

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS

First Regular Sessions

3940

House Bill No: _____



Introduced by OFW FAMILY Representative Alberto D. Pacquiao

EXPLANATORY NOTE

At least 10% of the Philippine population has worked abroad or are currently working abroad, remitting a total of 9.4B dollars and growing by 3.5% every year - the second biggest source of foreign exchange, and contributing 10% of GDP. In this light, our overseas workers deserve the title of Modern Day Heroes or 'Bagong Bayani'. Ironically, their much-needed contribution comes with a growing number of high risks, such as: physical, emotional, mental, and financial abuse. Worst is the 'social cost' of the families left behind.

Due to the bureaucracies and overlapping responsibilities of the agencies mandated to serve our overseas workers, there is often confusion in discerning the jurisdiction of each agency when it comes to evolving concerns. Filipinos, who have the single objective of providing decent lives for their families and sacrifice so much being away from them, often lack dedicated attention.

Our constitution on Social Justice and Human Right provides '*the full protection to labor, local and overseas, documented and undocumented*' and Family as the '*foundation of the nation..., it shall strengthen its solidarity and actively promote its total development*'.

It is the vision of the late Ambassador Roy V. Señeres embodied in his words:

"We do not want to send the wrong signal to our children to go abroad for greater economic opportunities, for it is contrary to the Constitution, which states security of employment in the homefront. It is, ultimately, my dream that one day there will be no more Filipinos going abroad because of the dire economic situation. But, as long as the Filipino diaspora continues - especially with the majority being our womenfolk who face abuse, maltreatment, and even rape – we will strive for the best measures to protect and care for them".

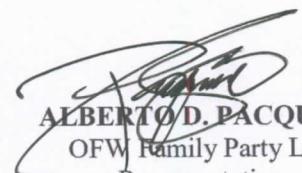
We have the guardians of Philippine foreign and labor policies seeking to protect and provide welfare to our overseas workers. Nevertheless, according to the Department of Social Welfare and Development (DSWD), from 2017 to November 2018 they have assisted a total of 33,692 overseas Filipinos. In effect, the numbers of our Modern Heroes who continuously fall prey to illegal recruitment, maltreatment, discrimination, and violence in their host

countries continue to rise unabated. Thus, there is clamor to strengthen and expand national efforts to provide protection and welfare for them.

No less than the President has expressed the need to create a single government unit to provide a holistic approach in managing overseas employment.

The proposed Department of Overseas Employment (DOvE) ensures that overseas employment leads not to breaking of the family but to inclusive growth, personal development, and nation building. It also promotes the practice of ethical recruitment and empowers workers with fortification of rights through every stage of employment. From pre deployment, to employment, and successful reintegration into main stream society either as an entrepreneur and/or part of the workforce, the Department will be there to provide for general welfare and protection of the OFWs and their families.

It is for this reason that every effort must be made to ensure this bills timely passage.



ALBERTO D. PACQUIAO
OFW Family Party List
Representative

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Sessions

House Bill No: **3940**

Introduced by OFW FAMILY Representative Alberto D. Pacquiao

AN ACT
CREATING THE DEPARTMENT OF OVERSEAS EMPLOYMENT,
DEFINING ITS POWERS AND FUNCTIONS, APPROPRIATING FUNDS
THEREFOR, AND FOR OTHER PURPOSES

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

1 SECTION 1. Short. Title. – This Act shall be known as the “Department of Overseas
2 Employment Act of 2019”.

3 SEC. 2. Declaration of Policy. – It is hereby declared the policy of the State:

4 (a) In the pursuit of an independent foreign policy and while considering national
5 sovereignty, territorial integrity, national interest and the right to self-determination
6 paramount in its relations with other states, the State shall, at all times, uphold the dignity of
7 its citizens whether in country or overseas, in general, and Filipino migrant workers, in
8 particular, continuously monitor international conventions, adopt/be signatory to and ratify
9 those that guarantee protection to our migrant workers, and endeavor to enter into bilateral
10 agreements with countries hosting overseas Filipino workers.”;

