

**SYMBOL**  
**DRAFT LAW OF THE REPUBLIC OF INDONESIA**  
**NUMBER 25 OF 1999**  
**CONCERNING**  
**THE FISCAL BALANCE BETWEEN THE CENTRAL GOVERNMENT AND THE REGIONS**  
**PEOPLE'S CONSULTATIVE ASSEMBLY OF THE REPUBLIC OF INDONESIA**

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**THE PEOPLE'S CONSULTATIVE ASSEMBLY**  
**DRAFT LAW OF THE REPUBLIC OF INDONESIA**  
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**BY THE GRACE OF THE ALMIGHTY GOD**  
**THE PRESIDENT OF THE REPUBLIC OF INDONESIA,**

Considering :

- a. Whereas the Unitary State of the Republic of Indonesia shall implement the governance, and development to attain a just, prosperous, and equal public, on the strength of Pancasila and the 1945 Constitution;
- b. Whereas the regional development as integral parts of the national development shall be implemented through regional autonomy and the arrangement of national resources, providing opportunities for the increase of democracy and the efficient and effective regional performance in the implementation of governance, the public services, and the development to raise the public's prosperity towards an honest public free from corruption, collusion and nepotism, for which the participation of the public, the openness, and the accountability of the public is required.
- c. Whereas to support the implementation of the regional autonomy through the availability of financing sources pursuant to decentralization, de-concentration, and the task of assistance, a fiscal balance needs to be arranged between the Central Government and the Regions in the form of a financial system based on the clear division of authority, tasks, and accountability between levels of government..
- d. Whereas Law number 32 of 1956 On the Fiscal Balance Between the State and Regions, Entitled to Arrange their own Government, is no longer adequate with the development of the situation and the availability of the need and aspiration of the public in supporting the regional autonomy therefore A Law arranging the fiscal balance between the Central Government and the Regions needs to be determined.

Bearing in Mind:

1. Article 1 paragraph (1), Article 5 paragraph (1), Article 18, Article 20 paragraph (1), Article 23 paragraph (4), and Article 33 of the 1945 Constitution;
2. The Decree of the People's Consultative Council Number XV/MPR/1998 on the Implementation of the Regional Autonomy, the Arrangement, the Division and a justified Use of the National Resources, and a Fiscal Balance of the Central Government and the Regions In Line with the Unitary State of the Republic of Indonesia;
3. Law Number ... of 1999 regarding Regional Government (State Gazette of 1999 Number ..., Supplementary State Gazette Number ...)

With the Approval  
of  
THE PEOPLE'S CONSULTATIVE ASSEMBLY  
HAS DECIDED :

To determine : THE LAW ON THE FISCAL BALANCE BETWEEN THE CENTRAL GOVERNMENT AND THE REGIONS.

**CHAPTER I**  
**GENERAL PROVISIONS**

Article 1

In this Law what is referred to as :

1. Fiscal Balance between the Central Government and the Regions is a system of government financing in line with the unitary state, comprising financial division between the Central Government and the Regions and equality between Regions in a proportional, democratic, just, and transparent way by taking into consideration the potential, condition, and the requirements of the Regions, in line with the obligation and division of authority and the procedures on the implementation of said authority, including the management and its financial supervision.
2. The Central Government is the Central Government as referred to in Law Number .. of 1999 regarding the

Regional Government.

3. The Regional Government is the Regional Government as referred to in Law Number ... of 1999 regarding the Regional Government.
4. Regional Autonomy is the regional autonomy as referred to in Law Number ... of 1999 on Regional Government.
5. Autonomous Regions, hereinafter to be referred to as Regions, are the autonomous Regions as referred to in Law Number ... of 1999 regarding the Regional Government.
6. Regional Head is the Governor for the Provincial Regions or the Regent for the regional areas or the Mayor for City Regions as referred to in Law Number ... of 1999 on Regional Government.
7. The People's Consultative Assembly, hereinafter to be abbreviated into DPRD, is the People's Consultative Assembly as referred to in Law Number ... of 1999 on the Regional Government.
8. Decentralization is decentralization as referred to in Law Number ... of 1999 on the Regional Government.
9. De-concentration is de-concentration as referred to in Law Number ... of 1999 regarding the Regional Government;
10. The Assistance Task is the Assistance Task as referred to in Law Number ... of 1999 regarding the Regional Government.
11. The Secretariat on the Fiscal Balance Sector of the Central Government and the Regions is one of the Secretariats in the Regional Autonomous Balance Council as referred to in Law Number ... of 1999 on Regional Government.
12. The Revenues and the Expenditures Budget, hereinafter abbreviated as APBN constitutes the State's annual financial planning determined pursuant to the Law on the State's Revenues and Expenditures Budget.
13. The Revenues and the Expenditures Budget, hereinafter to be abbreviated as APBD, is a Regional annual Financial scheme determined pursuant to the Regional Regulation on Regional Revenues and Expenditures Budget.
14. The Fiscal Balance is the fund originating from the APBN Revenues allocated to the Regions to finance the Regional requirements in the scope of the implementation of De-centralization.
15. Regional loans are all transactions resulting in the Regions to receive from other parties an amount of money or the money-valued use so that said Regions shall be charged with the obligation to repay, not including the short-term credits usually occurring in trade.
16. The de-concentration Budget is the implementation of the APBN in the provincial Regions, comprising all revenues and expenditures to finance the implementation of De-concentration.
17. The Budget of Task Assistance is the implementation of the APBN in the Regions and Villages, comprising all revenues and expenditures to finance the implementation of the Task Assistance.
18. General Allocation Fund is the fund originating from APBN, to be allocated with the objective of evenness in the inter-region financial ability to finance the need of their expenditures in line with the implementation of De-centralization.
19. The Special Allocation Fund is the fund originating from APBN, to be allocated to the Regions to assist in financing certain requirements.
20. Regional Documents are all documents issued by the Regional Government having the nature of openness and which are inserted in the Regional Gazette.

