

A
BILL
FOR

Long title. A Law to establish the Akwa Ibom State Fiscal Responsibility Board and other matters related thereto.

Commencement. ()

Enactment. **BE IT ENACTED** by the Akwa Ibom State House of Assembly as follows:

PART I
SCOPE AND APPLICATION

Scope and Application. 1. This Law shall apply to the Akwa Ibom State Government, House of Assembly, Judiciary, Local Government Councils, all MDAs and authorities in their handling and management of public funds.

PART II
ESTABLISHMENT, POWERS AND FUNCTIONS OF THE BOARD

Establishment of Fiscal Responsibility Board. 2. (1) There is hereby established a body to be known as the Akwa Ibom State Fiscal Responsibility Board (in this Law referred to as "the Board")

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

(3) The Board shall have the power to acquire, hold or dispose of any property, movable or immovable, for the purpose of carrying out any of its functions under this Law.

Management Committee of Board. 3. (1) The Board shall have a Management Committee headed by a Director-General who shall be a civil servant appointed by the Governor and shall be the accounting officer of the Board.

(2) The Management Committee of the Board shall consist of the Director-General and such other heads of departments as maybe approved by the Council.

(3) The Director-General of the Board shall have cognate experience of not less than fifteen years as an economist.

(4) The Director-General of the Board shall be responsible for the policy implementation and day-to-day administration of the Board.

(5) The remuneration, allowances and other benefits of the employees of the Board shall be as applicable in the State civil service.

Responsibility of Board.

4. The Board shall be responsible for monitoring the observance and the enforcement of the provisions of this Law.

Power of Board.

5. For the purpose of performing its functions under this Law, the Board shall have the power to –

- (a) compel any person, authority, arm of the Government of Akwa Ibom State, MDA or Local Government to which this Law applies to disclose information in whatever form relating to public funds and expenditure and to comply with this Law or regulations made pursuant to this Law.
- (b) investigate or cause an investigation into whether any person has violated any provisions of this Law.
- (c) direct any course of action that will bring the affairs of a MDA or Local Government in line with this Law or any templates issued pursuant to regulations made under this Law.
- (d) develop and supervise the application of a protocol for creation, retention, management, retrieval and dissemination of all publicly held information in Akwa Ibom State relating to matters covered by this Law.
- (e) create a lean administrative structure, such as is necessary for effectively carrying out its functions.

Power to prosecute.

6. If the Board is satisfied that any person has committed an offence under this Law or violated any provisions of this Law, it shall, subject to

section 211 of the Constitution of the Federal Republic of Nigeria, 1999,–

- (a) undertake direct prosecution of such an offender through the Legal Department of the Board; or
- (b) engage the services of an experienced legal practitioner to undertake the prosecution of such offender.

Functions of Board.

7. (1) The Board shall perform the following functions:
- (a) Monitor and enforce the provisions of this Law in order to promote the economic objectives of the State.
 - (b) Regularly institute such standard good practices, whether international or local, that will result in greater efficiency in the revenue collection, control of public debt and expenditure, and transparency in fiscal matters.
 - (c) Undertake fiscal and financial studies, analysis and diagnosis and disseminate the result to the public as well as develop and implement knowledge and skills improvement programmes on fiscal management issues for the State civil service.
 - (d) Establish, maintain and keep regularly updated fiscal management portal that will serve as a definitive source of fiscal management information for the public.
 - (e) Make regulations for carrying out all functions by all MDAs under this Law.
 - (f) Make regulations and issue guidelines from time to time for implementing the provisions of this Law, including providing administrative sanctions for infractions of the Law.
 - (g) Develop and implement a mandatory performance management and reporting system for all MDAs in Akwa Ibom State.
 - (h) Settle administrative disputes, if any, arising and relating to the provisions of this Law.

- (i) Perform any other function consistent with the promotion of the objectives of this Law.
- (2) The Board shall be independent in the performance of its functions.

PART III

ESTABLISHMENT, FUNCTIONS AND COMPOSITION OF FISCAL RESPONSIBILITY COUNCIL

Establishment of Fiscal Responsibility Council.

8. There is hereby established for the Akwa Ibom State Fiscal Responsibility Board a body to be known as the Fiscal Responsibility Council (referred to in this Law as “the Council”).

Functions of Council.

9. The Council shall perform the following functions:

- (a) Approve general policy and guidelines for the discharge of the functions of the Board, and for implementation by the management and staff.
- (b) Supervise implementation of the policies of the Board.
- (c) Approve the number and minimum qualification of senior staff that may be necessary for the proper and efficient performance of the functions of the Board for the State Civil Service Commission to appoint.
- (d) Determine the departmental and management structure of the Board.
- (e) Ensure that the Board has a lean staff strength and management structure and that staff are made up of persons with specialized qualification and experience in fiscal planning, economics, enforcement and related issues, except staff below Grade Level Six.
- (f) Ensure that the staff have all resources required to efficiently carry out their functions.
- (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 Council may, from time to time determine.

- (h) Ensure that the management and staff of the Board under the leadership of the Director-General shall have free hands in carrying out the day-to-day functions of the Board.
- (i) Do other things which in its opinion are necessary to ensure the efficient performance of the functions of the Board.

Composition of Council.

10. (1) The Council shall consist of –
- (a) the Commissioner for Finance as Chairman;
 - (b) two members who shall have current practice or tertiary level teaching experience of not less than fifteen years in any of the fields of economics, accountancy, statistics or public finance.
 - (c) a member representing –
 - (i) the organized private sector;
 - (ii) civil society organizations operating within the State, engaged in causes relating to fiscal management, transparency and accountability;
 - (iii) the organized labour;
 - (iv) Ministry of Finance (civil servant not below head of department)
 - (v) Ministry of Economic Development (civil servant not below head of department)
 - (vi) Ministry of Justice (civil servant not below head of department)
 - (vii) State Budget Office (civil servant not below head of department)
 - (d) a Chairman of a Local Government Council;
 - (e) a Director of Finance of another Local Government Council.
 - (f) the Director-General of the Board who shall be the Secretary of the Council.
- (2) Members of the Council shall be persons of proven integrity and must possess appropriate qualification in any one of the fields of Economics, Accountancy, Law, Finance, Statistics or related disciplines.
- (3) The Chairman and other members of the Council shall be appointed by the Governor.

