

## 2013 - ADAMAWA STATE FISCAL RESPONSIBILITY LAW

*A Law to provide for prudent, sustainable, Transparent and Accountable Management of the Financial resources of Adamawa State of Nigeria and the Establishment of the Fiscal Responsibility Commission to Enforce all matters Relating to Federal Fiscal Responsibility Laws of Nigeria so as to ensure sound Fiscal Management regime and other matters connected therewith.*

(3rd June, 2013)

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

### **PART 1-PRELIMINARY PROVISIONS**

1. This law may be cited as the Fiscal Responsibility Law, 2013 and shall come into operation on the 3rd day of June 2013.

2. In this law unless the context otherwise requires:-

"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 and includes, a supplementary Appropriation Law;

"Arms of Government" means the Executive, the Legislature and the Judiciary of Adamawa State of Nigeria;

"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, notes 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 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;

"Budget Law" means a duly enacted law on Budgeting for Adamawa State of Nigeria;

"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;

"Consolidated Debt" means the aggregate of outstanding financial obligations of the state including those of its parastatals and agencies arising from any borrowing or the crystallization of contingent liabilities;

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

"Constitution" means the constitution of the Federal Republic of Nigeria 1999 (as Amended);

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

"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; "Persistent shortfall" means revenue shortfall occasioned by a sustained fall;

"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 each sector;

"State Government" means the government of the State;

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

"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 things to accrue to the State.

## **PART II. GENERAL PROVISIONS**

3. This law shall be binding on all arms of the State Government, its parastatals, and Agencies howsoever described

4. All arms 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.

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

6. Without derogating from the generality of Section 5, Government expenditure must be based on derived from, and consistent with an underlying medium term fiscal framework, prepared in accordance with the provision of part III and the principles of sound financial management set out in the schedule to this law.

7. (1) There shall be established a body to be known as the Fiscal responsibility Commission (in this Law referred to as "The Commission").

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

8. (1) For the purposes of performing its functions under this law the Commission shall have power to;

(a) compel any person or government institution to disclose information relating to public revenue and expenditure; and

(b) cause an investigation into whether any person has violated any provision of this Law.

(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 constitutional powers

under section 211 of the constitution, as it were, having regard to the public interest, the interest of justice and the need to prevent abuse of legal process.

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 analysis and diagnosis and disseminate the result to the general public;
- (d) make rules for carrying out its functions under this Law;
- (e) perform any other functions 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 over public funds as well as other extant legislations such as the Public Finances (Control and Management) law, the Ministry of Finance incorporated, amongst others.

(2) 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.

10. (1) The State 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 credited to the fund established pursuant to subsection (1) of this section, the budgetary allocation from the state government and grants from any other sources which must also be appropriated accordingly by the state legislature. ,

11. (1) The Commission shall consist of:

- (a) a chairman who shall be the chief executive and accounting officer of the commission;
- (b) one member representing:
  - (i) the organized private Sector
  - (ii) the civil Society engaged in causes relating to probity, transparency and good governance;
  - (iii) the organized labour, provided that the members representing each group shall be chosen from a list of three nominees recommended to the Governor by

- each group;
  - (c) a representative of the State Ministry of Finance not below the rank of a Director;
  - (d) a representative of the State Ministry of Justice;
  - (e) a representative of the State Planning Commission not below the rank of a Director;
  - (f) one member to represent each of the three Senatorial Districts;
  - (g) a representative of Board of Internal Revenue not below the rank of Director;
  - (h) a representative of Debt Management Agency not below the rank of Director.
- (2) All members of the Commission shall be persons of proven integrity and must possess appropriate qualifications with not less than 10 years cognate post qualification experience.
- (3) The Chairman and other members of the Commission other than ex- officio members shall be appointed by the Governor subject to confirmation by the House of Assembly
- (4) (a) the Chairman of the Commission shall be a full time member  
(b) all other members of the Commission shall be part time members
- (5) For the official seating of the Commission there shall be two third (2/3) of the members in attendance.

