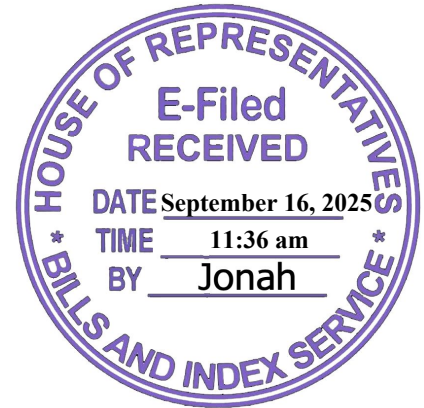




Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

TWENTIETH CONGRESS
First Regular Session

House Bill No. 4596



Introduced by Representative KRISTINE SINGSON-MEEHAN

The governance of Philippine higher education has grown more complex with the rapid expansion of state universities and colleges (SUCs) and the creation of locally funded universities and colleges (LUCs). However, as professional standards evolve, so too does the regulating body. Thus, the need to update and strengthen the CHED charter.

The bill strengthens leadership in CHED as a collegial body, providing clearer qualifications and defined functions. It clarifies CHED's quasi-judicial powers to enforce standards, resolve academic grievances, and act against unauthorized institutions. It also grants CHED exclusive original jurisdiction over cases and complaints involving educational institutions.

Furthermore, strengthens CHED as an institution by establishing a Central Office and several provincial offices to support the fulfillment of CHED's mandate both at the national and local level. It also creates new positions within the CHED framework to assist in the implementation of its policies and programs.

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

DEPUTY SPEAKER KRISTINE SINGSON-MEEHAN
2nd DISTRICT ILOCOS SUR



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Introduced by Representative KRISTINE SINGSON-MEEHAN

AN ACT
STRENGTHENING THE COMMISSION ON HIGHER EDUCATION AND APPROPRIATING FUNDS THEREFOR, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 7722, OTHERWISE KNOWN AS THE "HIGHER EDUCATION ACT OF 1994"

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 "*Amended Higher Education Act*".

SEC. 2. *Declaration of Policy.* - The State shall protect, foster and promote the right of all citizens to quality education at all levels and take appropriate steps to ensure that education is accessible to all. The State shall likewise protect academic freedom and promote its exercise and observance for the continuing intellectual growth, the advancement of learning and research, the development of responsible and effective leadership, the education of high-level professionals, and the enrichment of our historical and cultural heritage.

State-supported institutions of higher learning shall design their programs to support national, regional or local development plans.

All institutions of higher learning shall exemplify through their physical and natural surroundings the dignity and beauty of, as well as pride in, the intellectual and scholarly life.

by this Act;

b) *Foreign higher education institutions* refer to foreign-owned and duly recognized higher education institutions abiding by a prescribed system of education duly registered in a country other than the Philippines;

c) *Higher education institution (HEI)* refers to either a college or university, whether public or private, permitted to operate by offering degree programs and regulated by the CHED;

d) *Local universities and colleges* refer to public HEIs established and financially supported by their respective local government units;

e) *Private higher education institutions* refer to HEIs which are owned by private individuals, groups or entities recognized by the CHED and registered with the Securities and Exchange Commission; and

f) *State universities and colleges* refer to public HEIs created and established by law with independent and separate governing boards.

SEC. 4. Commission on Higher Education. – The CHED created under Republic Act No. 7722, otherwise known as the “Higher Education Act of 1994”, shall exercise the powers and functions vested upon it by this Act.

The CHED is independent and separate from the Department of Education (DepEd) and is attached to the Office of the President for administrative purposes only. Its coverage shall be both public and private HEIs offering degree programs, except those explicitly removed by Congress from its jurisdiction. The CHED shall continue to support, enhance and strengthen the Mindanao State University (MSU) System, and all other state and local universities and colleges within the Bangsamoro Autonomous Region: *Provided, That* the passage of this Act shall not diminish, reduce nor prejudice the support and funding from the national government enjoyed by the MSU System and all other state and local universities and colleges in the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM) prior to the passage of this Act: *Provided, Further, That* all state universities and colleges shall remain to be governed by their own charters and existing laws.