**CHAPTER II  
THE FUNDAMENTALS FOR FINANCING  
THE REGIONAL GOVERNMENTS**

**Article 2**

1. The implementation of the tasks of the Region in the scope of the implementation of decentralization shall be financed on the account of APBD.
2. The implementation of the tasks of the Central Government carried out by people of the Provincial Region in line with the implementation of De-concentration to be financed on the account of the APBN.
3. The implementation of the tasks of the Central Government to be carried out by people from the Region and Village in line with the Assistance Task financed on the account of APBN.
4. The handing over or the delegation of authority of the Central Government to the Governor or the delegation of authority or the assignment of the Central Government to the Regent/Mayor shall be followed by its financing.

**CHAPTER III  
REVENUES SOURCES ON THE IMPLEMENTATION OF  
DECENTRALIZATION**

**First Part**

**Regional Revenues' Sources**

**Article 3**

Sources of the Regional revenues in the implementation of Decentralization shall be :

- a. Original Regional Revenues;
- b. Balance funds;
- c. Regional loans;
- d. Other legal Revenues

## **Second Part Original Regional Revenues' Sources**

### **Article 4**

The Original Regional Revenues Sources as referred to in Article 3 letter a shall consist of :

- a. Result of Regional taxes;
- b. Result of Regional retributions;
- c. Result of Regional-owned enterprises and processing results of the other Regional wealth, set aside;
- d. Other legal original Regional revenues.

### **Article 5**

1. Provisions on Regional taxes and retributions as referred to in Article 4 letter a and letter b shall be regulated by law.
2. Provisions regarding the Regional-owned enterprises and the management of its other Regional wealth set aside as referred to in Article 4 letter c shall be regulated in accordance with the prevailing legislative regulations.

## **Third Part The Balance Fund**

### **Article 6**

(1) The balance fund consist of:

- a. The Region share – from the revenue of the land & property tax, the tax on acquisition of land & building rights, and natural resources;
- b. Public allocation fund;
- c. Special allocation fund.

(2) State Revenue of land & property tax is divided into 10% for Central Government and 90% for the Region.

(3) State Revenue of tax on acquisition of land & building rights is divided into 20% for Central Government and 80% for the Region.

(4) 10% of land & property tax revenue and 20% of tax on acquisition of land & building rights revenue, which is part of Central Government as referred to in paragraph (2) and paragraph (3), has been shared with all Kabupaten and Cities.

(5) State Revenue of forestry natural resources, public mining and fishery sectors is divided into 20% for Central Government and 80% for the Region.

(6) State Revenue of oil & gas mining natural resources produced by the region concern is divided into the following:

- a. State Revenue of the oil mining produced by the region, is divided into 85% for Central Government and 15% for the region after deducted by the tax component which is appropriate with the current regulation.
- b. State Revenue of the natural gas mining produced by the region is divided into 70% for the Central Government and 30% for the region, after deducted by the tax component which is appropriate with the current regulation.

### **Article 7**

(1) The General Allocation Fund is at least 25% from Domestic Revenue which has been stipulated in State Budget.

(2) 10% of the General Allocation Fund is for Province and 90% is for Kabupaten/City as stipulated in para (1).

(3) For any authority changes between Province and Kabupaten/City, the percentage of the General Allocation Fund for both Province and Kabupaten/City as referred to in paragraph (2) is incorporated with its changes.

(4) The General Allocation Fund for a certain Province is based on the total multiplication of the General Allocation Fund for all Provinces which is stated on the State Budget based on the Province proportion concerned.

(5) The Province proportion referred in to para (4) is Province proportion weight which is related to the total Provinces weight in Indonesia.

(6) The General Allocation Fund for a certain Kabupaten/City is based on the multiplication of the General Allocation Fund for all Kabupaten/City which is stated on the Government Budget based on the proportion of Kabupaten/City concerned.

(7) The proportion of Kabupaten/City referred in to para (6) is Kabupaten/City proportion weight which is related to the total of Kabupaten/City weight in Indonesia.

(8) The Region Proportion is stipulated based on:

- a. the autonomy region needs;
- b. the economic potential of the region.

9. The enumeration of General Allocation Fund is based on the formula as referred to in paras (4), (5), (6), (7), and

(8) implemented by Secretariat of Central & Regional Office Budget.

**Article 8**

- (1) Special Allocation Fund can be allocated from the State Budget to the certain region to assist special needs depending on the available budget from the state budget.
- (2) Special needs as referred to in para (1) is:
  - a. the unpredicted needs using the public allocation formula; and/or
  - b. the committed needs or the national priority needs.
- (3) The Special Allocation Fund as referred to in para (1) also includes reforestation fund.
- (4) The Reforestation Fund is divided into:
  - a. 40% is for the producer area as the Special Allocation Fund.
  - b. 60% is for the Central Government.
- (5) With the exception of the Reforestation, the region that receives the special fund as referred to in para (2) is provided an additional fund from the Regional Budget which is appropriate with the potential of the region concerned.

**Article 9**

The large of total Balance Fund as referred to in article 6 para (1) is stipulated in every fiscal year of the State Budget.

**Article 10**

Further provisions on the calculation and distribution procedures on the part of the Region from the State Revenues as referred to in Article 6 paragraph (2), paragraph (3), paragraph (4), paragraph (5), and paragraph (6), and the formula as referred to in Article 7 paragraph (4), paragraph (5), paragraph (6), paragraph (7), and paragraph (8), as well as the Special Allocation Funding as referred to in Article 8 shall be regulated by Government Regulation.

