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Original Article

Legal Legitimacy of Fiscal Discretion in State Fund Placement Policy

Dhara Syera Fatria[1*], Parluhutan Sagala[2], Pujo Widodo[3], Arief Fahmi Lubis[4]
[1-4]State of Emergency Law Study Program, Faculty of National Security, Indonesia Defense University, Indonesia
Email: [1)] dhara.fatria@kn.idu.ac.id, [2)] parluhutan.sagala@idu.ac.id, [3)] pujowidodo78@gmail.com, [4)] arieffahmilubis0@gmail.com

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Abstract

Indonesia's fiscal management framework grants the government authority to implement policies that sustain national economic stability within the bounds of legality and accountability. One such policy is the 2025 State Placement Program, established through the Minister of Finance Decree No. 276 of 2025, which allocates IDR 200 trillion of public funds to state-owned banks to enhance liquidity and support growth. This study addresses the legal ambiguity surrounding this policy and aims to assess whether such discretion is legally and administratively legitimate within Indonesia's fiscal governance framework. Using a normative-juridical method, the research analyzes its legal basis, mechanisms of accountability, and institutional coordination, particularly regarding the management of the Accumulated Budget Surplus (SAL) and the authority of the State General Treasurer (BUN). The findings show that fiscal discretion in this policy is legally justified when exercised according to statutory mandates and subject to transparent reporting under the State Revenue and Expenditure Budget Law (APBN). However, its implementation requires clear coordination within the Financial System Stability Committee (KSSK). The study concludes that the decree is a valid exercise of fiscal authority but necessitates stronger safeguards linking SAL and the APBN, reinforced institutional coordination, and risk-based monitoring to ensure compliance with the rule of law. The implications of this study highlight the importance of aligning discretionary fiscal actions with constitutional oversight mechanisms to preserve legality and public accountability in Indonesia's financial administration.

Keywords: Accumulated Budget Surplus (SAL), Budgetary Legality, Fiscal Discretion, Financial System Stability, State General Treasurer.

1. Introduction

Indonesia's legal and financial governance is designed to ensure that fiscal policy is exercised in accordance with the principles of legality, transparency, and accountability. Within this framework, fiscal policy functions not merely as an economic instrument aimed at influencing growth and stability, but also as a legal mechanism through which the state allocates public resources and exercises constitutionally delegated authority. As noted in fiscal governance scholarship, the state's use of fiscal instruments reflects both economic judgment and legal responsibility, particularly when policy choices involve the direct mobilization of public funds to address macroeconomic pressures (Pratama, 2025).

In this context, fiscal discretion occupies a central position in modern public finance administration. Discretion allows the executive branch to respond flexibly to economic developments that may not be fully anticipated by legislative budgeting processes. However, such flexibility simultaneously generates legal tension, as discretionary fiscal actions intersect

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with constitutional principles of budgetary legality, legislative oversight, and the separation of powers. When fiscal discretion is exercised through executive decision-making on the use of state funds, it raises fundamental questions regarding the limits of administrative authority and the safeguards necessary to prevent arbitrary or unaccountable governance (Pratama, 2025).

In 2025, the Government of Indonesia adopted a State Fund Placement Policy through Minister of Finance Decree No. 276 of 2025. The policy constitutes an exercise of fiscal discretion by the Minister of Finance acting as the State General Treasurer (*Bendahara Umum Negara*/BUN) and was formally justified as a measure to support economic stability amid macroeconomic pressures. Although framed as part of routine fiscal management, the policy was enacted outside the ordinary legislative budgetary process, thereby bringing to the fore legal concerns regarding its conformity with Indonesia's constitutional and statutory framework on state finance.

From a constitutional perspective, the use of public funds is not solely a matter of economic efficiency but is subject to strict legal constraints. Article 23 of the 1945 Constitution of the Republic of Indonesia establishes that state revenue and expenditure must be determined by law, reflecting the principle of parliamentary supremacy in fiscal matters. Accordingly, fiscal measures implemented outside the ordinary budgetary framework are particularly sensitive, as they may weaken legislative oversight and blur the constitutional allocation of fiscal authority between the executive and the legislature. Legal scholars emphasize that deviations from the standard budgetary process require clear legal justification and robust accountability mechanisms to ensure compliance with the rule of law (Illahi & Haykal, 2021).

Scholarly analyses of prior fiscal interventions demonstrate that discretionary executive actions involving public funds are vulnerable to legal and political contestation, particularly when parliamentary control and statutory authorization are perceived as insufficient (Sitorus, 2016). In a similar vein, Administrative law scholarship similarly cautions that financial discretion constitutes a "high-risk" domain of governmental authority due to its close association with corruption potential and misuse of public resources (Cahyadini & Jullianti, 2020).

