



BENUE STATE OF NIGERIA

2020 NO:.....

**A LAW TO MAKE PROVISIONS
FOR THE ESTABLISHMENT OF
FISCAL RESPONSIBILITY
COMMISSION IN THE STATE
AND FOR PURPOSES
CONNECTED THEREWITH**



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2020 NO:

**A LAW TO MAKE PROVISIONS FOR
THE ESTABLISHMENT OF FISCAL
RESPONSIBILITY COMMISSION IN
THE STATE AND FOR PURPOSES
CONNECTED THEREWITH, 2020.**



BENUE STATE OF NIGERIA

A BILL FOR A LAW TO MAKE PROVISIONS FOR THE ESTABLISHMENT OF FISCAL RESPONSIBILITY COMMISSION IN THE STATE AND FOR PURPOSES CONNECTED THEREWITH.

[.....] Date of commencement

ENACTED by the House of Assembly of Benue State of Nigeria as follows:

PART 1 – PRELIMINARY PROVISIONS

1. This Law may be cited as the Fiscal Responsibility Law, 2020 and shall come into force on the.....2020. Short title and commencement

2. In 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 (as amended) and includes a Supplementary Appropriation Law; Definitions

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

“Borrowing” means any financial obligation arising from:
(i) any loan, including principal, interest, fees and penalties to such loan;
(ii) the deferred payment for the 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) letter of credit and reimbursement obligation with

- respect thereto;
- (v) trades or banks acceptance;
 - (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;

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

"Budget Office" means the State Government Office or entity responsible for preparing the State Budget and monitoring and reporting its implementation;

"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;

"Commission" means Benue Fiscal Responsibility Commission*

"Commissioner" means the Commissioner charged with responsibility for finance or such other Commissioner as the Governor may by a notice published in a 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 Nigeria (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;

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

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

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

"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 monies received by the Government of the State;

"Sectoral Resources Envelope" means a specified amount within the limits of the aggregate expenditure limits embarked by the Governor for each reflecting the priority

level accorded to the services to be delivered by the sector;

“State Government” means Benue State of Nigeria;

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

“Sustained Fall” means concessions and waivers of taxes, duties and other revenue that ought in the ordinary course of things to accrue to the State;

“Tiers of Government” means the Federal, State and the Local Government.

PART II: GENERAL PROVISIONS

3. This Law shall be binding on all arms and tiers of the State Government, its parastatals and agencies however described. Law binds all arms of Government
4. All arms and tiers of government shall ensure that their financial and quasi-financial and fiscal affairs are conducted in a strict conformity with the provisions of this Law and any other Law relating to the management of public resources. Conduct of fiscal and Financial affairs to conform to Law.
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 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. Government spending to be based on credible expenditure management framework
6. Without derogating from the generality of Section 5, 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 Expenditure to be based on fiscal framework and principles of sound financial management

financial management set out in Schedule 2 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").

Establishment of Fiscal
Responsibility 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) 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; and
 - (i) do other things, which in its opinion are necessary to ensure the efficient

Powers of the Commission

performance of the functions of the Commission.

(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. (1) 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 of transparency and accountability 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 financial analysis relating to the finances of the State, analyse, consult with relevant State offices on the findings and disseminate the result to the 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 statutory 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.

Functions of the Commission

(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.

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.

Expenditure of 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 House of Assembly;
 - (c) all monies raised by the Commission by way of gifts, fees for services rendered, loans or otherwise; and
 - (d) 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 objectives and functions of the Commission under this Law.
 - (e) all other assets that may, from time to time, accrue to the Commission.

11. (1) The Commission shall consist of:

- (a) a Chairman who shall be the Chief Executive and Accounting Officer and other members of the Commission other than ex-officio members, shall be appointed by the Governor and approved by the House of Assembly;
- (b) one member each representing:
 - (i) the organized private sector;
 - (ii) the civil society engaged in causes relating to probity, transparency and good governance; and
 - (iii) the organized labour;Provided that the members representing each of the groups 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 Director;
- (d) a representative of the State Ministry of Justice not below the rank of a director;

Appointment of Chairman and Members/Composition of the Commission

- (e) a representative of the State Planning Commission not below the rank of 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;
- (i) a representative of Ministry for Local Government Affairs not below the rank of Director.
- (j) a representative the Office of the Accountant- General not below the rank of a Director

(2) Members of the Commission shall be persons of proven integrity and must possess a University Degree or its equivalent in relevant field 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.

