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A Law to provide for the Establishment of Fiscal Responsibility Commission in Katsina State and for related matters.

Law No. 12 of 2017.

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A Law to provide for the Establishment of Fiscal Responsibility Commission in Katsina State and for Related Matters

Katsina State of Nigeria

Law No. 12 of 2017

( ) Date of Commencement

BE IT ENACTED by the House of Assembly of Katsina State of Nigeria as follows: Enactment

1. This Law may be cited as the Fiscal Responsibility Commission Law, 2017. Short title

2. This Law shall come into operation on the 9th day of June, 2017. Commencement

3. In this Law: Interpretation

"Appropriation Law" means the Appropriation Law of the State;

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

"Borrowing" includes any financial obligation arising from:

(a) any loan including principal, interest and fees of such loans;

(b) the deferred payment for property, goods or services;

(c) bonds, debentures, notes or similar instruments;

(d) letters of credit and reimbursement obligations in respect thereto;

(e) trade or bankers' acceptance;

(f) capitalized amount of obligations under leases entered into primarily as a method of raising financing or of financing the acquisition of the asset leased;

(g) 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

(h) a conditional sale agreement, capital lease or other little retention agreement;

"Budget call circular" means a circular:

(i) requesting the submissions in a prescribed form, of the estimates of revenue and expenditure of ministries, extra-ministerial departments and other executing agencies of Government for the next financial year; and

(ii) giving details of 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 asset;

"Commissioner" means the Commissioner in charge of finance in the State;

"Concessional terms" means the terms of the loan must be at an interest rate not exceeding three percent (3%);

"Consolidated debt" means the aggregate of the outstanding financial obligations of State Government including those of its Parastatals and agencies at any point in time arising from:

(i) borrowing money including principal, interest, fees of such borrowed money;

(ii) the 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 acceptances;

(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,contingents 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.

"Commissioner" means the State Commissioner charged with the resonsibility for finance;

"Commission" means the Fiscal Responsibility Commission established under Section 4 of this Law;

"Constitution" means the Constitution of the Federal Republic of Nigeria, 1999 as amended;

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

"Debt Management Department" means the Department established under clause 3 of the Katsina State Debt Management Department Legal Notice dated 27th August, 2008;

"Debt Management Office" means the Debt Management Office (Establishment e.t.c.) Act 2003;

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

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

"Fiscal year" has the same meaning ascribed by the Constitution;

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

"Government" means the State or Local Government;

"Governor" means the Governor of the State;

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

"House" means the Katsina State House of Assembly;

"Medium Term Expenditure Framework" means the document referred to and the content of which is prescribed in this Law;

"Ministry" means the State Ministry in charge of Finance;

"Net Debt" means the consolidated Debt less what is owned to Government, its Parastatals and agencies at any point in time;

"Public Debt Securities" means public debt represented by securities issued by the State Government and Local Governments;

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

"Public Revenue" means all moneys received by a Government in the State;

"Quarter" means one quarter of a financial year;

"Recurrent Expenditure" means normal over-heade and administrative expenses and personnel cost including salaries, emoluments and other benefits of employees;

"Reference Commodity Price" means such price as may be determined by the Governor subject to the approval of the House;

"Refinancing of debt securities" means issuance of securities to repay the existing debt;

"Special Adviser" means the Special Adviser to the Governor in-charge of Budget and economic planning;

"State" means Katsina State of Nigeria;

"State Financial Institution" means any financial institution in which one or more state governments have controlling interests;

"State Government" means Government of the State;

"Tax expenditure projection" means the projected amount expected to be utilized in the granting of tax relief or tax holiday;

"Tax revenue projections" means the projected collectable tax or revenue within a particular planning period;

"Tiers of Government" means the Federal, State and Local Governments.

PART II – ESTABLISHMENT, FUNCTIONS AND POWER OF THE FISCAL RESPONSIBILITY COMMISSION

Establishment of the Commission

4. (1) There shall be established in the State a body to be known as the Fiscal Responsibility Commission (in this Law referred to as "the Commission").