(4) Members of the Council shall be paid appropriate sitting allowance in line with the category of the Board as shall be spelt out in the Secretary to the State Government's Circular.

Tenure of office.

11. The members of the Council, other than ex-officio members and the Director-General of the Board, shall hold office for a term of Four years renewable for only one term at the instance of the Governor.

Cessation of Membership

12. (1) Notwithstanding the provisions of section 11 of this Law, a member of the Board shall cease to hold office or be removed by the Governor if he –

- (a) becomes bankrupt or makes a compromise with his creditors;
- (b) is convicted by a Court of Law (whether in Nigeria or elsewhere) of any offence involving dishonesty, corruption or fraud;
- (c) is found wanting by an administrative panel (whether in Nigeria or elsewhere) of any misconduct involving dishonesty, corruption or fraud;
- (d) becomes incapable of carrying out the functions of his office either by reason of infirmity of mind or body;
- (e) has been found guilty of violation of the Code of Conduct contained in the Constitution or of a serious misconduct in relation to the performance of his duties as a member of the Council.
- (f) resigns his appointment by a notice under his hand addressed to the Governor; or
- (g) ceases to occupy the office that made him to be appointed into the Council.

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

(3) Appointments to the Council shall not be based on quota considerations but on merit.

PART IV
ANNUAL REPORT AND FUND OF BOARD

Annual Report.

13. (1) The Board shall prepare and submit to the State House of Assembly not later than 30th March in each financial year a report of its performance containing the levels of compliance with the provisions of this Law by all MDAs.

(2) The report mentioned in subsection (1) of this section shall include a brief on all cases of contravention of the provisions of this Law and regulations investigated during the preceding financial year and a copy of its Audited Accounts for the preceding financial year.

Fund of Board.

14. (1) The Board shall establish and maintain a fund from which shall be defrayed all expenditure incurred by the Board including amounts payable to members of the Board.

(2) There shall be credited to the fund established pursuant to subsection (1) of this section the budgetary allocation from the State Government, grants from other sources and other revenues of the Board.

PART V

THE MEDIUM TERM EXPENDITURE FRAMEWORK

Medium Term
Expenditure Framework.

15. (1) The Commissioner for Economic Development, in consultation with the Local Government Councils in the State 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 for the next three financial years, and

(b) thereafter, not later than the 2nd of August in each year cause to be prepared and laid before the House of Assembly for consideration, a Medium Term Expenditure Framework for the next three financial years.

(2) The Medium Term Expenditure Framework so laid before the House of Assembly shall be considered for approval with such modifications, if any, as the House of Assembly may, by a Resolution, find appropriate, on or before the 30th day of September in each year.

- (3) The Medium Term Expenditure Framework shall contain –
- (a) a Macroeconomic Framework setting out the macroeconomic projections for the next three financial years, the underlying assumptions for those projections and an evaluation and analysis of the macroeconomic projections for the preceding three financial years;
 - (b) a Fiscal Strategy Paper setting out –
 - (i) the State Government's medium term financial objectives,
 - (ii) the policies of the State Government for the medium term relating to taxation, recurrent (non-debt) expenditure, debt expenditure, capital expenditure, borrowing, investment and other liabilities;
 - (iii) the strategic economic, social and developmental priorities of the State for the next three financial years, and
 - (iv) an explanation of how the financial objectives, strategic, economic, social and developmental priorities and fiscal measures set out pursuant to sub-paragraphs (i), (ii) and (iii) of this paragraph relate to and comply with the economic objectives set out in section 16 of the Constitution;
 - (c) a Revenue and Expenditure Framework setting out –
 - (i) estimates of aggregate revenues for the State for each financial year in the next three financial years, based on the predetermined commodity reference price, tax and other revenue projections,
 - (ii) aggregate expenditure projection for the State for each financial year in the next three financial years,
 - (iii) aggregate capital expenditure floor for the State for each financial year in the next three financial years:

Provided that all the estimates of revenue and expenditure shall be –

- (A) based on reliable and consistent data,
 - (B) targeted at achieving the macroeconomic projections set out in subsection (3) (a) of this Section,
 - (C) consistent with and derive from the underlying assumptions contained in the Macroeconomic Framework, the objectives, policies, strategic priorities and explanations in the Fiscal Strategy Paper;
- (d) a Consolidated Debt Statement setting out and describing the fiscal significance of the debt liability of the State Government, with such details on each borrowing as principal sum borrowed, interest accruing, principal and interest already paid, amount outstanding in each case, debt servicing requirement for the next three years, project in respect of which borrowing was incurred, levels of its implementation and measures to reduce any such liability; and
- (e) a statement describing the nature and fiscal significance of the contingent liabilities and quasi-fiscal activities and measures to offset the crystallization of such liabilities.

Aggregate Expenditure ceiling.

16. (1) The aggregate expenditure and the 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 three percent of the actual revenue for the preceding year.

(2) The aggregate expenditure for the financial year may exceed the ceiling imposed by the provisions of subsection (1) of this section if there is predicted a clear and imminent threat of a natural or other disaster which shall occur in or affect the State.

Preparation of Medium Term Expenditure Framework.

17. (1) The Commissioner for Economic Development (referred to as “the Commissioner” in this Part) shall be responsible for the preparation of the Medium Term Expenditure Framework.