The CHED is mandated to formulate and implement policies governing the delivery of education services by public and private HEIs except those under the jurisdiction of the BARMM, as provided for in Republic Act No. 11054, or the “Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao”. As such, it shall exercise oversight powers and reasonable supervision over HEIs, including foreign HEIs which operate pursuant to Philippine laws.

SEC. 5. Commissioners. - The CHED shall be headed by five (5) full-time members, a Chairperson and four (4) Commissioners, who shall be holders of earned doctorate degrees, defined as Level 8 in the Philippine Qualifications Framework (PQF), conferred by reputable HEIs recognized by the CHED and have been actively engaged in higher education for at least ten (10) years, with at least five (5) years of managerial experience, and must not have been candidates to elective positions in the national or local election immediately preceding their appointment.

The Chairperson and the Commissioners must be persons known to possess the highest degree of professionalism and integrity, and who have distinguished themselves as authorities and experts in their chosen fields of learning as professors, researchers, managers, administrators, professional practitioners and in other fields of endeavors that can contribute to efficient and effective higher education governance.

The Commissioners shall possess different academic specializations.

The President of the Philippines shall appoint the Chairperson, four (4) Commissioners and three (3) Deputy Commissioners. The Deputy Commissioners shall each be responsible for (1) Standards and Quality Assurance; (2) Administration and Finance; and (3) Planning and Grants Administration.

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

SEC. 6. Term of Office. - The President shall appoint the full-time Chairperson, Commissioners and Deputy Commissioners for a term of four (4) years, without prejudice to one (1) reappointment. They shall be appointed based on merit and track record of performance.

The Chairperson, Commissioners, and Deputy Commissioners shall hold office until their successors shall have been appointed and qualified. In case a member fails to complete a term, the successor shall be appointed by the President of the Philippines for a full four (4)-year term without prejudice to reappointment to a second term. In case of a reappointment, the time served in an acting or holdover capacity shall be counted as part of the new four (4)-year term.

SEC. 7. Rank and Emoluments. - The Chairperson shall have the rank of Department Secretary and shall be a regular member of the Cabinet. The Commissioners shall have the rank of Department Undersecretary. The Deputy Commissioners shall have the equivalent

rank of an Assistant Secretary. They shall be entitled to receive the corresponding compensation and other emoluments, and shall be subject to the same conditions for disqualifications. Consistent with the provisions of Executive Order No. 292, otherwise known as the "Administrative Code of 1987", they are allowed to receive benefits, subject to existing rules and regulations.

SEC. 8. Duties and Responsibilities of the Chairperson. – Subject to pertinent laws and the policies and rules adopted by the CHED, the Chairperson shall:

- a) Act as the Chief Executive Officer of the CHED;
- b) Act as the Presiding Officer of the Commission *en banc*;
- c) Submit to the Office of the President, rules and regulations adopted by the CHED which require Presidential attention or action, including annual and other periodic reports;
- d) Direct the Executive Director, the Secretariat, and the Regional Directors in the performance or execution of the decisions and policies of the Commission *en banc*;
- e) Appoint focal persons and representatives of the CHED to advisory boards, councils and similar bodies where the CHED is identified by law as an ex-officio member; and
- f) Appoint advisers and create advisory bodies to advise and provide support to the office of the Chairperson.