**Fourth Part  
Regional Loans**

**Article 11**

1. Regions may enter into loans from domestic sources to finance part of their budget.
2. Regions may enter loans from foreign resources through central government
3. Regions may enter into long-term loans in order to finance the development of the facilities constituting Regional assets that may produce revenues for repayment of loans, and providing benefits for the services of the community;
4. Regions may enter into short-term loans for regulating the cash-flow in line with managing the Regional treasury.

**Article 12**

1. Regional loans as referred to in Article 11 shall be entered with the approval of DPRD.
2. Regional loans as referred to in paragraph (1) shall be entered by taking into consideration the ability of the Regions to fulfill their obligations.
3. In order that anyone may take notice hereof, each loan agreement performed by the Regions shall be announced in the Regional Gazette.

**Article 13**

1. Regions shall be prohibited to enter into Regional Loans causing exceeding the limit of Regional Loans as determined.
2. Regions shall be prohibited to enter into agreements having the character of loans resulting in imposing responsibility on the Regional financing.
3. Violations towards the provisions as referred to in paragraph (1) and paragraph (2) shall be sanctioned in accordance with the prevailing legislative regulations.

**Article 14**

1. All payments becoming the obligation of the Regions on Regional Loans shall constitute one of the priorities in the expenditures of APBD.
2. In the event the Regions fail to comply with their obligation for payment on Regional Loans from the Central Government, the Central Government may offset said obligation with the General Allocation Funding to the Regions.

**Article 15**

The implementation on Regional Loans as referred to in Article 11, Article 12, Article 13, and Article 14 shall be further regulated by a Government Regulation.

**The fifth Part  
Emergency Funds**

**Article 16**

1. For pressing requirements to certain Regions Emergency Funds originating from the APBN shall be granted.
2. The procedures and methods for the distribution of the Emergency Funds shall be in accordance with the

prevailing provisions for the APBN.

**CHAPTER IV  
MANAGEMENT AND FINANCIAL ACCOUNTABILITY IN THE IMPLEMENTATION OF DE-  
CONCENTRATION**

**Article 17**

1. Financing in line with the implementation of De-concentration shall be distributed to the Governor through related Ministries/Non-departmental Government Institutions.
2. The accountability on De-concentration implementation financing as referred to in paragraph (1) shall be performed by the Governor to the Central Government through the related Ministries/Non-Departmental Government Institutions.
3. Financial administration on the De-concentration implementation financing shall be performed separately from the financial administration in the De-centralization implementation financing.
4. Revenues and Expenditures related to the implementation of De-concentration shall be booked in a De-concentration Budget.
5. In the event there shall be a remainder of an excess budget from revenues towards expenditures of the De-concentration funds, the remainder of the excess budget shall be deposited into the State Treasury.
6. Investigation on De-concentration implementation financing as referred to in paragraph (1) shall be conducted by the State Financial Investigating Agency.
7. Further provisions on the De-concentration implementation financing shall be regulated by a Government Regulation.

**CHAPTER V  
MANAGEMENT AND FINANCIAL ACCOUNTABILITY IN THE IMPLEMENTATION OF THE  
ASSISTANCE TASK.**

**Article 18**

1. Financing in line with the implementation of the Assistance Task shall be distributed to the Regions and Villages through Ministries /Non-Departmental Government Institutions.
2. The accountability on the financing of the implementation of the Assistance Task as referred to in paragraph (1) shall be carried out by the Regions and Villages to the Central Government through the Ministries/Non-departmental Government Institutions assigned by the Central Government.
3. Financial administration in the financing of the implementation of the Assistance Task shall be carried out separately from the financial administration in financing the De-centralization implementation.
4. Revenues and expenditures related to the implementation of the Assistance Task shall be booked in the Assistance Task Budget.
5. In the event there shall be a remainder on the excess budget from revenues towards expenditures of the Assistance Task funds, said remainder of the excess budget shall be deposited into the State Treasury.
6. Investigation on the financing of the implementation of the Assistance Task as referred to in paragraph (1) shall be conducted by the State financial investigator's agency.
7. Further provisions on the financing of the implementation of the Assistance Task shall be regulated by a Government Regulation.

**CHAPTER VI  
MANAGEMENT AND FINANCIAL ACCOUNTABILITY IN THE IMPLEMENTATION OF DE-  
CENTRALIZATION.**

**First Part**

**The Fundamentals on the Financial Management in the Implementation of De-centralization.**

**Article 19**

1. All revenues and expenditures in the scope of the implementation of De-centralization shall be registered and managed in the APBD.
2. All Regional revenues and expenditures not related to the implementation of De-concentration or the Assistance Task shall constitute revenues and expenditures in line with the implementation of De-centralization.
3. APBD, APBD amendments, and the APBD Calculations shall be determined by a Government Regulation.
4. APBD, APBD amendments, and the APBD Calculations shall constitute Regional Documents.

**Article 20**

1. APBD shall be determined by Regional Regulation not later than 1 (one) month after the APBN has been determined.
2. APBD Amendments shall be determined by Regional Regulation not later than 3 (three) months before finalization of the budget year.

3. Calculation of the APBD shall be determined not later than 3(three) months after finalization of the relevant budget year.

#### **Article 21**

The Expenditures Budget in the APBD may not exceed the budget on revenues.