(2) In preparing the draft Medium Term Expenditure Framework, the Commissioner shall –

- (a) hold public consultation on the Macroeconomic Framework, the Fiscal Strategy Paper, the Revenue and Expenditure Framework, the strategic economic, social and developmental priorities of Government and such other matters as the Board may deem necessary:

Provided that such consultation shall be open to the public, the press, any citizen or authorized representatives of any organization who may attend and be heard on any subject matter properly in view,

- (b) seek inputs from –
- (i) all MDAs, especially, the Ministry of Finance;
 - (ii) the Civil Society Organizations
 - (iii) the Organized Labour within the State;
 - (iv) the House of Assembly;
 - (v) the Chamber of Commerce and Industry, Mines and Agriculture in Akwa Ibom State; and
 - (vi) any other relevant statutory body or interest groups as the Board may by a directive or its regulations determine or the Commissioner may desire to consult.
- (c) consider and reflect in the Medium Term Expenditure Framework, as may be deemed appropriate, the inputs of the bodies and persons referred to in paragraphs (a) and (b) of this subsection.

(3) The bodies mentioned in this section and all MDAs in the State in developing their inputs to the Medium Term Expenditure Framework shall consult their stakeholders including citizen groups and business associations.

Time limit for presentation and approval of Medium Term Expenditure Framework.

18. (1) The Commissioner shall before the end of the July of each financial year present the Medium Term Expenditure Framework to the State Executive Council for consideration and approval.

(2) The State Executive Council shall submit the Medium Term Expenditure Framework to the House of Assembly within twenty-one days of receipt from the Commissioner.

(3) The House of Assembly shall, by a simple majority vote, approve the Medium Term Expenditure Framework on or before the end of thirty days from the date of its submission in each year.

(4) The Medium Term Expenditure Framework shall take effect upon approval by a Resolution of the House of Assembly or upon expiration of thirty days from the date of its submission to the House of Assembly.

Publication of Medium
Term Expenditure
Framework in State
Gazette, etc.

19. (1) The Commissioner shall cause the Medium Term Expenditure Framework, as approved by the House of Assembly, to be published in the State Official Gazette and the Ministry's website within one month of approval.

(2) Prior to the publication pursuant to subsection (1) of this section, copies of the approved Medium Term Expenditure Framework shall be made available to all MDAs in the State.

(3) The Ministry of Economic Development shall, as soon as this Law is passed, develop and disseminate to all MDAs templates for collation of economic data and information.

(4) The Ministry of Economic Development, in consultation with the Board, shall collate, analyze and publicly disseminate economic data and information not later than four months after the end of each financial year.

(5) The contents of these templates and the data to be collated and reported, the timelines and points of submission shall be as set out in the regulations made by the Board, from time to time, which shall at all times cover all relevant economic and social indicators required for economic planning.

(6) Any person who has responsibility under this Law or regulations made pursuant to this Law to collect and report on economic or social data and information, who fails completely or partially to do so, without lawful excuse may, without prejudice to regulations to be made by the Board, be demoted from his current rank or pay fine and or such other administrative sanction as the Board may from time to time determine.

(7) If the person referred to in subsection (6) is a political appointee, such a person shall be relieved of his appointment by the Governor immediately upon the recommendation of the Board.

(8) The disciplinary measures or sanctions referred to in subsections (6) and (7) shall be without prejudice to any other sanctions imposed by Law where the action amounts to an offence.

Adjustments to the
Medium Term
Expenditure Framework.

20. The Governor may cause adjustments to be made to a Medium Term Expenditure Framework to –

- (a) correct manifest error; or
- (b) change fiscal indicators which, in the opinion of the Governor, are significant.

Application to Local
Government.

21. (1) The provisions of this Law shall apply to Local Governments in the State, with such adjustments as the regulations may introduce to ensure operability as a result of the unique structure and capacity of the Local Governments.

(2) The Board, in order to ensure smooth application of the provisions of this Law to the Local Governments, shall develop and issue regulations and simplified templates and manuals in accordance with this Law for the management of Local Government fiscal affairs in accordance with the Medium Term Expenditure Framework and the regulations shall be used to regulate fiscal affairs and operations of all Local Governments in the State.

PART VI THE ANNUAL BUDGET

The Budget Process

22. (1) The State Budget Office shall have the responsibility of coordinating the budget process and harmonizing the different estimates of all MDAs in the State relating to recurrent expenditure for presentation to the State Executive Council for approval.

(2) The State Budget Office shall, on or before the 5th of August in each financial year issue recurrent budget call circulars for the next financial year to all relevant MDAs.

(3) The Ministry of Economic Development shall on or before 5th of August in each financial year, issue Capital Budget call circulars for the next financial year to all MDAs.

(4) All MDAs to which the budget call circulars are issued, shall submit and harmonize their budgets with the Ministry of Finance and Ministry of Economic Development, as applicable, not later than a date to be set by the regulations made pursuant to this Law.

(5) The budget call circulars issued shall comply fully with the projections in the Medium Term Expenditure Framework before the Executive Council for consideration at the time.

(6) The State Executive Council shall consider and approve the Budget for submission to the House of Assembly not later than the end of October in each year.

(7) Every MDA shall ensure that its budget process shall be open to public participation, and, as much as is practicable, make available its portions of the budget call circular to and consult all its stakeholders including citizens groups and relevant businesses regarding its budget proposals.

(8) Nothing in this Law shall prevent a MDA from beginning to articulate its inputs into the Medium Term Expenditure Framework and budget earlier than the period herein provided.

(9) Every MDA shall, upon approval of the Medium Term Expenditure Framework by the House of Assembly, immediately consult the Ministry of Finance and Ministry of Economic Development to ensure that its proposed budget estimates are in line with the stipulations of the Medium Term Expenditure Framework approved.

(10) In the case of Local Governments' Budget process, the Ministry of Local Government and Chieftaincy Affairs shall have the responsibility to issue both the recurrent and capital estimates call circular to all Local Governments in the State, on or before the 5th of September in each financial year, for the next financial year.