SEC. 9. Powers and Functions of the CHED. - The CHED shall exercise the following powers and functions:

- a) Formulate a roadmap for Philippine higher education that sets the general directions for its development, including the formulation of educational policies and standards that ensure the accessibility and continuing improvement of tertiary education services, thereby ensuring the creation and development of human resources that are responsive, innovative, and globally competitive;
- b) Prepare and implement development plans, policies, priorities, and programs on higher education and research consistent with national and regional development goals, international human resource requirements, and address job mismatch between education and industry requirements;
- c) Broaden access to quality higher education through programs and services, particularly for the disadvantaged students, such as indigenous peoples, poor and deserving students, and students from depressed areas pursuant to Republic Act No. 10931 or the "Universal Access to Quality Tertiary Education Act" and other related laws on student financial assistance;
- d) Direct the development and reform of higher education towards world class standards, and harmonization with the Association of Southeast Asian Nations (ASEAN) education plan, and international conventions and agreements;
- e) Enable the development of non-traditional higher education programs and delivery modes, including flexible learning modalities such as blended learning, online and distance education pursuant to Republic Act No. 10650 or the "Open Distance Learning Act", ladderized education pursuant to Republic Act No. 10647 or the "Ladderized Education Act", the Expanded Tertiary Education Equivalency and Accreditation Program or ETEEAP, and applicable executive orders and issuances;
- f) Facilitate the development of sports and wellness programs in HEIs to produce globally competitive student-athletes in coordination with the Philippine Sports Commission;

g) Set minimum quality assurance standards and guidelines for programs and institutions for all HEIs, as well as a governance framework for all state universities and colleges (SUCs) and local universities and colleges (LUCs), and accrediting agencies, as recommended by panels of experts in the field, subject to public hearing and publication, and enforce the same;

h) Review, monitor and evaluate the curricula and other academic programs of HEIs *vis-a-vis* their performances in various government licensure examinations and certifications;

i) Identify, support and develop centers of excellence in program areas needed for the development of world-class scholarships, including provision for faculty academic development in HEIs, nation building and national development;

j) Accelerate the establishment of transnational higher education programs, the internationalization of higher education in the country and the development of transnational higher education sector consistent with Republic Act No. 11448, otherwise known as the "Transnational Higher Education Act";

k) Exercise quasi-judicial powers in the pursuit of the mandate of the CHED;

l) Develop and enforce a system of program compliance and impose necessary sanctions for causes provided by law and only after due process, such as the imposition of fines or penalties, downgrading to permit status, nonrecognition of accreditation, termination by closure or phase-out of higher education programs, or cessation of operations of public and private HEIs, including LUCs which are not in compliance with the prescribed minimum policies, standards and guidelines (PSGs) set by the CHED or international conventions: *Provided*, That in the case of LUCs, the action or decision of the CHED shall be in conjunction with, and not in conflict with the provisions of Republic Act No. 7160, otherwise known as the "Local Government Code of 1991": *Provided, Further*, That no restraining orders or injunctions shall be issued upon the actions of the CHED in the exercise of its quasi-judicial functions, except by the appellate courts after proper proceedings: *Provided, Further*, That the welfare of students, faculty, and employees shall be given due consideration: *Provided, Finally*, That the exercise of quasi-judicial power shall include such actions as the issuance of subpoena, summons, and initiation of contempt proceedings against recalcitrant parties under its jurisdiction;

m) Set PSGs for the creation of new HEIs, as well as the conversion or elevation of schools to institutions of higher learning;

n) Develop and implement standards and systems on reclassification, promotion and professional development of personnel in SUCs and LUCs in coordination with the Department of Budget and Management (DBM) and the Civil Service Commission (CSC), and in consultation with the Philippine Association of State Universities and Colleges, the Association of Local Colleges and Universities and the Coordinating Council of Private Educational Associations;

o) Support HEIs in the implementation of the Philippine National Qualifications Framework for higher education in coordination with the DepEd, Technical Education and Skills Development Authority and other appropriate government agencies consistent with Republic Act No. 10968, otherwise known as the "PQF Act";

p) Set guidelines for reasonable increases in tuition and other fees in private HEIs: *Provided*, That the CHED shall, through its regional offices, strictly monitor their compliance with the guidelines set for this purpose;

q) Provide directions and common standards for accrediting agencies;

r) Administer the Higher Education Development Fund, as provided for in Section 15 of this Act, and based on the guidelines set by the CHED, approve projects that shall promote the development of public and private HEIs;