#### **Article 22**

1. Regions may establish reserve funds in order to finance certain requirements
2. Reserve Funds as referred to in paragraph (1) shall be reserved from Regional Revenues' Sources.
3. Each formation of a reserve fund as referred to in paragraph (1) shall be determined by a Regional Regulation.
4. All sources of revenues for the reserve fund as referred to in paragraph (1) and all expenditures to be borne by the reserve fund shall be booked in the APBD.

#### **Article 23**

1. Provisions on the fundamentals of the Regional financial management shall be regulated by a Regional Regulation.
2. The system and procedures on managing the Regional financing shall be regulated by a Decree of the Regional Head as referred to in paragraph (1).

### **Second Part**

#### **Report on the Accountability of Regional Finance.**

#### **Article 24**

1. The Regional Head shall hand over an accountability report to the DPRD regarding :
  - a. management on Regional financing as referred to in Article 19, Article 20, Article 21, and Article 22;
  - b. performance on the Regional financing from the view of financial efficiency and effectiveness in the implementation of De-centralization.
2. DPRD in an open plenary session shall accept or reject by requesting the updating of the accountability report as referred to in paragraph (1).
3. The Regional financial accountability report shall constitute a Regional Document.

### **Third Part**

#### **The investigation of the Regional Finance**

#### **Article 25**

Investigation on the implementation, management, and Regional financial accountability shall be conducted by the prevailing legislative regulations.

#### **Article 26**

Provisions on the fundamentals of the management and the Regional financial accountability as referred to in Article 23 and Article 24 shall be regulated with a Government Regulation.

### **CHAPTER VI**

#### **REGIONAL FINANCIAL INFORMATION SYSTEM**

#### **Article 27**

1. The Central Government shall implement a Regional financial information system.
2. Information included in the Regional financial information system as referred to in paragraph (1) shall constitute open data which may be known by the public.
3. Further provisions regarding the Regional financial information system as referred to in paragraph (1) shall be regulated by a Decree of the Minister of Finance.

#### **Article 28**

1. Regions shall be obliged to submit information related to the Regional Finance to the Central Government including Regional loans.
2. Implementation on provisions as referred to in paragraph (1) shall be regulated by a Government Regulation.

### **CHAPTER VIII**

#### **A SECRETARIATE OF THE CENTRAL GOVERNMENT BALANCE SECTOR AND THE REGIONS**

#### **Article 29**

1. The Secretariat on the Central Government Balance Sector and Regions shall have the task of preparing recommendations to the Regional Autonomy Balance Council regarding the fiscal balance of the Central Government and the Regions and other matters related to the financial management of the Regions.
2. Further provisions on the Secretariat as referred to in paragraph (1) shall be regulated by a Decree of the President.

### **CHAPTER VIII**

#### **TRANSFER PROVISIONS**

#### **Article 30**

1. The prevailing legislative regulations related to Regional finance insofar as they do not contradict and have not yet been adjusted by this Law shall remain to be effective.
2. Adjustments as referred to in paragraph (1) shall be implemented not later than 2 (two) years after the effectiveness of this Law.

#### **Article 31**

1. In the APBN funds may be allocated for direct financing of De-centralization matters other than from Regional revenues as referred to in Article 3.
2. Provisions in paragraph (1) shall prevail for not later than 2 (two) fiscal years after the promulgation of this Law.
3. Direct financing from the APBN as referred to in paragraph (1) shall be exempted from the provisions in Article 19 paragraph (1).
4. Each budget year, the related technical ministers shall compile a report of all projects and activities specified as follows :
  - a. development budget for the sectors and sub-sectors;
  - b. Ministry organizational unit/non-departmental government institution for routine expenditures.
  - c. Projects and activities which execution shall be managed by the Central Government, and the projects and activities which execution shall be managed by the Region for all expenditures.
5. Reports as referred to in paragraph (2) shall be submitted to the DPRD.

#### **CHAPTER IX**

#### **CLOSING PROVISIONS**

#### **Article 32**

With the coming into force of this Law, Law Number 32 of 1956 Concerning the Fiscal Balance Between the State and the Regions, Entitled to Regulate their own Government (State Gazette of 1956 Number 77, Supplementary State Gazette Number 1442) are declared to be no longer valid.

#### **Article 33**

This Law shall commence to be effected on the day of its promulgation.

In order that anyone may take notice hereof, it is instructed to promulgate this Law by inserting in into the State Gazette of the Republic of Indonesia.

Enacted in Jakarta

On the day ...

THE PRESIDENT OF THE REPUBLIC OF INDONESIA

BACHARUDDIN JUSUF HABIBIE

Promulgated in J a k a r t a

On

THE STATE MINISTER STATE SECRETARY

OF THE REPUBLIC OF INDONESIA

AKBAR TANDJUNG

STATE GAZETTE OF THE REPUBLIC OF INDONESIA OF 1999 NUMBER ...

**(SYMBOL)**  
**THE PEOPLE'S**  
**CONSULTATIVE ASSEMBLY**  
**CLARIFICATION**  
**OF**  
**DRAFT LAW OF THE REPUBLIC OF INDONESIA**  
**NUMBER 25 YEAR 1999**  
**CONCERNING**  
**FISCAL BALANCE BETWEEN**  
**CENTRAL GOVERNMENT AND REGIONS**

**I. GENERAL**

In the framework of implementing state governance and national development to achieve a society that is just, prosperous, and equal in based on Pancasila and the 1945 Constitution, Article 1 of the 1945 Constitution determines that the State of Indonesia is a unitary state that has the form of a republic. Furthermore, Article 18 of the 1945 Constitution and its clarification determine that the area of Indonesia is divided into autonomous areas and administrative regions.

