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The Constitutionality of Financing the Free Nutritious Meals Program from the Education Budget
An Analysis of Constitutional Court Decision Number 40/PUU-XXIV/2026

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Abstract

Article 31 paragraph (4) of the 1945 Constitution requires the state to prioritize an education budget of at least twenty percent of the national and regional budgets. Law Number 17 of 2025 on the 2026 State Budget included funding for the Free Nutritious Meal Program (MBG) in the education budget, prompting a constitutional review. Through Decision Number 40/PUU-XXIV/2026, delivered on 30 July 2026, the Constitutional Court partially granted the petition, declared the Elucidation of Article 22 paragraph (3) of the 2026 State Budget Law conditionally constitutional insofar as it applies only to the 2026 budget, and ordered the separation of the MBG budget from the operational education budget no later than the 2028 State Budget. This study analyzes the position of the education budget in the Constitution and case law, the reasoning and ruling of Decision 40/PUU-XXIV/2026, and its implications for the design of MBG financing. It employs a normative juridical method with statutory, case, and conceptual approaches. The findings show that the decision affirms the meaning of the education budget as funding for the core components of education, but the transitional period it grants has drawn criticism for tolerating a reduction in core education funding. This study recommends separating the MBG budget earlier than the deadline, assigning an appropriate functional classification, and strengthening transparency and parliamentary oversight.

Keywords: *education budget, free nutritious meals, Constitutional Court, conditionally constitutional decision, state finance*

INTRODUCTION

The state budget reflects constitutional political choices. Through the budget, the state determines which citizens' rights are prioritized and how constitutional obligations are fulfilled. The 1945 Constitution specifically sets an obligation to allocate budget to education. Article 31 paragraph (4) states that the state shall prioritize an education budget of at least twenty percent of the state budget and of regional budgets to meet the needs of national education. This provision is one of the few spending obligations set directly by the constitution.

This obligation has been tested by the Free Nutritious Meals Program (MBG), a national priority program requiring a very large budget. The MBG ceiling in the 2026 state budget was initially set at around IDR 335 trillion before being adjusted (Bisnis.com, 2026a). Law Number 17 of 2025 on the 2026 State Budget included MBG funding in the education budget through the Elucidation of Article 22 paragraph (3). As a result, much of the increase in the education budget was in fact used to finance a feeding program rather than learners, educators, facilities,

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and curricula. This policy prompted teachers, lecturers, and civil society groups to petition the Constitutional Court (Hukumonline, 2026a).

On 30 July 2026, the Constitutional Court delivered Decision Number 40/PUU-XXIV/2026 on a petition filed by the Taman Belajar Nusantara Foundation together with several individual petitioners. The Court partially granted the petition, declared the Elucidation of Article 22 paragraph (3) of the 2026 State Budget Law conditionally constitutional insofar as it is interpreted as applying only to the 2026 state budget, and ordered that from subsequent state budgets the MBG budget, which is not a core component of education, be separated from the operational budget for education, at the latest in the 2028 state budget or two years after the decision was delivered (Bisnis.com, 2026b). On the same day, the Court also decided two other cases of similar substance, namely Case Number 52/PUU-XXIV/2026 and Number 55/PUU-XXIV/2026.

This decision is worth examining from two angles. In substance, the decision affirms the meaning of the education budget in the constitution. In terms of adjudicative technique, the Court used a conditionally constitutional construction with a time limit and a transitional period, which according to Tanjung (2026) may give rise to new norms beyond the classical authority of constitutional courts. Rambe et al. (2024a) have also shown that the review of public financing norms, particularly health financing, requires the Court to carefully balance the protection of constitutional rights with the government's fiscal policy space. Accordingly, this study formulates three research questions:

1. What is the position of the education budget in the 1945 Constitution and in Constitutional Court jurisprudence?
2. How should the reasoning and operative part of Constitutional Court Decision Number 40/PUU-XXIV/2026 be assessed from the perspective of constitutional law?
3. What are the implications of the decision for the financing design of the MBG Program?