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

Functions of the Commission

5. (1) The functions of the Commission shall be to:

(i) formulate and provide general policy guideline for the discharge of the functions of the Commission;

(ii) superintend the implementation of the policies of the Commission;

(iii) appoint for the Commission, such number of employees as may in the opinion of the Commission be expedient and necessary for the proper and efficient performance of its functions;

(ii) determine the terms and conditions of service in the Commission, including disciplinary measures for the employees of the Commission;

(iii) fix the remuneration, allowances and other benefits of the employees of the Commission in accordance with the Salary structure prevailing in the State;

(iv) do such other things, which in its opinion are necessary to ensure the efficient performance of the functions of the Commission;

(v) regulate its proceedings and make standing order with respect to the holding of its meetings, notice to be given, the keeping of minutes of its proceedings and such other matters as the Commission may, from time to time determine;

(vi) monitor and enforce the provisions of this Law and by so doing promote the economic objectives contained in Section 16 of the Constitution;

(vii) disseminate such standard practices including interstate good practice that will result in greater efficiency in the allocation and management of public expenditure, revenue collection, debt control and transparency in fiscal matters;

(viii) undertake fiscal and Financial studies, analysis and diagnosis and disseminate the result to the general public;

(ix) make rules for carrying out its functions under this Law; and

(x) perform any other function consistent with the promotion of the objectives of this Law.

(2) The Commission shall be independent in the performance of its functions.

(3) The provisions of the Public Officers Protection Law shall apply to the members of the Commission in the discharge of their functions under this Law.

Power of the Commision

6. (1) For the purposes of performing its function under this Law, the Commission shall have power to:

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

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

(2) If the Commission is satisfied that such a person has committed any punishable offence under this Law or violated any of the provisions of this Law, the Commission shall forward a report of the investigation to the Attorney-General of the State for possible prosecution.

Fund of the Commission

7. (1) The Commission shall establish and maintain a fund from which shall be defrayed all expenditure incurred by the Commission.

(2) There shall be credited to the fund established pursuant to Sub-Section (1) of this Section, the budgetary allocation and grants from other sources.

Composition of the Commission

8. (1) The Commission shall consist of:

(a) a Chairman, who shall be the Chief Executive and Accounting Officer of the Commission;
(b) one Member each representing:
  (i) the organized private sector in the State;
  (ii) civil Societies engaged in causes relating to probity, transparency and good governance in the State; and
  (iii) Organized labour in the State;
(c) a representative of the office of Acount General of the State;
(d) a representative of the ministry of justice not below the rank of a director; and
(e) one member from each of the three senatorial zones of the State one of whom shall be a woman.

2. (1) The Chairman shall be a person knowledgeable in public expenditure management with a professional background in economics and public finance.

(2) All members of the Commission shall be persons of proven integrity and must possess appropriate qualifications.

Appointment of members of the Commission

9. (1) The Chairman and other members of the Commission other than Ex-officio members shall be appointed by the Governor subject to confimation by the House.

(2) The Chairman and members representing the three (3) senatorial zones shall be full time members.

Tenure of office

10. The Chairman and members of the Commission shall hold office for a term of five (5) years and renewable thereafter for another term of five (5) years upon satisfactory performance.

Cessation of Membership

11. (1) Notwithstanding the provision of Section 9 of this Law, a member of the Commission shall cease to hold office if:

(a) he becomes bankrupt or make a com-promise with his creditors;

(b) he is convicted of a felony or any offence involving dishonesty, corruption or fraud;

(c) he becomes incapable or carrying out 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 the Governor may remove him from office subject to a resolution passed by two third "2/3" majority of the members of the House;

(e) he has been found guilty of violation of the code of conduct or serious misconduct in relation to his duties;

(f) 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; or

(g) he resigns his appointment by notice under his hand addressed to the Governor.

(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 the predecessor, provided that the successor shall represent the same interest as his predecessor.

Emolument of Members

12. (1) There shall be paid to the Chairman of the Commission such salaries, allowances and benefits as the Revenue Mobilization, Allocation and fiscal Commission may from time to time approve.

(2) There shall be paid to other members of the Commission such benefits as may be determined from time to time by the Revenue Mobilization Allocation and Fiscal Commission.

Submission of report to the House

13. The Commission shall prepare and submit to the House not later than 30th June in each financial year, a report of its activities including all cases of contravention investigated during the proceeding financial year and shall include in the report a copy of its audited accounts for the proceeding financial year.

