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REPUBLIC OF THE PHILIPPINES
HOUSE OF REPRESENTATIVES
Quezon City



THIRTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 617

Introduced by REP. FRANCIS G. ESCUDERO

EXPLANATORY NOTE

To achieve social justice, social stability, economic development, peace and prosperity, one of the most compelling concerns that we must address is the total development of the person as a functional and productive member of the society.

It is in this light, that our Government has long recognized that Education should be given the highest priority in terms of State support and State resources. Consistent with this prioritization, education has been given the biggest slice of the budgetary pie for several years now.

Article XIV, Section 1 of the Constitution declares:

> "The State shall protect and promote the right of all citizens to quality education at all levels and shall take appropriate steps to make education accessible to all."

Likewise, Article II, Section 17 of the Constitution also declares:

> "The State shall give priority to education, science and technology, arts, culture and sports to foster patriotism and nationalism, accelerate social progress an promote total human liberation and development."

To achieve our concerns and implement this Constitutional mandate, the State shall provide the mechanisms to broaden opportunities to higher education in addition to what is already provided for in RA 7722. "The Higher Education Act of 1994," RA 6728 "The Government Assistance to

Students and Teachers in Private Education Act," and RA 8392 "The Higher Education Modernization Act of 1998."

Considering that we are not a welfare State and our financial capability, as a Nation does not permit us to subsidize every Filipino child's education from pre-school all the way to college, it is therefore a fact that Government alone can not address the issue of providing education for all.

This Bill therefore proposes to broaden opportunities and promote education as an accessible equalizer through the partnership of Government and the Private sector thus, ensuring the education shall become an effective instrument in bettering the life of the majority of the Filipino people.

In fact, in our hierarchy of values, most consider Education over and above clothing and shelter. This bill shall strengthen education as a means of an upward mobility; thus, the passage of this Bill is hereby urged.

FRANCIS G. ESCUDERO

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AN ACT ESTABLISHING AN EDUCATION TRUST FUND FOR GRANTEES OF GSIS AND SSS MEMBERS AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. *Short Title. - This Act shall be known as the "Education Trust Fund Act."*

SECTION 2. *Declaration of Policy.* The Constitution provides that the State shall protect and promote the rights of all citizens to quality education at all levels and shall take appropriate steps to make education accessible to all. Towards this end, the State shall endeavor to extend social security protection to provide the opportunity of making education an accessible commodity to realize the right of all citizens, particularly the under privileged, the equal opportunity to quality education for them to contribute in a more productive and active role in social life specially in the economic and political spheres.

SECTION 3. *Definition of Terms.* - The following terms shall be understood in this Act to mean:

(1) *ETF* refers to the Education Trust Fund created by this Act.

(2) *Government Service Insurance System (GSIS)* refers to the agency entrusted to take charge of all matters pertaining to the social security benefits and insurance claims of all government officials and employees, as created and established under Commonwealth Act No. 186, as amended by Presidential Decree No. 1146, and further amended by Republic Act No. 8291.

(3) *Social Security System (SSS) refers to the agency entrusted to take charge of all matters pertaining to the benefits and insurance claims of all private employees, embodied in Republic Act No. 1161 and amended by Republic Act No. 8282.*

(4) *Optional* means the voluntary act of qualified members of GSIS or SSS to be included in the pre-need education trust fund coverage for their grantee, deductible to their salaries and/or payable to the system concerned in a form of equal number of monthly contributions as determined in the policy contract.

(5) *Education Trust Fund (ETF)* refers to the accumulated amount of money deducted from GSIS and SSS members and/or paid by the members to the system concerned for the use in the education of their grantee to be paid directly to institutions or colleges and/or universities for a vocational/technical or a baccalaureate program to be determined as provided for in the policy contract.

(6) *Planholder* refers to a member of the GSIS and the SSS who avails of ETF Plans for the education of this grantee according to his desired vocational/technical and/or baccalaureate education program.

(7) *Plan agreement* refers to the policy contract issued by either the GSIS and the SSS to the planholder containing the ETF Plan specifications and general provisions of the planholders' benefits and responsibilities.

