails implementation of sound economic and budgetary practices to ensure citizens get value for money.
- (ii). The first formula allocated two percent of the shareable revenue equally across all counties for the last four financial years. The allocations were to enable counties set up financial management systems and achieve fiscal prudence.
- (iii). The changes arising from this parameter in the second recommendation are as a result of utilization of data on increase in county own sources revenues per capita between financial years 2013/14 and 2014/15. The allocation based on this parameter will change annually as an incentive for counties to optimize their capacity to raise money and encourage fiscal prudence, in accordance with Article 216 (3) (c) and Section 107 of the PFM Act 2012.

1.6. Development Factor

- (i). This parameter considers access to water, electricity and roads, to capture economic disparities and developmental needs of counties.
- (ii). This parameter compliments the parameter on poverty to ensure that counties with the greatest developmental needs get additional resources to bring services to the level enjoyed in other counties in accordance with the provisions of Article 203(f),(g).

**Table 2: Summary of the Second Basis for Revenue Sharing
2016/2017**

County	Population Index	Equal Allocation Index	Poverty Gap Index	Land Area Index	Fiscal Responsibility Factor	Development Factor	Aggregate Allocation Factor
Baringo	0.014	0.021	0.012	0.019	0.011	0.021	0.01617
Bomet	0.019	0.021	0.015	0.005	0.001	0.024	0.01739
Bungoma	0.036	0.021	0.033	0.005	0.030	0.025	0.02872
Busia	0.019	0.021	0.025	0.003	0.000	0.015	0.01901
E/Marakwet	0.010	0.021	0.009	0.005	0.023	0.013	0.01249
Embu	0.013	0.021	0.008	0.005	0.058	0.018	0.01473
Garissa	0.016	0.021	0.017	0.076	0.019	0.014	0.02253
Homa-bay	0.025	0.021	0.021	0.005	0.003	0.026	0.02137
Isiolo	0.004	0.021	0.010	0.044	0.008	0.008	0.01268
Kajiado	0.018	0.021	0.013	0.038	0.062	0.022	0.02031
Kakamega	0.043	0.021	0.040	0.005	0.015	0.036	0.03321
Kericho	0.019	0.021	0.012	0.004	0.007	0.016	0.01715
Kiambu	0.042	0.021	0.026	0.004	0.068	0.031	0.03120
Kilifi	0.029	0.021	0.070	0.022	0.010	0.022	0.03318
Kirinyaga	0.014	0.021	0.006	0.003	0.027	0.017	0.01369
Kisii	0.030	0.021	0.029	0.002	0.005	0.026	0.02466
Kisumu	0.025	0.021	0.024	0.004	0.046	0.024	0.02252
Kitui	0.026	0.021	0.032	0.052	0.008	0.041	0.02792
Kwale	0.017	0.021	0.053	0.014	0.009	0.018	0.02422
Laikipia	0.010	0.021	0.008	0.016	0.017	0.015	0.01350
Lamu	0.003	0.021	0.003	0.011	0.033	0.004	0.00882
Machakos	0.028	0.021	0.027	0.011	0.021	0.037	0.02492
Makueni	0.023	0.021	0.029	0.014	0.004	0.036	0.02268
Mandera	0.027	0.021	0.061	0.045	0.000	0.019	0.03228
Marsabit	0.008	0.021	0.014	0.122	0.023	0.015	0.02185
Meru	0.035	0.021	0.016	0.012	0.018	0.035	0.02582
Migori	0.024	0.021	0.025	0.004	0.016	0.026	0.02170
Mombasa	0.024	0.021	0.031	0.000	0.106	0.012	0.02441
Murang'a	0.024	0.021	0.015	0.004	0.019	0.032	0.02027



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2016/2017**

County	Population Index	Equal Allocation Index	Poverty Gap Index	Land Area Index	Fiscal Responsibility Factor	Development Factor	Aggregate Allocation Factor
Nairobi city	0.081	0.021	0.043	0.001	0.060	0.030	0.05150
Nakuru	0.042	0.021	0.024	0.013	0.031	0.048	0.03069
Nandi	0.020	0.021	0.011	0.005	0.028	0.021	0.01751
Narok	0.022	0.021	0.011	0.031	0.015	0.029	0.02057
Nyamira	0.015	0.021	0.014	0.002	0.002	0.014	0.01526
Nyandarua	0.015	0.021	0.011	0.006	0.022	0.019	0.01561
Nyeri	0.018	0.021	0.009	0.006	0.046	0.022	0.01689
Samburu	0.006	0.021	0.008	0.036	0.000	0.010	0.01255
Siaya	0.022	0.021	0.013	0.004	0.007	0.024	0.01848
T/Taveta	0.007	0.021	0.009	0.029	0.040	0.013	0.01371
Tana-river	0.006	0.021	0.022	0.066	0.001	0.011	0.01770
T/Nithi	0.009	0.021	0.007	0.005	0.011	0.012	0.01179
Trans-nzoia	0.021	0.021	0.013	0.004	0.016	0.016	0.01826
Turkana	0.022	0.021	0.045	0.118	0.000	0.022	0.03333
Uasin-gishu	0.023	0.021	0.013	0.006	0.034	0.015	0.01954
Vihiga	0.014	0.021	0.011	0.001	0.000	0.011	0.01416
Wajir	0.017	0.021	0.032	0.098	0.009	0.019	0.02714
West pokot	0.013	0.021	0.015	0.016	0.011	0.015	0.01592
	1.000	1.000	1.000	1.000	1.000	1.000	1.00000

