

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

FIFTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 3739

Introduced by HON. RENE LOPEZ RELAMPAGOS
1st District, Bohol

EXPLANATORY NOTE

The 1987 Constitution provides that the State shall give priority, among others, to education to foster patriotism and nationalism, accelerate social progress, and promote total human liberation and development. (Art. II, Sec. 17) As commented in IV RECORD 173-174 of the Constitutional Commission (referred to here as RECORD), this is meant to be the **flagship provision for Article XIV (Education, etc.) of the 1987 Constitution**. It sees education and total human development as the gateway not only to intellectual and moral development but also to economic advancement and the cultivation of the yearning for freedom and justice.

Section 1 of Article XIV 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 such education accessible to all." The provision is premised on the primary right of parents, as embodied in Art. II, Section 12 and expresses the corresponding duty of the State to support such primary right (IV RECORD 257) Hence, it is expected of the State to promote quality education that is accessible to all.

Substandard schools abound. Efforts should be made to upgrade these schools so that education that is of the quality that is available in higher institutions of learning will be made available to the generality of the citizenry who are qualified. And since good education is expensive, the State should also take measures to make quality education affordable to all. (Id. At 188-191).

Also, under Section 2 (3) of Article XIV, the State shall, among others, "establish and maintain a system of scholarship grants, student loan programs, subsidies and other incentives which shall be available to deserving students in both public and private schools especially to the underprivileged."

As commented by Fr. Joaquin Bernas, S.J., one of the Commissioners of the 1987 Constitutional Commission and a well-known constitutionalist: "The fundamental constitutional policy on education is that it is the duty of the State to make quality education available while at the same time affordable to as large a segment of the population as possible. Further, it is fundamental democratic policy that students should be able to go to schools of their choice, whether public or private."

"It is a known fact that quality education is a rare commodity in the Philippines and that the State itself is not able to maintain mass quality education. Much less is the State able to give subsidy to private schools which must therefore rely on their income to support their operation." (Joaquin G. Bernas, S.J., *The 1987 Constitution of the Republic of the Philippines: A Commentary* (2009 ed., pp. 1285-1286)

The exemption given by the 1987 Constitution in **Art. VI, Sec. 28 (3)** is broad and precise in that all lands, buildings and improvements actually, directly, and exclusively used for educational purposes shall be exempt from taxation. The coverage of the tax exemptions given in **Art. XIV, Secs. 4 (3) and (4)** are also broad in that: "all revenues and assets of non-stock, non-profit educational institutions used actually, directly, and exclusively for educational purposes shall be exempt from taxes and duties; proprietary educational institutions, including those cooperatively owned, may likewise be entitled to such exemptions subject to the limitations provided by law including restrictions on dividends and provisions for reinvestment; and subject to conditions prescribed by law, all grants, endowments, donations or contributions used actually, directly, and exclusively for educational purposes shall be exempt from tax."

This Bill seeks to provide **tax incentives** in the form of full tax credits/deductions as incentives to private schools, colleges and universities that will provide **free four or five year bachelor's or undergraduate degree course** in arts, humanities, natural and social sciences and technology, as mandated in this Bill to qualified underprivileged students as defined in the Bill equivalent to at least one (1) percent of the entire student population, excluding the underprivileged students enrolled under this Act, in the concerned private schools, colleges and universities in a given school year. The qualified underprivileged beneficiaries shall have the right, among others, to choose freely any four or five year bachelor's or undergraduate degree course mentioned above offered in any private college or university in the city, province or region in the Philippines for the purpose of enjoying the free college bachelor degree course as envisioned in this Bill. In the same manner, the authorities in the private schools, colleges and universities concerned are mandated and obligated, under pain of criminal and administrative sanctions, to admit the qualified underprivileged beneficiaries referred to in this Bill.

In the light of the foregoing, approval of this Bill is earnestly sought.


RENE LOPEZ RELAMPAGOS

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AN ACT

MANDATING PRIVATE SCHOOLS, COLLEGES AND UNIVERSITIES TO GRANT FREE BACHELOR'S OR UNDERGRADUATE DEGREE COURSES IN ARTS, HUMANITIES, NATURAL AND SOCIAL SCIENCES AND TECHNOLOGY TO QUALIFIED UNDERPRIVILEGED COLLEGE STUDENTS BY PROVIDING INCENTIVES THEREOF AND FOR OTHER PURPOSES

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

SECTION 1. Title. – This Act shall be known as the “Free Bachelor’s or Undergraduate Degree Courses to Underprivileged College Students Act.”

SEC. 2. Declaration of Policy. – It is the policy and duty of the State to make quality education available and affordable to as large a segment of the society as possible and in order to carry out this policy, the State shall protect and promote the right of all citizens to quality education at all levels of education and shall take appropriate steps to make such education accessible to all, especially the deserving underprivileged college students.