(8) *Grantee* refers to the child designated by the planholder regardless of relationship to avail of the ETF benefits according to the education program determined in the policy contract.

(9) *Monthly contributions* refer to the amount of money to be deducted out of the salaries of the qualified member and/or paid directly to the system concerned as specified in the policy contract to be determined by the Education Trust Fund Board.

(10) *Education Trust Fund (ETF) Board* refers to the governing body which shall formulate policies, implementing rules and regulations, guidelines, an other related matters pertaining to the operation and management of the ETF created under this Act.

SECTION 4. *Education Trust Fund (ETF) Plans.* – There is hereby established in the GSIS and the SSS a special education trust fund to be known as the "GSIS/SSS Education Trust Fund (ETF) Plans" through enrollment in any desired education program to ensure the education of the grantee of members for both systems respectively.

SECTION 5. *Management and Supervision.* - (a) To carry out the purposes of this Act, the ETF Board is created, hereinafter referred to as the "ETF Board", a governing body which shall formulate policies, implementing rules and regulations, guidelines and other related matters to oversee, manage and supervise the operation of ETF with principal place of business in Metro Manila, Philippines.

(b) The ETF Board composed of nine (9) members shall be comprised of one (1) member from the Government Service Insurance System (GSIS); one (1) member from the Social Security System (SSS); one (1) member from the Senate Committee of Education, Arts and Culture; one (1) member from the Senate Committee on Government Corporations and Public Enterprises;

one (1) member from the House of Representatives Committee on Higher and Technical Education; one (1) member from the House of Representatives Committee on Government Enterprises and Privatization; one (1) member from the Technical Education and Skills (TESDA); and one (1) Independent Pre-need Resource Person with adequate knowledge and a minimum of ten (10) years experience in pre-need marketing and industry exposure which shall be appointed upon recommendation by the majority members of the proposed Board. The term of the appointive members shall be six (6) years. The members of the Board shall receive at least Two Thousand Five Hundred Pesos (P2,500.00) per diem for each meeting actually attended by them, but not to exceed Ten Thousand Pesos (P10,000.00) a month: *Provided,* That members of the Board who hear and evaluate cases pending before the Board shall also receive a per diem of at least Two Thousand Five Hundred Pesos (P2,500.00) per session but not to exceed Fifteen Thousand Pesos (P15,000.00) a month: *Provided, further,* That said members of the Board shall also receive reasonable transportation and representation allowances as may be fixed by the ETF Board, but not to exceed Ten Thousand Pesos (P10,000.00) a month.

(c) The ETF Board upon the recommendation of the GSIS and the SSS, shall appoint an actuary and such other personnel as may be deemed necessary; fix their reasonable compensation, allowance and other benefits; prescribe their duties and establish such guidelines and procedures as may be necessary to ensure the efficient, honest and economical administration of the provision and purposes of this Act.

(d) The GSIS and the SSS shall create an Education Trust Fund (ETF) Department respectively, to manage the general conduct of the operation and management functions: *Provided, however,* That all personnel of the ETF Department shall be appointed by the President of the GSIS/SSS, as the case may be, subject to the confirmation of the ETF

Board: *Provided, further,* That the personnel of the ETF Department in both the GSIS and the SSS shall be selected only from Civil Service eligible and be subjected to civil service rules and regulations.

(e) The ETF Board shall be responsible for the formulation and implementation of the Implementing Rules and Regulations (IRR) of this Act, to ensure the effectiveness and viability of the ETF for a self sustaining operation, including its budgetary support, operating capital and other related expenditures, monitoring and categorization of schools according to the cost of its existing tuition fees and other related school fees and charges, monitoring of rate schedules according to the age, terms of payment, number of years before availment and other related matters to safeguard the implementation and operation of this Act.

SECTION 6. *Education Trust Fund (ETF) Plans Agreement.* - For the attainment of its main objectives, the general provisions of a plan agreement shall be issued by both the GSIS and the SSS, respectively, to all availing members as planholders which shall govern the terms and conditions in the implementation of premium payments and benefits inclusive of the plan cash value which shall be determined by the ETF Board.

