

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

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. 4565



Introduced by Representatives Ron P. Salo and Ann K. Hofer

EXPLANATORY NOTE

In the age of globalization, there is a need to adapt to continually evolving international trends and standards. The methods and institutions that are the giants of the industries will eventually falter if they will not be able to keep up with the ever changing demands of the world. The developed countries are showing the way to a strong and stable economy and the Philippines can very much learn from their best practices. What better way to learn the best practices of developed countries than by exposing ourselves to the methods and techniques of their educational system and learn from their classrooms from a first-hand perspective.

The quality of education differs from country to country. It depends on their methods, facilities, available resources, and also on their norms, culture and tradition. In the advent of globalization, it is essential that the gaps and differences of the quality of education be closed in order for those countries that are lagging behind to keep up, or at least emulate, the trends of developed countries. Those countries that fail to adapt and adopt the trends are doomed to suffer from slow economic development.

One avenue for the Philippines to keep up with the trends in globalization is to open our higher education institutions to partnerships with foreign higher education institutions. In this way, we get to expose ourselves to the best practices of other countries that we may adopt and integrate into our higher educational system. For their part, they will be able to immerse themselves into our methods and practices and expose our higher education institutions to their commendations and suggestions.

By entering into partnerships and other collaborative arrangements with reputable universities from around the globe through transnational education (TNE), the Philippines will be able to attract a flow of talented faculty and international students who pay fees and contribute to the economy, with potential benefits to its research and development base. It will enable the country to develop greater teaching and research capacity in niche and technical fields that are critical for economic and social development.

Collaborative provision of education through TNE will improve access to higher education. Local students who are otherwise unable to travel abroad will have access to the best foreign universities, thereby stemming the outflow of currency. Examples from other countries in East Asia, such as Hong Kong and Malaysia, show that good quality TNE provision can widen access to higher education, an important national priority.

TNE has the potential to create more jobs inside the Philippines for teaching professionals, academics and support staff. Added to the existing advantage that the Philippines has in the English language, TNE can enhance the international attractiveness of the Philippine higher education system, positioning domestic higher education institutions more positively as preferred partners for international collaboration and strengthening their capacity to carry out research that supports the country's growing knowledge economy. In addition, the improvement of talent retention will address some of the issues associated with the large-scale diaspora overseas of skilled workers, many of whom are college graduates with high English proficiency.

The offering of programs and establishment of transnational education institutions is not new to us. In fact, there have been various issuances on this matter. In 2008, pursuant to the UNESCO/Council of Europe Code of Good Practice in the Provision of Transnational Education (adopted in 2001), the CHED issued Memorandum Circular No. 2, adopting and promulgating the Policies, Standards, and Guidelines for Transnational Education. Very recently, CHED conducted consultations in Luzon (June 24, 2016), Visayas and Mindanao (June 15, 2016) on the proposed guidelines for transnational education.

However, as it stands, there is no law that provides the overall framework for the operation and administration of transnational education in the Philippines. There is a need to create a legislation that will institutionalize the mechanisms for transnational education in the country.

This Bill seeks to provide the legal framework for the creation, operation, administration, and coordination of transnational higher education in the Philippines. It also provides measures to ensure that the barriers in the country's legislative and regulatory framework will be addressed to facilitate the operation of TNE institutions and the enrolment of foreign students in the country.

In view of the foregoing, the immediate passage of this bill is earnestly sought.


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AN ACT
PROVIDING FOR THE LEGAL FRAMEWORK AND MECHANISMS FOR THE
CREATION, OPERATION, AND ADMINISTRATION OF TRANSNATIONAL
HIGHER EDUCATION IN THE PHILIPPINES, PROVIDING FUNDS THEREFOR,
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 “Transnational Higher Education Act of 2016”.

SEC. 2. Declaration of Policy. – It is hereby declared the policy of the State to provide quality education that is relevant to the changing needs of the people and society. The State recognizes that rapid developments brought about by globalization, including liberalization of trade in goods and services and expanding use of information and communication technologies, have created a climate for borderless teaching and learning. In this light, the State shall endeavor to modernize the Philippine higher education sector, and bring international quality standards and expertise into the country, with a view to making higher education globally competitive; attracting a flow of talented students, faculty, and staff and improving the country’s human resource base.

