

**ADAMAWA STATE HOUSE OF ASSEMBLY**

**A BILL  
FOR**

**A LAW TO REPEAL FISCAL RESPONSIBILITY LAW NO. 3 OF 2013 AND RE-ENACT ADAMAWA STATE FISCAL RESPONSIBILITY COMMISSION LAW AND FOR OTHER CONNECTED PURPOSES**

Date of Commencement ( )

BE IT ENACTED by the House of Assembly of Adamawa State of Nigeria and by Authority of same as follows:

**PART 1-PRELIMINARY PROVISIONS**

Short title and Commencement 1 This Law may be cited as the Adamawa State Fiscal Responsibility (Repeal and Re-enactment) Law, 2018 and shall come into operation on the ....day of..... 2018.

Interpretation 2. In this Law unless the context otherwise requires:  
“Commission” means the Fiscal Responsibility Commission established pursuant to section 3 (1) of this Law;  
“Appropriation Law” means a duly enacted law by the House of Assembly pursuant to Section 121 of the Constitution of the Federal Republic of Nigeria 1999 (as amended) and includes, a Supplementary Appropriation Law;  
“Arms of Government” means the Executive, the Legislature and the Judiciary of the State;  
“Borrowing” means any financial obligation arising from:  
(i) Any loan, including principal, interest, fees and penalties relating to such loan;  
(ii) The deferred payment for goods and services other than payment for goods and services pursuant to an appropriation law under a contract which fully complies with the state Procurement Law;  
(iii) Bonds, debentures, note or similar instruments;  
(iv) Letters of credit and reimbursement obligation with respect thereto;  
(v) Trades or banks acceptances;  
(vi) Capitalized amounts of pecuniary obligations under leases entered into primarily as a method of raising

- Finances or of financing the acquisition of the assets leased;
- (vii) Agreements providing for swaps ceiling rates and floor rates, contingent participation or other hedging mechanisms with respect to the payment of the interest or the convertibility of currency; and
  - (viii) A conditional sales agreement, capital lease or other title retention agreement;

"Attorney General" means the Attorney-General and Commissioner for Justice and the Chief Law Officer of the State;

"Budget Law" means a duly enacted law on Budgeting for the State;

"Business day" means a day other than a 'Saturday or Sunday or a public holiday specified pursuant to the Public Holidays Act or otherwise specified by the Governor of the State;

"Commissioner" means the Commissioner charged with responsibility for Finance or such other Commissioner as the Governor may by a notice published in the gazette specify;

"Concessional Term" means terms of loan at an interest rate not exceeding 3%;

"Consolidated Debt" means the aggregate of outstanding financial obligations of the State or Local Government including those of their parastatals, departments and agencies arising from any borrowing or the crystallization of contingent liabilities;

"Constitution" means the Constitution of the Federal Republic of Nigerian 1999 (as amended);

"Consolidated Revenue Fund" has the same meaning as that assigned to it in Section 120 of the Constitution;

"Cost Benefit Analysis" means a detailed and comprehensive analysis and comparison of the cost of a project or program with benefits that residents of the State are likely to derive from the project or program;

"Fiscal Policy" means the goals set by government for attainment of set targets for a given period;

"Fiscal Risk" provides numerical target for each risk indicator with which a fiscal entity will be considered fiscally healthy;

"Financial Year" has the same meaning ascribed thereto in the Constitution;

"Independent rate" means a rating conducted by a credible and renowned rating agency independent of the State Government;

"Government Owned Company" means a statutory corporation, Government Agency and a Company in which Government has controlling interest;

"House of Assembly" means the State House of Assembly;

“Medium Term Expenditure Framework” means the document referred to and the contents of which is prescribed in part III of this Law;

“Persistent Shortfall” means revenue shortfall occasioned by a sustained fall;

“Planning Commission” means the State Planning Commission;

“Public Expenditure” means outlays other than those resulting into debt reduction;

“Public Revenue” means all moneys received by a government in the Federation;

“Reference Commodity Price” means such price as may be determined by the President of the Federal Republic of Nigeria, subject to approval of the National Assembly;

“Sectoral Resources Envelope” means a specified amount within the limits of the aggregate expenditure limits earmarked by the Governor for each sector reflecting the priority level accorded to the services to be delivered by the sector;

“State” means Adamawa State of Nigeria;

“State Government” means the Government of the State;

“State Procurement Law” means a duly enacted law of the state on public procurement and matters connected therewith;

“Sustained fall” means concessions and waivers of taxes, duties and other revenues that ought in the ordinary course of events to accrue to the State.

“Tiers of Government” means the State and Local Governments of the State

## **PART II: GENERAL PROVISIONS**

Establishment of Fiscal Responsibility Commission

3. (1) There shall be established for the State a body to be known as the Fiscal Responsibility Commission.

(2) The Commissions shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.