11 (b) The State shall afford full protection to labor, local and overseas, organized and
12 unorganized, and promote full employment and equality of employment opportunities for all.
13 Towards this end, the State shall provide adequate and timely social, economic and legal
14 services to Filipino migrant workers;

15 (c) While recognizing the significant contribution of Filipino migrant workers to the national
16 economy through their foreign exchange remittances, the State does not promote overseas
17 employment as a means to sustain economic growth and achieve national development. The

1 existence of the overseas employment program rests solely on the assurance that the dignity
2 and fundamental human rights and freedoms of the Filipino citizen shall not, at any time, be
3 compromised or violated. The State, therefore, shall continuously create local employment
4 opportunities and promote the equitable distribution of wealth and the benefits of
5 development;

6 (d) The State affirms the fundamental equality before the law of women and men and the
7 significant role of women in nation-building. Recognizing the contribution of overseas
8 migrant women workers and their particular vulnerabilities, the State shall apply gender
9 sensitive criteria in the formulation and implementation of policies and programs affecting
10 migrant workers and the composition of bodies tasked for the welfare of migrant workers;

11 (e) Free access to the courts and quasi-judicial bodies and adequate legal assistance shall not
12 be denied to any person by reason of poverty. In this regard, it is imperative that an effective
13 mechanism be instituted to ensure that the rights and interest of distressed overseas Filipinos,
14 in general, and Filipino migrant workers, in particular, whether regular/documents or
15 irregular/undocumented, are adequately protected and safeguarded;

16 (f) The State recognizes that the most effective tool for empowerment is the possession of
17 skills by migrant workers. The government shall provide them free and accessible skills
18 development and enhancement programs. Pursuant to this and as soon as practicable, the
19 government shall deploy and/or allow the deployment only of skilled Filipino workers;

20 (g) The State recognizes the significant contribution of legitimate non-governmental
21 organizations, trade unions, workers associations, and other stakeholders as partners in the
22 protection and promotion of the welfare of Filipino migrant workers. The State, likewise,
23 acknowledges the significant contribution of land-based and sea-based recruitment agencies.
24 The State shall cooperate with them with mutual respect and trust in the spirit of a tripartite
25 partnership;

26 (h) '*Once an OFW, always an OFW*'. - The state shall ensure the rights, general welfare, and
27 protection of all Filipinos working as OFWs whether they are about to be deployed, currently
28 deployed, returning home or abroad, or retired;

29 (i) Provide a mechanism for their reintegration into the Philippine society, serve as a
30 promotion house for their local employment, and tap their skills and potentials for national
31 development.

32 SEC. 3. Definition of Terms. – As used in this Act the following terms are defined as follows:

33 (a) "Overseas Filipino worker" "OFW" refers to a person who is to be engaged, is engaged or
34 has been engaged in a remunerated activity in a state of which he or she is not a citizen or on
35 board a vessel navigating the foreign seas other than a government ship used for military or
36 noncommercial purposes or on an installation located offshore or on the high seas; to be used
37 interchangeably with migrant worker."

38 (b) "OFW in Distress" or "Distressed OFW" Overseas Filipino who has medical or psycho-
39 social problems requiring treatment, hospitalization, counseling; or problems like labor,

1 immigration and other issues requiring legal representation or any other kind of intervention
2 with the authorities in the country where he or she is found.

3 (c) "Parens Patriae" One who stands in the place of a child's parent, but who is not that parent
4 by exercising the 'due diligence of a good father' providing protection and promoting the
5 welfare of OFWs and exercising conventional and cultural diplomacy in the host countries

6 SEC. 4. Creation of the Department of Overseas Employment (DOvE). – There is hereby
7 created the Department of Overseas Employment, hereinafter referred to as the Department.

8 SEC. 5. Mandate. – The Department shall be the primary policy, planning, coordinating,
9 implementing, and administrative entity of the Executive Branch of the government for
10 overseas employment.

