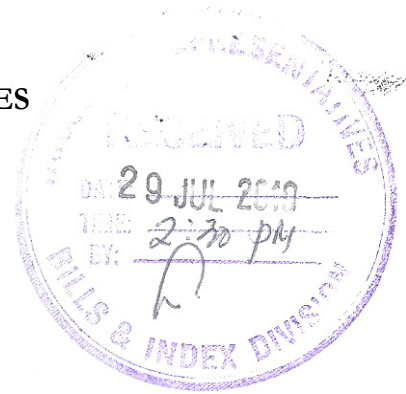


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
First Regular Session

HOUSE BILL No. 1961



**Introduced by Reps. TEODORO A. CASIÑO, NERI JAVIER COLMENARES,
RAYMOND V. PALATINO, ANTONIO L. TINIO, LUZVIMINDA C. ILAGAN
RAFAEL V. MARIANO, EMERENCIANA A. DE JESUS**

EXPLANATORY NOTE

An estimated 13% to 30% of higher educational institutions (HEIs) apply for tuition fee increase annually, based on figures from the Commission on Higher Education (CHED). The figure is staggering especially in the face of unabated sky-rocketing prices of basic commodities and considering that a number of private schools are consistently listed among the country's top 1,000 corporations.

Private educational institutions have become so profitable that in a span of 17 years, from 1991 to 2008, a total of 886 private HEIs were established – more than twice its original number of 637 in 1991. In the last six years, the top five HEIs included in the Top 1,000 Corporations of the country earned P15.43 billion in gross revenues and P3.45 billion in net income. The country's biggest names in the corporate world, such as Lucio Tan and the Yuchengco group, have gone out of their main line of business to invest in private education.

In the Philippines, schools in the National Capital Region (NCR) have the biggest tuition rates averaging P980.54 per unit this year, as compared to P439.59 per unit in 2001. This means that a student with a 21-unit load has to shell out at least P20,591.34 in tuition fees alone. On top of this are various miscellaneous and other school fees ranging from hundreds to thousands of pesos. These include exorbitant, redundant fees like power charges, installment fee, copier fees and infrastructure maintenance fees.

Because of the rising fees in private schools, official records show an exodus of students from private to public schools. In 1980, only 10% of college students were enrolled in state colleges and universities. By 1994, the number went up to 21% and later 40% in 2007. The same trend has been observed in the elementary and high school levels.

Unfortunately, both CHED and the Department of Education (DepEd) have miserably failed to curb the meteoric rise in tuition and other school fees. Their issuances and memorandum orders are inherently full of loopholes and appear merely to give the illusion that these agencies are actually doing something about the problem when the opposite is true.

A prime example is CHED Memorandum Order 14 which was supposedly meant to put a cap on tuition and other school fees. In reality, CMO 14 allowed schools to automatically increase their fees by 7% by illegally removing the requirement for student consultations. The supposed cap, pegged at the 2006 inflation rate of 7%, was just illusory as CMO 14 still allowed schools to raise fees beyond the inflation rate provided they held consultations. In the face of such an irregularity and following widespread opposition from various student organizations and congressional action, CMO 14 was scrapped on February 20, 2007.

The last few years have also revealed the highly deceptive and unfair practice of jacking up miscellaneous fees in lieu of a tuition hike. Unlike tuition fees, miscellaneous fees and other sorts of extra fees have proliferated but remain unchecked. Most of these fees are superfluous and are meant to milk as much money from the students, allowing schools to gain tremendous profits.

The Legislative branch cannot sit idly by as the cost of education rises dramatically beyond the reach of the ordinary Filipino. Capitalist educators must not be allowed to turn education from a right to a privilege.

At the heart of the problem lies the policy of deregulating tuition and other school fees that was enshrined in Section 42 of the Education Act of 1982 (BP 232). This provision has been misinterpreted to mean allowing the unbridled, unhampered and arbitrary increase in school fees at the expense of the people's Constitutional right to an accessible and quality education.


These Constitutional guarantees are found in Article XIV which states: *“The State shall protect and promote the right of all citizens to quality education at all levels and shall take appropriate steps to make such education accessible to all;”* and under Section 4 which provides that *“The state recognizes the complementary roles of public and private institutions in the educational system and shall exercise reasonable supervision and regulation of all educational institutions.”*

The time has come for the State to exercise its regulatory powers to curtail the unabated increase in tuition and other school fees.