Regional development being an integral part of national development shall be executed according to regional autonomous principle and the arrangement on national resources that shall provide opportunities to improve democracy and regional performance in increasing people's welfare that aims for people that are honest, free of corruption, collusion, and nepotism. Implementation of regional governance as a sub system of state governance is with the intention of increasing efficiency and effectiveness in implementing governance and public services. As an autonomous region, the Regions have the authority and responsibility to carry out the people's interests in accordance with principles that are transparent, public participation, and accountable to the people.

In the framework of implementing governance, public services, and development, the government of a nation basically carries out three main functions that are the allocation function which includes, among others, economic sources in the form of goods and public services, the distribution function which includes, among others, revenues and public wealth, equal development, and the stabilization function which includes, among others, security and defense, economy and monetary situation. The distribution and stabilization function shall generally be more effectively carried out by Central Government, while the allocation function shall generally be more effectively carried out by Regional Government, because basically the regions have better knowledge on the needs and the standard of public services. However, it is necessary that during implementation care should be taken on the different conditions and situations for each region. Therefore, division of said functions is very important as basis in the determination of principles of fiscal balance between Central Government and Regions that are clear and firm.

In order to support the implementation of autonomous Regions a thorough, real, and proportionally accountable authority is required to be realized by regulations, distributions, and a justified exploitation of national resources, and fiscal balance between Central Government and Regions. In the framework of fiscal balance between the Central Government and Regions the regional government financial sources shall be executed based on decentralization, de-concentration, and tasks of assistance.

The financial sources for the implementation of decentralization comprises basic regional revenues, balanced funds, regional loans, and other legitimate revenues. The original regional revenues sources shall be regional financial sources that are dug up from related regional areas that consist of regional taxation revenues, regional retribution revenues, separate regional wealth exploitation revenues, and other legitimate basic regional revenues.

The balanced funds shall be a financing source that originate from the Regions shares of Land and Building Tax, Customs on the Obtaining Rights of Land and Building, and revenues from natural resources, as well as general allocated funds and special allocated funds. Said balanced funds shall not be separated one from another, bearing in mind that the objective of each said type of sources completes and complements each other.

Regional shares of the Land and Building Tax revenues, Customs on the Obtaining Rights of Land and Building, and revenues from natural resources, are revenues sources that are basically taking into consideration the region's production potential. The general allocated funds shall be allocated with the objective of equality by considering the region's potential, the region's area, the geographical conditions, the number of the population, and the regional people's level of income, in order for the differences between the more advanced regions and the less advanced ones may be decreased. The purpose of the special allocated funds is to assist in financing regional special requirements. Furthermore, to cope with emergency conditions such as a natural disaster, an Emergency Fund may be allocated to the Region. Therefore, this Law besides providing a basis for regulating financial distribution between Central Government and Regions, it also provides a basis for fiscal balance between Regions.

During implementation of the fiscal balance between Central Government and said Regions it is necessary to take into

consideration the financial requirements for the implementation of authority which is the responsibility of the Central Government, among others the financing of foreign politics, security and defense, justice, monetary and fiscal management, religions, and repayment obligations of the Central Government's loans.

This law shall also regulate the Regional authority in establishing Reserve Funds that have the sources from Regional revenues, and financial management and accountability system in carrying out decentralization, de-concentration, and provision of assistance. Financial accountability in the framework of decentralization shall be carried out by the Head of Region to the DPRD. Several kinds of Regional financial statements shall be put in the Regional document so that it may be known to the public and therefore, openness in the management of Regional finance shall be realized. In the matter of Regional finance investigation it shall be executed by a functional investigating agency. Furthermore, in order to support the smoothness in implementation of allocation to the Regions, a regional financial information system shall be regulated and a Secretariat in the Field of Central and Regional Government Fiscal Balance shall be determined having the task of preparing recommendation on the fiscal balance between the Central Government and Regions.

The fiscal balance between Central Government and Regions as regulated in Law Number 32 Year 1956 could not be executed according to what was expected, because among others several factors that were necessary to calculate distribution of finance to the Regions were not possible yet to use. Furthermore, several types of taxes that were the sources for implementation of said fiscal balance are at present not applied anymore through several legislative regulations and also due to the fact that existing needs and public aspirations developed in the support of regional autonomy, therefore, it is necessary to determine a Law that shall regulate the fiscal balance between Central Government and Regions.

Based on the above clarification, this Law has the main objectives of among others:

- a. To utilize and improve regional economy abilities.
- b. To create a regional financing system that is just, proportional, rational, transparent, participatory, accountable, and correct.
- c. To realize a fiscal balance system between Central Government and Regions that shall reflect the authority of division of task and a clear accountability between Central and Regional Government, support execution of Regional autonomy by organizing a regional government that is transparent, considers public participation and is accountable to the public, lessen the discrepancy between Regions in its ability to finance its responsibility in autonomy, and to provide assurance of Regional financial sources that originate from related Regional areas.
- d. To become a reference for a Region in the allocation of national revenues.
- e. To affirm the Regional Government financial accountability system.
- f. To become a main reference in Regional Finance.

## I. **ARTICLE BY ARTICLE**

### Article 1

This article clarifies the meaning of several terms that are used in this Law, with the intention of standardizing the meaning of said terms, so that misunderstanding in the interpretations may be avoided.

### Article 2

#### Paragraph (1)

#### Self-explanatory

#### Paragraph (2)

#### Self-explanatory

#### Paragraph (3)

#### Self-explanatory

#### Paragraph (4)

Handing over or delegating the Central Government authority to the Governor or Regent (Bupati) / Mayor may be carried out in the framework of Decentralization, De-concentration, and Provision on Assistance. Each handing over or delegation of authority from the Central Government to the Regions in the framework of Decentralization and De-concentration shall be accompanied by transfer of human resources, and facilities and the allocation of budget required to ensure a smooth execution of the said handing over and delegation.. Meanwhile, assignment from Central Government to the Regions in the framework of Provision on Assistance shall be accompanied by a budget allocation.