12. (1) There shall be a Secretary to the Commission who shall be appointed by the Governor on the recommendation of the Commission. Secretary.

(2) The Secretary to the Commission shall be a Legal Practitioner who is so qualified and has acquired a cognate experience in legal practice for a period of not less than Ten (10) years.

13. The Chairman and other members of the Commission shall hold office for a single term of five (5) years. Tenure of Office
Chairman/Members

14. (1) The Commission shall have power to make regulations and standing orders with respect to the holding of its meeting, notice to be given, the keeping of minutes of its proceedings and such other matters as the Commission may, from time to time determine. Rules and
Regulations/Quorum of
the Commission

(2) For the official meetings of the Commission,

there shall be two-third ($\frac{2}{3}$) of the members in attendance.

(3) The Governor shall in consultation with the Commission make regulations for the purpose of giving effect to the provisions of this Law.

15. (1) Notwithstanding the provision of Section 13 of this Law, a member shall cease to hold office if: Vacation from office of a Member
- (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.

16. There shall be paid to the Chairman and members of the Commission such salaries, allowances and benefits as may be spelt out in their letters of appointment. Salaries and Allowances

17. (1) 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 Report of Investigation.

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 of the State within seven (7) days a complete report of all investigations relating to contravention of any provision of this Law for possible prosecution.

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

PART III: THE MEDIUM TERM FISCAL FRAMEWORK

18. (1) The State Government, 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 State medium term objectives;
(ii) the policies of the Government for the medium term relating to taxation, recurrent (non debt) expenditure; debt expenditure, capital expenditure borrowing and

Medium Term Fiscal
Framework to be before
House of Assembly

- other liabilities, lending and investment;
- (iii) the strategic economic, social and development priorities of the government for the next three financial years;
- (iv) an investigation 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 adopted and tax revenue projections;
- (ii) aggregate expenditure projection 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 this subsection, shall be based on reliable and consistent data certified in accordance with Section 18(2)(b);
- (d) targeted plan 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.

19. (1) The estimates of aggregate expenditure for a financial 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).

Aggregate Expenditure Ceiling.

(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

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.

Annual Budget to be derived from Medium Term Expenditure Framework

(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.

21. The estimates of revenue and expenditure in this Law referred to as the *Annual Budget*, shall be accompanied by:

Annual budget to be accompanied by certain document.

- (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

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 quarters of every year, cause to be prepared and submitted to the Commissioner of Finance (recurrent) and Planning Commission (capital), 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 Ministry of Finance 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

Preparation of Estimates of Revenue and Expenditure by Corporation, etc.

practices.

(3) The Ministry of Finance and Planning Commission 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.

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.

Creation of operating surplus and general reserve funds

(2) The balance of the operating surplus shall be paid to the Consolidated Revenue Fund of the State not later than one month following the statutory deadline for publishing each corporation's accounts.

24. (1) The corporation's surplus shall be classified as the State Treasury Revenue.

Classification of corporation surpluses.

(2) Where a corporation's result is a deficit, the deficit shall be classified as the corporations 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 reports in accordance with such rules as may be prescribed from time to time.

25. The provision of Sections 22, 23 and 24 shall cease to apply to any of the corporations from the date of its privatization.

Cessation of Application.

PART VI: BUDGETARY EXECUTION AND ACHIEVEMENT OF TARGETS

26. (1) The State Government's annual cash plan shall be prepared by the Office of the Accountant-General of the State.

Annual Cash Plans.

(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.

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. Disbursement Schedule
28. (1) The sums appropriated for a specific purpose shall be used solely for the purpose specified in the Appropriation Law. Power of Commissioner to approve virement.
- (2) Without prejudice to subsection (1) of this Section the Commissioner may in exceptional circumstances and in the overall public interest apply to the House of Assembly for virement from subheads of account without excluding the amount appropriated to such head of accounts.
29. (1) Whereby at the end of three months after the enactment of 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 Executive Council shall within the next 30 days of such determination, take appropriate measures to restrict further commitments and financial operations. Power to restrict other commitments.
- (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 subsections (1) and (2) of this Section shall not apply to statutory or constitutional expenditure.
30. (1) The Ministry of Finance 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 Finance Committee of the House of Assembly. Responsibility of the Budget Implementation.