These concerns underscore the dual character of fiscal discretion: on the one hand, it is an indispensable tool for effective economic governance; on the other hand, it poses inherent risks to legality and accountability if exercised without adequate legal boundaries. This tension becomes even more pronounced in non-emergency contexts, where the government cannot rely on extraordinary legal regimes or constitutional emergency powers to justify departures from ordinary budgetary procedures. In such circumstances, discretionary fiscal actions must be assessed strictly within the ordinary framework of administrative law and state financial law, applying heightened standards of legality, proportionality, and accountability.

Despite its importance, existing legal scholarship in Indonesia has predominantly examined fiscal discretion in the context of emergencies, such as financial crises or the COVID-19 pandemic, where exceptional circumstances are often invoked to legitimize extraordinary fiscal measures. Relatively little attention has been paid to the exercise of fiscal discretion under normal economic conditions, where no formal declaration of emergency exists, and ordinary constitutional constraints remain fully applicable. This gap in the literature leaves unresolved questions regarding how far executive fiscal discretion may extend in routine governance and what legal safeguards are required to preserve constitutional accountability.

Accordingly, the explicit objective of this study is to assess whether Minister of Finance Decree No. 276 of 2025 constitutes a legally and administratively legitimate exercise of fiscal

discretion under non-emergency conditions, evaluated through the dimensions of legality, accountability, and institutional coordination within Indonesia's constitutional framework of public finance governance.

2. Literature Review

This literature review provides the theoretical foundation for examining the legality and legitimacy of fiscal discretion in public finance governance. It synthesizes key doctrines of administrative discretion, principles of state finance law, and theories of fiscal, monetary coordination to identify the normative boundaries of executive fiscal authority. Rather than analyzing specific policies, this chapter focuses on conceptual and doctrinal debates that inform the assessment of discretionary fiscal actions under ordinary governance conditions.

2.1 Administrative Discretion in State Administrative Law

In Indonesian administrative law, discretion refers to the authority of public officials to act when existing regulations provide no explicit guidance or when administrative processes face stagnation (Kumalaningdyah, 2019). The exercise of such authority is bound by the principles of legality and the General Principles of Good Governance (AUPB), as codified in Law Number 30 of 2014 on Government Administration. Constitutionally, discretionary authority aligns with the government's welfare function (*bestuurszorg)*, grounded in the Preamble to the 1945 Constitution of the Republic of Indonesia, Paragraph IV, which mandates the promotion of general welfare.

Scholarly interpretations of Law No. 30 of 2014 view it not merely as a normative framework but as a safeguard ensuring that discretionary actions remain proportionate, accountable, and aligned with AUPB, especially when legal provisions are incomplete or ambiguous. In unregulated or unclear situations, discretion may provide administrative flexibility, but it remains constrained by requirements of legal accountability and good governance. The academic discourse often highlights the tension between the need for administrative flexibility and the potential risk of authority misuse, particularly when discretionary actions have direct financial implications (Arief, 2022).

In classical administrative law theory, Utrecht conceptualizes *freies Ermessen* as lawful administrative freedom that enables officials to act independently when statutes are silent, ensuring governance remains effective in serving the public interest (Arief, 2022). Adji (2009) characterizes discretionary power (*vrijbestuur*) as proactive governance, whereby officials address urgent or unregulated issues through policy-based judgment (*beleid*), provided such actions remain aligned with administrative objectives (Arief, 2022). Hadjon (2015) emphasizes that governmental authority is dynamic, requiring officials not only to implement regulations but also to interpret vague norms to meet evolving needs (Arief, 2022). R.M. Girindro Pringgodigdo introduces the concept of *wijsheid*, referring to the immediate judgment required in urgent situations, while Prajudi Atmosudirdjo argues that discretion complements the principle of legality, given that statutory norms cannot anticipate every administrative action (Atmosudirdjo, 1994). Thus, discretion ensures continuity of governmental functions and the effective delivery of public services (Muttaqin & Rizal, 2025).

Synthesizing these perspectives, discretion can be understood as a form of responsible administrative freedom that fills legal gaps to maintain government effectiveness while remaining oriented toward the public interest. Law No. 30 of 2014 functions as a statutory safeguard by emphasizing proportionality, accountability, and public interest as core parameters that prevent abuse of discretionary authority. Within the context of state financial law, these principles provide the theoretical basis for evaluating the boundaries of the Ministry

of Finance's authority, particularly when discretionary decisions involve the management of significant public funds with macroeconomic implications.