### Article 3

#### Letter a

What is meant by Basic (original) Regional Revenues are revenues obtained by the Regions from

sources in their own areas that are levied according to the Regional Regulations in accordance with the prevailing legislative regulations.

Letter b

Self-explanatory

Letter c

Self-explanatory

Letter d

Other legitimate revenues, among others, grants, Emergency Funds, and other revenues that are in accordance with the prevailing legislative regulations.

#### Article 4

Letter a

Self-explanatory

Letter b

Self-explanatory

Letter c

The type of revenues that are included in the result of its other Regional wealth management, among others, share of profits, dividends, and sales of shares owned by the Regions.

Letter d

Other legitimate Basic Regional Revenues, among others, sales of Regional fixed assets and Giro services.

#### Article 5

Paragraph (1)

Types of Regional taxes and Regional retributions shall be adapted to the authority delegated to the Provincial Areas and the Regent Area / City. The said adaptation shall be executed by amending the Law Number 18 Year 1997 regarding Regional Taxes and Regional Retributions.

Paragraph (2)

Self-explanatory

#### Article 6

Paragraph (1)

The fiscal balance that consist of 3 (three) types of financial sources, are financing sources for the execution of Decentralization of which the allocation may not be separated from the others, taking into consideration the objective of each such type of revenues that is complete and complementary.

Letter a

What is meant by Regional share of natural resources revenues is the Regional share of State revenues that originate from the management of natural resources, among others, in the field of general mining, oil and natural gas mining, forestry, and fishery.

Letter b

The uses of this fund shall be fully determined by the Region.

Letter c

Self-explanatory

Paragraph (2)

Further division between Province Regions and Regency / City shall be regulated in accordance with the prevailing legislative regulations.

Paragraph (3)

Further division between Province Regions and Regency / City shall be regulated in accordance with the prevailing legislative regulations.

Paragraph (4)

Self-explanatory

Paragraph (5)

Regional share that comes from natural resources revenues of the forestry sector, general mining sector, and fishery sector that are obtained from the Central Government are determined as follows:

A. The forestry sector shall be divided as follows:

1. 80% (eighty percent) of the Contributions of Rights on Forestry Management revenues shall be divided with following details:
  - a. the share of the Province is in the amount of 16% (sixteen percent);
  - b. the share of the producing Regency / City is in the amount of 64% (sixty four percent)

2. 80% (eighty percent) of the Commissions on Forestry Resources revenues shall be divided with following details:
  - a. the share of the Province is in the amount of 16% (sixteen percent);
  - b. the share of the producing Regency / City is in the amount of 32% (thirty two percent);
  - c. the share of other Regency / City in related Province is in the amount of 32% (thirty two percent).
- B. The general mining sector shall be divided as follows:
  1. 80% (eighty percent) of the Fixed Commission (Land Rent) revenues shall be divided with following details:
    - a. the share of the Province is in the amount of 16% (sixteen percent);
    - b. the share of the producing Regency / City is in the amount of 64% (sixty four percent)
  2. 80% (eighty percent) of the Commissions on Forestry Resources revenues shall be divided with following details:
    - a. the share of the Province is in the amount of 16% (sixteen percent);
    - b. the share of the producing Regency / City is in the amount of 32% (thirty two percent);
    - c. the share of other Regency / City in related Province is in the amount of 32% (thirty two percent).
  3. 80% (eighty percent) of the Fishery Business Retributions and the Fisheries Business Retributions shall be divided evenly to all of the Regencies / Cities in Indonesia.

## Paragraph (6)

### Letter a

Regional shares as referred to in this paragraph (6) letter a shall be divided with the following details:

- i. the share of the related Province is 3% (three percent);
- ii. the share of the producing Regency / City is 6% (six percent);
- iii. the share for other Regencies / Cities in related Province is 6% (six percent).

### Letter b

Regional shares as referred to in this paragraph (6) letter b shall be divided with the following details:

- i. the share of the related Province is 6% (six percent);
- ii. the share of the producing Regency / City is 12% (twelve percent);
- iii. the share for other Regencies / City in related Province is 12% (twelve percent).

## Article 7

### Paragraph (1)

The General Allocated Funds as referred to in this paragraph are the total amount of general allocation for the Province Area and for the Regencies / City Areas.

The increase of the General Allocated Funds shall be in line with the delivery and transfer of the authority of the Central Government to the Regional Government in the framework of Decentralization.

### Paragraph (2)

Self explanatory.

### Paragraph (3)

The adjustment of percentage as outlined in this paragraph is determined in the State Budget.

### Paragraph (4) and Paragraph (5)

The formula of the General Allocated Funds as outlined in this paragraph is:

General Allocated Funds for one specific Province =  

$$\frac{\text{Total General Allocated Funds} \times [\text{Weight of related Provincial Region}]}{\text{for Provincial Region} [\text{Total weight of all Provincial Regions}]}$$

### Paragraph (6) and Paragraph (7)

The formula of the General Allocated funds as outlined in this paragraph is:

General Allocated Funds for one specific Regency/Town =  

$$\frac{\text{Total General Allocated Funds} \times [\text{Weight of related Provincial Region}]}{\text{for Regency/Town} [\text{Total weight of all Provincial Regions}]}$$

### Paragraph (8)

The Weight of the Region is determined based on results of empirical results by taking into consideration the relevant variables.

- a. The requirement of Regional Autonomy areas should at least be reflected from the variables of total inhabitants, surface area of the region, geographical conditions, and level of income of the people by

paying attention to the destitute people.