The State shall actively encourage, promote, and accelerate the establishment of transnational higher education institutions in the country, and shall take an active part in developing the Transnational Higher Education sector. Further, it is declared a policy of the State to: strengthen educational, cultural, social, economic, and political bonds between Philippine and foreign institutions of higher learning, thereby fostering a vibrant exchange of cultures integral to a peaceful living within the global community; develop collaborative arrangements between and among Philippine universities and training institutes, on one hand, and foreign universities, on the other, with the aim of building the capacity of all partner institutions to operate, manage, and administer post-secondary and graduate programs and to provide opportunities for students and learners to acquire international and foreign diplomas, degrees, and certificates.

SEC. 3. Definition of Terms. – As used in this Act:

- a) **Academic Program** refers to a set of courses of study the completion of which areas leads to a degree;
- b) **Auxiliary services** refers to services that support the delivery of educational services including promotion activities, recruitment of students, admission, registration, processing of payments, student orientation, and such other related activities, but not to include teaching and learning activities;
- c) **Distance education** refers to a mode of educational delivery whereby the teacher and the learner are physically separated from each other, and instruction is delivered through appropriate communication technologies and using specially designed materials and methods, and supported by organizational and administrative arrangements and structures;
- d) **Education services** refers to any study program, course of study or parts of a course of study that leads to a qualification, after successful completion;
- e) **Foreign Higher Education Institutions (FHEI)** refers to a foreign-owned and duly recognized higher education institution abiding by a prescribed system of education duly registered in a country other than the Philippines;
- f) **Higher Education** refers to any of the various types of education given in post-secondary institutions of learning and usually affords, at the end of a course of study, a named degree, diploma, or certificate indicating qualifications. For purposes of this Act, higher education includes technical and vocational education and training (TVET) institutions such as teacher-training schools, junior colleges, and institutes of technology;
- g) **Higher Education Institutions (HEIs)** refers to post-secondary education institutions which include universities and colleges, TVET institutions, and specialized institutions that provide advanced degrees in such fields as law, theology, medicine, business, music, and art. HEIs may be public or private entities;
- h) **Transnational Higher Education (TNHE)** includes all types and modes of delivery of higher education study programs, sets of courses of study, or educational services, including distance education and study- abroad programs, which involve education systems of a State different from the State where a TNHE provider operates, or programs which may operate independently of any national education system;
- i) **Transnational higher education arrangement** refers to an educational, legal, financial, or other arrangement agreed upon formally by partners in order to provide educational services;
- j) **TNHE Zones or Hubs** are specialized zones of academic centers, training centers, or institutions of learning. "Hubs" may refer to smaller units. For purposes of this Act, "Zones" and "Hubs" are interchangeable.

SEC. 4. Strategy for Transnational Higher Education. – Consistent with the provisions of this Act, the Commission on Higher Education (CHED) shall formulate a coherent national strategy to encourage and facilitate the establishment of the most effective types of transnational higher education (TNHE) programs and institutions in the country.

SEC. 5. General Framework for Establishment of TNHE Programs and Institutions. – The establishment, ownership and administration of transnational higher education institutions shall be promoted, encouraged, and facilitated, subject to the following principles pursuant to Section 4(2), Article XIV of the 1987 Constitution:

- a) All educational institutions shall be owned solely by citizens of the Philippines or corporations or associations at least sixty *per centum* of the capital of which is owned by such citizens; except in the instances provided in the succeeding sub-paragraph (b);
- b) The above sub-paragraph does not apply to educational institutions established by religious groups and mission boards;
- c) No educational institution shall be established exclusively for aliens and no group of aliens shall comprise more than one-third of the enrolment in any school, except in the instances provided in sub-paragraph (e);
- d) The control and administration of educational institutions shall be vested in citizens of the Philippines. Provided, that this control and administration requirement is deemed met once positions on the level of "President," "Dean," "Principal," "Chancellor," or other functionally equivalent positions, and an absolute majority of the membership of the governing body or board, are held by citizens of the Philippines. Every decision of the governing board shall require the vote of a majority of the Filipino members;
- e) The provisions of sub-paragraphs (a), (c), and (d) of this Section do not apply to schools established for foreign diplomatic personnel and their dependents, and for other foreign temporary residents. For purposes of this Act, "other foreign temporary residents" shall include those stationed in the Philippines for a specific period under public or private contract, or foreign students who are in the Philippines specifically to pursue higher education. The TNHE is deemed established specifically for foreign diplomatic personnel and their dependents, or other foreign temporary residents when the student population is at least fifty (50%) foreigners, while its faculty members are at least twenty-five percent (25%) foreigners.