In addition, Asyikin and Setiawan (2020) highlight that discretionary authority inevitably creates a dual dimension of responsibility, official responsibility, and personal responsibility. Their study demonstrates that although discretion is intended to ensure continuity of public services in situations where written regulations are incomplete, in practice, it often exposes officials to the risk of personal liability when discretionary actions result in losses to the state or the public. They further emphasize that misuse of discretion may transform an otherwise lawful administrative act into an abuse of authority, violating statutory provisions, contradicting legal principles, and breaching the General Principles of Good Governance (AUPB). This conceptual distinction is essential to understanding the legal boundaries of fiscal discretion, particularly when ministerial decisions involve the management of significant public funds.

Based on the foregoing discussion, this literature review establishes a conceptual foundation in which administrative discretion is understood as a legally bounded authority, constrained by principles of legality, accountability, and good governance. In the context of state finance, these principles operate alongside constitutional requirements of budgetary legality and legislative oversight. Accordingly, fiscal discretion may be regarded as legitimate only insofar as it is exercised within statutory authority, subject to clear responsibility mechanisms, and oriented toward the public interest. This conceptual framework provides the analytical basis for examining the legality and legitimacy of discretionary fiscal policy in the subsequent methodological and analytical sections.

2.2 State Finance Law: Budgetary and Treasury Authority

The 1945 mandate lawful and welfare-oriented fiscal governance. State financial management, therefore, serves as a primary mechanism for realizing public welfare. Accordingly, the legal framework of state finance must uphold the principles of legality, accountability, transparency, and efficiency at every stage of fiscal policy implementation (Law No. 17 of 2003; Law No. 1 of 2004; Law No. 15 of 2004).

Sitorus (2016) provides an important administrative-law perspective on governmental discretion in policies with significant fiscal implications. Her study of the Century bailout demonstrates that discretionary financial decisions, even during crisis conditions, may be legally justified as long as they remain within statutory authority and are exercised in good faith to protect the public interest. However, when such decisions lack clear legal foundations or legislative approval, they become vulnerable to allegations of policy criminalization. This framework is relevant for assessing the management of the Accumulated Budget Surplus (SAL), as it underscores that fiscal discretion must operate under explicit legal mandates and withstand parliamentary scrutiny as well as administrative accountability.

Simatupang (2021) argues that constitutional objectives of social equity do not primarily determine Indonesia's state finance system but are instead strongly shaped by the leadership style of the President as the highest authority in state financial management. This condition reveals that the current financial structure still provides ample room for executive discretion. Accordingly, any fiscal instrument within the state finance domain, including SAL, must be evaluated not only in terms of procedural legality but also in terms of whether it advances constitutionally mandated social welfare objectives.

The constitutional foundation for fiscal management is embedded in Article 23 (1) and 3 of the 1945 Constitution, which stipulates that: "*The State Revenue and Expenditure Budget, as a form of state financial management, is established annually by law and is carried out openly and responsibly for the greatest prosperity of the people*." This provision codifies the

principles of legality and parliamentary supremacy, requiring every use of public funds to receive approval from the House of Representatives (DPR) through the enactment of a state budget law. Thus, the APBN is not only an economic instrument but also a constitutional manifestation of the social contract between the government and its citizens. Any fiscal measure implemented outside the formal budgetary process must be tested for its conformity with these principles.

Furthermore, the theoretical debate on the scope of state finance, as discussed by Sorik and Dwiatmoko (2022) provides an essential conceptual foundation for assessing the legal status of State Asset Liability (SAL). Their study demonstrates that the definition of state finance in Indonesia remains fragmented, with no unified understanding across statutory interpretation, legal doctrine, and Constitutional Court jurisprudence. Constitutional Court Decisions No. 77/PUU-IX/2011, No. 48/PUU-IX/2013, and No. 62/PUU-IX/2013 collectively broaden the constitutional notion of state finance to include not only APBN-based funds but also financial resources managed by SOEs, regional SOEs, and other entities legally or economically connected to the state. This elasticity implies that state finance is not limited to the formal annual budget but extends to public funds managed within a wider fiscal spectrum, including SAL.

To operationalize these constitutional mandates, the government enacted several foundational laws that constitute the pillars of Indonesia's state financial legal system: (1) Law No. 17 of 2003 on State Finance; (ii Law No. 1 of 2004 on the State Treasury; (iii) Law No. 15 of 2004 on the Audit of State Financial Management and Accountability and Law No. 15 of 2006 on the Audit Board of the Republic of Indonesia (BPK). Together, these regulations form an integrated state financial governance structure in which the President, as the holder of the authority over state finances, delegates operational functions to the Ministry of Finance, while the DPR and the BPK undertake supervisory and auditing roles (Sakti et al., 2024).

