

Republic of the Philippines
House of Representatives
Quezon City

FIFTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 5128

Introduced by CIBAC Party List Representatives Sherwin N. Tugna and
Cinchona Cruz-Gonzales

EXPLANATORY NOTE

Article XII Section 1, paragraph 1 of the 1987 Philippine Constitution states that, "The goals of the national economy are a more equitable distribution of opportunities, income, and wealth; a sustained increase in the amount of goods and services produced by the nation for the benefit of the people; and an expanding productivity as the key to raising the quality of life for all, especially the under-privileged".

Also in Article 43, Chapter 1, Title 1, Book II of the Labor Code in implementing the said constitutional provision states that it is the objective of the state "to develop human resources, establish training institutions, and formulate such plans and programs as will ensure efficient allocation, development and utilization of the nation's manpower and thereby promote employment and accelerate economic and social growth".

In pursuance of said legal provisions, the bill is introduced to reinforce the adoption of an industry-led manpower development strategy. This "Enterprise-Based Education and Training Act of 2011" covers on-the-job trainings in enterprises or places of work. It aims to improve skills, productivity and enhance trainees' employability. The bill recognizes two paths of education and training, first, by developing and upgrading the skills of a trainee in a technologically changing world and second, by considering the on-the-job training (OJT) as part of the trainees' work experience which shall serve as added credential/leverage in the hiring of the trainees.

This arrangement enables the local industries, middle-level manpower, products and services attain greater competitiveness in the global market which in the long run bring

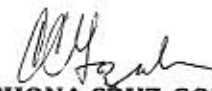
about better demand supply matching and will ease burden cost on the part of the government.

To achieve the goal set by our Constitution it is necessary that a policy must be made and a mechanism put in place to accelerate the development of a training scheme that will enhance the Filipino workforce towards meeting global standards.

Hence, the approval of this bill is earnestly and urgently sought.



REP. SHERWIN N. TUGNA



REP. CINCHONA CRUZ-GONZALES

Republic of the Philippines
House of Representatives
Quezon City

FIFTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 5128

Introduced by CIBAC Party List Representatives Sherwin N. Tugna and
Cinchona Cruz-Gonzales

AN ACT
INSTITUTING THE CODE FOR ENTERPRISE-BASED EDUCATION AND TRAINING CODE
IN THE PHILIPPINES OTHERWISE KNOWN AS EBT CODE THEREBY AMENDING THE
LABOR CODE, R.A. 7686 DUAL TRAINING ACT, EXECUTIVE ORDER 111 AND
CONSOLIDATING ALL POLICIES AND PROGRAMS TO AFFORD AND TO PROMOTE
EMPLOYMENT, PROTECTION OF TRAINEES/STUDENTS AND TO IMPROVE THE
QUALITY AND RELEVANCE OF EDUCATION

ARTICLE. 1. *Short Title* – This Act shall be known as the “Enterprise-Based Education and Training Act of 2011.”

ART. 2. *Declaration of Policy.* – It is hereby declared the policy of the State to enhance the skills of middle-level workforce of the entire nation. The State seeks to strengthen middle-level manpower education and training in the country and to promote employment so that it can be assured an ever-growing supply of an educated and skilled globally competitive manpower equipped with appropriate skills and desirable work habits and attitudes in accordance with the requirements that meet the demands and standards of the workplace in the market. The policy recognizes two paths of education and training, namely: for developing and upgrading the skills of student/ trainee in a technologically changing world and for providing relevance in the training of student/trainee by encouraging work experiences as valid part and means of education and training. The recognition of the two paths of education and training will greatly

contribute to the creation of a dependable pool of well-trained middle-level workforce in the country and to promote employment.

ART. 3. *Statement of Objectives.* - This Act shall have the following objectives:

- (1) To help meet the demand of the economy for well-trained manpower through Technical Vocational Education and Training;
- (2) To establish a national enterprise-based education and training system and standards that is competency-based, including an on- and off-the job education and training program through the participation of employers, workers, and government;
- (3) To establish enterprise-based education and training standards to ensure that the trainees will acquire the right competencies and for the protection of the rights and safety of the trainees;
- (4) To broaden the opportunities, venues of education and training towards greater access.

ART. 4. *Definition of Terms* – As used in this Act:

- a. "Enterprise-Based Education and Training Program" means practical education and training with compulsory related theoretical instructions conducted on-and-off the job involving an agreement between a trainee and an enterprise on an approved enterprise-based education and training qualification. The duration of the program shall be based on the complexity of the competencies to be learned in the specific qualification.
- b. An "Enterprise-Based Trainee/Student" is a person undergoing training for an approved enterprise-based education and training qualification in an established period assured by an enterprise-based education and training agreement.
- c. "Enterprise" is a group or association, industry organization, (sole proprietorship), government instrumentalities or civic group or any entity

organized whether or not for profit regardless of the product or services it could used.