Conduct of fiscal and financial affairs to conform to Law

4. All arms and tiers of government shall ensure that their financial and quasi-financial and fiscal affairs are conducted in strict conformity with the provisions of this Law and any other law relating to the management of public resources.

Government spending to be based on credible expenditure

5. The expenditure of the state shall be directed primarily towards the equitable, effective, efficient and sustainable provision of public good; social and economic services and infrastructure in the state; and accordingly notwithstanding

management  
framework

anything to the contrary contained in this Law, or in any other law, the state shall ensure that government spending is based on a credible expenditure management framework, which is consistent with the principles of sound financial resources towards the equitable, effective, efficient and sustainable provisions of public good; social, economic services and infrastructure in the state.

Expenditure to  
based on  
fiscal framework  
and principle  
of sound financial  
management

6. Without derogating from the generality of section 5, the government expenditure must be based on or derived from, and consistent with an underlying medium term fiscal framework, prepared in accordance with the provisions of part III and the principles of sound financial management set out in the Schedule to this Law.

Law binds all  
arms and tiers  
Of Government

7. This law shall be binding on all arms and tiers of the State and Local Government, its Parastatals, Agencies and Corporations howsoever described.

Powers of the  
Commission

8.(1) For the purposes of performing its functions under this Law, the Commission shall have powers to:

- (a) compel any person or government institution to disclose information relating to public revenue and expenditure;
- (b) cause an investigation into whether any person has violated any provision of this Law;
- (c) formulate and provide general policy and guidelines for the discharge of its functions;
- (d) Superintend the implementation of the policies of the Commission;
- (e) appoint for the Commission, such number of employees or have such employees in the State Civil Service seconded to it as may, in the opinion of the Commission, be expedient and necessary for the proper and efficient performance of the functions of the Commission;
- (f) determine the terms and conditions of service in the Commission, including disciplinary measures for the employees of the Commission;
- (g) subject to the existing guidelines on salaries and wages in the State, fix the remuneration, allowances and benefits of the employees of the Commission;

- (h) ensure the medium term expenditure framework, as approved by the House of Assembly, is published in the State Gazette;
- (i) do other things, which in its opinion are necessary to ensure the efficient performance of the functions of the Commission; and
- (j) investigate any other matter of fiscal discipline, public procurement or corruption that the Attorney General may in writing direct.

(2) If the Commission is satisfied that an offence is disclosed or committed by any person under this Law, or any provision of this Law is violated, the Commission shall forward a report of the investigation to the Attorney-General of the State who shall exercise his powers under section 211 of the 1999 Constitution (as amended).

## Functions of the Commission

### 9. The Commission shall -

- (a) monitor and enforce the provisions of this law and by so doing promote with respect to the State the economic objectives contained in section 16 of the Constitution;
- (b) disseminate such standard practices including international good practice that will result in greater efficiency in the allocation and management of public expenditure, revenue collection, debt control and transparency in fiscal matters;
- (c) undertake fiscal and financial studies, analyze and disseminate the result to the general public;
- (d) make rules for carrying out its functions under this Law;
- (e) perform any other function that is consistent with, or incidental and supplementary to, the promotion of the objectives of this Law., but without prejudice to the exercise of constitutional powers vested in other bodies over public funds, as well as other extant legislations, such as the Public Finance (Control and Management) Law, the Ministry of Finance Incorporated, amongst others.

(2) Subject to the provisions of this Law, the Commission shall be independent in the performance of its day to day functions and as such shall not be subject to directives and control of anybody or authority.

Expenditure of  
the Commission

10.(1) The House of Assembly shall approve the establishment of a fund to be maintained by the Commission from which shall be defrayed all expenditure incurred by the Commission.

(2) There shall be paid and credited to the fund:

- (a) all budgetary allocations from the state government;
- (b) all grants from any other sources which must also be appropriated accordingly by the State legislature;
- (c) all monies raised by the Commission by way of fees for services rendered, loans or otherwise; and
- (e) all other assets that may, from time to time, accrue to the Commission.
- (f) 0.005% of all services rendered by the Commission
- (g) retain 10% of all monies recovered by it and shall utilized such retained funds for operational purposes to support its budgets.

(3) The Commission may accept gifts of land, money or other property (whether within or outside Nigeria) upon such terms and conditions, if any, as may be specified by the person or organization making the gift provided that the terms and conditions are not contrary to the objectives and functions of the Commission under this Law.

Appointment of  
Chairman and  
Members/Composition  
Of the Commission

11. (1) The Board of the Commission shall consist of –

(a) a Chairman who shall be the Chief Executive and Accounting Officer of the Commission and Other Members of the Commission including the chairman other than Ex- officio Members shall be appointed by the Governor Subject to Confirmation by the House of Assembly.