This Act, therefore, amends BP 232, specifically Section 42, and creates a Private School Fee Regulatory Board for this purpose.


In view of the foregoing, immediate approval is sought.


Approved,

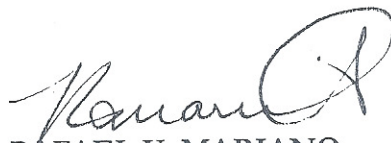

TEODORO A. CASIÑO
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ACT Teachers Party-list


LUZVIMINDA C. ILAGAN
Gabriela Women's Party

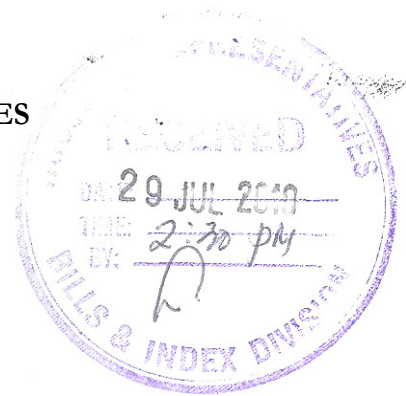

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EMERENCIANA A. DE JESUS
Gabriela Women's Party

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Introduced by Reps. **TEODORO A. CASIÑO, NERI JAVIER COLMENARES, RAYMOND V. PALATINO, ANTONIO L. TINIO, LUZVIMINDA C. ILAGAN RAFAEL V. MARIANO, EMERENCIANA A. DE JESUS**

ACT
REGULATING TUITION AND OTHER FEES OF PRIVATE EDUCATION INSTITUTIONS, THEREBY AMENDING BATAS PAMBANSA BLG 232 AS AMENDED, CREATING A PRIVATE SCHOOL FEE REGULATORY BOARD, AND FOR OTHER PURPOSES

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

SECTION 1. *Title.* – This Act shall be known as the “Private School Fee Regulation Act of 2010.”

SECTION 2. *Declaration of Policy.* – Section 1 of Article 14 of the Constitution states that the State shall protect and promote the right of all citizens to quality education at all levels, and further mandates the state to take appropriate steps to make such education accessible to all. While the Constitution recognizes the complementary role of private schools in attaining this goal, it mandates the State to take steps to ensure that the people are protected from unjust and unreasonable school fee increases.

SECTION 3. *Private Education Institutions.* – as used in this Act, Private Education Institutions, hereinafter referred to as “institutions” shall refer to any school, college, university, company or corporation authorized by the state to grant education, either formal or informal; technical or non-technical; vocational or non-vocational; and whose subsistence relies significantly in it gaining profits, dividends or stocks from giving such. Private Schools and Private Education Institutions are used in this Act interchangeably.

SECTION 4. Sections 42 and 68 of Batas Pambansa Bilang 232, other known as the “*Education Act of 1982*” are hereby amended to read as follows:

“Sec. 42. Tuition and Other Fees. – [Each private school shall determine its rate of tuition and other school fees or charges.] TUITION AND OTHER SCHOOL FEES MAY BE CHARGED BY PRIVATE SCHOOLS SUBJECT TO THE FOLLOWING REGULATIONS:

(1) TUITION – EACH PRIVATE SCHOOL SHALL DETERMINE ITS RATE OF TUITION BASED ON A REASONABLE RETURN OF INVESTMENT OF NOT MORE THAN SIX PERCENT (6%).

ANY INCREASE IN TUITION FEES SHOULD BE APPORTIONED AS SUCH:

(a) AT LEAST SEVENTY PERCENT (70%) SHALL GO TO SALARIES, WAGES, ALLOWANCES AND OTHER BENEFITS OF FACULTY AND/OR NON-ACADEMIC PERSONNEL EXCEPT ADMINISTRATORS WHO ARE PRINCIPAL STOCKHOLDERS OF THE SCHOOL; AND

(b) AT LEAST TWENTY PERCENT (20%) SHALL GO TO THE IMPROVEMENT OR MODERNIZATION OF BUILDINGS, EQUIPMENT, LIBRARIES, LABORATORIES, GYMNASIA AND SIMILAR FACILITIES AND TO THE PAYMENT OF OTHER COSTS OF OPERATION.