SECTION 7. *Trust Fund Management.* - The ETF must be separated from the general funds of the system concerned and must be self sustaining to be invested according to the provisions and guidelines of the Social Security Fund in the case of the SSS; Investment of Funds in the case of the GSIS, except on members loans for a greater yield investment. No amount of money from the ETF Plans shall be loaned to the members and/or planholders of the system concerned.

SECTION 8. *Grantee.* - For purposes of this Act the term "grantee" shall include legitimate, legitimated, legally adopted or illegitimate child:

grandchild and/or whoever be the child to be assigned by the member regardless of relationship. A grantee is a duly appointed and registered grantee on or before enrollment to avail of the ETF benefits. A member may apply for a deferred plan if he does not have a child and or grantee.

SECTION 9. *Optional Coverage.* - Subject to the rules and regulations prescribed by the ETF Board, all GSIS and SSS members, regardless of civil status, with or without a child and/or grantee, may opt to participate under this ETF Plans program.

SECTION 10. *Premium Payments.* - The amount of premiums to be paid to the ETF by the member shall be in accordance with the schedule of payments to be prescribed by the ETF Board taking into consideration the following criteria:

(a) The interval of the time between the effectivity of the coverage and the estimate time of enrollment of the grantee in any desired education level for a vocational/technical or a baccalaureate program;
(b) The number of monthly contributions to be made to complete the contracted price stipulated in the plan agreement or policy contract;
(c) The benefits to be availed of, as provided in Section 12 of this Act;
(d) the amount of tuition and the other standard fees charged by the institutions, colleges, and/or universities according to the school category for a vocation/technical or a baccalaureate education level; and
(e) Such other factors as may be determined by the ETF Board.

SECTION 11. *Reinsurance.* - The GSIS or the SSS may reinsure any of its interest wholly or in part thereof with any private company or reinsurer whether domestic or foreign: *Provided,* That the System concerned shall submit an annual report on its reinsurance operation to the Insurance Commission through the ETF Board.

SECTION 12. *Education Benefits.* - Only members who have completed the payment of the contract price stipulated in the plan agreement or policy contract before enrollment of the grantee shall be entitled to avail of the benefits provided for under this Act.

The benefits shall include the payment of ETF by the System concerned of:

(a) Such school fees as may be required for enrollment, for completion of a vocational/technical or a baccalaureate program which shall include tuition fees for all subjects officially prescribed by the institution, colleges and/or universities and part of a regular curriculum as requisite for graduation and other standard fees such as science and speech laboratory, audio-visual, medical and dental, library, athletics, counseling, registration, matriculation, official school publication an other fees may further be approved by the CHED and the TESDA; and

(b) Any other benefits to be provided form as stipulated in the policy contract as determined and approved by the ETF Board.

The payment shall be made by the ETF of the System concerned directly to the institution, college and/or university prior or upon enrollment as the case may be, on an open-ended education trust fund benefit that pays all schools expenses as stipulated in the policy contract regardless of whatever cost of a designated education program during the availment period, for a vocational/technical and/or a baccalaureate education

program on a semestral or trimestral basis. The ETF Board shall provide for safeguards to ensure the prompt payment of benefits.

SECTION 13. *Incentives.* - In appreciation of excellent performance of the grantee and for future use of the planholder, an incentive is hereby provided:

(a) Should the grantee earn any acceleration or scholarship award in any education program desired, all amounts due and payable to the institution, college and/or university or its equivalent amount, shall be awarded to the availing grantee of the planholder; and

(b) Any other incentives and/or benefits to be determined by the ETF Board as provided for in the plan agreement or policy contract issued by the System concerned.

SECTION 14. *Transferability of Benefits.* - The benefits provided for in this Act may be transferred to any active member of both System and may be assigned to another grantee at the option of the planholder.