The placement of IDR 200 trillion in state funds through Minister of Finance Decree No. 276 of 2025 must therefore be assessed for its conformity with the principles of legality and legislative control, as mandated by Article 23 of the 1945 Constitution and the State Finance and Treasury Law. From a macroeconomic perspective, the scale and systemic implications of such policy demand heightened justification, transparency, and reporting to both DPR and BPK to ensure that the distinction between treasury discretion and legislative budget authority remains intact.

Under Article 1 (1) of Law No. 17 of 2003 on State Finance, "*State Finance includes all rights and obligations of the state that can be assessed in monetary terms, as well as all assets, whether in the form of money or goods, that can be used as state property related to the implementation of these rights and obligations*." This provision forms the basis of the state finance regulatory system, complemented by Law No. 1 of 2004 on the State Treasury and Law No. 15 of 2004 on the Audit State Financial Management and Accountability. Together, these three laws form a cohesive legal framework governing the planning, implementation, accountability, and cash management of state funds.

Authority over state financial management is vested in the President, as stated in Article 6 (1) of Law No. 17 of 2003 on State Finance. In exercising this authority, the President and other government officials must adhere to the principles of legal certainty, the General Principles of Good Governance (AUPB), and good governance standards established throughout national legislation. Consequently, if a significant portion of the Accumulated Budget Surplus (SAL) were utilized without DPR approval, it could result in a legislative oversight gap.

2.1. Fiscal Monetary Policy Coordination in Legal and Institutional Perspective

Effective coordination between fiscal policy and monetary policy is fundamental to maintaining Indonesia's macroeconomic stability and ensuring a resilient financial system. Although Bank Indonesia (BI) and the Ministry of Finance operate under distinct legal mandates, their policies must be institutionally coordinated to achieve coherent economic objectives.

The legal mandate of BI is established in Law No. 23 of 1999 on Bank Indonesia, as amended by Law No. 4 of 2023 on the Development and Strengthening of the Financial Sector (P2SK Law). This legal framework specifies that BI's primary objective is to achieve and maintain rupiah stability. To fulfill this mandate, BI performs three core functions: (i) formulating and implementing monetary policy; (ii) regulating and ensuring the smooth operation of the payment system; and (iii) regulating and supervising banks. Under the P2SK Law, BI is further empowered to safeguard national financial system stability through institutional coordination within the Financial System Stability Committee (KSSK).

In parallel, Rahmanto (2023) highlights that Law No. 4 of 2023 also reshapes Indonesia's financial sector architecture by strengthening the regulation and supervision of financial conglomerates. His study finds that financial conglomeration can significantly amplify systemic risk in the banking sector, thereby requiring comprehensive, integrated oversight by the Financial Services Authority (OJK). Under the new framework, banks designated as financial conglomerates are obliged to establish a Financial Conglomerate Holding Company, replacing the previous model in which the controlling shareholder could simply appoint one financial institution as the main compliance entity, a development that must be coordinated with fiscal and treasury policies affecting system-wide liquidity.

The Ministry of Finance, as the fiscal authority, is responsible for formulating and implementing state budget policies through the State Budget (APBN) and for exercising treasury function pursuant to Law No. 1 of 2004 on the State Treasury and Law No. 17 of 2003 on State Finance. Policies involving the placement of state funds in partner banks or other financial institutions have direct implications for national liquidity, an area that also falls within BI's mandate. Such measures can influence the money supply and affect the transmission of monetary policy, thereby necessitating close coordination between the Ministry of Finance and BI to avoid distortions to monetary stability. The placement of IDR 200 trillion, as stipulated in Minister of Finance Decree No. 276 of 2025, has the potential to impact liquidity conditions and interbank interest rates.

The Financial System Stability Committee (KSSK), established under Law No. 9 of 2016 on the Prevention and Handling of Financial System Crises, comprises the Minister of Finance (as chairman), the Governor of Bank Indonesia, the Chairperson of the Financial Services Authority (OJK), and the Chairperson of the Indonesia Deposit Insurance Corporation (LPS). The KSSK is mandated to coordinate policies for preventing and managing financial system crises.

From the perspective of constitutional law, extraordinary economic measures are permissible only when adopted within a lawful, explicit, and proportionate framework. During the COVID-19 pandemic, for example, the government adopted emergency fiscal measures through Government Regulation in Lieu of Law (Perppu) No. 1 of 2020 on State Financial Policy and Financial System Stability for Handling the COVID-19 pandemic and for addressing threats to the National Economy and/or Financial System Stability. The regulation, later enacted as Law No. 2 of 2020, was normatively recognized as a form of administrative discretion under emergency conditions to safeguard economic and financial system stability.

Minister of Finance Decree No. 276 of 2025, however, should not be interpreted as part of an emergency legal regime. Unlike fiscal measures adopted during the COVID-19 pandemic under Perppu No. 1 of 2020 (later enacted as Law No. 2 of 2020), this decree was issued under normal economic conditions and must therefore be assessed within the ordinary legal framework of state financial management.