PART III – THE MEDIUM TERM EXPENDITURE FRAME WORK

Medium – Term Expenditure framework

14. (1) The State Government after consultation with the Local Government shall:

(a) not later than six months from the commencement of this Law, cause to be prepared and laid before the House, for its consideration a Medium Term Expenditure Framework for the next three financial years; and

(b) thereafter, not later than four months before commencement of the next financial year, cause to be prepared a Medium Term Expenditure Frame-work for the next three financial years.

(2) The framework so laid shall be considered for approval with such modifications, if any, as the House may by resolution find appropriate.

(3) The Medium – Term Expenditure Framework shall contain:

(a) a Micro-Economic Framework setting out the micro-economic projections for the next three financial years, the underlying assumptions for those projections and an evaluation and analysis of the micro-economic projections for the preceeding 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, capital expenditure, borrowing, other liabilities, lending and investment;

(iii) the strategic economic, social and developmental priorities of the State Government for the next three financial years;

(iv) an explanation of how the financial objectives, strategic, economic, social and developmental priopritiesand fiscal measures set out pursuant to sub-paragraph (i), (ii) and (iii) of the paragraph relating to the economic objectives set out in Section 16 of the Constitution, will be achieved.

(c) An expenditure and revenue framework setting out:

(i) estimates of aggregate revenues for the State for each financial year, based on the predetermined Commodity Reference Price adopted and tax revenue projection;

(ii) Aggregate expenditure projection for the State for each financial year in the next three financial years;

(iii) Aggregate tax expenditure for the State for each financial year in the next three financial years; provided that the estimates and expenditure based on:

(a) reliable and consistent data certified in accordance with the provisions of this Law;

(b) target at achieving the micro-economic projection set out in this Law;

(c) consistent derive from the underlying assumptions contained in the Micro-economic 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 and measures to reduce any such liability; and

(e) a Statement describing the nature and fiscal significance of contingent liabilities and quasifiscal/liabilities and measures to offset the crystallization of such liabilities.

15. The estimates of:

Aggregate expenditure ceiling

(i) aggregate expenditure and the aggregate amount appropriated by the House for each financial year shall not be more than the estimated aggregate revenue plus deficits, not exceeding three percent (3%) of the estimated gross domestic product or any sustainable percentage as may be determined by the House for each financial year; and

(ii) aggregate of expenditure for the financial year may exceed the ceiling imposed by the provision of paragraph (i) of this Section, if in the opinion of the Governor there is a clear and present threat to security of the State.

Preparation of Medium term expenditure frame work

16. (1) The Commissioner shall be responsible for the preparation of the Medium Term Expenditure framework.

(2) In preparing the draft Medium – Term Expenditure Framework the Commissioner may:

(a) hold public consultation on the Micro-economic framework, the fiscal strategic paper, the Revenue and Expenditure Framework, the strategic, economic, social and developmental priorities of government, and such other matters as the Commissioner deems necessary:

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

(b) seek inputs from the relevant statutory bodies as the commissioner may determine;

(c) consider and reflect as may be deemed appropriate the input of the bodies and persons referred to in paragraphs (a) and (b) of this Section.

Time limit for presentation

17. (1) The Commissioner shall before the end of the second quarter of each financial year, present the Medium – Term Expenditure Framework to the State Executive Council for consideration and endorsement.

(2) The medium – Term Expenditure Framework as endorsed by the State Executive Council shall take effect upon approval by a resolution of the House.

(3) The Medium – Term Expenditure Framework as approved by the House shall be published in the Gazette.

Governor to cause adjustment

18. (1) Subject to Sub-Section (2) of this Section, the Governor may cause adjustment to be made to a Medium Term Expenditure Framework.

(2) Any adjustments to the Medium Term Expenditure Framework shall be limited to:

(a) the corrections of manifest error; and

(b) changes in the fiscal indicators which in the opinion of the Governor are significant.

19. Local Government which so desires shall be assisted by the State Government to manage its fiscal affairs within the Medium Term Expenditure Framework.

Assistance to Local Governments

PART IV – THE ANNUAL BUDGET

20. (1) Notwithstandiung 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 under Section 121 (1) of the Constitution.