- d. "Enterprise-Based Education and Training Agreement Between Enterprise and Trainee" is a contract wherein an enterprise binds itself to train the trainee who in turn accepts the terms of education and training for an enterprise-based training qualification emphasizing the rights, duties and responsibilities of each party.
- e. "Enterprise-Based Education and Training Qualification" is a qualification approved for enterprise-based education and training by the TESDA Board. Qualification refers to the whole range of competencies a person possesses.
- f. "Enterprise-Based Education and Training Fund" is a fund to be used to defray expenses of the trainees and other expenses related to the implementation of Enterprise-Based Training program.
- g. "Competency Standards" are written specifications of the knowledge, skills, attitudes and values required for the performance of a job, occupation or trade and the corresponding standard of performance required for these in the workplace.
- h. "Competency Assessment" is the process of gathering and judging evidence in order to decide whether a person has achieved a standard of competency or competence objective.
- i. "Dual Education and Training" refers to the combination of on- and off-the-job training involving an enterprise and a training institution.
- j. "Nominal Duration of Education and Training" is the estimated number of training hours.

ART. 5. Trainee Entry Requirements for Qualifications of an Enterprise Based Education and Training - To qualify as an enterprise-based student/trainee, a person shall:

- (a) Be at least high school graduate or its equivalent;

- (b) Possess vocational aptitude and capacity for enterprise-based training as established through appropriate testing; and
- (c) Possess the ability to comprehend and follow oral and written instructions. Industry associations and labor groups may recommend to the TESDA appropriate educational requirements for different occupations.

ART. 6. Participating Enterprises – as referred to DTS Law “Section 6. Coverage. This Act shall apply to all public and private educational institutions/training centers and agricultural, industrial and business establishments duly accredited to participate in the dual training system.”

ART. 7. Scope of Training and Coverage of Venues – An enterprise, group or association, industry organization, government or civic group wishing to organize an enterprise-based education and training program shall have its program registered with TESDA before it enters into an agreement with the student/trainees.

This Code shall apply to all work-related or workplace related regardless of the following seven (7) modalities: (1) Apprenticeship; (2) Learnership; (3) On the Job Training (OJT); (4) Practicum; (5) Work Appreciation Program; (6) Dual Training System; (7) Internship

ART. 8. Contents of Enterprise-Based Training Agreement. –Enterprise-Based Education and Training Agreements shall conform to the rules issued by the TESDA and shall include the following:

- a. Nature and purpose of training;
- b. Curriculum;
- c. Period of training;
- d. Training allowance equivalent to seventy-five percent (75%) of the existing minimum wage which can be paid in cash or kind or in both;
- e. Schedule of training allowance payments;

- f. Process of termination of enterprise-based training;
- g. Certification as proof of training to be issued by the employer or training company, tech-voc institution or training center after completion of training agreement; and
- h. General rights and obligations of both parties.

ART. 9. *Signing of Enterprise-Based Education and Training Agreement* – Every enterprise-based education and training agreement shall be signed by the employer or his agent, or by an authorized representative of any of the recognized organizations, associations, government institutions or civic groups and by the student/trainee. An enterprise-based education and training agreement with a minor shall be signed in his behalf by his parent or guardian or, if the latter is not available, by an authorized representative of TESDA, and the same shall be binding during its lifetime.

ART. 10. *Enterprise-based Education and Training Arrangements* – Registered enterprise, group or association, industry organization, government institution or civic group wishing to organize the enterprise-based education and training program shall choose from any of the following enterprise-based education and training schemes, which shall use the dual education and training approach:

- (a) Enterprise-based education and training involving a company and an identified technical vocational institution;
- (b) Enterprise-based education and training involving a group of companies and a technical vocational institution;
- (c) Enterprise-based education and training involving an industry training center and a company or a group of companies.

ART. 11. *Responsibility for Theoretical Instruction* – Compulsory theoretical instructions shall be part of enterprise-based education and training program. In cases where the program is undertaken in the plant, theoretical instructions may be given by the enterprise. If the latter is not prepared to assume the responsibility, the same may be delegated to an appropriate government agency.

