

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Seventeenth Congress
First Regular Session

House Bill No. **3241**

HOUSE OF REPRESENTATIVES	
RECEIVED	
DATE:	23 AUG 2016
TIME:	6:30 PM
BY:	<i>[Signature]</i>
REGISTRATION UNIT BILLS AND INDEX SERVICE	

Introduced by **REP. MANUEL ANTONIO F. ZUBIRI**

EXPLANATORY NOTE

As early as the year 2000, the Special Education ("SPED") Division of the Department of Education estimated that 12% of children in the country have special needs - 2% of which were gifted while 10% of those were with disabilities. In that year alone, there were 5,196,377 children with special needs (CSNs). However, only 2.6% or 136,523 of them were provided with appropriate educational service while 97.4% or 5,059,854 did not for the year 2003-2004. In 2010, a census conducted by the government yielded that 59% of those with disabilities on the other hand, are those in the age range of 15-64 years old.

Moving forward to School Year 2013-2014, only 110,169 pupils with disabilities were enrolled in government elementary schools. However, 85% or 93,644 of these children did not attend any SPED classes. For those enrolled in government secondary schools for the same year, 84,232 students had difficulty learning due to impairment.

Given the above-mentioned statistics, it remains apparent that a huge number of the populace especially the youth, have special needs; yet they do not have access to appropriate educational service. The creation of a Commission on Special Education or C-SPED is envisioned to provide the required focus and attention to the underserved segment of society requiring adequate access to Special Education services. C-SPED will serve as the Department of Education's primary policy-making and national coordinating body for SPED. Special needs and disabilities is a distinct area of specialization that would require the knowledge and skills by renowned experts in the field of Special Education. This focused approach on addressing the needs of our young with special needs will alleviate the responsibilities of the Department of Education thus enabling the latter to focus on its functions for the general populace. In this regard, the Commission on Special Education would focus on the needs of persons with special needs—which is composed mainly of children and the youth—and help ensure their fullest integration with mainstream education whenever possible. It is hoped that this system will make sure that every child's full potential is realized through the assistance of Government.

Thus, the approval of this bill is earnestly sought.

MANUEL ANTONIO F. ZUBIRI
Representative
3rd District, Bukidnon

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HOUSE OF REPRESENTATIVES
Quezon City

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House Bill No. 3241

Introduced by **REP. MANUEL ANOTNIO F. ZUBIRI**

**AN ACT CREATING THE COMMISSION ON SPECIAL EDUCATION,
APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES**

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

Section 1. Title. – This Act shall be known as the “Special Education Act of 2016”.

Section 2. Declaration of Policy. – The education of all children, regardless of background or disability, must always be a national priority as echoed in Section 1, Article XIV and Section 1, Article XIII of the Constitution. Children with disabilities or special needs are among those at greatest risk of being left behind. Thus, proper help and assistance should be made available to them so that they can meet high academic standards and participate fully in Philippine society. Special education must not be used in order to avoid accountability for children who have special needs compared to the rest of society. Rather, it should be maximized to be part of the education system that shall guide children achieve their aspirations and maximize their full potential.

Section 3. Definition of Terms. –

- a. “Child” means a person not more than 18 years of age;
- b. “Commission” means the Commission on Special Education;
- c. “Special Education Needs” means, in relation to a person, a restriction in the capacity of the person to participate in and benefit from education on account of an enduring physical, sensory, mental health or learning disability, or any other condition which results in a person learning differently from a person without that condition and cognate words shall be construed accordingly.
- d. “Children with special needs (CSN)” refer to those who are gifted or are fast learners and those who are disabled, impaired or handicapped and in need of special education as well as services for rehabilitation. They differ from the average children in mental characteristics, sensory abilities, neuro-muscular or physical characteristics and social attributes, to such an extent that requires the use of modified school practices or special education services to develop them to maximum capability.
- e. “Basic education” refers to kindergarten, at least six (6) years of elementary education and at least six (6) years of secondary education.
- f. “Disability” refers to a physical or mental impairment that substantially limits one or more psychological, physiological or anatomical function of an individual or activities of such individual; those regarded as having such an impairment; or having a record of such an impairment.

Section 4. Creation of the Commission on Special Education. – The Commission on Special Education (C-SPED), hereinafter referred to as the Commission, is hereby created under the Office of the President for administrative purposes only. It shall be independent and separate from the Department of Education (DepEd). The Commission's coverage shall be both public and private institutions.

Section 5. Composition of the Commission. – The Commission shall be composed of five (5) full-time members. The President shall appoint a Chairman of the Commission and four (4) commissioners. The Chairman and four (4) commissioners shall be holders of earned doctorate(s) who have been actively engaged in special education for at least ten (10) years. The members of the Commission must not have been candidates for elective positions in the elections immediately preceding their appointment. The Chairman and the commissioners shall be academicians known for their high degree of professionalism and integrity who have distinguished themselves as authorities in special education learning who belong to different specializations.

In no case shall any and all of the Commissioners appoint representatives to act on their behalf.