Medium term expenditure framework to be basis for preparing estimates

(2) The Sectoral and compositional distribution of the estimates of the expenditure referred to in Sub-Section (1) of this Section 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 documents

(a) a copy of the underlying revenue and expenditure profile for the next two years;

(b) a report setting actual and budgeted revenue and expenditure and detailed analysis of the performance of the budget for the eighteen (18) months up to June of the proceeding financial year;

(c) a revenue framework broken down into monthly collection target prepared on the basis of the predetermined Reference Commodity Price as contained in the Medium Term Expenditure Framework;

(d) measures on cost, cost control and evaluation of result 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 that financial year:

(i) target inflation rate;

(ii) target fiscal account balances; and

(iii) any other developmental target deemed appropriate; and

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

Local Governments to adopt this Law in preparing annual budget

22. In preparing their annual budgets, Local Governments may adopt the provisions of this Law with such modifications as may be appropriate and necessary.

PART V – BUDGETARY PLANNING OF CORPORATIONS AND OTHER RELATED AGENCIES

Preparation of Estimates of Revenue by Corporations

23. (1) The Government Corporations and Agencies and government owned companies listed in the Schedule to this Law (in this Law referred to as "the Corporations") shall, not later than six (6) months from the commencement of this Law and every three (3) financial years thereafter and not later than the end of the second quarter of every year, cause to be prepared and submitted to the Commissioner their Scheduled estimates of revenue and expenditure for the next three (3) financial years.

(2) Each of the bodies referred to in Sub-Section (1) of this Section shall submit to the Commissioner not later than the end of August in each financial year:

(a) an annual budget derived from the estimates submitted in pursuance of Sub-Section (1) of this Section; and

(b) projected operating surplus which shall be prepared in line with acceptable accounting practices.

(3) The Commissioner shall cause the estimates submitted in pursuance of Sub-Section (2) of this Section to be attached as part of the Appropriation Bill to be submitted to the House.

Preparation of Surplus and General Reserved Fund

24. (1) Notwithstanding the provisions of any Law governing the Corporation, each Corporation shall establish a general reserved fund and shall allocate thereto at the end of each financial year, one-fifth (1/5) of its operating surplus for the year.

(2) The balance of the operating surplus shall be paid into the Consolidated Revenue Fund of the State Government not later then one (1) month following the statutory deadline for publishing each Corporation's accounts.

Classification of Corporation Operating Surplus

25. (1) The Corporation's surplus shall be classified as a State Treasury Revenue.

(2) Where a Corporation's result is a deficit, the deficit shall be classified as the Corporation's loss for the fiscal year.

(3) Each Corporation shall, not later than three months after the end of its financial year, cause to be prepared and published its audited financial reports in accordance with such rules as may be prescribed from time to time.

Cessation of Application by Corporation

26. Where any Corporation is privatized, the provisions of Sections 23, 24 and 25 shall cease to apply to that Corporation from the date of its privatization.

PART VI – BUDGETARY EXECUTION AND ACHIEVEMENT OF TARGETS

Annual cash flow

27. (1) The State Governor shall cause to be drawn up in each financial year, an annual cash plan which shall be prepared by the office of the Accountant General of the State.

(2) The annual Cash plan shall be prepared in advance in the financial year setting out projected monthly cash flows and shall be revised periodically to reflect cash flows.

Disbursement Schedule

28. The Commission shall within 30 days of the enactment of the Appropriation Law, prepare and publish a disbursement Schedule derived from the annual Cash Plan for the purpose of implementing the Appropriation Law.

Power of the Commissioner to restrict further Commitments

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

(2) Without prejudice to Sub-Section (1) of this Section, the Ministry of finance may in exceptional circumstances and in the overall public interest, recommend for the approval of the House, virements from the Sub-head of account; without exceeding the amount approriated to such head of account.

Power of the Commissioner to restrict further Commitments

30. (1) Where by the end of three (3) months after the enactment of the Appropriation Law, the Commissioner determines that the targeted revenues may be insufficient to fund the heads of expenditure in the Appropriation Law, the Commissioner shall within the next thirty (30) days of such determination, take appropriate measures to restrict further commitments and financial operation according to the criteria set out in the fiscal Risk Appendix.

(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 Sub-Section (1) and (2) of this Section shall not apply to statutory or Constitutional expenditures.

Restriction on due Grant of Tax Relief

31. (1) Any proposed tax expenditure shall be accompanied by an evaluation of its budgetary and financial implications in the year it becomes effective and in the three (3) subsequent years and shall only be approved by the Commissioner 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 Sub-Section through revenue increasing measures.