Accordingly, fiscal–monetary policy coordination functions not merely as a technical policy requirement but as a legal and institutional safeguard that frames the legitimacy of discretionary fiscal actions. This perspective forms a core element of the analytical framework used to evaluate the boundaries of ministerial authority and the legality of fiscal discretion under non-emergency conditions.

2.4 Previous Research

Previous studies on fiscal discretion generally focus on two main themes: the legal limits of discretionary authority and its application under emergency conditions. Kumalaningdyah (2019) in "*Conflict between Policy Discretion and Abuse of Authority in Corruption Crimes,"* explores the relationship between public officials' discretion and the potential for abuse of authority leading to corruption. Using a normative legal method, the study concludes that discretion is justifiable only when exercised in the public interest and in compliance with Law No. 30 of 2014 on Government Administration.

Cahyadini and Jullianti (2020) in "*The Dilemma of Financial Discretion: Policies Considered Taboo",* explain that financial discretion is among the most tightly regulated forms of public policy because it directly concerns state finance and carries inherent corruption risks. Their research emphasizes the principle of money follows program as a normative limit on discretion, requiring that expenditures be accountable to the State or Regional Budget (APBN/APBD) and executed by political officials within defined monetary boundaries.

Sitorus (2016) "*The Century Bailout Policy: Discretion or Criminalization of the Policy"* analyzes the Century Bank bailout as an example of governmental discretion in responding to the 2008 financial crisis. The study argues that banking rescue measures may be legitimately implemented under lawful authority and in the public interest; nevertheless, the policy became controversial due to perceptions of policy criminalization.

Juliani (2020) in *"Juridical Analysis of State Financial Policy in Handling Covid-19 through Perppu No. 1 of 2020 into Law No. 2 of 2020"*, concludes that the government's fiscal response to the pandemic represented a form of constitutional discretion in addressing non-natural emergencies. Through a normative juridical approach, the study demonstrates that administrative immunity may arise when policies are enacted in good faith and in accordance with the law.

Illahi and Haykal (2021) in *"Principles and Dynamics of State of Emergency Financial Law in Dealing with the Covid-19 Pandemic",* emphasizes that emergency fiscal policies, including special budget allocations, constitute the application of state financial law under exceptional circumstances. The study finds that a state of emergency permits fiscal flexibility, provided it remains consistent with principles of accountability and social justice.

Rissy (2022) in *"The Rule of Law Approach to Economic Crisis,"* argues that global economic crises necessitate a new paradigm in applying the principle of the rule of law, one that is more adaptive to extraordinary monetary policies. According to him, the law should function as an instrument for stabilizing and safeguarding the national economy, rather than merely a constraint on power.

Synthesizing these studies, it is evident that most existing literature concentrates on fiscal discretion exercised under emergency or crisis conditions. Consequently, a theoretical and practical gap remains regarding the exercise of fiscal discretion under normal (non-

emergency) fiscal circumstances, particularly in relation to large-scale state fund placement policies. This research addresses that gap by integrating theories of administrative discretion and state finance law to assess the legal standing and legitimacy of Minister of Finance Decree No. 276 of 2025.

Based on the foregoing literature review, this study develops a conceptual framework that integrates three interrelated bodies of theory: administrative discretion, state finance law, and fiscal–monetary policy coordination. These theoretical strands explain how discretionary fiscal authority is legally constituted, constrained, and supervised within Indonesia's constitutional and administrative system.

First, theories of administrative discretion, as articulated by classical scholars such as Utrecht, Prajudi Atmosudirdjo, and Philipus M. Hadjon, conceptualize discretion (*freies Ermessen*) as a lawful administrative space necessary to ensure effective governance when statutory norms are incomplete. In contemporary practice, particularly following the enactment of Law No. 30 of 2014 on Government Administration, these classical doctrines are recontextualized through the principles of legality, proportionality, accountability, and the General Principles of Good Governance (AUPB). This evolution demonstrates that discretion is no longer viewed merely as administrative freedom, but as a legally bounded authority subject to normative control, especially when it involves public finances.

Second, state finance law provides the constitutional and statutory framework that limits fiscal discretion through the principles of budgetary legality and parliamentary oversight. Article 23 of the 1945 Constitution, together with Laws on State Finance, State Treasury, and State Financial Audits, establishes that all management of public funds must be grounded in legal authorization, transparent procedures, and audit mechanisms. Within this framework, discretionary fiscal actions such as the management of Accumulated Budget Surplus (SAL) must be assessed against the hierarchy of legal norms and the requirement of legislative control, even when such actions are justified by economic considerations.