(11) All Local Government Councils to which the budget call circular are issued, shall submit and harmonize their budgets with the Ministry of Local Government and Chieftaincy Affairs not later than a date to be set by the regulations made pursuant to this Law.

(12) Every Local Government Councils shall ensure that its budget process shall be opened to public participation as much as practicable, make available its portions of the budget call circular to and consult all its stakeholders including citizens groups and relevant businesses regarding its budget proposals.

(13) The Commissioner for Local Government and Chieftaincy Affairs shall, subject to the approval of the Board, constitute a committee to consider and approve the draft budget submitted by the respective Local Government Chairmen for presentation to their respective Local Government Legislative Councils not later than the end of November in each year.

Annual Budget to be derived from Medium Term Expenditure Framework.

23. (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 estimates of revenue and expenditure required to be laid before the House of Assembly under Section 121(1) of the Constitution.

(2) The sectoral and compositional distribution of the estimates of the expenditure referred to in subsection (1) of this section shall be consistent with the medium term development priorities set out in the Medium Term Expenditure Framework.

Annual Budget to be accompanied by certain documents.

24. The estimate of revenue and expenditure referred to in this Law 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 eighteen months up to June of the preceding financial year;
- (c) a revenue framework broken down into monthly collection targets prepared on the basis of predetermined revenue projection as contained in the Medium Term Expenditure Framework;
- (d) measures on cost, cost control and evaluation of results of programmes financed with budgetary resources;
- (e) a Fiscal Target Appendix derived from the underlying Medium Term Expenditure Framework setting out the following targets for the financial year:
 - (i) Target inflation rate,
 - (ii) Target fiscal account balances,
 - (iii) Any other developmental target as deemed appropriate, and

- (f) a Fiscal Risk Appendix evaluating the fiscal and other related risk to the annual budget and specifying measures to be taken to prevent the occurrence of such risks.

PART VII

BUDGETARY PLANNING OF STATE GOVERNMENT OWNED CORPORATIONS AND OTHER PUBLIC AGENCIES.

Preparation of Revenue
Estimates and Expenditures
by Corporations.

25. (1) All State Government corporations, agencies and State-owned companies (referred to in this Law as "the corporations") shall, not later than six months from the commencement of this Law, and in every financial year thereafter, not later than the end of the second quarter of every year, cause to be prepared and submitted to the Commissioner for Economic Development their estimates of revenue and expenditure for the next three financial years.

(2) The corporations shall, not later than the end of August or such other deadline stipulated in the regulations, submit the following to the relevant Commissioner in each financial year:

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

(3) The relevant Commissioner shall cause the estimates submitted in pursuance of subsection (2) of this section to be attached as appendix to the Appropriation Bill to be submitted to the House of Assembly.

Operating surplus and
General Reserve Fund.

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

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

(3) Any person or public officer responsible for a failure to comply with the provisions of subsections (1) and (2) of this section commits an offence and shall upon conviction, be punishable by one

year confinement or a fine of not less than five hundred thousand Naira only or both.

Classification of Corporation operating surplus.

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

(2) Where the result of a corporation's operations 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 each financial year prepare and publish its Audited financial reports in accordance with such regulations as may be prescribed from time to time by the Board.

(4) Any person or public office holder who fails to comply with subsections (1), (2) or (3) of this section commits an offence and shall on conviction be liable to a term of not more than one year confinement or a fine of not less than two hundred thousand Naira or both.

Cessation of Application.

28. The provisions of this Law with respect to corporations shall cease to apply to any corporation from the date of its privatization.

PART VIII

BUDGETARY EXECUTION AND ACHIEVEMENT OF TARGETS

Annual Cash Plan.

29. (1) The State Government shall cause to be drawn up in each financial year an Annual Cash Plan which shall be prepared by the Office of the State Accountant-General.

(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.

(3) The Accountant-General shall make publicly available the annual cash plan within twenty-one days of its preparation.

Disbursement schedule

30. (1) The Accountant-General shall within thirty days of the signing of the Appropriation Law, prepare and publish a disbursement schedule derived from the Annual Cash Plan for the purpose of implementing the Appropriation Law.

(2) The Accountant-General shall, on or before the end of March in each year, submit to the Auditor-General the State's account

for the year just ended and all relevant documentation for purpose of audit.

Power of Governor to approve virement.

31. (1) The sums appropriated in the Appropriation Law for a specific purpose shall be used solely for that purpose.

(2) The Governor may, upon the request of an MDA supported by a recommendation of the Commissioner for Finance, approve a request for virement of a specific value of not more than twenty percent of current appropriation for any specific project or budget subhead, provided always that the total value of virement approved by the Governor in a fiscal year shall not exceed five percent of the total budget value in the year.

(3) Without prejudice to subsection (1) of this section, the Governor may upon the recommendation of the Commissioner for Finance and in exceptional circumstances, for the overall public interest, request for the approval of the House of Assembly of virement from sub-heads of accounts where the value of requests for virement approved and any application pending will, when added up, exceed five percent of the value of the year's budget or where, though no approvals for virement have been earlier made in a year, the value of a particular request will exceed the five percent ceiling.

(4) Any person or public office holder who fails or causes or conspires with another not to comply with any of subsections (1), (2) or (3) of this section commits an offence and shall on conviction be liable to a term not less than one year confinement or a fine not less than one million Naira or both.

Power to restrict further commitment.

32. (1) Notwithstanding any other provisions of this Law, where by the end of three months, after the enactment of the Appropriation Law, the Commissioner for Finance determines that the targeted revenues may be insufficient to fund the heads of expenditure in the Appropriation Law, the Commissioner for Finance shall, within the next thirty days of such determination, take appropriate measures to restrict further commitments and financial operation according to the criteria set in the Fiscal Risk Appendix.

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

(3) The provisions of subsections (1) and (2) of this section shall not apply to expenditure which is a direct charge on the Consolidated Revenue Fund of the State.