ART. 12. *Enterprise-Based Education and Training Administration* - The overall policy for enterprise-based education and training shall be the function of the TESDA Board. The responsibility for enterprise-based education and training administration, monitoring and evaluation of on- and off-the-job training shall be the concern of the TESDA Secretariat. The identification and prioritization of enterprise-based education and training qualifications and the development of competency standards and curricula shall be in consultation with industry associations, labor groups, and TESDA. The Plant Enterprise-Based Education and Training Committee shall be established in every participating enterprise to ensure that program implementation is in accordance with approved policies.

ART. 13. *Investigation of Violation of Enterprise-Based Education and Training Agreement* - The Industry Coordinator, upon complaints of any interested party or *motu proprio*, shall have the initial responsibility for settling differences arising from enterprise-based training agreements. In case it is not able to settle such differences, the TESDA Secretariat or its authorized representative shall investigate and render a decision pursuant to pertinent rules and regulations.

ART. 14. *Appeal to the TESDA Secretariat* - The decision of the TESDA Secretariat may be appealed by any aggrieved person to the TESDA Board within five (5) days from receipt of the decision. The decision of the TESDA Board shall be final and executory.

ART. 15. *Exhaustion of Administrative Remedies* - No person shall institute any action for the enforcement of any enterprise-based training agreement or damages for breach of any such agreement, unless he has exhausted all available administrative remedies.

ART. 16. *Conditions as Exemptions for Voluntary Participating Organization of Enterprise-Based Education and Training Program:*

- (a) When national security or particular requirements of economic development so demand, the President of the Philippines may require compulsory enterprise-based education and training in certain trades, occupations, jobs or employment levels where shortage of trained manpower is deemed critical as determined by the TESDA Board upon the recommendation of its Secretariat.
- (b) Where services of foreign technicians are utilized by private companies in enterprise-based education and training occupations, such companies are

required to set-up appropriate enterprise-based education and training programs.

ART. 17. *Enterprise-based Education and Training Fund.* - An Enterprise-Based Education and Training Program Fund shall be established to defray the expenses of the trainees and other expenses related to the implementation of the enterprise-based training program. The fund shall be derived from the following:

- a) One percent (1%) of passport fees collected from departing Overseas Filipino Workers (OFWs);
- b) Training levy; and
- c) Donations, grants and endowments specifically for the enterprise-based education and training programs.

ART. 18. *Enterprise-based Education and Training Incentives.* - Participating Enterprises, Groups or Associations, Industry Organizations or Civic Groups participating in the enterprise-based education and training program shall be granted the following incentives:

- a) an additional deduction from taxable income equivalent to fifty percent (50%) of the training expenses incurred provided that such expenses shall not exceed five percent (5%) of their total direct labor expenses but in no case exceed twenty-five million pesos (25,000,000) a year;
- b) Donations, contributions, bequest, subsidy or financial aid actually paid or made to a participating training institution within the taxable year shall also be deductible for income tax purposes in an amount not to exceed five percent (5%) of the taxable business income of the participating enterprise, group or association, industry organization or civic group computed without the benefit of deduction; and
- c) Exemption from donor's tax, provided, however that not more than thirty percent (30%) of said donations shall be used by the training institution for administration purposes.

ART. 19. *Exemption from Probationary Employment; System of Equivalency.* - Certified enterprise-based training graduates shall be exempted from probationary employment. They shall be employed as regular workers if chosen to be retained by the participating enterprise, group or association, industry organization, government institution or civic group. The trainees' on-the-job training (OJT) shall be considered part of the trainee's work experience. After graduation, a certification shall be issued by the employer to serve as added credential/leverage in the hiring of the graduates. Enterprise-Based Training graduates shall likewise be awarded equivalent unit credits in the formal system of education and that can be used in pursuing tertiary degree courses, subject to the integrated policies and guidelines on equivalency and adult education acceleration program of TESDA, Commission on Higher Education (CHED) and Department of Education (DepEd).

ART. 20. *Insurance Coverage and Protection of Trainees* - Every participating enterprise, group or association, industry organization, government institution or civic group undertaking training in accordance with the provisions of this Act shall sign a life and/or accident insurance policy.

ART. 21. *Responsibility for Work Site Safety* - Every agricultural, industrial, medical and business establishment undertaking training in accordance with the provisions of this Act, shall sign a life and/or accident insurance policy on the life of the trainee with the insured and the spouse, children or parents of the trainee as the beneficiaries thereof: Provided, that the agricultural, industrial and business establishments shall pay for the premium of said insurance policy.

ART. 22. *Repealing Clause.* - All laws, decrees, orders, rules and regulations or parts thereof inconsistent with this Act are hereby repealed or modified accordingly.

ART. 23. *Effectivity.* - This Act shall take effect after completion of its publication in the Official Gazette or in two (2) newspapers of general circulation.

Approved,