(2) The Ministry of Finance and the Planning Commission 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.

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.

The application of part VI to Local Government.

(2) The Planning 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 Planning Commission shall 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

32. The State shall, for the purpose of macro-economic 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.

Establishment of State Stabilization Account

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

Savings in 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 advise of the Commissioner, by order direct.

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

Permitted use of funds in the State Stabilization Account

- (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 valued 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.

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.

Other limitation on the funds in 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.

Cap on State Stabilization Account.

PART VIII: PUBLIC REVENUE AND EXPENDITURE

37. (1) The Executive arm of Government shall, at least 30 days before the deadlines for the submission of its budget proposals, place at the disposal of the House of Assembly the revenue and the respective expenditure items.

Collection and remittance of Public Revenue.

(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 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.

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

Conditions for increasing Government expenditure

- (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 expenditure deemed inconsequential.

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

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

All contracts to comply with Rules and Guidelines.

(2) Any violation of the requirements in Section 37(3), 38(1) and 39 shall be an offence punishable under this Law.

PART IX: DEBT, INDEBTEDNESS AND BORROWING

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

Framework for debt management.

- (a) the State and the Local Governments shall only borrow for capital expenditure and human development, and any other public expenditure in line with the Arrears Clearance Frame Work 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; and
- (d) the State shall ensure that the level of public debt as a proportion of the State income is held at a level prescribed by the House of Assembly

Provided that the amount of public debt does not exceed;

- (i) 60% of the Internal Generated Revenue of the

preceding year, or

- (ii) 50% of monthly Debt service deduction, including the servicing of the proposed new loan, on the total gross monthly Revenue (FAAC and IGR) for the preceding 12 months, or

- (iii) 60% of the State Gross Domestic Product (GDP): or

- (iv) 250% of the Total Income for the preceding year; or

- (v) the domestic borrowing from capital market does not exceed the total revenue for the preceding year.

- (e) Notwithstanding the provisions of paragraph (a) and subject to the approval of the House of Assembly, the State 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 not less than Two Hundred Thousand Naira (N200,000) or with both.

41. (1) The State or its agencies and corporations and any Local Government desirous of borrowing, shall

Purposes of borrowing to be disclosed.

specify the purpose for which the borrowing is intended and present a cost benefit analysis, detailing the economic and social benefits of the purpose to which the intended borrowing is to be applied and laid before the Commission for consideration and approval through the Chief Executive.

(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.

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.

Banks to receive proof of Compliance.

(2) Lending by any bank or financial institution in contravention of this Part shall be an offence and punishable on conviction to fine of not less than ₦500,000 (Five Hundred Thousand Naira) only.

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.

Guarantees to Local Government.

(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

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.

Transparency and
Accountability

(2) The House of Assembly shall ensure transparency during the preparation and discussion of the Medium-Term Expenditure Framework, Annual Budgets and Appropriation Bills.

45. (1) The State through its Budget Office shall not later than six (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.

Publication of Budgets and
accounts in the Media.

(2) The State, Local Government and Agencies of Government shall publish their audited accounts not later than six (6) months following the end of the financial year.

(3) The State, Local Government and Agencies of Government shall, not later than one (1) year following the commencement of this Law and thereafter, not later than six (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 nine (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.

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

Publication of a summarized Report on Budget execution.

PART XI: ENFORCEMENT

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.

Legal capacity to enforce this Law.

PART XII: MISCELLANEOUS PROVISIONS

48. A State Law may set a limit for consolidated debt securities, borrowing and granting of guarantees lower than the one provided for in this Law.
49. Government Securities, provided that they are duly listed on the stock exchange, may be offered as collateral for loans or other financial transactions under the Law for their economic value as defined by the Ministry of Finance.
50. The proceeds derived from the sale or transfer of public properties 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.
51. A Local Government shall only contribute to cover cost of expenditure incurred by the other tiers of Government, if authorized in a covenant, accord, or

Limits Consolidated Security

Collateral as loans guarantee

Restriction on utilization of proceeds of sale of Public Assets, etc.

Condition for Local Government contribution.

any similar arrangement.