Third, theories of fiscal–monetary coordination emphasize that discretionary fiscal measures with systemic implications cannot be evaluated solely from a treasury or administrative perspective. Institutional coordination mechanisms, particularly through the Financial System Stability Committee (KSSK), function as governance safeguards to ensure that fiscal discretion remains consistent with monetary stability and financial system resilience. In this sense, coordination is not merely a technical policy requirement but forms part of the legal and institutional accountability framework governing discretionary fiscal authority.

Synthesizing these perspectives, this study formulates three analytical propositions:

(1) fiscal discretion is legally legitimate only when it complies with constitutional and statutory norms governing state finance (legality);
(2) discretionary fiscal actions involving public funds must be accompanied by clear mechanisms of oversight and responsibility to prevent abuse of authority (accountability); and
(3) Discretionary fiscal measures with macroeconomic impact require effective institutional coordination to preserve systemic stability (coordination).

These propositions constitute the analytical lens through which the legality and legitimacy of discretionary fiscal policy are examined and serve as the conceptual bridge to the normative juridical methodology applied in the subsequent chapter.

3. Methods

This study employs a normative juridical method, focusing on the systematic analysis of positive legal norms, legal principles, and legal doctrines derived from statutory regulations and scholarly literature. This approach is appropriate because the research problem concerns the legality and legitimacy of a government policy as a legal act, rather than its empirical or economic impact. Within this framework, law is conceptualized as a normative system of hierarchically structured rules governing the exercise of public authority.

Following the framework of normative legal research as formulated by Soerjono Soekanto and Sri Mamudji, this study is conducted through library-based research using primary and secondary legal materials (Soekanto & Mamudji, 2007). Primary legal materials consist of binding legal sources, while secondary legal materials include legal doctrines and scholarly interpretations that support normative analysis.

To ensure analytical clarity and conceptual replicability, this study explicitly applies three normative legal approaches: the statute approach, the conceptual approach, and the case approach.

First, the statute approach is used to examine the hierarchy and coherence of legal norms governing fiscal authority and state fund management. This approach involves identifying and systematically analyzing constitutional provisions, statutory regulations, and subordinate legislation relevant to fiscal discretion, particularly Article 23 of the 1945 Constitution, laws on state finance and treasury, and implementing regulations. The statute approach allows the study to assess whether Minister of Finance Decree No. 276 of 2025 conforms to higher-ranking legal norms within Indonesia's legal hierarchy.

Second, the conceptual approach is employed to analyze legal concepts and doctrines related to administrative discretion, fiscal authority, and accountability. Drawing on administrative law theory and state finance law, this approach interprets key concepts such as *freies Ermessen*, proportionality, budgetary legality, and the General Principles of Good Governance (AUPB). The conceptual approach enables the study to evaluate the normative limits of fiscal discretion and to contextualize statutory provisions within broader legal doctrines.

Third, the case approach is applied by treating Minister of Finance Decree No. 276 of 2025 as a concrete legal act (*beschikking*) that reflects the exercise of discretionary fiscal authority. This approach does not involve empirical case comparison, but rather a normative examination of the decree in light of constitutional principles, statutory mandates, and relevant doctrinal interpretations.

The normative legal analysis is conducted through several structured steps. First, the study maps the hierarchy of legal norms governing fiscal discretion and treasury authority. Second, a legality test is applied to determine whether the authority exercised by the Minister of Finance falls within the scope of powers delegated by relevant laws. Third, principles of administrative law particularly legality, proportionality, accountability, and the General Principles of Good Governance (AUPB)—are used as evaluative criteria to assess the exercise of fiscal discretion. Finally, doctrinal synthesis is undertaken to situate the findings within broader theoretical debates on fiscal governance and the rule of law.

The primary legal materials examined in this study include the 1945 Constitution of the Republic of Indonesia, particularly Article 23 on state finance; Law No. 17 of 2003 on State Finance; Law No. 1 of 2004 on the State Treasury; Law No. 30 of 2014 on Government Administration; Law No. 9 of 2016 on the Prevention and Handling of Financial System Crises; Law No. 4 of 2023 on the Development and Strengthening of the Financial Sector (P2SK Law);

relevant Government Regulations and Minister of Finance Regulations on treasury and cash management; and Minister of Finance Decree No. 276 of 2025.

Through this structured analytical sequence, the study ensures methodological transparency and allows for conceptual replication of the normative assessment in comparable fiscal governance contexts.