SEC. 6. Modes of Transnational Higher Education Programs. – TNHE programs and arrangements that are existing, emerging, or anticipated include, but not limited to, the following:

- a) Academic Franchising, whereby a higher education institution (franchiser) from a certain country grants another institution (franchisee) in another

country the right to provide the franchiser's programmes/qualifications in the franchisee's host country, regardless of the students' origin;

The local franchisee must be registered with the Securities and Exchange Commission (SEC) and authorized to deliver educational programs or materials;

- b) Articulation, whereby students studying for a sub-degree in one country are guaranteed advanced entry into a degree programme in another country if they achieve an agreed level of performance in their studies;
- c) Branch campus, which refers to a campus of a higher education institution (HEI) from one country established in another country (host country) to offer its own educational programs/qualification, regardless of the students' origin;

International branch campuses, whereby HEIs located in another country from the institution which either originated it or operates it, with some physical presence in the country, and which awards at least one degree in the host country that is accredited in the country of the originating institution, typically have local partner HEIs, as specified in section 9 of this Act.

- d) Joint and double degrees – Joint degrees refer to a partnership provision which leads to a single degree awarded by two or more institutions. The program is jointly developed, jointly delivered, and jointly assessed. Double degrees refer to a partnership provision which leads to two degrees awarded by two institutions;
- e) Online, blended, and distance learning, which refer to a program delivered across an international border. The delivery medium is usually online, but distance education may be delivered by post or mobile phone. Provision which is partly online and face-to-face is blended;
- f) TNE Offshore institution, which is an autonomous institution established in a host country, which in terms of its organization and education contents, belong to the education system of another country;
- g) Twinning arrangements, where students study for a degree in two countries, starting in their own and finishing in another, which typically is the country of a partner institutions;
- h) Validation, where a HEI agrees to award its own degree to students who complete a program from a HEI in another country.

Any other modes or arrangements may be explored or proposed to CHED by HEIs intending to enter into partnerships or arrangements with other HEIs. The CHED, in consultation with other agencies and HEIs, may add other modes of TNHE as it may deem suitable and in furtherance of the objectives of providing quality TNHE programs in the country, provided that these modes or arrangements are consistent

with the Philippine development plans, and are not in contravention of the Constitution, laws and related policies.

SEC 7. Establishment of Foreign Higher Education Institutions in the Philippines. – Foreign Higher Education Institutions (FHEIs) may establish a commercial presence in the Philippines through any of the modes indicated in this Act or through any other arrangement with a Philippine HEI that is consistent with the Philippine Constitution, laws and policies, and based on mutually agreed terms.

The FHEIs shall conform to the following minimum standards:

- a) Only FHEIs recognized by their respective governments as quality higher education providers and accredited by a recognized accrediting body in the country of origin or its equivalent may be given government authority to offer undergraduate, graduate, and post-graduate degrees;
- b) The FHEIs shall have standards at par with, or higher than, Philippine HEIs in terms of government recognition, faculty strength and curriculum;
- c) The FHEIs shall have the requisite capabilities and resources for higher education provision, and the ability to provide support services to students.

SEC 8. Partnerships and Collaborative Arrangements. – FHEIs may enter into collaborative arrangements with Philippine HEIs, such as but not limited to, twinning arrangements as defined under Section 3 of this Act; or joint degrees, whereby study programs, or parts of a course or study, or other educational services of the awarding institutions, are provided by another partner institution.