52. 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. Technical & Financial Assistance to Local Government
53. In the event of any inconsistency between the 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. Interpretation of other Laws
54. 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. Immunities

PART XIII: OFFENCES

55. 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 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 of the State; or the Medium Term Fiscal Framework shall be guilty of an offence and liable on conviction, to be punished with a term of imprisonment which may extend to (14) fourteen years or with a fine of ₦2,000,00 (Two Million Naira) or with both. Offences relating to contract pecuniary undertaking Public Funds not Appropriated.
56. Any person being an official or public servant 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: Offences relating unauthorised borrowings.

- (a) the borrowing is for the purpose not appropriated for in extant Appropriation Law; or
- (b) the borrowing is without prior express approval of the House of Assembly; or
- (c) the borrowing exceeds the aggregate expenditure limit specified in the Medium Term Framework; or
- (d) the borrowing exceeds the overall consolidated debt limits; or
- (e) the borrowing exceeds the aggregate debt limits specified in the Medium Term Fiscal Framework, shall be guilty of an offence and on conviction be punished with a term of imprisonment which may not exceed ten (10) years or with fine of one million naira (1,000,000) or with both.

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

Offences relating to financial malpractices.

- (a) destroys, alters, mutilates, or falsifies any book, document, 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, document or electronic device, or is privy to any such record; or
- (b) makes or omits, or is privy to making or omitting any 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 maximum term of seven (7) years or to a fine of ₦500,000 (Five Hundred Thousand Naira).

58. 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 or return in respect of any money or property received by him or entrusted to his care, or of any balance of money or property in his possession or under his control, is guilty of an offence, and shall, on conviction, be liable to

Furnishing of false return on Revenue.

maximum of seven (7) years imprisonment or to a fine of ₦1,000,000 (One Million Naira).

59. (1) A person who, being an officer of a bank or other financial institution or designated non financial institution:

Failure by bank officers to comply with this Law.

- (a) fails or neglects to secure compliance with the provisions 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 shall be liable on conviction to imprisonment for a term not exceeding five (5) years or to a fine of Five Hundred Thousand Naira only (₦500,000) only or to both such imprisonment and fine.

(2) Subject to the provisions of Section 211 of the Constitution of the Federal Republic of Nigeria which relates to the power of the Attorney-General of the State to institute, continue or discontinue criminal proceedings against any person in any Court of Law, the Commission may compound any offence punishable under this Law by accepting such sums of money as it thinks fit, not exceeding the maximum amount of the fine to which that person would have been liable if he had been convicted of that offence as may be approved by the Attorney-General.

60. The Commission shall-

Retention of 5%

- (a) retain five percent (5) of all monies received under the provisions of subsection (2) of Section 59 above, including all other monies recovered or otherwise realized by the Commission under this Law;
- (b) pay into an Escrow Account, the remaining money which shall be used for the execution of special projects in the State, including infrastructure, provision of medical care, education and social amenities.

61. (1) Any person who, in the discharge of his duty under this Law, knowingly gives information which is false in any material particular, commits an offence under this Law and the onus shall lie on him to prove that such information was supplied to him by another

Offences relating to false information.

person and that he exercised all diligence to prevent the Commission of the offence having regard to the nature of his functions in that capacity and to all the circumstances.

(2) The penalty for offences under subsection (1) shall be imprisonment for a term not less than five (5) years and where the offender is a public servant/officer the penalty shall be imprisonment for a term of not more than seven (7) years or to a fine not less than ₦200,000 (Two Hundred Thousand Naira).

- (3) (a) Any person who-
- (i) commits or attempts to commit fraud by means of fraudulent or corrupt act by promises, threats, unlawful influence, corruption, bribery or other actions;
 - (ii) directly or indirectly attempting to influence in any manner the fiscal and financial affairs in order to obtain an unfair advantage in the sale and transfer of public properties;
 - (iii) enters or attempts to enter into a collusive agreement, whether enforceable or not, with a supplier, contractor or service provider in order to inflate the prices;
 - (iv) wilfully refuses to allow the Commission or its officers to have access to financial records;
 - (v) alters or uses fake documents; or
 - (vi) being an officer of a bank or other financial institution who fails or neglects to secure compliance with the provisions of this Law, commits an offence and shall be liable on conviction to cumulative penalty of debarment from all financial transactions for a period not more than five (5) years, in addition to a fine equivalent to the value of the transaction in issue.

(b) Any person who-

person and that he exercised all diligence to prevent the Commission of the offence having regard to the nature of his functions in that capacity and to all the circumstances.