4. Results and Discussion

4.1. Legal Standing of the Decree of the Minister of Finance No. 276 of 2025

The Decree of the Minister of Finance of the Republic of Indonesia No. 276 of 2025 on the Placement of State Funds constitutes an administrative decision (*beschikking)* issued by the Minister of Finance in his capacity as the State General Treasurer (Bendahara Umum Negara/BUN). Within the hierarchy of legal norms, the decree qualifies as a concrete, individual, and final administrative act that produces binding legal effects within the treasury administration system and is therefore subject to legality review based on delegated authority and conformity with higher-ranking legal norms.

Although administrative in form, Decree No. 276 of 2025 produces effects that extend beyond routine treasury management. The placement of IDR 200 trillion in state-owned commercial banks has macroeconomic implications, particularly in relation to liquidity provision and credit distribution. This dual character constitutes a normative legal finding that the decree operates at the intersection of administrative discretion and fiscal policy, thereby justifying a more rigorous legality assessment than that applied to ordinary cash management decisions.

Under Article 7, paragraph (2) of Law No. 1 of 2004 on the State Treasury, the Minister of Finance, acting as the State General Treasurer (BUN), is legally authorized to designate banks or other financial institutions to manage state revenue and expenditure, including the placement of state funds. This authority is further reinforced by Government Regulation No. 39 of 2007 on the Management of State and Regional Funds, which permits the deposit of surplus state funds in commercial or central bank accounts, provided that such funds remain withdrawable to the State General Cash Account (RKUN). These provisions constitute the primary statutory basis supporting the formal legality of Decree No. 276 of 2025.

The financial source for the implementation of Decree No. 276 of 2025 is the Accumulated Budget Surplus (*Saldo Anggaran Lebih*/SAL), which, pursuant to Article 2 of Minister of Finance Regulation No. 147/PMK.05/2021, is administered by the Minister of Finance as the State General Treasurer. As a legal finding, the utilization of SAL for treasury management purposes is permissible under positive law. However, as a normative assessment, its deployment for large-scale fund placement without explicit parliamentary approval raises constitutional concerns. In this regard, Article 23 of the 1945 Constitution underscores the principle of budgetary oversight by the House of Representatives (DPR), rendering the use of SAL a legally sensitive domain that requires heightened accountability and legislative anchoring.

4.2. Fiscal Discretion and Governance of the Use of Accumulated Budget Surplus (SAL)

Within Indonesian administrative law, discretion (*freies Ermessen*) is recognized as a legally delegated authority that allows public officials to act based on judgment when statutory regulations do not provide explicit guidance. As a legal finding, such discretion in the context

of state finance is constitutionally constrained by the principle of budgetary control exercised by the House of Representatives (DPR), as stipulated in Article 23 of the 1945 Constitution and Article 14 of Law No. 17 of 2003 on State Finance. These provisions require that discretionary fiscal actions remain embedded within the legislative framework governing state revenue and expenditure.

The statutory foundation for discretionary authority is explicitly regulated in Article 22, paragraph (2) of Law No. 30 of 2014 on Government Administration, while Article 24 of the same law restricts its exercise by requiring compliance with existing laws, adherence to the General Principles of Good Governance (AUPB), and good faith implementation. Taken together, these provisions establish legality, proportionality, and accountability as cumulative legal criteria for the lawful exercise of fiscal discretion.

Although formally administrative, the placement of IDR 200 trillion constitutes a fiscal action with systemic macroeconomic consequences. From a normative assessment, the utilization of the Accumulated Budget Surplus (SAL) without explicit DPR approval raises concerns not merely of procedural compliance but of potential erosion of legislative budgetary control, particularly when such placement produces effects comparable to substantive budgetary policy.

Indonesian legal practice recognizes an expansion of fiscal discretion under extraordinary circumstances, as illustrated by Law No. 2 of 2020 during the COVID-19 pandemic, where deviations from ordinary budgetary procedures were constitutionally tolerated due to explicit statutory authorization and a declared emergency.

By contrast, Decree No. 276 of 2025 was enacted under normal conditions without any constitutional or statutory declaration of emergency. Consequently, its legitimacy must be assessed under ordinary standards of legality, proportionality, and accountability. In this study, the exercise of fiscal discretion is considered to exceed its lawful limits when (i) it lacks explicit statutory authorization; (ii) it is not substantively aligned with the APBN framework approved by the DPR; and (iii) it is not accompanied by effective legislative and audit oversight mechanisms.

Consistent with Arsil et al. (2024), fiscal discretion under non-emergency conditions must therefore be subjected to stricter legality and oversight standards. Accordingly, fiscal discretion under Decree No. 276 of 2025 can be regarded as legitimate only insofar as it operates within ordinary treasury powers and remains firmly anchored to DPR-approved budgetary mechanisms.