This study aims to analyze the constitutional meaning of the education budget, assess the construction of Decision 40/PUU-XXIV/2026, and formulate recommendations for an MBG financing design consistent with the constitution and the principle of state financial accountability.

METHOD

This study is normative legal research using statutory, case, and conceptual approaches (Tanjung, 2024). The statutory approach is used to examine the 1945 Constitution, Law Number 17 of 2003 on State Finance, Law Number 20 of 2003 on the National Education System, and Law Number 17 of 2025 on the 2026 State Budget. The case approach is used to examine Constitutional Court Decisions Number 24/PUU-V/2007, Number 13/PUU-VI/2008, and Number 40/PUU-XXIV/2026. The conceptual approach is used to examine the concepts of mandatory spending, conditionally constitutional decisions, and the separation of powers in budgetary matters.

Primary legal materials consist of legislation and court decisions, while secondary legal materials consist of books, journal articles, and official reports on the proceedings and content of the decision. The legal materials were analyzed qualitatively using deductive reasoning and systematic interpretation, that is, by placing the decision within the overall system of constitutional norms on education and state finance.

RESULTS AND DISCUSSION

1. The Position of the Education Budget in the Constitution and Jurisprudence

The provision on a minimum twenty percent education budget was born from the fourth amendment to the 1945 Constitution in 2002 as a response to the state's low investment in education.

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This provision is a form of mandatory spending that limits the discretion of the legislature in enacting the state budget. Asshiddiqie (2006) explains that constitutional provisions setting a specific figure have strong binding force because they close off overly loose interpretation. In practice, however, the debate has shifted from the size of the figure to which components may legitimately be counted as the education budget.

The Constitutional Court has interpreted this provision several times. In Decision Number 24/PUU-V/2007, the Court held that educators' salaries are a component of the education budget, so the phrase excluding educators' salaries from the calculation of the education budget in the National Education System Law was declared unconstitutional. In Decision Number 13/PUU-VI/2008, the Court held that a state budget allocating less than twenty percent to education is contrary to the 1945 Constitution. Both decisions formed the doctrine that the education budget must be fulfilled in real terms and used directly for the provision of education. This development of jurisprudence is summarized in Table 1.

Table 1. Constitutional Court Jurisprudence on the Education Budget

Decision	Main Position	Meaning for Education Budget Calculation
24/PUU-V/2007	Educators' salaries are a component of the education budget	Expands the components that may be counted
13/PUU-VI/2008	A state budget with less than 20 percent for education is unconstitutional	Affirms the mandatory and real nature of the 20 percent figure
40/PUU-XXIV/2026	The MBG budget is not a core component of education and must be separated by the 2028 state budget at the latest	Limits the components that may be counted; provides a transitional period

Source: Compiled from Constitutional Court decisions and official reports of the proceedings.

Within this framework, the MBG problem lies not in the value of the program but in how it is financed. The petitioners argued that including MBG in the education budget reduced the genuine education budget and diverted its function, referring to earlier decisions affirming that the twenty percent budget must be used directly for the provision of education (Hukumonline, 2026a). This view is in line with Hadinata's (2026) study, which considers that the MBG policy has broad fiscal and political implications and therefore requires a clear financing design.

2. Analysis of the Reasoning and Operative Part of Decision 40/PUU-XXIV/2026

In its reasoning, the Court affirmed that education funds as mandated by Article 31 paragraph (4) of the 1945 Constitution must be used to support the core needs of education, from learners, teaching staff, facilities and infrastructure, and curricula to the evaluation and development of education (JawaPos, 2026). The Court also stressed that the education budget must not be reduced (Antara, 2026). With this reasoning, the Court essentially held that MBG, although beneficial to learners, is not a core component of the provision of education.