Section 6. Term of Office. – The President shall appoint the full-time chairman and the commissioners for a term of five (5) years, without prejudice to one reappointment. The terms of initial appointees shall be on a staggered basis: the full-time chairman shall hold office for a term of four (4) years, the next two (2) commissioners for three (3) years, and the last two (2) commissioners for two (2) years.

The commissioners shall hold office until their successors shall have been appointed and qualified. Should a member of the Commission fail to complete his term, his successor shall be appointed by the President of the Philippines but only for the unexpired portion of the term.

Section 7. Rank and Emoluments. – The chairman and the commissioners shall have the rank of a Department Secretary and Undersecretary, respectively. They shall receive the compensation and other emoluments corresponding to those of a Department Secretary and Undersecretary, respectively, and shall be subject to the same disqualifications.

Section 8. Board of Advisers. – There shall be constituted a Board of Advisers which shall meet with the Commission at least once a year to assist it in aligning its policies and plans with the socio-economic development needs of the nation.

The Board of Advisers shall be composed of the following:

- a. The Chairman of the Commission, as chairman;
- b. The Secretary of Education as co-chairman;
- c. The Secretary of the Department of Health;
- d. The Secretary of Labor and Employment; and
- e. The Director-General of the National Economic and Development Authority.

Two (2) additional members of the Board of Advisers coming from the private sector may be appointed by the President upon recommendation of the Commission.

Section 9. Powers and Functions of the Commission. – The Commission shall have the following powers and functions:

- a. To disseminate to schools, parents and such other persons as the Commission considers appropriate, information relating to best practice, nationally and internationally, concerning the education of children with special educational needs;
- b. To plan for the integration of education for students with special educational needs with education for students generally;
- c. To ensure that the progress of students with special educational needs is monitored and reviewed at regular intervals including medical assessments of children with special needs;
- d. To make available to the parents of children with special educational needs information in relation to their entitlements and the entitlements of their children;
- e. To assess and review the resources required in relation to educational provision for children with special educational needs;
- f. To ensure that a continuum of special educational provision is available as required in relation to each type of disability;
- g. To conduct and commission research on matters relevant to the functions of the Commission and, as it considers appropriate, to publish in such form and manner as it thinks fit, the findings arising out of such research;
- h. Formulate and recommend development plans, policies, priorities, and programs on special education;
- i. Recommend to the executive and legislative branches, priorities and grants on special education and research;
- j. Monitor and evaluate the performance of programs of institutions teaching special education for appropriate incentives as well as the imposition of sanctions such as, but not limited to, diminution or withdrawal of subsidy, recommendation on the downgrading or withdrawal of accreditation, program termination or school closure;
- k. Recommend to the Department of Budget and Management the budgets of special education public institutions as well as general guidelines for the use of their income;
- l. Rationalize programs and institutions of special education and set standards, policies and guidelines for the creation of at least one (1) SPED center for each school division and at least three (3) SPED centers in big school divisions in regular schools subject to budgetary limitations;
- m. Devise and implement resource development schemes;
- n. Administer the Special Education Fund, as described in Section 11 hereunder, which will promote the purposes of higher education;
- o. Promulgate such rules and regulations and exercise such other powers and functions as may be necessary to carry out effectively the purpose and objectives of this Act; and
- p. Perform such other functions as may be necessary for its effective operations and for the continued enhancement, growth or development of special education leading to the integration of CSNs with mainstream education.

Section 10. The Secretariat. – The Commission shall organize a secretariat which shall be headed by an executive officer, subject to the rules on compensation and position classification

of the Civil Service Commission. It shall fix the secretariat's staffing pattern, determine the duties, qualifications, responsibilities and functions, as well as the compensation scheme for the positions to be created upon the recommendation of the executive officer. It shall also prepare and approve its budget.

The Commission shall appoint the members of the staff upon the recommendation of the executive officer.

Section 11. The Special Education Development Fund. – A Special Education Development Fund, hereinafter referred to as the Fund, is hereby established exclusively for the strengthening of special education in the entire country.

- a. The Government's contribution to the Fund shall be the following:
 - (1) the amount of Five hundred million pesos (P500,000,000.00) as seed capital;
 - (2) ten percent (10%) of the proceeds of the Special Education Fund (SEF) released to the local school boards of each local government unit (LGU) pursuant to Sections 235 and Section 272 of RA 7160 (LGC of 1991) shall be automatically set aside by the local school board to support programs of the Commission.
 - (3) the amount of Fifty million pesos (P50,000,000.00) for the initial operation of the Commission;
 - (4) the equivalent of two percent (2%) annual share on the total gross collections of tax on the commodities covered by Republic Act 10351;
 - (5) the equivalent of five percent (5%) share of the collections from the Professional Regulation Fee; and
 - (6) the equivalent of one percent (1%) of the gross sales of the lotto operation of the Philippine Charity Sweepstakes Office (PCSO).
- b. Starting Fiscal Year 2017 and every year thereafter, government financing institutions identified and requested by the Commission may contribute to the Fund an amount equivalent to not less than three percent (3%) but not more than five percent (5%) of their unimpaired surplus realized during the immediately preceding year.
- c. The Fund shall have a private portion to be raised from donations, gifts, and other conveyances including materials, equipment, properties and services by gratuitous title.