11 SEC. 6. Powers and Functions. – The Department shall exercise the following powers and
12 functions:

13 I. Policy and Planning

14 (a) Formulate, recommend and implement national policies, plans, programs and guidelines
15 that will protect and provide welfare for overseas workers and their families;

16 (b) Harmonize and strengthen all existing government regulations for overseas employment;

17 II. Protection

18 (d) Build a strong and harmonious partnership with national and local government agencies,
19 host countries and international bodies on matters pertaining to overseas employment;

20 (e) Provide an integrated framework that would effectively respond to overseas workers in
21 'distress' and illegal recruitment;

22 (f) Create and administer a Special Assistance Fund to provide legal and financial assistance
23 for overseas workers in 'distress';

24 III. Welfare

25 (g) Establish a Social Welfare and Insurance Fund, specific to the needs of overseas workers-
26 members and beneficiaries that would provide social protection from risk of disability,
27 sickness, retirement, death and other contingencies resulting in loss of income and financial
28 burden;

29 IV. Reintegration

30 (h) Provide mechanisms and resources to encourage overseas workers to return and
31 successfully re-integrate themselves locally;

32 (i) Prioritize and capacitate returning overseas workers for local employment and ensuring
33 equal opportunities as provided by Presidential Decree 442 as amended 'Philippine Labor
34 Code'.

1 **SEC. 7.** Composition. – The Department shall be headed by a Secretary. The Department
2 proper shall be composed of the Office of the Secretary, the Offices of the Undersecretaries
3 and the assistant secretaries.

4 **SEC. 8.** Secretary of Overseas Employment. – The Secretary shall be appointed by the
5 President, subject to confirmation by the Commission on Appointments. The Secretary shall
6 have the following functions:

- 7 (a) Provide executive direction and supervision over the entire operations of the Department
8 and its attached agencies;
- 9 (b) Establish policies and standards for the effective, efficient and economical operation of
10 the Department, in accordance with the programs of government;
- 11 (c) Review and approve requests for financial and manpower resources of all operating
12 offices of the Department;
- 13 (d) Designate and appoint officers and employees of the Department, excluding the
14 undersecretaries, assistant secretaries, and regional and assistant regional directors, in
15 accordance with the civil service laws, rules and regulations;
- 16 (e) Exercise disciplinary powers over officers and employees of the Department in
17 accordance with law, including their investigation and the designation of a committee or
18 officer to conduct such investigation;
- 19 (f) Conduct and conclude bilateral, multilateral discussions, agreements, and treaties with the
20 host country, and other international stakeholders on overseas employment;
- 21 (g) Coordinate and collaborate with other agencies and public and private interest groups,
22 including nongovernment organizations (NGOs) and people's organizations (POs) on
23 Department policies and initiatives;
- 24 (h) Prepare and submit to the President through the Department of Budget and Management
25 (DBM) an estimate of the necessary expenditures of the Department during the next fiscal
26 year, on the basis of the reports and estimates submitted by bureaus and offices under
27 him/her;
- 28 (i) Act as the ‘Parens Patriae’ of all overseas workers outside and inside the country and their
29 families;
- 30 (i) Advise the President on the promulgation of executive and administrative orders and
31 formulation of regulatory and legislative proposals on matters pertaining to overseas
32 employment;
- 33 (j) Formulate such rules and regulations and exercise such other powers as may be required to
34 implement the objectives of this Act: and
- 35 (k) Perform such other tasks as may be provided by law or assigned by the President.

1 **SEC. 9.** Undersecretaries. – The Secretary shall be assisted by three (3) undersecretaries, who
2 shall be appointed by the President upon the recommendation of the Secretary: Provided, That
3 majority of the undersecretaries shall be career officers.

4 **SEC.10.** Assistant Secretaries. – The Secretary shall be assisted by four (4) assistant
5 secretaries who shall be appointed by the President upon the recommendation of the
6 Secretary: Provided, That two (2) of the assistant secretaries shall be career officers:

7 **SEC.11.** Qualifications. – No person shall be appointed Secretary, Undersecretary, or
8 Assistant Secretary of the Department unless he or she is a citizen and resident of the
9 Philippines, of good moral character, of proven integrity and with at least ten (10) years of
10 competence and expertise in overseas employment, and possesses the qualification prescribed
11 by law.