s) Conduct mediation, conciliation, settlement meeting or conferences between HEIs and students, teachers and staff involving academic issues, in conjunction and in harmony with existing civil service rules and regulations;

t) Chair the governing boards of SUCs and provide direction to these institutions and ensure that the PSGs of the CHED are complied with and fully implemented by them;

u) Establish a national registry for academic information and mobility and other relevant mechanisms for information sharing and dissemination locally or internationally, in coordination with other concerned government agencies;

v) Develop criteria for allocating additional resources such as research and program development grants, scholarships, and other similar programs sourced from the Higher Education Development Fund of the CHED and other fund sources outside of the budget and income of the HEIs: *Provided*, That these shall not detract from the fiscal autonomy already enjoyed by colleges and universities;

w) Authorize the periodic review of the organization, functions, mission and structure of the entire CHED in the light of social, economic, and technological changes, and propose the necessary interventions, including appropriate legislations;

x) Fix and adjust the salaries of officials and personnel and administer the hiring of employees, promotion and other staffing concerns in accordance with the Revised Compensation and Position Classification System subject to the evaluation and approval of the DBM; and

y) Promulgate such rules and regulations and exercise such other powers and functions as may be necessary to carry out effectively the purposes and objectives of this Act.

SEC. 10. Quasi-Judicial Powers of the CHED. - The CHED shall exercise exclusive original jurisdiction over the following violations:

a) Fraud or deceit committed in connection with the application for and grant by the CHED of government permits or recognition and other incentives and qualifying procedures;

b) Failure to comply with conditions or obligations prescribed by the CHED as minimum standards in operating academic courses and programs;

c) Unauthorized operation of a school or course, or any component thereof, or any violation of the requirement governing advertisements or announcements of educational institutions; and

d) Other cases and complaints related to its powers and functions.

Except for cases involving the failure to comply with the minimum standards in operating academic courses and programs prescribed by the CHED, complaints and cases shall first be filed with the concerned regional office which has jurisdiction over the area. The Regional Director shall resolve the case within a reasonable period from the time of

submission of the case for resolution, but in no case shall the entire resolution of the case exceed sixty (60) days from filing.

An appeal from the decision of the Regional Director may be filed with the Office of the Executive Director of the CHED within ten (10) days from receipt of the decision. The Office of the Executive Director shall rule on the appeal within sixty (60) days from the filing of the appeal.

An appeal from the decision of the Office of the Executive Director may be filed with the Commission *en banc* within ten (10) days from receipt of the decision and the latter shall resolve the appeal within sixty (60) days from the filing of the appeal.

The decision of the Commission *en banc* shall be executory. An appeal from the decision of the Commission *en banc* may be filed with the Court of Appeals, subject to the period for appeals from the decisions of administrative quasi-judicial bodies as provided in the Rules of Court.

The Regional Trial Courts (RTCs) are prohibited from issuing any injunction against decisions of the CHED in the exercise of its quasi-judicial functions. In all other matters which does not contravene the intent and spirit of this Section, the CHED may coordinate with the RTCs.

The finding of a violation committed by an HEI shall not be taken against its students, teachers and employees who believed in good faith that the school acted in conformity with the standards and guidance of the CHED: *Provided, However,* That upon issuance of the CHED of a notice to the public declaring the non-compliance of the HEI and the sanctions imposed therefor, the general public shall be assumed to be fully informed of such violation and thus no presumption of good faith can be enjoyed thereafter by students, faculty and employees.

SEC. 11. Secretariat and the Executive Director. - The CHED shall organize a secretariat which shall be headed by an Executive Director, subject to the national compensation and position classification plan. 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 Director. It shall also prepare and approve its budget.

The Executive Director must have at least five (5) years administrative or technical experience in the areas of policies and standards development, management, public or private administration and policy, as well as human resource development, among others, with the rank and emoluments of an assistant secretary to be appointed by the President of the Philippines upon the recommendation of the Commission *en banc*.