Tax Expenditure and
grant of Tax Relief.

33. (1) Any proposed tax expenditures shall be accompanied by an evaluation of its budgetary and financial implications in the year it becomes effective and in the three subsequent years, and shall only be approved by the Commissioner for Finance if it does not adversely impair the revenue estimates in the annual budget or if it is accompanied by countervailing measure during the period mentioned in this subsection through revenue increasing measures such as tax rate raises and expansion of the tax base.

(2) The provisions of this section shall not apply to –

- (a) changes in the rates of the taxes mentioned in section 163 of the Constitution; and
- (b) debt cancellation in an amount lower than the cost of collection.

(3) Any proposed tax waivers shall be accompanied by an evaluation of its budgetary and financial implications in the year it becomes effective and for subsequent years, as well as any expected benefits to the State that will result from the waiver and how these were arrived at.

Monitoring and reporting
on implementation of
Appropriation Law.

34. (1) The Commissioner responsible for State budget, through the State Budget Office, shall monitor and evaluate the implementation of the annual budget with respect to recurrent estimates, all receipts and payments, assess the attainment of fiscal targets by recurrent expenditure and report thereon on a quarterly basis to the Board and the Finance and Appropriations Committee of the House of Assembly.

(2) The Ministry of Economic Development shall monitor and evaluate the implementation of the annual budget with respect to capital estimates, assess the attainment of fiscal targets and report thereon on a quarterly basis to the Board and the Finance and Appropriations Committee of the House of Assembly.

(3) Each of the foregoing ministries shall cause a summary of their reports to be prepared and submitted to the Board, published in the mass and electronic media and place a full copy on their respective

websites, not later than thirty days after the end of each quarter, if no other deadline is provided for in the regulations.

(4) In the case of monitoring and report on implementation of Local Government appropriation, the Commissioner for Local Government and Chieftaincy Affairs, shall monitor and evaluate the implementation of the Local Governments annual budget with respect to both recurrent and capital estimates, all receipts and payments, assess the attainment of fiscal targets by both recurrent and capital expenditure and report thereon on a quarterly basis to the Board and the Finance and Appropriations Committee of the State House of Assembly.

(5) The Commissioner for Local Government and Chieftaincy Affairs shall cause a summary of their reports to be prepared and submitted to the Board, published in the mass and electronic media and place a full copy on their websites, not later than thirty days after the end of each quarter, if no other deadline is provided for in the regulations.

PART IX PUBLIC REVENUE

Revenue forecast.

35. The Commissioner for Finance shall, not later than three months to the end of a current fiscal year, consolidate capital and recurrent budgets proposals for the next fiscal year prepared as provided above and present same to the State Executive Council, for approval.

Budget proposals.

36. (1) The State Executive Council shall, within thirty days of the presentation before it of the budget proposals by the Commissioner for Finance, consider, approves and submits same to the House of Assembly for consideration.

(2) Each MDA shall submit along with its budget, initiatives for improving its internally generated revenue

Executive to breakdown estimated Revenue.

37. Estimated revenue shall be broken down by the executive arm of Government into monthly collection targets, including a separate description of measures to improve tax collection and combat tax fraud and evasion.

PART XII
SAVINGS AND ASSETS MANAGEMENT

Savings and Assets
management

38. (1) Where the revenue of the State or Local Government exceeds a predetermined level, the resulting excess proceeds shall, subject to subsection (9) of this section, be saved in a Reserve Revenue Account to be opened with the Central Bank of Nigeria.

(2) The State shall through the Commissioner for Finance, as it may from time to time deem fit, direct the Central Bank of Nigeria to invest all or part of the Reserve Revenue Fund for and on behalf of the State Government.

(3) The State, in making choice of investment under this section, shall observe the limits and conditions imposed by safety and prudence and the need to maintain macro-economic stability.

(4) The State Government shall not have access to the savings made in pursuance of the foregoing provisions of this section unless where there is clear indication that the State was going to run deficit in respect of an essential service or goods in the Appropriation Law.

(5) The augmentation referred to in subsection (4) of this section shall be limited to such sums that will bring the revenue of Government to the level contained in its budget estimates.

(6) Notwithstanding the foregoing provisions of this section, a proportion not exceeding twenty percent of the savings may be applied for the purposes of subsections (4) and (5) of this section or appropriated in the following years for capital projects or human capital development programmes:

Provided that this subsection shall take effect only on the approval of –

- (a) two-thirds resolution of all members of the State House of Assembly,
- (b) two-thirds of all serving members of the House of Representatives and the Senate from the State,
- (c) the Akwa Ibom State traditional Rulers' Council,

and that a public notice of a proposal for such an augmentation, the projects for which it is meant and justification for such proposal will be published widely in the media thirty days before the decision of the State House of Assembly.

(7) Any person who contravenes this section shall on conviction be punishable with a confinement of not less than one year without option of fine.

(8) Not later than one year from the commencement of this Law, the Governor shall cause a Contingency Fund Account in accordance with section 123 of the 1999 Constitution to be opened.

(9) Without prejudice to any other provisions of this Law, not more than ten percent of the savings referred to in subsection (1) of this section shall be credited to the Contingency Fund Account, which shall be an interest yielding account at premium market rates, to cover all urgent and unforeseen needs for expenditure like natural disaster, outbreak of diseases and disturbances, to be appropriated by supplementary budgets as contemplated in Section 123 of the 1999 Constitution.

(10) Where at the end of any two-year period no such disaster has been recorded or, though recorded, funds remain outstanding in this account, such portions of the fund outstanding, not being less than sixty percent of it, shall be credited to and become part of the Reserve Revenue Account.

(11) The Board shall from time to time issue regulations regarding the investment of revenue of Local Governments falling above pre-determined level, which regulations must be as close as possible to the requirements for investment and utilization of similar State funds herein provided for.