(b) One member each, appointed by the Governor, being representative of each of the following –

- (i) the organized Private Sector
- (ii) the Civil Society engaged in causes relating to probity, transparency and good governance

(iii) the Organized Labor provided that the members representing each group shall be chosen from a list of three nominees recommended to the Governor by each group

- (iv) one Member to represent each of the State's three senatorial District;
- (v) a representative of the State Ministry of Finance, who shall not be below the rank of a Director;
- (vi) a representative of the State Ministry of Justice, who shall not be below the rank of a Director;
- (vii) a representative of the State Planning Commission, who shall not be below the rank of a Director;
- (viii) a representative of the Board of Internal Revenue not below the rank of Director;
- (v) a representative of the Debt Management Agency not below the rank of Director;
- (xi) a representative of Ministry for Local Government Affairs not below the rank of Director.

(2) Members of the Commission shall be persons of proven integrity and must possess appropriate qualifications with not less than ten (10) years cognate post qualification experience.

(3) (a) The Chairman of the Commission shall be a full time member; and

(b) all other members of the Commission shall be part time members.

Office of the  
Secretary

12. There shall be appointed Secretary to the Commission
- (a) the Secretary to the Commission shall be a legal practitioner of not less than 10 years post call experience and must be a civil servant not below grade level Fourteen (14) in the State Civil Service.
  - (b) the Secretary shall be appointed by the Council of the Commission
  - (c) the Secretary shall, subject to the directive and control of the Executive Chairman be responsible for the taking and keeping of minutes of meeting of the Commission and enforcing the resolution of the Council.
  - (d) the Secretary shall be the custodian of all records and seals of the Commission

- (e) the Secretary shall carry out such other functions as may be assigned to him by the Executive Chairman
- (f) the Secretary shall hold office for a single term of Five (5) years.

Tenure of office	13. The Chairman and Members of the Commission shall hold office for a Single term of five (5) years.
Rules and Regulation	<p>14.(1) The Commission shall have power to make Rules and Regulations and standing orders with respect to the holding of its meetings, Regulations/notices to be given, the keeping of minutes of its proceedings quorum of the meeting and such other matters as the Commission may, from time to time determine</p> <ul style="list-style-type: none"> <li>(2) For the official sittings of the Commission, there shall be two third (2/3) of the members in attendance.</li> <li>(3) The Governor shall in consultation with the Fiscal Responsibility Commission make regulations for the purposes of giving effect to the provisions of this Law.</li> </ul>
Vacation from Office of a Member	<p>15. Notwithstanding the provision of section 13 of this Law, a member shall cease to hold office if :—</p> <ul style="list-style-type: none"> <li>(a) he becomes bankrupt or makes compromise with his creditors;</li> <li>(b) he is convicted of a felony or any offence involving dishonesty, corruption or fraud;</li> <li>(c) he becomes incapable of discharging the functions of his office either by reason of infirmity of mind or body;</li> <li>(d) the Governor is satisfied that it is not in the interest of the Commission or the interest of the public that the member should continue in office;</li> <li>(e) he has been found guilty of violation of the Code of Conduct or gross misconduct in relation to his duties;</li> <li>(f) he resigns his appointment by a notice under his hand addressed through the Attorney-General to the Governor; or</li> <li>(g) in the case of a person who becomes a member by virtue of the office he occupies, he ceases to hold such office for whatever reason.</li> </ul>



Salaries and allowances

16.(1) There shall be paid to the Chairman such salary, allowances and benefits as the State House of Assembly from time to time determine

(2) There shall be paid to other members of the Commission such wages and sitting allowances and other benefits as the House of Assembly may from time to time determine.

Report of investigation

17.(1)The Commission shall prepare and submit to the House of Assembly not later than 30<sup>th</sup> June in each financial year, a report of its activities including all cases of contravention of this Law investigated during the preceding financial year, and shall include in the report a copy of its audited account for the preceding financial year.

(2) The Commission shall prepare and submit to the Attorney General reports of all investigations relating to contravention of any provision of this Law.

(3) The Attorney General may request in writing any report or information in respect of any case which is the subject of investigation by the Commission.

### **PART III: THE MEDIUM TERM FISCAL FRAMEWORK**

Medium Term Fiscal framework to be before House of Assembly

18. (1) The State Planning Commission after consultation with the local governments shall -

- (a) not later than six months from the commencement of this Law, cause to be prepared and laid before the House of Assembly for its consideration, a medium term expenditure framework; and
- (b) thereafter, not later than four months before the commencement of the next financial year, cause to be prepared a medium term expenditure framework for the next three financial years.