The CHED shall take steps to attract the most qualified and competent staff in all grades and levels and shall institute necessary and flexible internal rules and procedures towards hiring and removal of personnel in the interest of efficiency, economy, discipline and better performance standards.

SEC. 12. Central Office Operation. - The CHED shall establish a Central Office in accordance with the Revised Administrative Code of 1987 and other pertinent laws and issuances to support the fulfillment of the powers and functions of the CHED at the national level. The offices under the Central Office shall be headed by a qualified Director and Assistant Director.

The Chairperson of the CHED shall appoint such personnel necessary to carry out the objectives, policies, and functions of the CHED, subject to existing laws and the rules and regulations of the CSC.

SEC. 13. Regional Operations. - The Regional Offices of the CHED shall be headed by Regional Directors with the rank and emoluments of Director IV to be appointed by the President of the Philippines.

The Regional Offices shall be under the direct control and supervision of the CHED Chairperson and shall have the following functions:

- a) Implement the programs of the CHED in the regional level, as well as in highly urbanized cities, which are under their jurisdiction;
- b) Develop and recommend programs for regional and local-level implementation within the policies set by the CHED;
- c) Facilitate the implementation of Republic Act No. 10931, including disbursement of checks; and
- d) Perform such other duties and functions as may be deemed necessary.

In order to be attuned and updated on the official activities and needs of the concerned SUCs, the Regional Director shall sit as a resource person in all board meetings of SUCs which the regional office has jurisdiction over.

SEC. 14. Provincial Offices. – The CHED shall establish provincial offices to ensure the implementation of policies and programs across island groups and remote areas. The provincial offices shall be headed by provincial directors, who shall have the rank and emoluments of a Director III. The provincial offices shall be under the direct control and supervision of their respective regional directors and shall have the following functions:

- a) Implement the policies and programs of the CHED in the province under its jurisdiction;
- b) Review and recommend programs for implementation within their localities;
- c) Provide technical assistance to local government units in the governance of LUCs and the implementation of local government-initiated programs within their localities;
- d) Facilitate the implementation of Republic Act No. 10931, including the disbursement of checks for HEIs which are under their jurisdiction; and
- e) Perform such other duties and functions as may be authorized.

SEC. 15. Higher Education Development Fund. – The Higher Education Development Fund established under Republic Act No. 7722, hereinafter referred to as the Fund, shall be used exclusively for the strengthening of higher education in all regions of the country.

The Fund shall consist of:

- a) The equivalent of forty percent (40%) annual share on the total gross collections of the travel tax;
- b) The equivalent of thirty percent (30%) share of the annual collections from the Professional Registration Fee; and
- c) The equivalent of one percent (1%) of the gross sales of the lotto operation of the Philippine Charity Sweepstakes Office.

Government financing institutions identified and requested by the CHED 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.

The Fund shall likewise consist of donations and grants privately raised by the CHED. These and other conveyances including equipment, properties, materials and services by gratuitous title shall be exempt from the donor's tax and shall constitute as allowable deduction from the gross income tax of the donor. The Fund shall fall under the Tax Exemption provision in Section 21.

SEC. 16. Management and Administration of the Fund. – The Fund shall be administered by the CHED. For sound and judicious management, the Bureau of Treasury under the Department of Finance shall be the portfolio manager of the Fund.

As administrator of the Fund, the CHED 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 CHED shall appoint and organize a separate Fund Office to be headed by a director and to be composed of units responsible for resource mobilization, planning and programs, monitoring and evaluation, and finance and administration, among others. Since the Fund comes from contributions from the government and private sector, the Fund Office shall be administratively independent and budgetarily separate from the CHED Secretariat; and

d) The Fund shall be utilized equitably according to regions to strengthen HEIs and support priority programs. In no case shall the Fund be utilized for purposes benefiting individuals other than those earmarked for developmental purposes under the guidelines set by the CHED.