(2) The provisions of this Section shall not apply to:

(a) changes in the rates of the taxes mentioned in Section 163 of the Consitution; and

(b) debt cancellation in an amount lower than the cost of collection.

Responsibility of the Budget office to monitor and report implementation

32. (1) The Special Adviser, shall monitor and evaluate the implementation of the Annual Budget, assess the attainment of fiscal target and report thereon on a quarterly basis to the Fiscal Responsibility Commission and the Finance, Budget and Economic Planning Committee of the House.

(2) The Special Adsviser, shall cause the report prepared pursuant to Sub-Section (1) of this Section to be published in the mass and electronic media and on website of the State Government, not later than thirty (30) days after the end of each quarter.

Application of Part VI by Local Governments

33. In implementing their annual budgets, Local Governments may adopt the provisions of Part VI of this Law with such modifications as may be appropriate and necessary.

PART VII – PUBLIC REVENUE

Forecast and Collection of Public Revenue

34. Any fund due to the State from any tier of Government may be set off by the State on or towards payment or remittance of any sum due to that tier of Government from the State.

Revenue Forecast

35. The Executive Arm of the State Government shall, at least thirty (30) days before the deadline for the submission of its budget proposal place at the disposal of the House, the revenue estimates for the following year, including the net current revenue and the respective memorandum items.

Executive to Breakdown Estimated Revenue

36. Estimated revenue shall be broken down by the Executive Arm of Government into monthly collection targets, including, where applicable, a separate description of measures to combat tax fraud and evasion.

PART VIII – SAVING AND ASSET MANAGEMENT

Excess proceeds to be saved

37. (1) Where the reference commodity price rises above the predetermined level, the resulting excess proceeds shall be saved in accordance with the provisions of Sub-Section (2) of this Section.

(2) The savings of each Government in the State in pursuance of Sub-Section (1) of this Section shall be deposited in a separate account which shall form part of the respective Government Consolidated Revenue Fund to be maintained at the Bankers of the State by each Government.

(3) The Bankers of the State shall, in consultation with the Commissioner and local government council invest, for and on behalf of the Government in the State, the saving of each Government and such investment can be undertaken in a consolidated manner, provided that, the share of each Government and income due to them from the investment are clearly identified.

(4) The Bankers of the State in the discharge of their obligation under Sub-Section (3) of this Section shall, observe the limits and conditions imposed by safety and prudential considerations and the need to maintain micro-economic stability.

(5) No Government in the State shall have access to the savings made in pursuance to Sub-Section (2) of this Section, unless the reference commodity price falls below the predetermined level for a period of three (3) consecutive months.

(6) The augmentation referred to in Sub-Section (5) of this Section shall be limited to such sums that will bring the revenue of Government to the level contained in its budget estimates.

(7) Notwithstanding the provisions of Sub-Sections (5) and (6) of this Section and subject to agreement by State and Local Governments in the State, a proportion of the savings may be appropriated in the following year for the capital projects and programmes.

PART IX – PUBLIC EXPENDITURES

Condition for increasing Government Expenditure

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

(a) an estimate of the 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 espenditure, setting that the increase is consistent with the Appropriation Law and the Medium – Term Expenditure Framework.

(2) The provisions of this Section shall not apply to expenditures deemed inconsequential and shall apply to Local Governments only to the extend to which they have adopted these provisions.

39. The granting of any advantage or increase of remuneration, the creation of posts or allocation of carrier structure and admission of personnel on any account by bodies and entities including foundations established and maintained by the State Government shall only be effected if there is a prior budgetary allocation sufficient to cover the estimated expenditure. Condition for increasing personnel expenditure

40. All contracts with regards to the execution of annual budget shall comply with the rules and guidelines on: All contracts to comply with Rules and Guidelines

(a) procurement and award of contracts; and

(b) due process and certification of contracts.

41. Any violation of the requirements in Sections 38, 39 and 40 shall be an offence. Effect of violation of public expenditure

42. In incurring public expenditure, Local Governments may adopt the provisions of Part VI of this Law with such modifications as may be appropriate and necessary. Application of Part VI by Local Governments

PART X – DEBT AND INDEBTEDNESS

Framework for Debt Management

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

(a) Government at all tiers shall only borrow for capital expenditure and human development, provided that, such borrowing shall be on concessional terms with low interest rate and with a reasonable or long amortization period subject to the approval of the appropriate legislative body where necessary; and

(b) Government shall ensure that the level of public debt as a proportion of State income is held at a sustainable level as prescribed by the House from time to time on the advice of the Commissioner.