- b. The potential of a Region can among others be reflected by the potential of revenue of a Region such as potential of industry, potential of natural resources, potential of human resources, and the Gross Regional Domestic Product.

Paragraph (9)

The Secretariats of the Central and Regional Fiscal Balance Sectors also prepare and or maintain the updating of data that form variables in the said formulas. As such the Secretariats of the Central and Regional Fiscal Balance Sectors are objective and independent institutions that can maintain openness and transparency in the allocation of the General Allocated Funds.

Article 8

Paragraph (1)

Self Explanatory.

Paragraph (2)

Point a.

The requirements that cannot be estimated in general by formula, are requirements with specific characteristics that are dissimilar to the requirements of other Regions, for instance the requirements in transmigration areas, and the requirements of several types of investments/ new facilities, construction of roads in isolated areas, primary irrigation channels, and primary drainage channels.

Point b.

Including, among others, projects funded by donors and humanitarian projects to fulfill the basic requirements of humankind.

Paragraph (3)

Self Explanatory.

Paragraph (4)

Point a.

Reforestation funds as outlined in this paragraph (4) point a. can only be used for funding of reforestation activities and greening by producing Regions.

Point b.

Reforestation funds as outlined in this paragraph (4) point b. can only be used for funding of national reforestation activities by the Central Government.

Paragraph (5)

To confirm commitment and responsibility of the Region in the funding of programs that constitute such specific requirements, availability of funds is therefore necessary from the sources of the Regional Budget as an accompaniment to the Special Allocated Funds from the State Budget.

Article 9

Self explanatory.

Article 10

Principles of content of the said Governmental Regulation, among others:

- c. procedures for calculation and distribution of Regional shares from the revenue of the State originating from the distribution of Land and Building Taxes, Levies on Income from Rights on Land and Building, natural resources from the sectors of Forestry, general mining, oil and natural gases mining and fishery for Provincial Regions and Regency/Town Areas.
- d. formulas of General Allocated Funds that contain the weight of Provincial Regions, Regency/Town Areas, the mechanism of distribution of shares of the Region to the related Provincial Regions and Regency/Town Areas.
- e. Special Allocated Funds that contain the minimum percentage of accompaniment funds, the sectors/activities that cannot be funded, the use of Special Allocated Funds, and the role of the minister in charge of national development planning and the technical minister involved as well as the mechanism of distribution of Regional shares to the Provincial Regions and the Regency/Town Areas.

Article 11

Paragraph (1)

Domestic loans can originate from the Central Government and/or the commercial institutions and/or issuance of Regional bonds.

Paragraph (2)

The mechanism of international loans through the Central Government contains the interpretation that the Central Government shall evaluate from various aspects with regards the feasibility of the proposal for Loans

by the Region for further process. As such further process for proposals for Loans by the Regions should indirectly reflect the approval of the Central Government for the said proposal.

Paragraph (3)

The definition of long term loan is a Regional Loan with a tenure of more than one year with the condition that the cost of repayment of loan, in the form of principal loan and/or interest and/or other costs, partially or wholly shall be paid in full in the following fiscal years. The tenure of long term loans may not be longer than the economical age of such infrastructure.

Paragraph (4)

The definition of short term loan is a Regional Loan with a tenure of equivalent to or less than one year with the condition that cost of repayment of loan, in the form of principal loan and/or interest and/or other costs, must be paid in full within the related fiscal year.

Article 12

Paragraph (1)

The approval of the Regional People's Consultative Council of the proposal of the Regional Government to obtain loans shall be with thorough consideration of among others, the capability of the Region to repay and the maximum limitation of loans.

Paragraph (2)

The definition of Regional capability to fulfill obligations is the capability of the Region to fund its requirements for expenses, both on the obligations of said loan as well as other expenses such as employees salaries as well as operational and maintenance costs.

Paragraph (3)

This regulation is intended so that there be openness and responsibility that is clear to the public with regards the obligations of said loan.

Article 13

Paragraph (1)

The limitation of amount of Regional Loan is the maximum amount of loan that can be accepted by the Region by taking into consideration the indicators of capability of the Region for borrowing as well as repaying loans, that is a ratio that shows the availability of an amount of funds in a certain period to settle the obligation of payment of loan.

Paragraph (2)

The guarantee outlined in this paragraph is the Regional guarantee against among others loans of Region-owned companies and private loans in the framework of implementation of Regional projects.

Paragraph (3)

The applicable lawful regulations, among others, are the Criminal Code, the Laws on Employment, the Laws on State Treasury, and the Civil Code.

Article 14

Paragraph (1)

By placing Regional obligations towards Regional loans as a priority in the expenditure of the Regional Budget, the fulfillment of such obligations is expected to have a parallel position as other expenditures that have to be prioritized by the Region, for instance expenditures that if not implemented can cause social unrest. As such the fulfillment of obligation on Regional loans cannot be ignored or put aside if the targeted receipt of the Regional Budget is not achieved.

Paragraph (2)

The implementation of this paragraph is executed by taking into consideration the financial condition of the Region.

Article 15

The principles of the content of the said Governmental Regulation are among others, the types and sources of loan, the sectors that can be funded by loan funds, the maximum limitation of credit, the tenure of the loan, and the procedures for acquiring loans.

Article 16

Paragraph (1)

The definition of immediate/emergency requirement is an extraordinary condition that cannot be overcome by the Region with funding from the Regional Budget, that cover natural disasters and/or other events declared by the Central Government as national disasters.

Paragraph (2)

Self explanatory.