12. The Chairman and other members of the Commission shall hold office for a single term of 4 years.

13. The Commission shall have power to:

- (a) formulated and provide general policy and guideline for the discharge of its functions;
- (b) superintend the implementation of the policies of the Commission;
- (c) 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;
- (d) determined the terms and conditions of service in the Commission, including disciplinary measures for the employees of the Commission;
- (e) subject to the existing guidelines on salaries and wages in the State, fix the remuneration, allowances and benefits of the employees of the Commission.

- (f) do other things, which in its opinion are necessary to ensure the efficient performance of the functions of the Commission;
- (g) regulate its proceedings and make standing orders with respect to the holding of its meetings, notices to be given, the keeping of minutes of its proceedings and such other matters as the Commission may, from time to time determine.

14. (1) Notwithstanding the provision of Section 12 of this Law vacation from office a member shall cease to hold office if:-

- (a) he becomes bankrupt or makes compromise with his creditors;
- (b) he is convicted of a felony or any offence involving dishonesty, corruption or fraud.
- (c) he becomes incapable of discharging the functions of his office either by reason of infirmity of mind or body;
- (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 and is consequently removed by the Governor from office; .
- (e) he has been found guilty of violation of the code of conduct or gross misconduct in relation to his duties;
- (f) he resigns his appointment by a notice under his hand addressed to the Governor; or
- (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.

(2) Where a vacancy occurs in the membership of the Commission, it shall be filled by the appointment of a successor to hold office for the remainder of the term of office of his predecessor, provided that the successor shall represent the same interest as his predecessor

15. (1) There shall be paid to the Chairman of the Commission such salaries, allowances and benefits as the State House of Assembly may from time to time determined.

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

16. The Commission shall prepare and submit to the House of Assembly not later than 30th June in each financial year, a report of its activities including all cases of contravention of the Law investigated during the preceding financial year and shall include in the report a copy of

its audited account for the preceding financial year

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

17. On or before the last business day of April in each year the Governor shall cause to be prepared and laid before the State House of Assembly a medium term fiscal framework for the next three financial years.;

18. The medium term fiscal framework required to be prepared under Section 17 of this Law shall at the very minimum comprise of: i

- (a) an economic policy objectives and strategic statement;
- (b) a medium term expenditure framework.
- (c) a medium term revenue framework;
- (d) a medium term fiscal strategy statement;
- (e) a consolidated State Debt statement;
- (I) a contingency liability statement.

19. The economic policy objectives and strategies statement shall.

- (a) set out the State's broad long term economic and financial objectives within which fiscal policies for the next three years will be set;
- (b) specify the key indicators against which the attainment of long term economic policies and financial objectives will be assessed.
- (c) provide justification to any changes to any previous economic policy objectives and strategies statement.
- (d) explain how the long term economic policies and financial objectives will be assessed.
- (e) provide justification to any changes to any previous economic policy objectives and strategies statement;
- (f) explain how the long term economic policies and financial objectives and broad long term strategic priorities relate to the principles of sound financial management.

20, (1) The medium term expenditure framework shall.

(a) present analytical review of expenditure for the preceding three financial years and the impact thereof on the economic environment of the State and the attainment of the State's long term economic policies and financial objectives;

(b) specify projections and targets for each year for the next three financial years and the underlying assumptions thereof and the likely impact thereof on the economic environment of the State and the attainment of the State's long term economic policies and financial objectives

(c) specify:

(i) an aggregate expenditure limit for each year in the next three financial years, broken down by major heads of expenditure and which is consistent with aggregate debt limits;

(ii) estimate of tax expenditure in each year for the next three financial years;

(iii) the level of the budget balance for each year for the next three financial years;  
and

(iv) in the event that the budget balance is a deficit, a credible financing plan for any budget deficit consistent with the aggregate debit limit.

(2) Explain how the projections and targets and the assumptions thereof relate to the principles of sound financial management.

21. (1) The medium term revenue frame work shall determine commodity reference price and the underlying assumption thereof

(2) Specify an aggregate debit limit, which set the maximum aggregate stock of debt that the State can incur in each year for the next three financial years, and which is consistent with the debt limit set pursuant to part IV of this Law;

(3) Explain how the medium term revenue framework, the aggregate debit, limit, the medium term expenditure framework relate to the principles of sound financial management.