(2) The medium term expenditure framework shall contain:

- (a) a macro-economic framework setting out the macro-economic projections for the next three financial years, the underlying assumptions for those projections and an evaluation and analysis of the macro-economic projections for the preceding three financial years;
- (b) a fiscal strategy paper setting out:
  - (i) the Government medium term objectives;
  - (ii) the policies of the Government for the medium term relating to taxation, recurrent

- (non debt) expenditure, debt expenditure, capital expenditure, expenditure borrowing and other liabilities, lending and investment;
  - (iii) the strategic, economic, social and development priorities of the government for the next three financial years;
  - (iv) an explanation of how the financial objective, strategic, economic, social and developmental priorities and fiscal measures set out pursuant to paragraphs (i), (ii) and (iii) of this subsection relate to the economic objectives set out in section 16 of the Constitution;
- (c) an expenditure and revenue framework setting out:
- (i) estimates of aggregate revenue for the state for each financial year in the three years based on the predetermined commodity reference price aborted and tax revenue projections;
  - (ii) aggregate expenditure projection for the State for each financial year in the next three financial years;
  - (iii) aggregate tax expenditure projection for the state for each financial year in the next three financial years; and
  - (iv) minimum capital expenditure flow for the State for each financial year in the next three financial years;

Provided that the estimates and expenditures provided pursuant to paragraph (c) of this subsection, shall be based on reliable and consistent data certified in accordance with section 18 (2) (b);

- (d) targeted at achieving the macro-economic projections set out in pursuance of paragraph (a) of subsection (2) of this section; and
- (e) consistent with and derived from the underlying assumptions contained in the macro-economic framework, the objectives, policies, strategic priorities and explanations in the fiscal strategy paper;
- (f) a consolidated debt statement setting out and describing the fiscal significance of the debt

liability of the government and measures to reduce any such liability; and

- (g) a statement describing the nature and fiscal significance of contingent liability and quasi-fiscal activities and measures to offset the crystallization of such liability.

Aggregate expenditure ceiling

19.(1) The estimates of aggregate expenditure for a financial year and aggregate amount appropriated by the House of Assembly for each financial year shall not be more than the estimated aggregate revenue plus a deficit, not exceeding 5% of the estimated gross domestic product (GDP).  
(2) The aggregate expenditure for a financial year may exceed the ceiling imposed by the provision of subsection (1) of this section, if in the opinion of the Governor; there is a clear and present threat to the security of the State.

#### **PART IV – THE ANNUAL BUDGET**

Annual Budget to be derived from Medium Term Expenditure Framework

20. (1) Notwithstanding anything to the contrary contained in this Law or any other law, the medium term expenditure framework shall be the basis for the preparation of the estimates of revenue and expenditure required to be prepared and laid before the House of Assembly under section 121 (1) of the Constitution.  
(2) The sectoral and compositional distribution of the estimates of expenditure referred to in subsection (1) shall be consistent with the medium term developmental priorities set out in the medium term expenditure framework.

Annual Budget to be accompanied by certain documents

21. (1) The estimates of revenue and expenditure in this Law referred to as the annual budget, shall be accompanied by:

- (a) a copy of the underlying revenue and expenditure profile for the next two years;
- (b) a report setting out actual and budgeted revenue and expenditure and detailed analysis of the performance of the budget for the 18 months up to June of the preceding financial year;
- (c) a revenue framework broken down into monthly collection targets prepared on the basis of the predetermined reference commodity price as contained in Medium Term Expenditure Framework;
- (d) a fiscal target appendix derived from the underlying medium term expenditure framework

setting out the following targets for that financial year;

- (i) target inflation rate;
  - (ii) indicator fiscal account balances;
  - (iii) any other development indicator deemed appropriate; and
- (e) fiscal risk appendix evaluating the fiscal and other related risk to the annual budget and specifying measures to be taken to offset the occurrence of such risk.

## **PART V – BUDGETARY PLANNING OF CORPORATIONS AND OTHER RELATED AGENCIES**

Preparation of estimate of Revenue and Expenditure by corporation etc

22. (1) All government corporations and agencies and government owned companies shall, not later than six months from the commencement of this Law and for every three financial years thereafter, not later than the end of the second quarter of every year, cause to be prepared and submitted to the Commissioner of Finance (recurrent) and Planning Commission, their estimates of revenue and expenditure for the next three financial years.

(2) Each of the bodies referred to in subsection (1) shall submit to the Commissioner and Planning Commission not later than the end of August in each financial year;

- (i) an annual budget derived from the estimates submitted in pursuance of subsection (1); and
- (ii) projected operating surplus which shall be prepared in line with acceptable accounting practices.

(3) The Commissioner shall cause the estimates submitted in pursuance of subsection (2) of this section to be attached as part of the appropriation bill to be submitted to the House of Assembly.

Creation of operating surplus and general reserve funds

23.(1) Notwithstanding the provision of any law governing a corporation, the corporation shall establish a reserve fund and shall allocate thereto at the end of each financial year, one-fifth of its operating surplus for the year.

(2) The balance of the operating surplus shall be paid to the consolidated revenue fund of the State Government not later

than one month following the statutory deadline for publishing each corporation's accounts.