(2) MISCELLANEOUS FEES – EACH PRIVATE SCHOOL MAY CHARGE, ASIDE FROM TUITION, A REASONABLE AMOUNT OF REQUIRED MISCELLANEOUS FEES TO PROVIDE FOR ACTUAL COSTS INCURRED FOR STUDENT SERVICES BASED ON A REASONABLE RETURN OF INVESTMENT OF NOT MORE THAN SIX PERCENT (6%); PROVIDED THAT THE PURPOSE FOR EACH AND EVERY SUB-ITEM UNDER THE CATEGORY OF MISCELLANEOUS FEES SHALL BE CLEARLY INDICATED.

(3) VOLUNTARY FEES – EACH PRIVATE SCHOOL MAY CHARGE, ASIDE FROM TUITION AND MISCELLANEOUS FEES, OTHER EXTRANEIOUS FEES PROVIDED THAT THESE ARE VOLUNTARY, THE NON-PAYMENT OF WHICH SHALL NOT AFFECT A PERSON'S STATUS AS A BONAFIDE STUDENT.

(4) NO INCREASES IN EITHER TUITION OR MISCELLANEOUS FEES SHOULD BE GRANTED IN THE ABSENCE OF AN AGREEMENT, MADE THROUGH PUBLIC HEARING, BETWEEN A SCHOOL'S COMPETENT AUTHORITY AND ITS STUDENTS, PARENTS, NON-ACADEMIC PERSONNEL AND FACULTY EQUALLY REPRESENTED. FURTHERMORE, THERE SHALL BE NO OTHER SCHOOL FEES WHICH MAY BE REQUIRED ASIDE FROM TUITION AND MISCELLANEOUS FEES.

(5) The rates and charges adopted by schools pursuant to this provision shall be collectible, and

their application or use authorized, subject to the rules and regulations promulgated by the PRIVATE SCHOOL FEE REGULATORY BOARD (PSFRB). [Ministry of Education, Culture and Sports.]

xxx. “

“Section 68. Penalty Clause. — Any person upon conviction for an act in violation of Section

28, Chapter 3, Title III above OR SECTION 42, CHAPTER 5 TITLE B OF THIS ACT, shall be punished with a fine of not less than ONE HUNDRED THOUSAND PESOS (P100,000.00) [two thousand pesos (P2,000.00)] nor more than THREE HUNDRED THOUSAND PESOS (300,000.00) [ten thousand pesos (P10,000.00)] or imprisonment [for a maximum period] OF NOT MORE THAN SIX (6) YEARS [two (2) years], or both, in the discretion of the court.

MISREPRESENTATION OR MISDECLARATION OF ASSETS, INCOMES AND LIABILITIES SHALL BE PRIMA FACIE EVIDENCE AS VIOLATING SECTION 42, CHAPTER 5, TITLE B OF THIS ACT.

If the act is committed by a school corporation, the school head, together with the person or persons responsible for the offense or violation shall be equally liable.”

SECTION 5. *Creating the Private School Fee Regulatory Board* – It is hereby created a quasi-judicial regulatory body named the Private School Fee Regulatory Board (PSFRB) which shall be attached to the Office of the President.

The PSFRB shall monitor and ensure the correct determination, collection and use of all fees charged by educational institutions from their students as well as any other issue relating to the proper allocation and disbursement of such fees.

The PSFRB's mandate does not include the regulation of curricula and other academic or administrative matters within the competent jurisdiction of the Department of Education (DepEd), Commission on Higher Education (CHED) or the Technological Education and Skills Development Authority (TESDA).

SECTION 6. *Composition of the Private School Fee Regulatory Board* - The PSFRB shall consist of one (1) chairperson, one (1) vice chairperson, and six (6) members of the board of directors including two (2) youth representatives, all of which shall be appointed by the President.

The Chairperson and the Directors of the Board, except the youth representatives, shall be natural born citizens residing in the Philippines with recognized competence in at least one of the following fields: law, education, finance, commerce, accounting, economics, and social sciences; or a member of the academe of a reputable state university for at least five (5) years.