12 **SEC. 12.** Regional Offices – The Department shall establish, operate, and maintain a regional
13 office in the different administrative regions of the country. Each regional office shall be
14 headed by a Regional Director, who may be assisted by one (1) Assistant Regional Director.
15 The Regional Director and Assistant Regional Director shall be appointed by the President.
16 The regional offices shall have, within their respective administrative regions, the following
17 functions:

18 (a) Implement laws, policies, plans, programs, projects, rules and regulations of the
19 Department;

20 (b) Provide efficient and effective service to the people;

21 (c) Coordinate with regional offices of other departments, offices, and agencies;

22 (d) Coordinate with the Local Government Units; and

23 (e) Perform such other functions as may be provided by law or assigned by the Secretary.

24 **SEC. 13.** Overseas Employment Council (OEC). – The Department shall facilitate the
25 creation of the Overseas Employment Council, which shall consist of representatives from
26 stakeholders, with the Secretary serving as the Chairman, to assist the Department in the
27 implementation of government in overseas employment.

28 **SEC. 14.** Sectoral and Industry Task Forces. – The Department may create sectoral and
29 industry task forces, technical working groups, advisory bodies or committees for the
30 furtherance of its objectives. Additional private sector representatives, such as from the
31 academe, CSOs, and federation of private industries directly involved in overseas
32 employment, as well as representatives of other NGAs. LGUs and GOCCs may be appointed
33 to these working groups.

34 **SEC. 15.** Transfer of Agencies and Personnel. –

35 (a) The following agencies shall be under the direct supervision and control of the
36 Department:

- 1 (1) Philippine Overseas Employment Administration (POEA);
 - 2 (2) Overseas Workers Welfare Administration (OWWA);
 - 3 (3) International Labor Affairs Bureau;
 - 4 (4) National Reintegration Center;
 - 5 (5) Office of the Legal Assistant for Migrant Workers Affairs of the DFA as provided for
6 under Section 24 of R.A. No. 8042, as amended
- 7 (b) The Commission on Filipino Overseas is hereby attached, to the Department for policy
8 and program coordination, and shall continue to operate and function in accordance with the
9 charters, laws or orders creating them, insofar as they are not inconsistent with this Act:
- 10 (c) The laws and rules on government reorganization as provided for in Republic Act No.
11 6656, otherwise known as the Reorganization Law, shall govern the reorganization process of
12 the Department.
- 13 **SEC. 16.** Separation and Retirement from Service. – Employees who are separated from
14 service within six (6) months from the effectivity of this Act as a result of the consolidation
15 and/or reorganization under the provisions of this Act shall receive separation benefits to
16 which they may be entitled under Executive Order No. 366, s. 2004: Provided, That those
17 who are qualified to retire under existing retirement laws shall be allowed to retire and receive
18 retirement benefits to which they may be entitled under applicable laws and issuances.
- 19 **SEC. 17.** Structure and Staffing Pattern. – Subject to the approval of the DBM, the
20 Department shall determine its organizational structure and create new divisions or units as it
21 may deem necessary, and shall appoint officers and employees of the Department in
22 accordance with the civil service law, rules, and regulations.
- 23 **SEC. 18.** Transition Period. – The transfer of functions, assets, funds, equipment, properties,
24 transactions, and personnel of the affected agencies, and the formulation of the internal
25 organic structure, staffing pattern, operating system, and revised budget of the Department,
26 shall be completed within six (6) months from the effectivity of this Act, during which time,
27 the existing personnel shall continue to assume their posts in holdover capacities until new
28 appointments are issued: Provided, That after the abolition of the agencies as specified in
29 Section 15(a) of this Act, the Department, in coordination with the DBM, shall determine and
30 create new positions, the funding requirements of which shall not exceed the equivalent cost
31 of positions abolished.
- 32 **SEC 19.** Special Assistance to Nationals Fund. - The Legal Assistance Funds provided for
33 under Section 25 of R.A. No. 8042, as amended, is abolished. In its stead, a Special
34 Assistance to Nationals Fund (SATNAF) for OFWs in distress, in the amount of Five Billion
35 Pesos (P5,000,000,000.00), is hereby created, to be administered and maintained by the
36 Department. In addition to those provided for under Section 26 of R.A. No. 8042, as
37 amended, and in accordance with guidelines to be formulated by the Department, the
38 SATNAF shall be used for repatriation, medical and hospitalization expenses, legal retainers