Classification of corporations Surplus

24. (1) The corporations surplus shall be classified as the State Treasury Revenue.  
(2) Where a corporation's result is a deficit, the deficit shall be classified as the corporation's loss for the fiscal year.  
(3) Each corporation shall, not later than three months after the end of its financial year, cause to be prepared and published its

audited financial reports in accordance with such rules as may be prescribed from time to time.

Sections cease to apply

25. The provision of Sections 26, 27 and 28 shall cease to apply to any of the corporations from the date of its privatization.

## **PART VI – BUDGETARY EXECUTION AND ACHIEVEMENT OF TARGETS**

Annual Cash Plan

26. (1) The state government's annual cash plan shall be prepared by the Office of the Accountant General of the State.  
(2) The annual cash plan shall be prepared in advance of the financial year setting out projected monthly cash flows and shall be revised periodically to reflect actual cash flows.

Disbursement schedule

27. The Commissioner shall within 30 days of the enactment of the appropriation law prepare and publish a disbursement schedule derived from the annual cash plan for the purpose of implementing the appropriation law.

Power of Commissioner to approve virement

- 28.(1) The sums appropriated for a specific purpose shall be used solely for the purpose specified in the Appropriation Law  
(2) Without prejudice to subsection (1) of this section the Commissioner may in exceptional circumstances in the overall public interest approve virement from sub- heads of accounts without excluding the amount appropriated to such of the head of accounts.

Power to restrict commitments

- 29.(1) Whereby at the end of three months after the enactment of the appropriation law, the Commissioner

of Finance determines that the targeted revenues may be insufficient to fund the heads of expenditure in the appropriation law, the Commissioner shall within the next 30 days of such determination, take appropriate measures to restrict further commitments and financial operations.

(2) Where the targeted revenues are re-established, either in part or in full, the appropriations for which further commitments were restricted shall be restored proportionately.

(3) The provisions of subsection (1) and (2) of this section shall not apply to statutory or Constitutional expenditure.

Responsibility  
of monitoring  
implementation  
Of budget

30. (1) The Commissioner of Finance, through the budget office and the Planning Commission, shall monitor and evaluate the implementation of the annual budget, assess the attainment of the fiscal targets and report thereon on a quarterly basis to the Fiscal Responsibility Commission and the joint financial committee of the State House of Assembly.

(2) The Commissioner of Finance shall, cause the report prepared pursuant to subsection (1) of this section to be published in the mass and electronic media and on Ministry of Finance website, not later than 30 days after the end of each quarter.

The application of  
Part VI to Local  
Government

31.(1) In implementing their annual budget, Local Governments shall be guided by and adopt the provisions of this law with such modifications as may be appropriate and necessary.

(2) The Commission shall on or before one year from the date of this Law, issue guidelines for the full application of this Law to Local Governments.

(3) The Commission shall from time to time develop and implement capacity building plan for relevant Local Government staff and officers to ensure full application of the Law.

## **PART VII- STATE STABILIZATION ACCOUNT**

Establishment of  
Stabilization  
Account

32.The State shall for the purpose of macro-economic State stability establish and maintain a State Stabilization Account with any of the Commercial Banks of Nigeria which shall form part of the State's strategic fund.

Savings in the  
State Stabilization  
Account

33(1) There shall be paid into and saved into the State Stabilization Account:

(i) any extra revenue accruing to the State from the

Federation Account; and

(ii) such extra sum as the Governor may on the advice of the Commissioner by order direct.

Permitted used of funds in the State Stabilization Account

34. Subject to Section 39 of this Law, funds standing to credit of the State Stabilization Account may only be applied for the following purposes and no other;

(a) augmenting shortfall in budgeted expenditure for the implementation of a duly enacted Appropriation Law arising from a sustained fall;

(b) funding high impact, economically valuable infrastructure projects pursuant to an Appropriation Law enacted in the year following the accrual of such sums to the State Stabilization Account;

(c) investing in such independently rated securities, instruments and funds expressly recommended by the Central Bank of Nigeria.

Other limitations on the funds in State Stabilization Account

35. Not more than 50% of the funds standing to the credit of the State Stabilization Account in any financial year may be applied towards the purpose specified in paragraph (b) of Section 34 of this Law.

Cap on State Stabilization Account

36. Accruals to the State Stabilization Account shall be capped at the sum equivalent to the aggregate revenue that accrued to the State from the Federation Account for the preceding ten years or such higher sum as the Governor may with the approval of the State House of Assembly specify by order published in the Gazette.

**PART VIII - PUBLIC REVENUE AND EXPENDITURE**

Collection and remittance of public revenue

37. (1) The executive arm of government shall at least 30 days before the deadline for the submission of its budget proposals, place at the disposal of the House of Assembly, the revenue estimates for the following year, including the net current revenue and the respective memorandum items.

(2) Estimated revenue shall be broken down by the executive arm of government into monthly collection target, including, where applicable, a separate description of measures to combat fraud and evasion.