22. The consolidated debt statement shall

(a) quantify and analyze the State's stock of debt;

(b) present a detailed analysis of the fiscal significance of the State stock of debt;

(c) present a detailed analysis of the compositional structure of the State stock of debt;

(d) report on compliance with the aggregate debt limit set pursuant to Subsection (3) of Section 21 of this Law, and where applicable set out measures for complying with



the aggregate debt limit within a period not exceeding 6 months.

23. The contingency liability statement shall set out the nature of and present analysis of fiscal significance of the State's contingent liability and quasi activities and strategies to offset the crystallization of such liabilities.

24. The medium term fiscal strategy statement shall:

- (a) set out the State's broad medium term economic policies and financial objectives within which fiscal policies for the next three financial years will be set;
- (b) specify and explain the broad medium term strategic priorities of Government and the rationale for setting such priorities;
- (c) specify the key indicators against which the attainment of the medium term economic policies and financial objectives will be assessed;
- (d) provide justification for any change to any previous medium term activities;
- (e) explain how medium term economic policies and financial objectives and medium term strategic priorities relate to the long term economic policies and financial objectives and broad long term strategic priorities and the principles of sound financial management;
- (f) provide a breakdown of the aggregate expenditure limit into sectoral resources envelopes consistent with actualization of the medium term economic policies and financial objectives and strategic priorities;
- (g) identify and analyze medium term fiscal risk and propose credible measures to mitigate such risk.

25. For any financial year the aggregate expenditure limit shall be set out at a prudent level taking full account of the principles of sound financial management and shall at all events be 115% of the aggregate revenue estimate for the financial year.

26. The aggregate expenditure limit for financial year may exceed the limit specified in Section 25 of this law; if and only if in the opinion of the Governor, there shall occurred a catastrophic event which occasioned or is likely, to occasion a widespread humanitarian crisis within the State.

27. The medium term fiscal framework including all its components as detailed in Section 17 of the Law, shall be prepared using reliable, creditable and veritable data, which takes full account of macro-economic assumption of the Federal Government and relevant data from the National Planning Commission, the Federal Bureau of Statistics, the central bank of Nigeria or such other bodies from time to time charged with responsibility for collecting macro economic data.

28. (1) The Commission shall have responsibility for preparing a draft of the medium term fiscal framework.

(2) In preparing the draft medium term fiscal framework, the Commission shall:

(a) hold comprehensive consultation with the State House of Assembly, and institutions, agencies or organs of the State Government, charged with responsibility for economic planning and revenue collection;

(b) hold such other consultations as it shall deem necessary.

(3) On or before the 15th business day of March in each financial year, the Commission shall cause a draft of medium term fiscal framework to be presented to the State Executive Council for consideration and approval.

(4) The Governor shall cause the medium term fiscal framework as approved by the State Executive Council to be laid before the State House of Assembly or before the day prescribed in Section 17 of this Law.

29. Subject to the provision of section 30 of this Law, the State House of Assembly shall consider and, if adjudged fit, by simple resolution approve the medium term fiscal framework with or without modification, on or before the 15th day of May in each financial year;

30. Any modification to the medium term fiscal framework by the State House of Assembly shall be limited to the:

(a) correction of manifest error; and

(b) re-alignment of the medium term strategic priorities.

31. The medium term fiscal framework as approved by the State House Publication of the of Assembly shall be published in Gazette within five business days of approval and published on the official website of the State.

32. The Governor, on the Commission's written advise may cause Adjustments of the adjustments to be made to a medium term fiscal framework to:-

- (a) correct manifest errors, and
- (b) reflect significant changes in key fiscal assumption.

33. Each Ministry, Agency and Parastatal shall ensure that its goals, strategies, programmes and projects must be consistent and fully aligned with the medium term economic and financial objectives and strategic priorities set out in the medium term fiscal strategy statement.