The parties shall conform to the following minimum standards:

- a) The FHEI shall seek prior authority from CHED to operate specific educational and/or auxiliary services and shall comply with the requirements set forth in this law and by CHED policies and regulations. No FHEP shall be allowed to establish its branch or any entity purporting to deliver educational programs without approval of the CHED;
- b) Only Philippine HEIs which are CHED – recognized and duly accredited shall be authorized to conduct and initiate collaborative or twinning programs with FHEIs. The CHED shall determine the level of accreditation which Philippine HEIs are required to possess in order to be authorized to enter into collaborative arrangements with FHEIs;
- c) Both partners shall draft a memorandum of agreement (MoA) in terms of the programs, duration, evaluation and termination of the agreement, which MoA shall be legally binding to both parties. The CHED shall be consulted in the finalization of the MoA, which shall determine whether it complies with all the national laws as well as the CHED's policies. The CHED shall determine the documentary requirements needed to be submitted by the parties. Provided, that any document executed or issued outside the Philippines must first be

authenticated with the appropriate Philippine Foreign Service post before submission to CHED;

- d) The academic quality of the higher education programs involved are at least comparable to the local programs based on established standards, or otherwise compliant with established international standards. Procedures concerning the quality of education services provided by TNHE arrangements shall be based on specific criteria, which are transparent, systematic, and open to scrutiny;
- e) The programs involved have achieved the required level of accreditation and other quality assurance requirements;
- f) The critical details of the collaborative arrangements are transparent to government and to the public;
- g) Public announcements about collaborative arrangement or about any TNHE program shall be authorized by government.

Philippine HEIs and all providers of educational and/or auxiliary services who are partners of the FHEI must be registered with the SEC (in the case of corporation or partnership) or with the Department of Trade and Industry (DTI) in the case of sole proprietorship) for the purpose of providing educational and auxiliary services. Likewise, existing entities seeking to expand their services to include TNE operations must register expansion with SEC or DTI.

SEC. 9. Establishment of Local Branches. – FHEIs may establish local branches or satellite campuses in the Philippines through a local partner, at least 60% of which is owned by Filipino citizens, duly registered with the SEC or the DTI, as the case may be. The FHEI may maintain its name, offer the education programs through the branch, and award the degree or credit. The local branch shall be managed and administered jointly by the parties, subject to the provisions of the Constitution on control and administration of educational institutions, as reiterated in Article 5 (d) of this Act. The local partner shall be accountable for quality assurance of the programs offered.

The FHEI may also incorporate a Philippine company to operate its local campus, provided that at least 60% of its voting stocks are reserved for Filipino citizens; Provided further, that the FHEI shall first secure the approval of the SEC by filing its incorporation papers, together with authenticated copies of its foreign charter and by-laws; Provided, finally, that the FHEI shall be required to post a bond in an amount to be determined by the SEC, to guarantee fulfillment of future obligations and liabilities.

Foreign citizens may constitute up to 80% of the faculty and academic personnel and up to 40% of the administrative personnel and staff members in any of the local branches; Provided, that in no case shall foreign students comprise more than one-third of the enrolment; Provided, further, that this limitation shall not apply to FHEIs for foreign residents established pursuant to Section 11 of this Act.

SEC 10. FHEIs Owned by Religious Groups. – Foreign religious groups or mission boards may establish, or continue to operate in the country, FHEIs, courses, and programs that are solely owned by such foreign religious groups or mission boards, or with foreign equity amounting to more than 40%. Provided, that Filipino students shall comprise not less than two-thirds enrolment in the said schools.

SEC 11. FHEIs for Foreign Residents. – FHEIs for foreign temporary residents may be established and allowed to operate in the country. These institutions may be solely owned, controlled, and administered by foreign citizens. Likewise, all faculty, staff, and student may comprise wholly of foreign citizens. An FHEI is deemed established specifically for foreign temporary residents when at least fifty percent (50%) of the student population, and twenty-five percent (25%) of faculty members, are foreign citizens; Provided, further, that the TNHE shall have a maximum of ten (10) years from its initial operation within which to comply with the 50% requirement for foreign students and 25% faculty members, after which, TNHEs that fail to meet this threshold shall be required to comply with the ownership and administration requirements specified under Section 5 (a) and (d) of this Act.