PART XIII PUBLIC EXPENDITURES

Condition for increasing
Government Expenditure

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

- (a) an estimate of budgetary or financial impact in the year it becomes effective and in the two subsequent years; and
- (b) a statement by the person requesting for the expenditure, Appropriation Law and Medium-Term Expenditure Framework.

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

Conditions for increasing Personnel Expenditure.

40. The granting of any advantage or increase of remuneration, the creation of posts or allocation of career structures and admission of personnel on any account by persons, bodies and entities to which this Law applies, shall only be effected if there is prior budgetary allocation sufficient to cover the estimated expenditure.

All contracts to comply with Law, Regulations and Guidelines.

41. All contracts with regards to the execution of annual budget shall comply with the Law, regulations and guidelines on –

- (a) public procurement and award of contract; and
- (b) due process and certification of contract.

PART XIV

DEBT AND INDEBTEDNESS

Framework for Debt Management

42. The framework of debt management during the financial year shall be based on the following rules:

- (a) The State Government or Local Government shall only borrow for the capital expenditure and human capital development:
Provided that such borrowing shall be on concessional terms with low interest rates and with a reasonable long amortization period subject to the prior approval of the House of Assembly or the Legislative Council of a particular Local Government desiring to borrow and the Board and State Debt Management Office; and
- (b) The State Governments shall ensure that the level of public debt as a proportion of the State's income is held at a sustainable level as prescribed by the State House of Assembly from time to time on the advice of the Board and the State Debt Management Office.

Limits on consolidated Debt of State and Local Government

43. (1) The Board shall enforce compliance with overall limits for the amounts of consolidated debt of the State and Local Governments set pursuant to the limits and conditions stipulated by the Fiscal Responsibility Act and the fiscal policy objectives in the Medium Term Fiscal Framework.

(2) Outstanding judgment debts not paid shall be considered debts for the purpose of application of the respective limits set in pursuance of this section.

(3) For the purpose of verifying compliance with the limits specified pursuant to this section, the Board, in consultation with the Debt Management Office, shall at the end of each quarter determine the amount of the consolidated debt of the State and each Local Government.

(4) The Board shall publish on a quarterly basis a notice to the effect that the State or a Local Governments has exceeded the limits of consolidated debt, indicating the amount by which the limit was exceeded.

(5) Where at the end of any quarter, the consolidated debt of the State or Local Government exceeds the respective limits, it shall, in accordance with the Fiscal Responsibility Act 2007, be brought within the limits, not later than the end of the three consequent quarters, with a minimum of twenty-five percent reduction in the first quarter.

(6) Violators of the limits specified pursuant to this section shall –

(a) not be entitled to borrow from internal or external sources, except for the refinancing of existing debts; and;

(b) bring the debt within the established limit by restricting funding commitments accordingly.

(7) Where non compliance with the limit specified pursuant to this section persist after the time limited by subsection (5) of this section, the affected Government shall not be entitled to receive grants from any other Government in the Federation.

Servicing of Debt.

44. (1) Servicing of debts shall be the direct responsibility of the Government or MDA that incurred the debt.

(2) The cost of servicing State Government guaranteed loans shall be deducted at source from the debtor Government's share of revenue from the State Joint Allocation Account.

PART XV
BORROWING

Conditions of borrowing
and verification of
compliance limits.

45. (1) The State Government, MDAs, corporations or Local Governments desirous of borrowing shall specify the purpose of 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.

(2) Subject to the Fiscal Responsibility Act and without prejudice to subsection (1) of this section, each borrowing shall comply with the following conditions:

- (a) The existence of a prior authorization in the Appropriation Law or other laws 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 expenditures or for purpose of human capital development.

(3) Nothing in this section shall be construed to authorize borrowing in excess of the debt limits set in this Law or the Fiscal Responsibility Act.

(4) The Board shall verify on a quarterly basis compliance with limits and conditions for borrowing by each Government in the State and maintain collaborative relationship with the Fiscal Responsibility Commission at the Federal level.

(5) The State Debt Management Office shall maintain comprehensive, reliable and current manual and electronic databases of internal and external public debts, and the public shall have free access to the information, but the cost of duplication of manual information shall be borne by any person requesting for it.

Lending by Financial
Institutions.

46. (1) Every person or financial institution shall request and obtain from the Board documentary proof of compliance with the provisions of this Part before lending to any Government, MDA or Local Government in the State.

(2) Any lending by any person or financial institution to the State, its Local Government or MDA in contravention of this section

shall not be enforceable, by any means, against the State, Local Government or MDA.

(3) Any person who contravenes this section commits an offence and shall on conviction, in the case of an individual, be punishable in accordance with section 52 (6) of this Law and in the case of a legal person, be punishable by a fine not less than one million Naira.

Power of Commissioner to give guarantees.

47. (1) Subject to the provisions of this Part, the Commissioner for Finance may, with the approval of the State Executive Council, give guarantees on behalf of a Local Government or MDA in the State.

(2) Any guarantee given by the Commissioner for Finance shall be conditional upon the provision of a counter guarantee by the prospective borrower or debtor in an amount equal to or higher than the guarantee obligation:

Provided that there are no overdue obligations from the prospective borrower or debtor to the State Government, and such guarantee shall also be on compliance with the following conditions:

- (a) Counter-guarantee, for borrowing by a Local Government, shall only be accepted from the prospective borrower Local Government; and
- (b) The counter-guarantee required by the State Government from the prospective borrower, may consist in the appropriation of any revenue accruable to the borrower from the Joint Revenue Account or any other viable revenue source and the guarantor shall be authorized to retain such revenue or a portion of it and to use the amount to repay overdue debts.

PART XVI

TRANSPARENCY AND ACCOUNTABILITY

Fiscal Transparency.

48 (1) The State shall ensure that their fiscal and financial affairs are conducted in a transparent manner and accordingly ensure full and timely disclosure and wide publication of all transactions and decisions involving public revenues and expenditure and their implications for its economy.