1 and lawyers fees, other legal fees and costs, payment of blood money, and other needs of
2 OFWs facing legal cases and/or detention and other forms of emergencies where such cost
3 and fees are currently not covered by OWWA and other existing funds and sources.

4 **SEC 20.** Institute for Advanced and Strategic Studies on Migration and Development. - There
5 is hereby established an Institute for Advanced and Strategic Studies on Migration and
6 Development (IASSMD) headed by an Executive Director with the rank of Assistant
7 Secretary. It shall carry out the following functions:

8 (a) Conduct advanced, strategic, and up-to-date studies and research on global migration and
9 development trends, and publish papers based on the highest standards of international
10 scholarly work;

11 (b) Edit and publish a Journal of Advance and Strategic Studies on Migration and
12 Development of the highest standards of scholarship and reputation;

13 (c) Prepare and submit annual strategic estimates and recommendations to the Secretary of the
14 Department, Congress, and the President to advance national development goals;

15 (d) Conduct regular lectures, seminars, trainings, workshops, and public briefings both local
16 and international;

17 (e) Enter into collaborative partnerships and consortiums with academic and research
18 institutions, both local and internationally;

19 (f) Receive grants and endowments; and

20 (g) Host visiting scholars, fund relevant research, provide scholarships, locally and abroad,
21 based on open and competitive selection criteria. For this purpose, an initial fund in the
22 amount of Fifty Million Pesos (P50,000,000.00) shall be included in the annual budget of the
23 Department to be enacted as part of the annual General Appropriations Act.

24 **SEC 21.** Reporting Requirements. – Before the end of each year, the Department shall
25 submit to the President of the Philippines and Congressional Oversight Committee created
26 under RA 10022, an annual consolidated report, which shall provide a definitive and
27 comprehensive assessment of the implementation of its programs and those of other
28 government agencies in relation to the implementation of this Act and recommend priorities
29 for executive and legislative actions. The report shall be printed and distributed to all national
30 agencies, NGOs and private sector organizations involved in overseas employment.

31

32 **SEC 22.** Appropriation, –

33 (a) The amount needed for the initial implementation of this Act shall be taken from the
34 current fiscal year's appropriation of all agencies herein absorbed, by or attached to the
35 Department. Thereafter, the amount needed for the operation and maintenance of the
36 Department shall be included in the General Appropriations Act;

37 (b) The Special Assistance Fund shall be taken from the President's contingency fund;

38 (c) The Social Welfare and Insurance Fund shall be taken from OWWA membership fees
39 and the President's social fund. Thereafter the fund shall be taken from the mandatory
40 membership contribution of all members.

1 **SEC. 23.** Implementing Rules and Regulations. – The departments and agencies charged with
2 carrying out the provisions of this Act, except as otherwise provided herein, in consultation
3 with the Senate Committee on Labor and Employment and the House of Representatives
4 Committee on Overseas Workers Affairs, shall, within sixty (60) days after the effectivity of
5 this Act, formulate the necessary rules and regulations for its effective implementation.

6 **SEC. 24.** Separability Clause. – If any provision of this Act shall be declared unconstitutional
7 or invalid, the other provisions not otherwise affected shall remain in full force and effect.

8 **SEC. 25.** Repealing Clause. – All laws, decrees, executive orders, rules and regulations and
9 other issuances or parts thereof which are inconsistent with this Act are hereby repealed,
10 amended or modified accordingly.

11 **SEC. 26.** Effectivity. – This Act shall take effect fifteen (15) days after its publication in at
12 least two (2) newspapers of general circulation.

13 Approved,

14