#### **PART IV- STATE STABILIZATION ACCOUNT**

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

35.(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;
- (ii) such extra sum as the Governor may on the advise of the Commissioner by order direct.

36. Subject to Section 37 of the Law, funds standing to the credit of the State Stabilization Account may only be applied for the following purposes and no others;

- (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 value 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.

37. 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

36 of this Law.

38. 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 V- PUBLIC EXPENDITURE**

39. Subject to the provisions of Sections 120, 121, 122,123,124 and 125 of the Constitution, expenditure shall only be incurred by the State or any arm thereof pursuant to, and within the limits set in an Appropriation Law, which is consistent with the medium term fiscal framework or other Laws having effect in the State.

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

40. (1) The State shall comply with the framework for debt management stipulated in Section 41 of Fiscal Responsibility Act and accordingly the State shall only borrow for economically viable infrastructural and human development.

(2) Borrowing for the purpose permitted under Subsection (1) of this section shall be:

- (a) in pursuant of the execution of a duly enacted and subsisting Appropriation Law;
- (b) subject to prior express approval of the State House of Assembly;
- (c) subject to the aggregate limit specified in the medium-term fiscal framework
- (d) subject to the overall consolidated debt limit set pursuant to the provisions of Section 41 of Fiscal Responsibility Act;
- (e) subject to aggregate expenditure limit specified in the medium term fiscal framework; and
- (f) subject to the aggregate debt limit specified in the medium term fiscal framework.

#### **PART VII- TRANSPARNCY AND ACCOUNTABILITY**

41.(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 decision involving public revenue and expenditure and their fiscal significance.

42. 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 report showing implementation against physical targets for submission to the House of Assembly and dissemination to the public.

43. The State shall prepare and publish in the Gazette, its official website Annual report, and such other mass medium as may be deemed appropriate, its audited account for each financial year on or before the last business day of June following the end of the financial year.

### **PART VIII- OFFENCES**

44. 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 appropriates, approves the award of, or awards, executes or witnesses any instrument relating to such award or pecuniary undertaking with any 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 Medium term Fiscal Framework shall be guilty of an offence and on conviction shall be punished with imprisonment which may extend to fourteen years–imprisonment or with fine or with both.

45. 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 the extant Appropriation Law; or
- (b) the borrowing is without the prior express approval of the State House of Assembly ; or
- (c) the borrowing exceeds the aggregate expenditure limit specified in the Medium Term Fiscal Framework; or
- (d) the borrowing exceeds the overall consolidated debt limits set pursuant to the provision of Section 41 of the Fiscal Responsibility Act; or
- (e) the borrowing exceeds the aggregate debt limit specified in the Medium Term

Fiscal Framework; shall be guilty of an offence and on conviction shall be punished with imprisonment which may extend to 10 years imprisonment or with fine or with both.

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

## **PART IX–RULES AND REGULATIONS**

47. The Governor shall in consultation with the Fiscal Responsibility Commission make regulations for the purposes of giving effects to the provisions of this Law.

### **SCHEDULE**

#### **(Section 6)**

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

The principle 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 true and correctly printed copy of the said Bill.

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

I assent this 3rd day of June, 2013

**MURTALA H. NYAKO**  
*Governor,*  
*Adamawa State of Nigeria.*

**SCHEDULE OF BILL**

SHORT TITLE	LONG TITLE	SUMMARY OF CONTENTS	DATE PASSED BY HOUSE
Adamawa State Fiscal Responsibility Law, 2013	A Bill for a Law to provide for prudent, sustainable, transparent and accountable management of the financial resources of Adamawa State of Nigeria and the establishment of the Fiscal Responsibility Commission to enforce all matters relating to Federal	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 Commission to enforce all matters relating to Fiscal	6th March, 2013.

	Fiscal Responsibility Laws of Nigeria so as to ensure sound fiscal management regime and other related matters connected therewith..	Responsibility Laws so as to ensure sound fiscal management require for the State.	
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**MR, FRANCIS R. GBANSENSO**

*Clerk to Adamawa State House of Assembly*