(3) For the purpose of accountability all revenue collecting Ministries, Departments and Agencies shall remit, on monthly basis or as may be advised, all revenues collected on behalf of the State Government to the account designated for the

purpose by the Accountant General of the State in the manner prescribed in an extant Treasury Circular to be issued from time-to-time.

(4) All revenues collected must not be spent by the collecting Ministry, Department or Agency without appropriation.

(5) Failure to adhere to the provisions of this section shall be an offence under this Law.

Condition for increasing Government/ Personel expenditure

38. (1) The creation, expansion or improvement in Government action which results in an expenditure increase shall be accompanied by;

(a) a statement by the person requesting for the expenditure, stating that the increase is consistent with the Appropriation Law and the Medium-Term Expenditure Framework.

(b) an estimate of the budgetary or financial impact in the year it becomes effective and in the two subsequent years.

(2) The provisions of this section shall not apply to expenditures deemed inconsequential.

(3) The granting of any advantage or increase of remuneration, the creation of posts or alternation of career structures and admission of personnel on any account by bodies and entities including foundations established and maintained by State Government shall only be effected if, there is a prior budgetary allocation sufficient to cover the estimated expenditure.

All contracts to comply with rules and guidelines/ effect of violation of rules

39. (1). All contracts with regards to the execution of annual budget shall comply with the rules and guidelines on:

(a) Procurement and award of contracts; and

(b) due process and certification of contracts.

(2) Any violation of or non-compliance with the requirements of Sections 37(3), 38 (1) and (3), and 39 shall be an offence punishable under this Law.

## **PART IX - DEBT, INDEBTEDNESS AND BORROWING**

Framework for Debt Management

40(1) The framework for debt management during the financial year shall be based on the following rules:

(a) the state government and the local government shall only borrow for capital expenditure and human development, provided that such borrowing shall be on concessional terms with low interest rate and with a reasonably long



- amortization period subject to the approval of the House of Assembly;
  - (b) subject to the overall consolidated debt limit set pursuant to the provisions of section 41 of this Law;
  - (c) subject to aggregate expenditure limit specified in the Medium Term Fiscal Framework;
  - (d) the State government shall ensure that the level of public debt as a proportion of state income is held at a level as prescribed by the House of Assembly from time-to-time on the advice of the Commission; and
  - (e) notwithstanding the provisions of paragraph (a) and subject to the approval of the House of Assembly the state government may borrow from the capital market.
- (2) Non-compliance with the provisions of this section shall be an offence and punishable on conviction to imprisonment for a term of not less than two years or with fine of not less than Two Hundred Thousand Naira or with both.

Government to specify purpose of borrowing

- 41(1) The State government or its agencies and corporations and any local government desirous of borrowing, shall specify the purpose for which the borrowing is intended and present to the House of Assembly a cost-benefit analysis, detailing the economic and social benefits of the purpose to which the intended borrowing is to be applied.
- (2) Without prejudice to subsection (1) of this section, each borrowing shall comply with the following conditions:
- (a) the existence of prior authorization in the Appropriation Law or other law for the purpose for which the borrowing is to be utilized; and
  - (b) The proceeds of such borrowing shall solely be applied towards long term capital expenditure.

Prove of Compliance

- 42 (1) Every bank and financial institution shall request and obtain proof of compliance with the provisions of this part before lending to the State government or any local government.
- (2) Lending by any bank or financial institution in contravention of this part shall be an offence and punishable on conviction to a fine of not less than N50,000,000.00 (Fifty million Naira) and term of imprisonment for any individual involved in the approval or disbursement of the loan to a jail term of not less than two (2) years.

Commissioner  
May grant  
Guarantee

43. (1) Subject to the provisions of this part the Commissioner may, with the approval of the State Executive Council, grant guarantees on behalf of any local government in the state.

(2) Any guarantee granted by the Commissioner shall be conditional upon the provision of a counter guarantee in an amount equal to or higher than the guarantee obligation provided that they are non-overdue obligations for the requesting local government to the guarantor and such counter-guarantee required from the local government may consist in the appropriation of tax revenue directly collected and resulting from statutory transfers, and the guarantor shall be authorized to retain such revenue and use the respective amount to repay overdue debts.

(3) In the case of foreign currency borrowing, the Federal Government guarantee shall be the requirement and neither the State nor Local government shall on its own borrow externally.

(4) Any guarantee provided in excess of the debts limits set pursuant to section 40 (1) shall be an offence.

### **PART X - TRANSPARENCY AND ACCOUNTABILITY**

Ensuring  
Transparent  
Financial  
Affairs

44. (1) The State shall ensure that all its fiscal and financial affairs are conducted in a transparent manner, and accordingly shall ensure full and timely disclosure and wide publication of all transactions and decisions involving public revenue and expenditure and their fiscal significance.