However, the Court did not annul the provision outright. It declared the Elucidation of Article 22 paragraph (3) of the 2026 State Budget Law conditionally constitutional insofar as it is interpreted as applying only to the 2026 state budget, and set a deadline for separation at the latest in the 2028 state budget (Bisnis.com, 2026b). The Court's reasoning shows an understanding that the 2026 MBG budget was already being implemented, so immediate annulment could disrupt the program and state finances.

This construction can be read from two perspectives. From the perspective of respect for fiscal space, the decision reflects the Court's self-restraint towards budgetary policy, which is the joint authority of the President and the House of Representatives under Article 23 of the 1945 Constitution. This stance is in line with the finding of Rambe et al. (2024a) that in reviewing public financing norms, the Court tends to issue judicial orders that leave room for policymakers to make adjustments. From the perspective of protecting constitutional rights, the transitional period means that the Court tolerates

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the continuation of a practice it considers inconsistent with the meaning of Article 31 paragraph (4) until a certain deadline.

The technique of giving the legislature a deadline is in fact known in the practice of constitutional courts in other countries. The German Federal Constitutional Court, for example, often declares a provision incompatible with the constitution without immediately annulling it, while giving the legislature a deadline for remedying it. This technique is chosen when immediate annulment would create an even more harmful vacuum. In the context of the state budget, this consideration is relevant because the state budget is a single annual financial plan that cannot be partially changed without affecting the whole.

Criticism from civil society starts from the second perspective. The petitioners' coalition expressed disappointment because part of the petition was rejected, and observers considered that the decision leaves room for the education budget to continue being used for MBG until 2027 (Hukumonline, 2026b). This criticism relates to a broader problem concerning conditional decisions. Tanjung (2026) warns that conditional decisions accompanied by arrangements on the timing and manner of implementation place the Court in a position resembling that of the legislature, thereby risking blurring the boundary between judicial and legislative functions.

Nevertheless, the legitimacy of a decision is determined not only by the construction of its operative part but also by the compliance of other state institutions in implementing it. Fathorrahman et al. (2024) emphasize that public trust in the Court is built through the integrity of the process and the acceptance of its decisions by other institutions. In this context, the real test lies in the preparation of the next state budgets, namely whether the President and the House of Representatives will separate the MBG budget as soon as possible or use the transitional period up to its end. Tanjung and Arminsyah (2026) affirm that the principle of checks and balances requires every branch of power to respect the limits of authority set by the constitution and by court decisions.

3. Implications for the Financing Design of the MBG Program

Decision 40/PUU-XXIV/2026 requires the government to redesign MBG financing. The option most consistent with the decision is to place the MBG budget in a functional classification outside education, for example the health or social protection function, in accordance with the program's character as a nutrition intervention. This option has major fiscal consequences, because the education budget must still be at least twenty percent without counting MBG, while MBG requires its own source of financing.

The need for a stable financing design is evident from the changes in the MBG ceiling throughout 2026. The initial ceiling of around IDR 335 trillion was adjusted to IDR 268 trillion and then lowered further to around IDR 240 trillion, while realization through September 2026 reached around IDR 153.2 trillion to reach 57 million beneficiaries (Bisnis.com, 2026a; Katadata, 2026). These fluctuations show that the size of MBG's needs cannot yet be projected with certainty. If MBG remains within the education budget, every change in the MBG ceiling will affect the size of the genuine education budget, making the fulfilment of the right to education dependent on the dynamics of another program.

These consequences require clarity in state financial management. Rambe (2022) shows that unclear status and classification of state finances can create legal uncertainty in accountability for budget use. In the context of MBG, unclear classification may open the way to budgetary manipulation, for example by moving part of MBG spending to other items that are still counted as education. Therefore, the next state budget laws need to contain transparent details of the components of the education budget and clearly separate MBG spending.

Budget separation is also related to the principle of fiscal justice. The financing of large programs such as MBG ultimately comes from state revenue, especially taxes. Tanjung et al. (2026) and Tanjung and Siregar (2026) emphasize that fiscal policy must guarantee justice and legal certainty for taxpayers. If MBG is financed by reducing the education budget, the real burden is shifted to learners and educators

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who lose core funding. Budget separation forces the government and the House of Representatives to state openly the source of MBG financing and to bear political accountability for that choice.