Provided, finally, that these institutions shall first obtain the necessary license and permits from the SEC or DTI, as the case maybe, and where applicable, from appropriate LGUs; and shall comply with the provisions of *Batas Pambansa Blg. 68*, otherwise known as "The Corporation Code of the Philippines", Republic Act No. 7042 as amended by RA No. 8179, otherwise known as the "Foreign Investments Act of 1991", and other relevant laws, rules, and regulations.

FHEIs may be established in special economic zones to cater to the needs of foreign investors and their dependents in the said special economic zones. Such FHEIs shall be entitled to all the benefits granted to institutions and enterprises under Republic Act No. 7916, as amended by Republic Act No. 8748, otherwise known as "The Special Economic Zone Act of 1995"; Provided, that in cases where these FHEIs are granted similar benefits and incentives in any other laws, rules, and regulations, the provisions most beneficial to the FHEIs shall apply, but in no case shall there be a duplication of benefits and incentives to be enjoyed by any FHEI.

SEC. 12. Establishment of Special Economic Zones for TNHEs. – TNHE zones or hubs, as defined under Section 3 of this Act, may be established in selected areas, in accordance with the guidelines for the establishment of special economic zones as specified in the Special Economic Zone Act and its Implementing Rules and Regulations. All FHEIs established within the TNHE zones and hubs shall be entitled to all incentives granted to enterprises in the economic zones.

The PEZA and CHED shall issue the necessary guidelines to facilitate the establishment of TNHE zones or hubs.

SEC. 13. Philippine HEIs Operating Offshore. – Philippine HEIs operating offshore shall conform to the following guidelines:

- a) Only Philippine HEIs with programs recognized by CHED may be given government authority to offer services offshore. Philippine HEIs providing

education offshore must preserve the reputation of the Philippines as a provider of quality higher education;

- b) Philippine HEIs operating offshore should abide by the laws, rules, and regulations of the country where it seeks to operate or deliver its educational programs; and
- c) In cases where offshore students are to spend a period of time in the Philippines as part of course or program requirements, the HEIs should provide students support services as necessary, including information on legal requirements and living arrangements.

SEC. 14. Programs and Degrees Offered. – Courses offered by TNHEIs may include undergraduate, graduate, and post-graduate degrees. The CHED, in consultation with stakeholders including higher education institutions and appropriate government agencies, may determine the propriety of offering other specialized courses including Bachelor of Laws and Bachelor of Medicine, by qualified institutions.

Prior to offering, all TNHEI shall submit their curricula to CHED, which shall review and ensure that such curricula conform to international standards; Provided that the curricula of TNHEIs which belong to the top 400 World Best Universities of reputable International Ranking Institutions are deemed to have meet international standards; Provided, further, that when the TNHEI fall out of the top 400 ranking, its subsequent new programs or offerings shall be reviewed by CHED whether the same meet international standards.

SEC. 15. Quality Assurance. – Entities engaged in TNHE, which includes both the awarding institutions and providing institutions, shall be accountable and fully responsible for quality assurance and control. They shall develop, implement, and review internal quality assurance processes, and cooperate with quality assurance reviews by CHED or other duly recognized local or international audit and accreditation bodies. These processes will protect and strengthen the reputations of bona fide institutions engaged in TNHE; and at the same time, protect students and other stakeholders from low quality provision and from disreputable institutions that are engaged in malpractice and fraud.

The TNHEIs are not required to comply with CHED standards, provided that they are compliant with international standards. To facilitate the entry of high-ranking universities in the country, TNHEIs ranking in the top five hundred (500) for three (3) consecutive years in any international rating institutions acknowledged by CHED shall be presumed to be compliant with international standards and shall enjoy exemption from any other quality assurance reviews by CHED or other audit and accreditation bodies. Provided, that after three years, the CHED will review the qualifications of the TNHEIs, and whenever the TNHEI falls out of the top 500 ranking, it shall be required to undergo quality assurance processes as provided in this section.

The CHED shall issue the necessary guidelines for the implementation of this section.