SEC. 17. Technical Panels. - The CHED shall reconstitute or organize technical panels for different disciplines and academic program areas. They shall assist the CHED in setting standards and evaluating academic programs for regulatory and development purposes. The technical panels shall be composed of individuals highly recognized in their fields of expertise and who shall be tasked to formulate a roadmap for the development of disciplinal and degree programs; review, revise, and update policies, standards, and guidelines based on the policy direction set by the CHED; and serve as resource persons in its various activities.

The technical panels shall serve as advisory or recommendatory bodies for a specific discipline or related program, and their recommendations shall be subject to the approval of the Commission *en banc*.

SEC. 18. Guarantee of Academic Freedom. - Nothing in this Act shall be construed as limiting the academic freedom of universities and colleges. In particular, no abridgment of curricular freedom of the individual educational institutions by the CHED shall be made except for: (a) minimum unit requirements for specific academic programs; (b) general education distribution requirements as may be determined by the CHED; and (c) specific professional subjects as may be stipulated by the various licensing entities. Academic or curricular restrictions which are not required from chartered SUCs shall likewise not be made upon private educational institutions.

Both public and private HEIs, including those established by local governments must comply with the mandatory minimum institutional and program standards set by the Commission *en banc*.

SEC. 19. Guarantee of Religious Freedom. - No higher education student, faculty, or other members of the academic community shall be prohibited from exercising their right to religious freedom in the HEI or any of its campuses.

SEC. 20. Incentives For Accreditation. - The CHED shall provide incentives to institutions of higher learning, public and private, whose proposed programs are approved and accredited or whose needs are for accreditation purposes.

SEC. 21. Tax Exemptions. - All grants, bequests, endowments, donations and contributions made to the CHED, to be used actually, directly and exclusively by it, shall be exempt from donor's tax and the same shall be considered as allowable deduction from the gross income of the donor for purposes of computing the taxable income of the donor in accordance with the provisions of the National Internal Revenue Code of 1997, as amended.

SEC. 22. Scope of Authority. - The CHED 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 CHED may seek the assistance of other government agencies for the proper implementation of this Act.

SEC. 23. *Periodic Review.* – The CHED shall undertake a periodic assessment of its accomplishments, and review and update the roadmap of Philippine higher education every ten (10) years. The updated roadmap shall be submitted to Congress and the Office of the President for the formulation of new policies necessary for the continuous and sustained modernization of higher education in the country.

SEC. 24. *Appropriations.* - The initial amount for the implementation of this Act shall be charged against the current year's appropriations of the CHED.

Thereafter, such amount necessary shall be included in the annual General Appropriations Act.

SEC. 25. *Transitory Provisions.* – Upon the effectivity of this Act, the incumbent Chairperson and Commissioners of the CHED shall serve as the Chairperson and Commissioners, respectively, without need of new appointments subject to the following conditions: (1) the incumbent Chairperson and Commissioners serving their first terms upon the passage of this Act shall be deemed reappointed to serve a full term as provided under this Act but shall not be qualified for reappointment, and (2) the incumbent Chairperson and Commissioners serving their second terms upon the passage of this Act shall continue to serve only the remaining duration of the term they are currently serving and shall not be eligible for reappointment. The incumbent Executive Director shall likewise serve as Executive Director without need of a new appointment.

All officers and personnel of the CHED shall continue to perform their duties and responsibilities and receive their corresponding salaries and benefits. The approval of this Act shall not cause any demotion in rank or diminution of salary, benefits and other privileges of the incumbent personnel of the CHED.

SEC. 26. *Implementing Rules and Regulations.* - The CHED shall, within ninety (90) days after the effectivity of this Act, formulate the necessary rules and regulations for its effective implementation.

SEC. 27. *Separability Clause.* - If any provision or part of this Act is held unconstitutional or invalid, the other provisions or parts hereof which are not affected shall continue to be in full force and effect.

SEC. 28. *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, amended or modified accordingly.

SEC. 29. *Effectivity.* - This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,