Section 12. Management and Administration of the Special Education Development Fund. – The Fund shall be administered by the Commission. For sound and judicious management of the Fund, the Commission shall appoint a reputable government financial institution as portfolio manager of the Fund, subject to the following conditions.

As administrator of the Fund, the Commission shall prepare the necessary guidelines for its use, subject to the following conditions:

- a. No part of the seed capital of the Fund, including earnings thereof, shall be used to underwrite overhead expenses for administration;
- b. Unless otherwise stipulated by the private donor, only earnings of private contributions shall be used for administrative expenses;
- c. The Commission shall appoint and organize a separate staff, independent administratively and budgetarily separate from the Commission Secretariat; and
- d. The Fund shall be utilized equitably according to regions and programs.

Section 13. Duty of the Department of Health. – Taking into consideration the health issues attached to CSNs, whenever it appears to the Commission that the Department of Health (DOH), through its appropriate representative, by taking specified action, assist in the preparation or implementation of an education plan in respect of a particular child or group of children, or assist more generally in the performance of the Commission of its functions, then it may, by notice and writing, request the assistance of the Department, specifying the action in question.

Before making a request, the Commission shall consult with the Department of Health. The latter shall decline such request when the assistance concerned is not required; compliance with the request would not be compatible with its functions or duties or would unduly prejudice the performance of any of its functions; or having regard to the resources available to the Commission, it is not possible for it to comply with the request. Otherwise, the request shall be complied with.

Section 14. Duty of the Department of Science and Technology. – Taking into consideration the various skills and capabilities of gifted children under SPED instruction, whenever it appears to the Commission that the Department of Science and Technology (DOST), through its representative, by taking specified action, assist in the preparation or implementation of an education plan in respect of a particular child or group of children, or assist more generally in the performance of the Commission of its functions, then it may, by notice and writing, request the assistance of the Department, specifying the action in question.

Before making a request, the Commission shall consult with the Department of Science and Technology. The latter shall decline such request when the assistance concerned is not required; compliance with the request would not be compatible with its functions or duties or would unduly prejudice the performance of any of its functions; or having regard to the resources available to the Commission, it is not possible for it to comply with the request. Otherwise, the request shall be complied with. The DOST shall not be hindered in giving assistance in the form of research and equipment with which the gifted child or gifted children may use to maximize their interests and potentials.

Section 15. Accreditation. – The Commission shall provide incentives to institutions of special education, public and private, whose programs are accredited or whose needs are for accreditation purposes.

Section 16. Tax Exemptions. – Any donation, contribution, bequest, and grant which may be made to the Commission shall constitute as allowable deduction from the income of the donor for income tax purposes and shall be exempt from donor's tax, subject to such conditions as provided under the National Internal Revenue Code, as amended.

Section 17. Authority. – The Commission shall exercise such authority as may be deemed necessary within its premises or areas of operation to effectively carry out its powers and functions and to attain its objectives: *Provided*, That the Commission may seek the assistance of other government agencies for the proper implementation of this Act.

Section 18. Appropriation. – The amount of Five Hundred million pesos (P500,000,000.00) is hereby authorized to be appropriated for the seed capital of the Fund. The additional amount of Fifty million pesos (P50,000,000.00) is hereby authorized to be appropriated out of the funds in the National Treasury not otherwise appropriated or out of the Philippine Amusement and Gaming Corporation (PAGCOR) funds for the initial operation of the Commission. Thereafter, the funds necessary shall be included in the General Appropriations Act.

Section 19. Transitory Provisions. –

The Commission shall have the authority to appoint its own personnel.

All regular or permanent employees performing tasks relating to special education are hereby transferred to the Commission. Such transferred employees shall not suffer any loss of seniority or rank or decrease in emoluments: *Provided, however,* That, any employee who cannot be accommodated shall be given all the benefits as may be provided under existing laws, rules and regulations.

Jurisdiction over DepEd-supervised SPED institutions shall be transferred to the Commission.

A transitory body is hereby created which shall be composed of the Secretary of Education, the Secretary of the Department of Health, the Chairman of the Senate Committee on Education, Culture and Sports, the Chairman of the House Committee on Basic Education, and four (4) representatives of special education instructors of known probity and integrity.

The transitory body shall facilitate the complete and full operation of the Commission which shall not be later than three (3) months after the effectivity of this Act. It shall likewise, promulgate the rules and regulations necessary to effectively implement the smooth and orderly transfer to the Commission. The transition period not exceeding three (3) months shall commence from the approval of this Act.

Section 20. Separability Clause. – If any provision of this Act shall be held unconstitutional or invalid, the other provisions not otherwise affected shall remain in full force and effect.

Section 21. Repealing Clause. – All laws, presidential decrees, executive orders, rules and regulations or parts thereof which are inconsistent with or contrary to this Act are hereby deemed accordingly repealed or amended.

Section 22. Effectivity Clause. – This Act shall take effect after fifteen (15) days from publication in at least two (2) newspapers of general circulation.

Approved,