SEC. 16. Benchmarks for Ensuring Quality of TNHE. – In reviewing the performance of TNHEIs, the CHED, or other duly recognized local or international audit and accreditation bodies, may ascribe weight to the following performance indicators:

- a) **Curriculum innovation**, which pertains to the manner and degree to which the curricula are relevant and adaptable to current and global developments, trends, and values. Curriculum innovation includes the assessment of whether certificates, diplomas and degrees granted by the TNHEIs conform to internationally accredited programs by reputable international accreditation bodies; whether certificates, diplomas, and degrees granted by the TNHEIs are accredited both in the sending and receiving jurisdictions; the presence of study-abroad programs whose certificates, diplomas or degrees are accredited in both the sending and receiving jurisdictions; the accreditation and reputation of partner institutions; and cross-border delivery of academic services;
- b) **Student diversity**, which includes the promotion of a respectful classroom climate under egalitarian norms and principles; encouraging plurality of the contribution of diverse perspectives based on differences in race, gender, religion, and culture, implicit and explicit; use and monitoring of vernacular in ways that consider implicit assumptions, exclusions, overgeneralizations, stereotypes, and social discrimination;
- c) **Research and development**, which can be measured in terms of the number and quality of articles and papers published in international journals and other publications and/or used in international forums and conferences;
- d) **Graduation and retention rate**, which pertains to the number of first-year students who graduate within a given time period in light of course requirements and internationally acceptable best practices;
- e) **Job placement and career services**, which generally refers to the effectiveness of in-house career services that educate, connect, and advise students and new graduates about opportunities for internships, externships, fellowships, post-graduation employment opportunities, and career advancement. Job placement services include the degree to which the TNHEI can structurally align its graduates to both general employment demands and specific industry demands in local and foreign markets;
- f) **Facilities and infrastructure**, which pertains to the physical capacity of the school's facilities and infrastructure to address the needs of the programs in accordance with set standards, as well as provide for the welfare of students and teachers. Provided, that students' experience on the availability, adequacy, and suitability of facilities and infrastructure shall be assessed through surveys and other appropriate means;
- g) **Faculty and faculty diversity**, which pertains to the credentials of the faculty in terms of their education, work background and expertise, and their involvement in research and other institutions in their field. Greater weight is

given to institutions with a higher percentage of full-time faculty holding doctorates or equivalent degrees in their fields. Visiting faculty from other regions, countries, cultures, and backgrounds are encouraged. There should also be a sufficient number of qualified faculty to adhere to a faculty to student ratio under internationally accepted best practices;

- h) **Alumni leadership and performance**, which includes entry-level and mid-career-level income of alumni; for public interest positions, the international reputation of the positions which alumni hold; alumni performance and passing rates in licensure examinations, especially those examinations administered by jurisdictions in major economies beyond the Philippines; performance and passing rates in internationally acceptable standardized tests and testing methods by foreign jurisdictions; the extent to which the skill sets of alumni meet legitimate employment demand in domestic and foreign markets; alumni mobility and transferability of one's skill set across jurisdictions or industries;
- i) **Alumni participation**, which may be measured in terms of donations, endowment building, network building and network database management, alumni-initiated partnerships and linkages, extent and reach of foreign alumni, alumni cohesiveness
- j) **International linkages**, which refer to institutional relationships made on the basis of formal or informal agreements, which lead to cooperative action resulting in the accomplishment of shared or specific objectives by the parties involved. Provided, that the number of signed agreements alone shall not be sufficient basis for assessing international linkages. The CHED, or other duly recognized local or international audit and accreditation bodies, may identify other basis for assessing performance relevant to international linkages, such as the benefits that accrued or are expected to accrue to TNHEIs as a result of agreements entered into.
- k) **Grant and endowment management**, which pertains to how effective the TNHEI can build and manage an endowment corpus for purposes of sustaining a system of scholarships and fellowships, such as the sustainability of its endowment, the efficiency of grant compliance measures and grant administration, progressive per capita-endowment ratios, and the degree to which the endowment can fund operating expenses otherwise financed by tuition;
- l) Other criteria analogous to the foregoing;

The following criteria may also be considered: i) Environmental sustainability; ii) Gender and race sensitivity; iii) Social responsibility; iv) Housing facilities, both in-house and affiliated housing; v) Health facilities and medical services; vi) Retirement facilities; v) Job generation; and Other quasi-indicators analogous to the foregoing

SEC. 17. Creation of Transnational Higher Education Division. – There is hereby created an Office under the International Affairs Staff of the CHED, to be known as the Transnational Higher Education Division, to act on all matters related to TNHE

institutions and programs established in the country, whether existing or yet to be established. In the performance of its functions, it shall coordinate with the Technical Committee for Transnational Education and the Technical Panel for Distance Education.