(2) Notwithstanding the provisions of Sub-Section (1) (a) of this Section and subject to the approval of the House, the State Government may borrow from the capital market.

(3) Non-compliance with the provisions of this Section shall make the action taken an offence.

Limits on consolidated Debt of the State Government

44. (1) The Governor shall within ninety (90) days from the commencement of this Law and with advice from the Commissioner of Finance subject to approval of the House, set overall limits for the amount of consolidated debt of the State Government subject to the limits and conditions approved by the House which shall be consistent with the rules set out in this Law and with the fiscal objectives in the Medium Term Fiscal Framework.

(2) Outstanding judgment debts not paid shall be considered as part of the consolidated debts for the purpose of application of the respective limits set out pursuant to this Section.

(3) For the purpose of verifying compliance with the limits specified pursuant to this Section, the Commission shall at the end of each quarter, determine the amount of the consolidated debt of each of the tiers of the government.

(4) The Commission shall publish, on a quarterly basis, a list of the Governments in the state which have 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 Governments exceeds the respective limits, it shall be brought within the limit, not later than the end of the three (3) subsequent quarters with a minimum of twenty five (25%) percent reduction in the first quarter.

(6) Violators of the limits specified pursuant to this Section shall:

(a) be prohibited from borrowing from internal or external sources, except for the refinancing of existing debts; and

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

(7) Where non-compliance with the limit specified pursuant to this Section persists after the time limited by Sub-Section (5) of this Section, the annual budget of the affected tiers of Government shall not be approved by the House.

(8) Wherever, the fundamentals of the proposals referred to in this Section are changed due to econmic instability or change in monetary or exchange policies, the State Government shall submit to the House a request for a review of the current limits.

Servicing of External debt

45 (1) Servicing of external debt shall be the direct responsibility of the Government that incurred the debt.

(2) The cost of servicing State Government guaranteed loans shall be deducted at source from the account of the debtor Government.

PART XI – BORROWING

Condition of Borrowing and Verification of Compliance limits

46. (1) Any government in the State or its agencies and Corporations desirous of borrowing shall, 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.

(2) Without prejudice to Sub-Section (1) of this Section, each borrowing shall comply with the following conditins:

(a) the existence of prior authorization in the Appropriation Law or any 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 expenditures.

(3) Nothing in this Section shall be construed to authorize borrowing in excess of the limits set out in Section 43 of this Law.

(4) The Commission shall verify on a quarterly basis, compliance with the limits and conditions for borrowing by each Government in the State.

(5) Without prejudice to the specific responsibilities of the House and Bankers of the State, the Debt Management Department shall maintain comprehensive, reliable and current electronic database of internal and external public debts, guaranteeing public access to the information.

Lending by Financial Institution

47. (1) All Banks and Financial Institutions shall request and obtain proof of compliance with borrowing guidelines from debt management office before lending to any Government in the State.

(2) All borrowing shall comply with the national borrowing guidelines issued by the Debt management office.

Prohibitions against Bankers of State and its relation with Government Agencies and Parastatals

48. The bankers of the State in their relation with the State and other Government agencies and Parastatals shall be subject to the prohibitions imposed by an Act of the National Assembly.

Power of Commissioner to Grant Guarantees

49. (1) Subject to the provisions of this Law, the Commissioner may with the approval of the State Executive Council, grant guarantees on behalf of any Government in the State.

(2) Any guarantee granted by the Commissioner shall be conditional upon the provision of a counter guarantee in an amount equal to or higher than the guarantee obligation, provided that there are no overdue obligations from the requesting Government in the State to the guarantor and its controlled Corporations and such guarantee shall also be in compliance with the following:

(a) counter-gurantee shall only be accepted from Local Governments; and

(b) the counter-guarantee required by the State Government from Local Government or by 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.

(5) In the case of foreign currency borrowing, Federal Government guarantee shall be a requirement and no Local Government or State Agency shall, on its own borrow externally.

(6) Any guarantee provided in excess of the debt limits set pursuant to Section 43 (1) of this Law shall be an offence.