The youth representatives shall be not be less than eighteen (18) years of age but not more than thirty-five (35) years of age upon their appointment, should be natural born citizens residing in the Philippines and should fulfill at least one of the following: a ranking officer of a youth student organization of national scope, officer of a university student council of a reputable university or an officer of a non-government organization with education as its primary advocacy. If, before the term expires, a youth representative has reached the maximum allowable age, the youth representative shall remain in the Board until his or her term expires.

At least one of the members of the board should be a certified public accountant, while another should be a member of the Philippine bar with at least five (5) years of experience in the chosen field of expertise. Likewise, at least two (2) directors of the board should be women.

No policy, recommendation, fee increase or program may be approved and implemented by the Board unless by a majority vote of all its members and with at least one (1) youth representative having voted in favor of said measure.

SECTION 7. *Terms of Office.* – the chairperson, vice-chairperson and the directors of the board shall serve a term of six years.

SECTION 8. *Compensation and Emoluments for the Board.* – the chairperson shall enjoy the same benefits, privileges and emoluments equivalent to the rank of Secretary while the vice-chairman and the directors of the Board shall enjoy the benefits, privileges and emoluments equivalent to the rank of Undersecretary.

SECTION 9. *Director-General of the Secretariat.* – The authority and responsibility for the implementation of the board of directors' mandate shall be vested on the Director-General of the Board, which shall be appointed by the President from a list of three names that will be submitted by the Board's directors. Under no circumstance shall the Director-General be a member or stockholder of any private educational institution.

The Director-General shall sit as a member of the board of directors and hence, shall enjoy the same benefits, privileges and emoluments equivalent to the rank of Undersecretary.

SECTION 10. *Duties and Functions of the Board.* – The PSFRB shall promulgate, within sixty-days after this Act is in effect, the guidelines, rules and regulations for the implementation of this Act subject o its duties and functions as follows:

- (1) To issue, after conducting appropriate hearings with the concerned sectors, policies, plans, programs and guidelines as may be necessary for the effective implementation of this Act;
- (2) To conduct public hearings on any fee increase petition applied by private public institutions;

- (3) To conduct hearings regarding any complaint filed before it regarding improper allocation of school fees;
- (4) To institute regional and/or provincial boards and to promulgate rules and regulations regarding the conduct of hearings in exercise of its regulatory powers to its provincial and regional offices;
- (5) To issue rules and regulations governing proceedings before the Board;
- (6) To revise, amend or cancel License to Operate or Certificates of Accreditation granted either by CHED, DepEd or TESDA to an institution found violating any of the rules and regulations promulgated by it in accordance with this Act;
- (7) To fix, impose and collect, and periodically review and adjust, reasonable fees and other related charges for services rendered;
- (8) To issue either a prohibitory or mandatory injunction, whether preliminary or permanent, in all cases in which it has jurisdiction, and in which cases the pertinent provisions of the Rules of Court shall apply;
- (9) To punish for contempt of the Board, both direct and indirect, in accordance with the pertinent provisions of, and the penalties prescribed by, the Rules of Court;
- (10) To administer oaths and affirmations, issue subpoena and subpoena *duces tecum* and summon witnesses to appear in any proceedings of the Board; and
- (11) To perform such other functions and duties as may be provided by law.

SECTION 11. *Budget of the Board.* – initially, the amount of one hundred million pesos (P100,000,000.00) shall be charged against the following for the immediate implementation of this Act: (1) Fifty million (P50,000,000) from the President's contingency fund; and (2) Fifty million (50,000,000) from the unprogrammed fund allocation.

Thereafter, such funds as may be necessary for the continued implementation of this Act shall be included in the Annual General Appropriations Act.

SECTION 12. *Transitory Provision.* – to give time for the institutionalization of the Board, there shall be no fee increases, whether tuition or miscellaneous, in the immediately following academic year after this Act takes effect.

Thereafter, all tuition and miscellaneous fee increases intended by private schools will be referred to the Board for appropriate action.

SECTION 13. *Repealing Clause.* – All laws, presidential decrees, executive orders, rules and regulations or parts thereof which are inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SECTION 14. *Separability Clause.* – If any part or provision of this Act shall be held unconstitutional or invalid, other provisions hereof which are not affected shall continue to be in full force and effect.

SECTION 15. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication to two
(2) national newspapers of general circulation.

Approved,