Article 17

Paragraph (1)

The authority and responsibility related to the funding in the framework of implementation of Deconcentration, refer to the lawful regulations concerning the State Budget and the state treasury. The funds for implementation of such Deconcentration do not constitute revenue of the Regional Budget.

Paragraph (2)

Self explanatory.

Paragraph (3)

Self explanatory.

Paragraph (4)

Self explanatory.

Paragraph (5)

Self explanatory.

Paragraph (6)

Self explanatory.

Paragraph (7)

The principles of the content of said Governmental Regulation are, among others, allocation and administration of finance of the implementation of Deconcentration by the Governor and his office, that cover the systems and procedures of planning, implementation of investigation/supervision and the accountability of finance, in accordance with the mechanism of State funding applicable to the State Budget.

Article 18

Paragraph (1)

Self explanatory.

Paragraph (2)

Self explanatory.

Paragraph (3)

Self explanatory.

Paragraph (4)

Self explanatory.

Paragraph (5)

Self explanatory.

Paragraph (6)

Self explanatory.

Paragraph (7)

The principles of the content of said Governmental Regulations are among others, the form and structure of the Budget for Assignment of Assistance, allocation and administration of finance in implementation of the Assignment of Assistance by the Governor and his office, that cover the systems and procedures of planning, implementation of investigation/supervision and responsibility of finance, in accordance with the mechanism of the finance of the State applicable to the State Budget.

Article 19

Paragraph (1)

To be recorded and to be managed within the State Budget include recordings and management in the amendments and calculation of the Regional Budget.

Paragraph (2)

This regulation is intended to guarantee that all revenue and expenditure managed by the Governor and the Regency Head/Mayor and their offices are categorized in the framework of implementation of Decentralization or in the framework of the implementation of Deconcentration or in the framework of implementation of Assignment of Assistance. As an example the collection for Puskesmas (Public Health Center) constitutes the revenue in the framework of implementation of Decentralization and is administered in the Regional Budget.

Paragraph (3)

Self explanatory.

Paragraph (4)

Self explanatory.

Article 20

Paragraph (1)

Self explanatory.

Paragraph (2)

Self explanatory.

Paragraph (3)

Self explanatory

#### Article 21

The regulations in the Article convey that the Region may not budget any expenditure without having any assured availability of source of funding and this shall urge the Region to improve its efficiency in expenditure.

#### Article 22

Paragraph (1)

The regulation of this paragraph provides an opportunity to the Region if necessary to form fund reserves for expenditure requirements that need relatively substantial amounts that cannot be charged in one fiscal year.

Paragraph (2)

The reserve funds can be made available from the surplus balance of last year's budget and/or from sources of Regional revenue.

Paragraph (3)

The said Regional Regulation, among others, determines the purpose of the reserve funds, the source of funding of the reserve funds, and the type of expenditure that can be funded from such reserve funds.

Paragraph (4)

The reserve funds are formed and administered with an openness, public, and maintained in the form of cash or that can be cashed expediently, and all transactions must be recorded in the Regional Budget.

To be administered into the Regional Budget means that beginning balance should be recorded, all receipts and all disbursements, as well as the ending balance in a detailed form for said reserve funds.

#### Article 23

Paragraph (1)

The principle contents of the said Regional Regulation, among others, cover the outline and the main guidelines of the procedures for preparation of the Regional Budget, the financial authority of the Regional Head and the People's Consultative Council of the Region, the principles of cash management, authorization for disbursement of cash, procedures for requisition of goods and services, procedures for implementation of loans, and financial responsibility.

Paragraph (2)

The system and procedure of management of Regional finances cover, among others, the organizational structure, documentation, and detailed procedures in implementation of finance management, with the purpose of optimizing effectiveness, efficiency and security. Additionally, such system and procedure should be able to make available information to the Central Government accurately and punctually.

#### Article 24

Paragraph (1)

The said report on accountability shall be declared into a form of report.

Paragraph (2)

The rejection of a report by the Regional People's Consultative Council must be accompanied by the reasons. Further process of rejection of accountability of such Regional Head shall adhere to the mechanism as outlined in the Laws with regards Regional Government.

Paragraph (3)

Self explanatory.

#### Article 25

Self explanatory.

#### Article 26

Principles of the content of said Governmental Regulation, among others cover:

1. principles for transparency and accountability with regards preparation, amendment and calculation of the Regional Budget, cash management, reporting procedures, internal control, authorization and others, as well as guidelines for system and procedure management.
2. guidelines for report of accountability related to the services achieved, the cost of each component of activity, and accounting standards for Regional Government, as well as percentage of total revenue of the Regional Budget allocated for funding of general administration and general government.

#### Article 27

Paragraph (1)

The source of information for the financial information system of a Region primarily is the information report of the Regional Budget as outlined in Article 24 paragraph (1).

Paragraph (2)

Self explanatory.

Paragraph (3)

Principles of content of the said Decree of the Minister of Finance cover, among others, the institutions that are responsible for preparation and maintenance of the Regional financial information system, the procedures of acquiring the necessary information and the procedures for method of making information available to the governmental institutions and the public.

Article 28

Paragraph (1)

Self explanatory

Paragraph (2)

The principles of the content of this Governmental Regulation cover, among others, the type of information, the form of information report, the procedures of preparation, and delivery of information to the related technical Minister.

Article 29

Paragraph (1)

The said recommendations, among others, are with regards the determination of the amount of the General Allocated Funds for each Region based on the formula that has been determined and the funding policy of the Region.

Paragraph (2)

The principles of the content of such Presidential Decree cover, among others, the number and the qualifications of members, the procedures of appointment, period of employment, and duties and responsibilities of the members of the Secretariat.

Article 30

Paragraph (1)

Self explanatory

Paragraph (2)

Self explanatory