PART XII – TRANSPARENCY, ACCOUNTABILITY AND ENFORCEMENT

Fiscal and financial Transparency

50. (1) The State Government shall ensure that its 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 expenditures and their implications for its finances.

(2) The House shall ensure transparency during the preparation and discussion of the Medium Term Expenditure Framework, Annual Budget and the Appropriation Bill.

Publication of Audited Accounts

51 (1) The State Government shall publish its audited account not later than six (6) months following the end of the financial year.

(2) State Government shall, not later than two (2) years following the commencement of this Law and thereafter, not later than seven (7) months following the end of each financial year, consolidate and publish in the mass media, its audited accounts for the previous year.

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

Publication of Summarized Budget Execution

52. The State Government through its budget department shall within thirty (30) days after the end of each quarter, publish a summarized report on budget execution in such form as may be prescribed by the Commission and not later than six (6) months after the end of the financial year, a consolidated budget execution report showing implementation against physical and financial performance targets shall be published by the Special Adviser of Budget for submission to the House and disseminated the information to the public.

53. Any person 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 show any special particular interest.

Enforcement of this Law

PART XIII – MISCELLANEOUS PROVISIONS

54. Government securities, provided that, they are duly 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 defined by the Ministry.

Government securities to be offered as collaterals

55. 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.

Proceeds from sale etc not to be used to finance recurrent and debt expenditure

56. The State Government may provide technical and financial assistance to any State or Local Governments that adopt similar fiscal responsibility legislation along the same line in this Law for the modernization of their respective tax, financial and asset administration.

State Government to provide technical and financial assistance

57. The Governor may, in addition to any other power conferred on him under this Law, make regulations generally for the purposes of carrying into effect the provisions of this Law.

Power of the Governor to make regulations

SCHEDULE

Section 23

LIST OF CORPORATIONS, AGENCIES AND GOVERNMENT OWNED COMPANIES.

(1) State Internal revenue Service.
(2) Any other Corporation, Agency or Government owned Company that may be included by the Commissioner through a notice.

MADE at Katsina this 9th day of June, 2017.

RT. HON. AMINU BELLO MASARI, CFR
Governor;
Katsina State of Nigeria.

EXPLANATORY NOTE

(This note does not form part of this Law and has no legal Implication)

The purpose of this Law, is to among other things, establish the Fiscal Responsibility Commission charged with the responsibility of monitoring and enforcing the provisions of this Law to ensure greater accountability, transparency and prudence in the management of the State's resources by the State Government, Government owned Corporations or Companies and Agencies and provides incentives to encourage Local Governments to pass similar Fiscal Responsibility legislation and to also secure accountability and transparency in fiscal operations in te State.

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CONTENTS

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A LAW TO AMEND THE FISCAL RESPONSIBILITY COMMISSION LAW, 2017 AND FOR OTHER MATTERS CONNECTED THERETO.

Katsina State of Nigeria

Law No. 6 .2021

Sponsors:

( ) Date of commencement

BE IT ENACTED by the House of Assembly of Katsina State of Nigeria as follows: Enactment

1. This Law may be cited as the Katsina State Fiscal Responsibility (Amendment) Law, 2021 and may be deemed to have come into operation on 8th day of September, 2021. Citation and commencement

2. The Fiscal Responsibility Commission Law, 2017 (hereinafter referred to as "the Principal Law") is amended as set out in this Law. Amendment of principal Law

3. Section 43 of the Principal Law is amended by adding to the existing paragraphs of Sub-Section (1) the following continuing paragraphs as follows: Amendment of Section 43 of the principal Law

(c) the State Governmnet shall, through the Debt Management Department of the State Ministry of Finance be responsible for:

(i) contracting State debt subject to the resolution of the House of Assembly;

(ii) reporting and maintaining a reliable database of all loans taken or gruaranteed by it, its application, contractual and supplier debts obligations, pension liabilities and other contingent liabilities'

(iii) setting rules and limits for securing State debt inaccordance with the enabling Laws.

(d) the Debt Management Department shall also publish the State Government's Budgetary provision for each Fiscal Year as it affects its consideration for settling its indebtedness in relation to all outlined areas mentioned in paragraph (1) of this Sub-Section.

MADE at Katsina this 8th day of September, 2021.

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RT. HON. AMINU BELLO MASARI, CFR
GOVERNOR;
KATSINA STATE OF NIGERIA.