SECTION 15. *Cash Value.* - In cases of inability of the planholder to continue the payment of his/her premium due to financial reasons and/or any other reasons as the case may be, the ETF Board shall determine the cash value of the Education Trust Fund Plans which shall form part of the general provisions of the policy contract issued by the System concerned.

SECTION 16. *Death or Diability of the Planholder.* - The death or total and permanent disability of the planholder shall not preclude the grantee from availment of the benefits provided, in application of Section 11 as stipulated in this Act.

SECTION 17. *Government Guarantee.* - The benefits prescribed in this Act shall not be diminished and to guarantee said benefits, the Government of the Republic of the Philippines accepts general responsibility for the solvency of the ETF.

SECTION 18. *Exemption from Tax, Legal Process and Lien.* - The actuarial solvency of funds for the ETF shall be preserved and maintained at all times and that contribution rates necessary to sustain the benefits under this Act shall be kept as low as possible in order not to burden the member of both the GSIS and the SSS. Notwithstanding any laws to the contrary, the ETF, its assets and properties, all proceeds from collections, income or investment earnings therefrom, all supplies, papers or documents, all accruals thereto and benefits paid shall be exempt from all taxes, assessments, fees, charges, or duties of all kinds such as customs or import duties, these exemptions shall be irrevocable and any assessment against the ETF as of the approval of this Act are hereby considered paid. Consequently, all laws, ordinances, regulations, issuances, opinions or jurisprudence contrary to or in derogation to this provision are hereby deemed repealed, superseded and rendered ineffective and without legal force and effect.

Moreover, these exemptions shall not be affected by subsequent laws to the contrary unless this section is expressly, specifically and categorically revoked or repealed by law and a provision is enacted to substitute or replace the exemption referred to herein as an essential factor to maintain or protect the solvency of the fund, notwithstanding and independently of the guarantee of the national Government to secure such solvency of the liability: *Provided*, That all securities of the ETF must be registered with the Securities and Exchange Commission (SEC) and transaction tax must be imposed hereto to safeguard the viability and transparency of investment for a self-sustaining ETF.

The funds and/or properties referred to herein as well as the benefits, sums or monies corresponding to the benefits under this Act shall be exempt from attachment, garnishment, execution, levy or other process issued by the courts, quasi-judicial agencies, or administrative bodies including the Commission on Audit (COA) disallowances and from all financial obligations of both the GSIS and the SSS members, including his pecuniary accountabilities arising from or caused or occasioned by his exercise or performance of his official functions or duties, or incurred relative to or in connection with his position or work except when his monetary liability, contractual or otherwise, is in favor of the Education Trust Fund (ETF).

SECTION 19. *Supplementary Clause.* - In case of insufficiency of a provision of this Act, ETF Board Resolutions shall apply in a suppletory manner to safeguard the interest of the ETF operations towards a self-sustaining implementation of this Act.

SECTION 20. *Implementing Rules and Regulation (IRR).* - The ETF Board shall promulgate the necessary rules and regulations for the effective implementation of this Act within ninety (90) days following its approval, to be embodied in the Implementing Rules and Regulations (IRR) duly confirmed and approved by the majority members of the ETF Board, which should prescribe under the active participation of the Senate committee on Education, Arts and Culture; the Senate Committee on Government Corporations and Public Enterprises; the House of Representatives Committee on Higher and Technical Education; the House of Representatives Committee on Higher and Technical Education; the House of Representatives Committee on Government Enterprises and Privatization; the Commission on Higher Education (CHED) and an Independent Private Pre-need Resource Person.

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SECTION 21. *Separability Clause.* - If, for any reason, any section of this Act shall be held to be unconstitutional or invalid, the other sections or provisions of this Act shall not be affected thereby as they are separable from the invalid ones and shall remain in force and effect.

SECTION 22. *Repealing Clause.* - All laws, executive orders, decrees, instructions, rules and regulations in contrary or inconsistent with any provision of this Act are hereby repealed or modified accordingly.

SECTION 23. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in two (2) national newspaper of general circulation whichever comes earlier.

Approved.