(2) Subject to the provisions of subsection (1) of this section, and regulations to be made from time to time by the Board, all MDAs

and Local Governments shall maintain different internet web portals where all their information including fiscal and financial reports, the approved annual budget, budget implementation reports, individual MDA performance reports and, in the case of the Auditor General, the reports of audited accounts of the State, shall be published.

(3) All MDAs and Local Governments shall maintain hard copies of information found on their portals and they shall be accessible to the public at the cost of copying and certification when required.

(4) The House of Assembly shall ensure transparency and public observance during the preparation and discussion of the Medium Term Expenditure Framework, Annual Budget and the Appropriation Bills.

(5) No official secrets law, rule or practice shall operate or be invoked or relied upon by any person to deny, limit or in any way negatively affect the exercise of the right to information conferred by this Law or the Freedom of Information Act upon any person, group, persons, institution, body or agency.

Publication of Audited
Account.

49 (1) The Auditor-General shall audit and publish comprehensive audited accounts of all the Governments and other entities to which this Law applies not later than six months after the end of each financial year.

(2) The Commissioner for Finance shall, not later than twelve calendar months following the commencement of this Law and thereafter, not later than the end of each preceding year compile and submit to the Auditor-General and the House of Assembly steps to remedy all audit queries raised in the previous year.

(3) Upon receipt of the report referred to in subsection (2) of this section, the Auditor-General shall prepare, within two months of such receipt and submit to the House of Assembly comments on propriety of actions taken and recommendations for necessary action by the House of Assembly.

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

(5) Every function imposed on a Commissioner under this Law, in the absence of the Commissioner, shall be performed by the

Permanent Secretary of such ministry and in the absence of both, by the next highest-ranking officer in the ministry.

Publication of a summarized Report on Budget Execution.

50. The State Budget Office and Ministry of Economic Development shall within thirty days after the end of each quarter, respectively submit to the Board and publish a summarized report on their monitoring of recurrent and capital budget execution in such form as may be prescribed by the Board.

Consolidated budget execution report to be published and submitted to the House of Assembly.

51. The Commissioner for Finance shall, not later than four months after the end of each financial year, cause a consolidated budget execution report showing implementation against fiscal and financial performance targets to be published and submit same to the House of Assembly for consideration.

PART XVII

OFFENCES, PENALTIES AND ENFORCEMENT

Offences and Penalties

52. (1) Any person who willfully, whether directly or indirectly, hinders or obstructs another from performing the functions or duties imposed by this Law commits an offence and shall upon conviction be liable to a term of confinement of not less than three months or a fine not less two hundred thousand Naira or to both.

(2) Any person who, knowingly, gives false information to another person in response to a request made either in the performance of a function imposed by this Law or in the exercise of right to information conferred by this Law, commits an offence and shall upon conviction be liable to a term of confinement of not less than three months or fine not less than two hundred thousand Naira or to both.

(3) Any person who refuses to give information to another upon a request made in the performance of function imposed by this Law commits an offence and shall upon conviction be liable to a term of confinement of not less than three months or a fine of not less than one hundred thousand Naira or to both.

(4) Any person who, without lawful excuse, fails to perform a duty imposed upon or assigned to him or the office which he occupies commits an offence and shall upon conviction be liable to a term of

confinement of not less than three months or fine not less than two hundred thousand Naira or to both.

(5) Subject to section 54 of this Law, any person who fails to retire sums granted to him or his office for official purposes at the end of a financial year commits an offence and shall upon conviction, in the case of a first offender, be liable to refund any sums not retired and a fine of not less than one hundred thousand Naira and in any other case, to an additional term of confinement of not less than three months.

(6) Any person responsible for borrowing in contravention of the provisions of Part XV of this Law commits an offence and shall upon conviction be liable to confinement for a term not less than six months.

(7) Where this Law makes any act of omission an offence but did not assign a punishment to such offence, any person convicted for such offence shall be liable to confinement for a term not less than three calendar months or fine not less than one hundred thousand Naira or to both.

(8) Where an infraction is committed in performance of the functions of a MDA or Local Government, the political head shall be responsible, as well as the administrative head and the responsible departmental head except the administrative head and responsible departmental head can show that they provided contrary written advice to the political head.

Enforcement.

53. (1) Any person whose place of origin is in the State shall have the legal capacity to enforce the provisions of this Law by obtaining prerogative orders or other remedies at the State High Court, without having to prove any injury, personal or otherwise or to show any special or particular interest in the cause of action.

(2) The court shall have the power to, whether under a criminal or civil action brought pursuant to the provisions of this Law, order the recovery of every proceeds of corrupt enrichment obtained by or conferred on any person from any Government revenue.

PART XVIII
MISCELLANEOUS PROVISIONS

Unused funds to be returned to Treasury.

54. Every sum budgeted but which remained unused at the end of the financial year shall, not later than thirty days from the end of the financial year, be returned to the State or Local Government treasury, whichever is appropriate:

Provided that sums tied to maturing or pending obligations shall not be returned but used to settle such obligations.

Government Securities as collateral to guarantee Loan.

55. Government securities listed on the stock exchange, may be offered as collateral to guarantee loans or other financial transactions under this Law for their economic value as determined by the Ministry of Finance.

Restriction on utilization of sales of Public Assets.

56. The proceeds derived from the sale or transfer of public properties and rights over public assets shall not be used to finance recurrent expenditure:

Provided that such proceeds may be used to liquidate existing liabilities directly charged against such properties or assets.

Technical and Financial assistance to Local Government Councils.

57. The State Government shall provide technical and financial assistance to Local Government Councils in the modernization of their tax, financial and asset administration.

Documentations.

58. All communication relating to all issues, the subject matter of this Law, shall be in writing, and all Civil Servants or Political Appointees charged with any aspect of functions under this Law, shall ensure that documents or records created by them are submitted to a record registry in their various MDAs or offices and obtain acknowledgement of receipt of the records.