(2) The State House of Assembly shall ensure transparency during the preparation and discussion of the medium-term expenditure framework, annual budgets and appropriation bills.

Publication  
of Budget  
Execution

45. (1) The State Government through its budget office shall not later than 6 months after the end of the financial year, publish a consolidated budget execution showing implementation against physical targets for submission to the House of Assembly and dissemination to the public

(2) The State, Local Government and Agencies of Government shall publish their audited accounts not later than six months following the end of the financial year.

(3) The State, Local Government and Agencies of Government shall, not later than one year following the commencement of this law and thereafter, not later than 6 months following the end of each financial year, consolidate and publish in the mass media, their audited accounts for the previous year.

(4) The publication of general standards for the consolidation of State public accounts shall be the responsibility of the office of the Accountant-General of the State.

(5) The Accountant-General of the State shall, not later than 9 months following the end of the financial year, cause to be consolidated and published in the mass media the accounts of all Government agencies.

Publication Of a summarized budget report on budget execution 46. The Executive arm of the State and Local Governments through their budget offices shall within 30 days after the end of each quarter publish of a summarized report on budget execution in such budget form as may be prescribed by the Fiscal Responsibility Commission and not later than 6 months after the end of the financial year. The Commissioner shall publish a consolidated budget execution report showing implementation against fiscal and financial performance targets.

## **PART XI- ENFORCEMENT**

Legal capacity to enforce this Law

47. Any person shall have legal capacity to enforce the provisions of this Law by obtaining prerogative orders or other remedies at the state High Court, without having to show any special or particular interest. Provided no action shall lie unless a 90 days' written notice of intention to sue by the intended plaintiff shall be given through the office of the Attorney-General to the appropriate government department charged with implementation of this Law drawing their attention to non-compliance with provisions of this Law.

## **PART XII- OFFENCES**

Offences relating to contracts pecuniary undertaking public funds not appropriated

48. Any person being an official or public servant serving in any capacity in any arm of Government of the State and; Local Government who dishonestly, fraudulently or negligently appropriated approves the award of, or awards, executes or witnesses any instrument relating to such award or pecuniary undertaking not with person or contractor for the provision of public goods, social and economic services and infrastructure in the State, knowing that such service is not appropriated for in an Appropriation Law or the existing Medium Term Fiscal Framework shall be guilty of an offence and on conviction be punished with a term of imprisonment which may extend to Fourteen years or with fine or with both.

Offences relating to unauthorized borrowing

49. Any person being an official or public servant serving in any capacity in any arm of government of the state who dishonestly, fraudulently or negligently approves the borrowing or negotiates, or executes any instrument for borrowing knowingly or having the means of knowledge that:

- (a) the borrowing is for a purpose not appropriated for in extant Appropriation Law; or
- (b) the borrowing is without prior express approval of the State House of Assembly; or
  - (i) the borrowing exceeds the aggregate expenditure limit specified in the Medium Term Framework; or
  - (ii) the borrowing exceeds the overall consolidated debt limits; or
  - (iii) the borrowing exceeds the aggregate debt limits specified in the Medium Term Fiscal Framework,

shall be guilty of an offence and shall upon conviction be punished with a term of imprisonment of not less than three (3 years) and to a fine of not more than N2,000,000,00 (Two million Naira).

Destruction of documents and false entry of records

50. Any person who, with intent to defraud or conceal a crime or frustrate the Commission in its investigation of any suspected crime of corruption under this Law or under any Law:

- (a) either destroys, alters, mutilates, or falsifies any book, documents, valuable security, account, computer system, diskette, computer printout or any other electronic device which belongs to or is in the possession of his employer, or has been received by him on the account of his employment, or any entry in any such book, documents or electronic device, or is privy to any such law; or
- (b) makes or omits, or is privy to making or omitting any false entry in any such book, document, account or electronic record;  
is guilty of a felony and shall on conviction be liable to imprisonment for a term of not less than 7 (seven) years or a fine of N500,000.00 or both.

Giving false statement in respect of

51. Any person who, being an officer charged with the receipt, custody, use or management of any part of the public revenue or property, knowingly furnishes any false statement

money or property by officer or return in respect of any money or property received by him or entrusted to his care, or of any balance of money or received property in his possession or under his control, is guilty of an offence, and shall on conviction be liable to imprisonment of not less than Three (3) years or a fine of N500,0000.00 or both.

Neglect to honor Invitation of the Commission

52(1) Any person who:

- (a) fails, refuses or neglects to honor the invitation or summons of the Commission in respect of any matter that the Commission is investigating or reviewing;
- (b) fails, refuses or neglects to avail the Commission with any information or document within 14 (fourteen days) of a demand;
- (c) in any manner whatsoever obstructs the work of the Commission; shall be guilty of an offence and liable on conviction in the case of an individual to a term of imprisonment of not less two (2) years and in the case of a corporate body, it shall be liable to a fine of not less than N5 00,000.00 (Five Hundred Thousand Naira) as well as the term of imprisonment for any of its employees or officers who facilitated the offence.