Based on this analysis, this study formulates an agenda for implementing the decision, presented in Table 2.

Table 2. Agenda for Implementing Decision 40/PUU-XXIV/2026

Aspect	Problem	Recommendation
Timing of separation	The transitional period until the 2028 state budget tolerates a reduction of the genuine education budget	Separation from the 2027 state budget without waiting for the deadline
Functional classification	MBG may still be counted as education through other items	Explicit placement of MBG in the health or social protection function
State budget transparency	Education budget components lack detail	A detailed annex of education budget components in the State Budget Law
Parliamentary oversight	Budget deliberation on priority programs tends to be rushed	Dedicated deliberation on MBG financing and monitoring of compliance with the decision
Implementer accountability	MBG spending is very large and fluctuating	Published performance reports and periodic audits

Source: Author's formulation based on the analysis.

This agenda is also relevant for regional governments. Article 31 paragraph (4) of the 1945 Constitution also applies to regional budgets, so regional governments supporting MBG through their budgets need to ensure that such support is not counted as part of the regional education budget. The tendency towards centralization of national programs co-financed by the center and the regions, as noted by Rambe et al. (2024b), requires a clear division of the fiscal burden so that regions are not pushed to cut education spending to sustain central programs.

Compliance with the decision also needs to be monitored through state financial audit mechanisms. The Audit Board of the Republic of Indonesia can include the separation of the MBG budget from the education budget in its audit of the central government's financial statements, while the House of Representatives, through its committees, can request explanations from the government in every deliberation of the draft state budget. Through these mechanisms, implementation of the decision depends not only on political will but is also bound by the existing state financial accountability system.

CONCLUSION

Constitutional Court Decision Number 40/PUU-XXIV/2026 affirms the meaning of the education budget in Article 31 paragraph (4) of the 1945 Constitution as financing for the core components of education, namely learners, educators, facilities and infrastructure, curricula, and the evaluation and development of education. The MBG Program was held not to be a core component of education and must be separated from the operational budget for education at the latest in the 2028 state budget. The conditionally constitutional construction with a transitional period reflects the Court's self-restraint towards fiscal space, but it has also drawn criticism for tolerating a reduction of the genuine education budget and for placing the Court in a position resembling that of the legislature.

This study recommends that the government and the House of Representatives separate the MBG budget from the 2027 state budget without waiting for the deadline, explicitly place MBG in a functional classification outside education, include details of education budget components in the State Budget Law, and strengthen oversight and accountability in program implementation. Regional governments also need to ensure that regional budget support for MBG is not counted as part of the regional education budget.

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BIBLIOGRAPHY

Antara. "MK Ingatkan Anggaran Pendidikan Tidak Boleh Dikurangi." *Antaranews.com*, 30 July 2026.

Asshiddiqie, J. *Pengantar Ilmu Hukum Tata Negara*. Jakarta: Secretariat General and Registrar of the Constitutional Court, 2006.

Bisnis.com. "Anggaran MBG 2026 Sudah Dibelanjakan Rp101,1 Triliun." *Bisnis.com*, 4 August 2026a.

Bisnis.com. "Tok! MK Putuskan Anggaran MBG Terpisah dari Dana Pendidikan Mulai 2028." *Kabar24 Bisnis.com*, 30 July 2026b.

Constitutional Court of the Republic of Indonesia. Decision Number 13/PUU-VI/2008.

Constitutional Court of the Republic of Indonesia. Decision Number 24/PUU-V/2007.

Constitutional Court of the Republic of Indonesia. Decision Number 40/PUU-XXIV/2026.

Fathorrahman, M. J. Rambe, A. A. Fahmi, and D. D. Abdulovna. "The Ethical Approach in Assessing the Legitimacy of Constitutional Court Decisions: Urgency and Orientation." *IJALGOV*, vol. 1, no. 2, 2024.