The functions of the Transnational Higher Education Division shall include:

- a) Assist CHED in determining participation of individuals/HEIs in international academic programs;
- b) Accept, evaluate, and process all applications of FHEIs for authority to operate an educational and/or auxiliary service;
- c) Closely coordinate with concerned government agencies including the SEC, Bureau of Immigration, Professional Regulation Commission (PRC), Bureau of Internal Revenue (BIR), the appropriate local government units (LGUs), and all other concerned government agencies, for the purpose of facilitating and expediting the processing and acquisition of the necessary documentary requirements and permits of the FHEIs authorized by CHED to establish and operate TNHE and auxiliary services in the country, as well as for faculty, students, academic personnel, and other staff members certified as such by TNHEIs operating or duly authorized to operate in the country;
- d) Assist CHED in conducting review and evaluation of TNHEI performance, including visitation and other regulatory activities, for purposes of determining compliance with Philippine laws, rules, policies, and regulations; and recommend the necessary sanctions in cases of violations, including revocation of authority to operate a TNHE and/or auxiliary service;
- e) Perform such other duties and functions necessary to carry out the purposes of this Act.

The functions currently being performed by other offices and divisions of CHED in relation to transnational education, including those undertaken by the Programs Development Division under the Office of Programs and Standards Development, are hereby transferred to the Transnational Higher Education Division.

SEC.18. Role of Government Agencies. – Consistent with the policy and objective of encouraging, promoting, and accelerating the establishment of TNHE institutions and programs in the country, all concerned government agencies and LGUs are hereby mandated to establish mechanisms to expedite the processing of the relevant applications, documents, and permits for FHEIs and all other institutions authorized by CHED to establish and operate education and auxiliary services in the country.

- a) The SEC is hereby mandated to establish a mechanism to facilitate and expedite the processing of the applications for registration to operate transnational higher education and/or auxiliary services, as well as registration of partnerships, corporations, or other arrangements established under this Act;

- b) The concerned LGUs are hereby directed to establish a mechanism to facilitate and expedite the processing of business permits for TNHE institutions and partnerships;
- c) The Bureau of Immigration is hereby directed to establish a mechanism to facilitate and expedite the processing of VISA and other immigration requirements for foreign faculty, academic personnel, and all staff members who work in an institution/study program established through a transnational arrangement; and for students who are enrolled or registered for a course of study or parts of it, in a TNHEI.
- d) The Professional Regulation Commission (PRC) is hereby directed to establish a mechanism to facilitate and expedite the processing of certificate of registration/license and professional identification cards, as required in accordance with Section 7, paragraphs (J) and (L) of Republic Act No. 8981, otherwise known as the "PRC Modernization Act", and related Resolutions and Issuances, to be issued to foreign faculty and other international academics who work in an institution/study program established through a transnational arrangement.

Within six (6) months from the effectivity of the Implementing Rules and Regulations of this Act, the foregoing government agencies shall submit a report to Congress as to the status and progress of the respective mechanisms formulated and established under this Section.

SEC. 19. Tax Exemptions. – Pursuant to Section 4, Article XIV of the Constitution, all revenues and assets of non-stock, non-profit TNHEIs which are used actually, directly, and exclusively for educational purposes shall be exempt from taxes and duties. All grants, endowments, donations, or contributions used actually, directly, and exclusively for education purposes shall likewise be exempt from tax. Further, in accordance with Section 28, Article VI of the Constitution, all lands, buildings, and improvements, actually, directly, and exclusively used for educational purposes shall be exempt from taxation. All non-stock, non-profit TNHEIs shall also be entitled to all tax incentives granted to such entities by the National Internal Revenue Code (NIRC), BIR Rules and Regulations.

SEC. 20. Proprietary TNHE Institutions. – All TNHEIs which do not satisfy the definition of "non-stock, non-profit educational institutions" within the meaning of the NIRC are deemed, for purposes of this Act, to be proprietary educational institutions. All proprietary educational institutions shall be subject to the taxes, exemptions, and other duties and privileges under the NIRC, specifically Section 27, Title II, Ch. IV thereof, and BIR Implementing Rules and Regulations.