SEC. 3. Definition of Terms. – As used in this Act, the following terms shall have the following meaning:

a) “Free College Bachelor’s or Undergraduate Degree Courses” shall mean any four or five year college degree course or program in any field of arts, humanities, natural and social sciences and technology offered in or conducted by private schools, colleges and universities in the Philippines;

b) “Qualified Underprivileged College Students” shall refer to Filipino students enrolled in the tertiary level whose parents or legal guardians of orphan students, as the case may be, have a gross annual income of not more than SIXTY THOUSAND PESOS (P60,000.00), subject to review by the National Economic Development Authority (NEDA) every three (3) years to determine the income brackets of Filipino families and identify underprivileged college students in the Philippines. These also include Filipino college students who opt to take part-time jobs to subsidize their education and whose income combined with the annual gross income of their parents or guardians, as the case may be, do not exceed ONE HUNDRED THOUSAND PESOS (P100,000.00), subject to review by the NEDA every three (3) years to determine the income brackets of Filipino college students who opt to take part-time jobs to subsidize their education and identify these underprivileged college students in the Philippines;

c) **"Private Schools, Colleges and Universities"** shall refer to higher and tertiary educational institutions of higher learning with permit to operate from the authorized government agency as educational institutions in the Philippines including specialized schools, operated, maintained and funded by the private sector;

d) **"Tuition Fee"** – shall refer to the fee representing direct and indirect costs of instruction and training facilities;

e) **"Other School Fees"** shall refer to those fees which cover the other education-related expenditures and necessary costs supportive of instruction, including, but not limited to, miscellaneous school fees, textbooks and school supplies, medical and dental, library and laboratory fees. However, fees related to membership in students organizations or college activities may be collected, provided that non-payment of these fees shall not in any case prejudice the enrollment or graduation of a qualified beneficiary.

SEC. 4. Implementation of Free College Bachelor Degree Education. - The Free College Bachelor's or Undergraduate Degree Courses as provided in this Act shall commence in the school year immediately following the effectivity of the said Act. Qualified underprivileged college students as defined in Section 3 (b) above intending to enroll or already enrolled in any arts, humanities, natural and social sciences and technology course offerings in private schools, colleges and universities referred to in this Act shall be free from payment of tuition and other school fees as defined in Section 3 (d) and (e) of this Act and shall be entitled to such other incentives or subsidies as may be granted in accordance with the rules and regulations to be promulgated by the Commission on Higher Education (CHED) to carry out the provisions of this Act; *Provided*, that nothing in this Act shall cause or authorize the reduction or removal of any benefit which the national or local government has already granted to the college students concerned prior to the enactment of this Act.

SEC. 5. Place of Study and Admission. – The qualified underprivileged college student beneficiary referred to in this Act may take his/her Free College Bachelor's or Undergraduate Degree course in any private school, college or university of his choice situated in the city, province, or region where he/she presently resides or in any city, province or region in the Philippines where he/she may transfer his/her residence.

SEC. 6. Obligation of Private Schools, Colleges and Universities. - It shall be mandatory for the said private schools, colleges and universities offering courses in arts, humanities, natural and social sciences and technology to admit qualified underprivileged college student beneficiaries under this Act subject only to the condition that the Free College Bachelor's or Undergraduate Degree Courses as provided in this Act shall be limited to at least one percent (1%) of the total student population, excluding the qualified underprivileged college student beneficiaries who availed the privileges and benefits under this Act, as determined by the CHED, of the school, college or university in any given school year. A violation of this mandate shall subject the erring school, college or university and/or its responsible officials to the penalties as provided in Section 11 of this Act.

SEC. 7. Formulation of the Arts, Humanities, Natural and Social Sciences and Technology Curriculum. – The Commission on Higher Education (CHED) shall formulate a four or five year college curriculum in arts, humanities, natural and social sciences and technology geared to provide the qualified underprivileged college students covered under this Act with highly competitive academic training or skills consistent with the manpower requirements and demands of the country, particularly but not limited to the highly competitive business environment in the Philippines.

SEC. 8. Role of the Commission on Higher Education (CHED). - In addition to formulation of the curriculum as provided in Section 7 of this Act, the CHED shall be in charge of determining the qualified underprivileged college student beneficiaries under this Act through

its Office of Student Services (OSS). The CHED Chairman shall include in the regular functions of the OSS the following additional functions:

- a) To promulgate, in coordination with the Philippine Association of Private Schools, Colleges and Universities (PAPSCU) or similar associations of private schools, colleges and universities, within one hundred twenty days (120) days without extension from the approval by Congress of the Philippines and the President of the Philippines of this Act the rules and regulations to carry out effectively its provisions;
- b) To plan, implement and monitor yearly work programs, evaluate and submit annual reports in accordance with the objectives of this Act;
- c) To screen applicants, receive documentary proof, and identify who are the beneficiaries or eligible or qualified underprivileged college students based on the provisions of this Act;
- d) To closely coordinate with the NEDA in determining the income brackets of Filipino families for the purpose of identifying underprivileged college students.
- e) To issue identification cards which shall be valid anywhere in the Philippines as proof of the eligibility of the underprivileged college students to avail themselves of the Free College Bachelor's or Undergraduate Degrees as provided in this Act;
- f) To maintain and regularly update, on a quarterly basis, the list of qualified underprivileged college students who avail themselves of the benefits and privileges under this Act and to review, evaluate and assess their academic standing;
- g) To provide information through the CHED website to the educational institutions affected under this Act for any questions regarding the eligibility of any underprivileged college students claiming the privileges and benefits under this Act;
- h) To monitor the extent of implementation of this Act and to coordinate with the concerned schools, colleges and universities regarding the imposition of penalties on these educational institutions that violated any provisions of this Act; and
- i) To perform such other functions as may be determined by the CHED Chairman from time to time in the implementation of this Act.

SEC. 9. Limitations. - The right of any underprivileged college student to avail of the benefits and privileges under this Act shall terminate or not apply if:

- a) He/she fails for one (1) semester in the majority of all the academic subjects in which he/she has enrolled during the course of his/her study, unless such failure is due to valid cause(s) beyond his/her control;
- b) He/she fails to finish her course within two (2) years after the year within which he/she should have graduated;
- c) He/she stops schooling for one (1) school year, unless such is due to valid cause(s) beyond his/her control;
- d) He/she is convicted of any crime or offense under the Revised Penal Code and/or other penal laws of the Philippines;

SEC. 10. Tax Incentives. - The total costs of the tuition fees and other school fees as defined under Section 3 (d) and (e) of this Act granted by the private schools, colleges and universities to qualified underprivileged college students referred to in this Act shall be treated

as allowable full deductions from the gross income in the computation of the annual income tax for a given taxable year in which these costs have been actually incurred in accordance with the provisions of the National Internal Revenue Code of 1997, as amended.

SEC. 11. Penalties. - The first violation of any provisions of this Act by the private schools, colleges, and universities concerned, shall cause the suspension of their license/permit to operate as educational institutions by the CHED or the authorized government agency that granted said license/permit in coordination with the CHED, for not less than one (1) week but not more than four (4) weeks **and** impose a fine of not less than fifty thousand pesos (P50,000.00) but not more than one hundred thousand pesos (P100,000.00).

The second violation of any provisions of this Act by the private schools, colleges, and universities concerned, shall cause the suspension of their license/permit to operate as educational institutions by the CHED or the authorized government agency that granted said license/permit in coordination of with the CHED, for not less six (6) months but not more than twelve (12) months **and** impose a fine of not less than two hundred thousand pesos (P200,000.00) but not more than five hundred thousand pesos (P500,000.00).

The third violation of any provisions of this Act by the private schools, colleges, and universities concerned, shall cause the cancellation of their license/permit to operate as educational institutions by the CHED or the authorized government agency that granted said license/permit in coordination with the CHED, **and** impose a fine of not less than P1,000,000.00 but not more than five million pesos (P5,000,000.00) *Provided*, however, that the due process procedure of notice and opportunity to be heard by the CHED have been complied with prior to the imposition of the penalties under this Section.

If the offender or violator is a corporation, whether or not non-profit or non-stock, partnership, organization or any similar juridical entity, operating in the Philippines as an educational institution, the official(s) thereof directly or indirectly involved shall be held solidarily liable with the said corporation, partnership or juridical entity for the violation of any of the provisions of this Act.

SEC. 12. Enforcement. The CHED is mandated to implement strictly the provisions of this Act. After filing of an appropriate complaint by the underprivileged college student unduly prejudiced by the violation of the pertinent provisions by the private school, college or university concerned under this Act, or by the CHED *motu proprio*, the CHED shall, after due notice to the said private school, college or university, schedule within ten (10) days from such notice, the summary investigation of the complaint in order to give the complainant underprivileged college student(s) by himself/herself or his/her counsel and the respondent private school, college or university and its official(s) involved by themselves or through their counsel the opportunity to be heard. Then, the CHED shall, based on the evidence presented by the complainant and respondent, dismiss the complaint or impose the appropriate penalties as provided for in Section 11 of this Act.

SEC. 13. Separability Clause. If any provision or part of this Act is held by the proper court of competent jurisdiction as invalid or unconstitutional, the other sections or provisions that are not affected thereby shall remain in full force and effect.

SEC. 14. Repealing Clause. All laws, executive orders, decrees, instructions, rules and regulations contrary to or inconsistent with any provision of this Act are amended, repealed or modified accordingly.

SEC. 15. Effectivity Clause. This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in any national newspaper of general circulation.

APPROVED,