(2) Any person who:

- (a) fails or neglects to secure compliance with the provision of this Law;
- (b) fails or neglects to secure the authenticity of any statement submitted pursuant to the provisions of this Law; commits an offence and is liable on conviction to imprisonment for a term not exceeding 5 years or to a fine of Five Hundred Thousand Naira (N500,000) or to both such imprisonment and fine.

Penalty for offences

53. Any person who commits an offence under the provisions of this Law where no punishment has been prescribed is liable on conviction to a term of imprisonment which shall not be less than 2 (two) years or with fine of not less than N1, 000,000.00 (One million Naira) or with both.

Compounding of offence

54. The Commission may compound any offence punishable under this Law under such terms as may be approved by the Attorney General.

Jurisdiction to try offences 55.The State High Court shall have the original jurisdiction to try offences created under this Law.

### **PART XIII- MISCELLANEOUS PROVISIONS**

Limit for Consolidated Debt 56. A State law may set a limit for consolidated debt securities, borrowing and granting of guarantees lower than the one provided for pursuant to this Law.

Government securities as collateral to guarantee loans 57. Government securities, provided that they are duly listed on the Stock Exchange, may be offered as collateral loans or other financial transactions under the law for their economic value as defined by the Ministry of Finance.

Restriction on utilization of proceeds of sale of public Assets etc 58. The proceeds derived from the sale or transfer of public properties on and rights over public assets shall not be used to Finance recurrent and debt expenditure, provided that, such proceeds may be used to liquidate existing liabilities directly charged against such properties or assets.

Condition for Local Government contribution 59.A Local Government shall only contribute to cover cost of expenditure incurred by the other tiers of Governments, if authorized in a covenant, accord, or any similar arrangement.

Technical and financial assistance to Local Governments 60. The State may provide technical and financial assistance to Local Governments for the modernization of their respective tax, financial and asset administration for the purpose of complying with the provisions of this Law.

Interpretation of laws 61. In the event of any inconsistency between the other provisions of this Law and the provisions of any state legislation, the provisions of this Law shall prevail and the provisions of that other legislation shall, to the extent of its inconsistency be void.

Immunities 62.Subject to the provisions of this Law, any Member or Staff of the Commission when investigating a case under this Law, shall have all the powers and immunities of a Police Officer under the Police Act and any other Law conferring power on the police or empowering and protecting law enforcement agencies.

Repeal of Fiscal Responsibility Law No. 3 of 2013 63. The Fiscal Responsibility Law No. 3 of 2013 is hereby repealed

## **SCHEDULE**

### **(Section 6)**

#### **PRINCIPLES OF SOUND FINANCIAL MANAGEMENT**

The principles of sound financial management are that Government must:

- (i) pursue spending, and taxing policies that are consistent with a reasonable degree of stability and predictability;
- (ii) hinge all spending on a definitive macro-economic framework with, at a minimum, medium term horizon and which assures a prudent balance between available resources and planned spending;
- (iii) ensure that the scale and focus of spending is dictated by policy and the State strategic priorities;
- (iv) ensure optimal value for all Government spending;
- (v) maintain the integrity of the State Revenue Collection System;
- (vi) ensure that its policy decision have regard to their financial effect on future generation;
- (vii) provide full, accurate and timely disclosure of financial information relating to the activities of the Government and its agencies that is ensuring transparency and accountability; and
- (viii) manage financial risk faced by the State prudently, having regard to economic circumstances.

This printed impression has been carefully compared by me with the Bill which has passed the House and found by me to be a true and correctly printed copy of the said Bill

**MR. FRANCIS R. GBANSENSO**  
Clerk to Adamawa State House of Assembly

I assent this .....day of.....2018

**SEN. MOHAMMED UMAR JIBRILLA**  
Governor,  
Adamawa State of Nigeria



## SCHEDULE OF BILL

<b>SHORT TITLE</b>	<b>LONG TITLE</b>	<b>SUMMARY OF CONTENTS</b>	<b>DATE PASSED BY HOUSE</b>
Adamawa State Fiscal Responsibility Law, 2018	A Bill For A Law to repeal Fiscal Responsibility Law No. 3 of 2013 and Re-enact Adamawa State Fiscal Responsibility Commission Law and for Other Connected Purposes.	The Bill seeks to provide for prudent, sustainable, transparent and accountable management of the financial resources of the State in pursuant of objectives it established a fiscal Responsibility Agency to enforce all matters relating to Fiscal Responsibility Laws so as to ensure sound fiscal management required for the State.	28 <sup>th</sup> May 2018

**MR. FRANCIS R. GBANSENSO**  
Clerk to Adamawa State House of Assembly