To the extent applicable, TNHEIs shall enjoy the same benefits, tax credits and incentives provided for in existing laws including those provided under Executive Order No. 226, otherwise known as the Omnibus Investment Code of 1987, and Republic Act 7844, otherwise known as the Export Development Act of 1994.

SEC. 21. Remittance of Profits and Repatriation of Investment. – Without prior approval of the *Bangko Sentral ng Pilipinas* (BSP), profits and other earnings of

foreign investments in TNHEIs may be remitted outward, and foreign investments may be repatriated, using foreign exchange sourced from authorized agent banks (AAB) and/or AAB-subsidary/affiliate foreign exchange corporations, provided that such foreign investments have been previously registered with the BSP.

SEC. 22. *Income of Foreign Faculty and Staff.* – The income, including allowances and honoraria, received by foreign faculty, academic personnel, and all staff members who work in an institution/study program established through a transnational arrangement, shall be free from taxes, provided that these are derived from work directly performed, and paid by, the TNHEIs. All other income derived from other sources shall be subject to applicable taxes under the NIRC, BIR Rules and Regulations.

SEC. 23. *Labor and Management Relations.* – Labor and management relations in all TNHEIs shall be governed by existing labor laws. Employees and personnel of TNHEIs shall enjoy working conditions not less than those provided under the Philippine Labor Code and other relevant laws, issuances, rules and regulations of the Philippine government and the Department of Labor and Employment.

SEC. 24. *Termination of Partnership or Closure of Program.* – In the event of termination of a partnership or phase out/closure of a program, institutions engaged in TNE should ensure that commitments made to enrolled students are met, including offering students suitable alternative pathways for completing the program to which they have been accepted.

The assets of the closed enterprise can be transferred and the funds can be remitted out of the country subject to the rules, guidelines and procedures prescribed jointly by the BSP, the Anti-Money Laundering Council, and the Department of Finance.

SEC. 25. *Implementing Rules and Regulations.* – Within ninety (90) days after the effectivity of this Act, the CHED, with technical support of the Technical Committee for Transnational Education and the Technical Panel for Distance Education, and in consultation with the TESDA, PRC, Bureau of Immigration, SEC, Board of Investments, and other stakeholders and relevant government agencies, shall formulate the implementing rules and regulations of this Act. Such rules and regulations shall take effect fifteen (15) days after their publication in a newspaper of general circulation in the Philippines.

SEC. 26. *Appropriation.* – The amount necessary to carry out the provisions of this Act shall be charged against the current year's appropriation of the CHED. Expenses incurred by SEC, BI, PRC, and the appropriate LGUs in relation to Section 16 of this Act shall be charged against their respective current year's appropriation. Thereafter, the amount necessary for the continued implementation of this Act shall be included in the Annual General Appropriations Act.

SEC. 27. *Suppletory Application.* –The applicable provisions of Republic Act No. 8424, otherwise known as the Tax Reform Act of 1997, further amending Presidential Decree No. 1158, otherwise known as the National Internal Revenue Code, as amended; Executive Order No. 226, otherwise known as the Omnibus Investment Code of 1987; Republic Act No. 7916, as amended by Republic Act No.

8748, otherwise known as "The Special Economic Zone Act of 1995"; Republic Act 7844, otherwise known as the Export Development Act of 1994 and Republic Act 10650, otherwise known as "Open Distance Learning Act"; insofar as they are not inconsistent with the provisions of this Act, shall apply suppletorily.

SEC. 28. Separability Clause. – The provisions of this Act are hereby declared separable, and in the event one or more of such provisions, or part thereof, is declared unconstitutional, such declaration of unconstitutionality shall not affect the validity of the other provisions of this Act.

SEC. 29. Repealing Clause. – All laws, acts, presidential decrees, executive orders, proclamations and/or administrative regulations which are inconsistent with the provisions of this Act, are hereby amended, modified, superseded or repealed accordingly.

SEC. 30. Effectivity. – This Act shall take effect fifteen (15) days following the completion of its publication in two (2) national newspapers of general circulation.