Convicts under this Law may suffer additional deprivations.

59. (1) Any person convicted of an offence under this Law shall, in addition to other sanctions provided, be disqualified from holding any public office for a period of five years from the date of conviction.

(2) Conviction for an offence under this Law shall be a basis for dismissal of a Civil Servant from the State civil service.

PART XIX
INTERPRETATION

Interpretations.

60. In this Law, unless the context otherwise requires –
- “Accountant-General” means State Accountant-General;
- “Appropriation Law” means a Law passed by the State House of Assembly or Bye-law passed by a Local Government Council authorizing spending from the Consolidate Revenue Fund and includes a Supplementary Appropriation Law or Bye-law;
- “Appropriation Bill” means a proposed Appropriation Law;
- “Auditor-General” means State Auditor-General;
- “Borrowing” includes any financial obligation arising from –
- (i) any loan including principal, interest and charges on such loans,
 - (ii) deferred payment for property, goods or services by any of the entities to which this Law apply,
 - (iii) bonds, debentures, notes or similar instruments,
 - (iv) letters of credit and reimbursement obligations in respect thereto,
 - (v) trade or banker’s acceptance,
 - (vi) capitalized amount of obligations under leases entered into primarily as a method of raising financing or of financing the acquisition of the asset leased,
 - (vii) agreements providing for swaps, selling rates, ceiling and floor rates, contingent participation or other hedging mechanisms with respect to the payment of interest or the convertibility of currency, and
 - (viii) a conditional sale agreement, capital lease or other title retention agreement;
- “budget call circular” means a circular –
- (i) requesting for the submissions in a prescribed form, of the revenue and expenditure estimates of ministries, extra-ministerial departments, and other executing agencies of Government for the next financial year, and
 - (ii) giving details, guidelines and instructions on the preparation of the estimates and expenditure in a manner consistent with the medium term developmental priorities set out in the Medium Term Expenditure Framework;

“capital expenditure” means spending on an asset that last for more than one financial year and expenses associated with the acquisition of such assets;

“concessional terms” means terms of the loan at an interest rate not exceeding five percent;

“consolidated debt” means the aggregate of the outstanding financial obligations of Government including those of its MDAs at any point in time arising from –

- (i) loans including principal, interest, all charges and fees for obtaining such loans,
- (ii) deferred payment for property, goods or services,
- (iii) bonds, debentures, notes or similar instruments,
- (iv) letters of credit and reimbursement obligations with respect thereto,
- (v) guarantees,
- (vi) trade or banker’s acceptance,
- (vii) capitalized amounts of obligations under leases entered into primarily as a method of raising financing or of financing the acquisition of the asset leased,
- (viii) agreements providing for swaps, ceiling rates, ceiling and floor rates, contingent participation or other hedging mechanisms with respect to the payment of interest or the convertibility of currency, and
- (ix) A conditional sale agreement, capital lease or other title retention agreement;

“Constitution” means the Constitution of the Federal Republic of Nigeria, 1999.

“cost-benefit analysis” means an analysis that compares the cost for undertaking a service, project or programme with the benefits that citizens are likely to derive from it;

“Fiscal Risk Appendix” means an explanatory attachment that provides a set of indicators that can be used to measure local fiscal risk;

“Fiscal Risk Target” provides numerical target for each risk indicator with basis of which a fiscal entity can be considered fiscally healthy;

“fiscal year” has the meaning ascribed by the Constitution;

- “Fiscal Policy Objectives” means the goals set by Government for attaining set targets for a given period;
- “Government” means the Government of Akwa Ibom State or a Local Government in Akwa Ibom State;
- “Government owned company” means a statutory corporation or a company in which Government has controlling interest;
- “Governor” means the Governor of Akwa Ibom State;
- “House of Assembly” means State House of Assembly;
- “MDA” means the Government ministries, departments, extra-ministerial departments, offices and agencies and shall include all Government owned corporations, institutions, boards and bodies.
- “Medium Term Expenditure Framework” means the document referred to and the content of which is enumerated in section 15 of this Law;
- “month” means calendar month reckoned according to the Gregorian calendar;
- “person” includes both natural and juristic persons;
- “proceed of corrupt enrichment” includes money, assets, negotiable instruments or where the proceed or benefit has been converted to a form different from its original nature, then the converted form, e.g. where money got from corrupt enrichment was used to purchase a house, the house shall be regarded as the proceed of the corrupt enrichment;
- “public debt securities” mean public debt represented by securities issued by the State or Local Government;
- “public expenditure” means financial outlays other than those resulting into debt reduction for the State, its MDAs or Local Government;
- “public revenue” includes all moneys that accrue to the State or a Local Government or State MDAs;
- “quarter” means one quarter of a financial year and quarterly shall be construed accordingly;
- “recurrent expenditure” means normal overhead and administrative expenses and personnel cost including salaries, emoluments and other benefits of employees;
- “refinancing of debt securities” means issuance of securities to repay the existing debt;

- “relevant Commissioner” means Commissioner responsible for State budget;
- “State” means the Akwa Ibom State of Nigeria;
- “State financial institution” means any financial institution in which Government or Governments have controlling interests;
- “tax revenue projections” means the projected collectible tax or revenue within a particular planning period; and
- “tiers of Government” means the State and Local Governments in Akwa Ibom State.

Short title and commencement.

61. This Law shall be cited as the Akwa Ibom State Fiscal Responsibility Law and shall come into force on the 2nd day of October, 2020.

This printed impression has been compared by me with the Bill which has been passed by the Akwa Ibom State House of Assembly and is found to be true and correctly printed copy of the Bill.



MRS. MANDU UMOREN
 CLERK OF THE HOUSE

I assent.



MR. UDOM EMMANUEL
 GOVERNOR

Dated this 2nd Day of October 2020