Hadinata, M. "Free Nutritious Meal Policy in Indonesia under President Prabowo: A Policy, Fiscal, and Political Analysis Grounded in International Evidence." *Jurnal Bina Praja*, vol. 18, no. 1, pp. 65-78, 2026, doi:10.21787/jbp.18.2026.2896.

Hukumonline. "Anggaran Pendidikan Tergerus Program MBG, Guru dan Dosen Melawan ke MK." *Hukumonline.com*, February 2026a.

Hukumonline. "Putusan MK Dikritik, Anggaran Pendidikan Bisa Dibajak MBG hingga 2027." *Hukumonline.com*, July 2026b.

JawaPos. "MK Tegaskan Dana Pendidikan 20 Persen Fokus untuk Siswa, Guru, dan Sekolah; MBG Wajib Dipisah Paling Lambat 2028." *JawaPos.com*, 30 July 2026.

Katadata. "Realisasi Anggaran MBG Capai Rp153,2 Triliun, Jangkau 57 Juta Penerima Manfaat." *Katadata.co.id*, 2026.

Rambe, Muhammad Juang. "Legal Issues of State Financial Status in State-Owned Enterprises of the Holding Company Indonesian Mining Industry (MIND ID)." *International Journal of Economic, Technology and Social Sciences (Injects)*, vol. 3, no. 2, 2022, doi:10.53695/injects.v3i2.829.

Rambe, Muhammad Juang, Muhammad Azhali Siregar, and D. Sembiring. "Judicial Order in the Examination of the Constitutionality and Legality of Health Financing Norms." *Asian Journal of Healthcare Analytics*, vol. 3, no. 2, 2024a, doi:10.55927/ajha.v3i2.12583.

Rambe, Muhammad Juang, W. I. Sari, and D. S. Sembiring. "Shift in Legal Paradigm from Decentralization to Centralization in the Management of Natural Resources Following the Omnibus Law on Job Creation." *International Journal of Synergy in Law, Criminal, and Justice*, vol. 1, no. 2, 2024b, doi:10.70321/ijslcj.v1i2.60.

Republic of Indonesia. Law Number 17 of 2003 on State Finance.

Republic of Indonesia. Law Number 17 of 2025 on the 2026 State Budget.

Republic of Indonesia. Law Number 20 of 2003 on the National Education System.

Republic of Indonesia. The 1945 Constitution of the Republic of Indonesia.

CC Attribution-ShareAlike 4.0 License.

Tanjung, Indra Utama. *Dasar-Dasar Metode Penelitian Hukum*. Karanganyar: CV Pustaka Dikara, 2024.

Tanjung, Indra Utama. "Putusan Bersyarat Mahkamah Konstitusi dan Risiko Pembentukan Norma Baru dalam Sistem Ketatanegaraan Indonesia." *Case Law: Journal of Law*, vol. 7, no. 2, 2026, doi:10.25157/caselaw.v7i2.6145.

Tanjung, Indra Utama, and Arminsyah. "The Constitutional Problem of PERPPU in the Indonesian Legal System: Tensions between Executive and Legislative Authority from the Perspective of Checks and Balances." *PENA LAW*, vol. 4, no. 1, 2026, doi:10.56107/penalaw.v4i1.308.

Tanjung, Indra Utama, and R. Siregar. "Taxpayer Protection and Legal Certainty in the Taxation of Family Gifts of Land and Buildings: Rethinking Indonesia's Final Income Tax Framework." *Jurnal Sahabat ISNU SU*, vol. 3, no. 2, 2026, doi:10.70826/jsisnu.v3i2.1894.

Tanjung, Indra Utama, R. M. P. Siregar, and A. Y. Anshori. "Reforming the Value-Added Tax Regulation on Electronic Commerce in Indonesia: Advancing Fairness in Digital Taxation." *Jurnal Cendikia ISNU SU*, vol. 3, no. 2, 2026, doi:10.70826/jcisnu.v3i2.1955.

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