4.3. Evaluation of the Legality, Accountability, and Coordination of Fiscal Policy

The evaluation of the Minister of Finance Decree No. 276 of 2025 is structured around three interrelated dimensions: legality (the scope of delegated authority), accountability (budgetary oversight and audit mechanisms), and coordination (institutional alignment between fiscal and monetary authorities). These dimensions function as analytical criteria to assess whether the placement of IDR 200 trillion in state funds constitutes a constitutionally and administratively legitimate exercise of fiscal discretion within Indonesia's legal system.

Within the ordinary legal regime, Decree No. 276 of 2025 must be assessed against statutory norms governing treasury authority, particularly Law No. 1 of 2004 on the State Treasury, Government Regulation No. 39 of 2007 on the Management of State and Regional Funds, and Law No. 30 of 2014 on Government Administration. As a legal finding, these instruments collectively establish that the Minister of Finance, acting as the State General Treasurer (BUN), holds delegated authority to manage state cash and place surplus funds as part of treasury operations.

However, the allocation of IDR 200 trillion without explicit approval from the House of Representatives (DPR) raises a normative legality question concerning the limits of delegated treasury authority. While the placement of funds formally falls within the functional scope of cash management, the magnitude and policy impact of the allocation approach the domain of substantive fiscal policy, thereby necessitating a stricter legality assessment to determine whether the action remains within delegated authority or effectively substitutes legislative budgetary decisions.

The governance of the Accumulated Budget Surplus (SAL) is specifically regulated under Minister of Finance Regulation No. 147/PMK.05/2021. Articles 8 and 12 limit the permissible use of SAL to three purposes: meeting temporary cash needs, financing budget deficits, and supporting fiscal stabilization. Article 12, paragraph (1) further requires that the utilization of SAL be aligned with the State Budget (APBN), thereby reaffirming the role of DPR approval within the budgetary framework.

Procedurally, the transfer of SAL into the State General Cash Account (RKUN) under Article 12 paragraph (2), combined with mandatory auditing by the Audit Board of Indonesia (BPK) pursuant to Article 23E of the Constitution and Law No. 15 of 2004, establishes a framework of ex-post accountability. Nevertheless, as a normative assessment, the absence of explicit ex-ante DPR approval creates a potential oversight gap, particularly when audit mechanisms operate primarily after policy implementation.

Beyond formal legality, normative legitimacy also requires substantive alignment with national interest principles. As emphasized by (Soepandji & Pulungan, 2022), public policy should reflect Pancasila-based values, including economic fairness, social welfare, and national resilience. Accordingly, the legitimacy of Decree No. 276 of 2025 depends not only on procedural compliance but also on whether the exercise of fiscal discretion substantively advances constitutionally mandated public objectives.

Although no formal KSSK endorsement preceded the issuance of Decree No. 276 of 2025, the KSSK Press Release dated 3 November 2025 confirms that the fund placement was subsequently incorporated into coordinated fiscal–monetary policy measures. As an institutional finding, this post hoc alignment satisfies minimum coordination requirements; however, as a normative concern, it reveals a structural weakness in ex-ante institutional coordination for fiscal measures with systemic impact.

This sequencing issue may be inconsistent with Article 10 letters (d) and (e) of Law No. 30 of 2014, which require prudence, transparency, and procedural compliance in administrative decision-making. Ideally, coordination within the Financial System Stability Committee (KSSK) should precede discretionary fiscal measures with systemic implications to ensure coherence, due diligence, and shared accountability. Strengthening ex-ante coordination mechanisms would therefore enhance the governance quality and constitutional legitimacy of future discretionary fiscal actions.

5. Conclusion

This study finds that Minister of Finance Decree No. 276 of 2025 constitutes a formally lawful exercise of fiscal discretion within Indonesia's administrative and state finance law framework. While the authority of the Minister of Finance, acting as the State General Treasurer, is supported by statutory treasury provisions, the legitimacy of this discretion remains conditional upon compliance with constitutional principles of legality, accountability, and legislative oversight.

The findings further indicate that discretionary executive use of public funds under non-emergency conditions entails a structural risk to budgetary oversight when not explicitly anchored in the legislative budget framework, potentially weakening fiscal accountability and blurring the constitutional boundary between executive treasury functions and parliamentary budgetary authority.

In addition, the study highlights that discretionary fiscal measures with systemic macroeconomic implications require robust ex-ante institutional coordination, particularly within the Financial System Stability Committee (KSSK), to ensure coherence and shared responsibility in fiscal–monetary governance.

Accordingly, this study underscores the importance of strengthening legal safeguards on fiscal discretion, reinforcing institutional coordination mechanisms, and enhancing transparency and oversight. Ultimately, the legitimacy of fiscal discretion under normal economic conditions depends not merely on policy objectives, but on its consistent alignment with constitutional norms, institutional checks, and the rule of law.

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