(2) The penalty for offences under subsection (1) shall be imprisonment for a term not less than five (5) years and where the offender is a public servant/officer the penalty shall be imprisonment for a term of not more than seven (7) years or to a fine not less than ₦200,000 (Two Hundred Thousand Naira).

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 - (ii) directly or indirectly attempting to influence in any manner the fiscal and financial affairs in order to obtain an unfair advantage in the sale and transfer of public properties;
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 - (iv) wilfully refuses to allow the Commission or its officers to have access to financial records;
 - (v) alters or uses fake documents; or
 - (vi) being an officer of a bank or other financial institution who fails or neglects to secure compliance with the provisions of this Law, commits an offence and shall be liable on conviction to cumulative penalty of debarment from all financial transactions for a period not more than five (5) years, in addition to a fine equivalent to the value of the transaction in issue.

(b) Any person who-

- (i) makes or causes any person to make to an officer of the Commission or to any other public officer in the course of the exercise of his duty, any statement which to the knowledge of the person is false or is intended to mislead;
- (ii) with intent to defraud or conceal a crime or frustrate the Commission in its lawful inquiry/investigation of any suspected crime of corruption under the Corrupt Practices and Other Related Offences Act or under this or any other Law; shall be guilty of an offence and liable on conviction to be sentenced to imprisonment for a term which may extend to seven (7) years.

(4) Without prejudice to the provisions of this Law and any other existing Law, whoever voluntarily obstructs any officer or staff of the Commission in the discharge of his functions under this Law relating to request for the production of documents subject to inquiry, or invitation by the Commission on matters that are subject of inquiries, commits an offence and shall be liable on conviction to imprisonment for a term not less than two (2) years or to a fine of One Million Naira (₦1,000,000) for each day of default for an individual and a fine of Five Million Naira (₦5,000,000) for each day of default by a Corporate body.

(5) Without prejudice to the provisions of any other enactment, any regulatory agency or body in the financial sector shall, in the exercise of its functions, liaise with the Commission to investigate and monitor the commission of economic and financial crimes.

62. For the avoidance of doubt and without further assurance than this Law, all properties of a person convicted of an offence under this Law and shown to be derived or acquired from such illegal act shall be forfeited to the State Government.

Forfeitures.

63. (1) Any property subject of forfeiture under this Law may be seized by the Commission in the following circumstances- Seizure of Property.
- (a) the seizure is incidental to an arrest or search; or
 - (b) upon process issued by the Court following an application made by the Commission in accordance with the prescribed rules.
- (2) Whenever property is seized under any provisions of this Law, the Commission may-
- (a) place the property under seal; or
 - (b) remove the property to a place designated by the Commission.
- (3) Properties taken or detained under this Section shall be deemed to be in the custody of the Commission, subject only to the order of a Court.
64. Any person who commits an offence under the provisions of this Law where no punishment has been prescribed shall be liable on conviction to a term of imprisonment which may extend to two (2) years or to a maximum fine of One Million Naira only (₦1,000,000.00) or to both. Punishment for offences not specifically provided for.
65. The State High Court shall have the original jurisdiction to try offences under this Law. Jurisdiction to try Offences.

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



TORESE AGENA, Ph.D.
Clerk of the House.

This printed impression has been endorsed by me to be correct.



RT. HON. CHRISTOPHER ADAJI
Deputy Speaker
Benue State House of Assembly

I ~~ASSENT~~ / ~~WITHHOLD ASSENT~~ this ^{5th} day of ^{August} 2020.



SAMUEL ORTOM
Governor
Benue State of Nigeria.

SCHEDULE 1 (Section 6)
LIST OF CORPORATIONS, AGENCIES AND GOVERNMENT OWNED
COMPANIES

1. Benue Investment and Property Development Company;
2. Benue Television Corporation;
3. Radio Benue;
4. Government Printing Department;
5. Benue Links NIG Limited;
6. Benue Internal Revenue Service;
7. Benue State Agricultural and Rural Development Authority;
8. Benue Tractor Hiring Agency;
9. Benue State Urban Development Board;
10. Benue Rural Water Supply and Sanitation Agency;
11. Benue State Water Board;
12. Council for Arts, Culture and Tourism;
13. Bureau of Archives, Research and Documentation;
14. Benue State Road Traffic Maintenance Agency.

SCHEDULE 2 (Sections 5 & 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 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 has 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.