

REPUBLIC OF THE PHILIPPINES
HOUSE OF REPRESENTATIVES
Quezon City



EIGHTEENTH CONGRESS
First Regular Session
4814
House Bill No. _____

Introduced by **HON. KRISTINE ALEXIE B. TUTOR**
Third District, Bohol

Explanatory Note

In a world that has become increasingly volatile, unpredictable, complex and yet also teeming with opportunities, it is imperative to clearly define, if not elevate, the Philippine government's role in migration governance using a development and rights-based lens. The creation of an entirely new department will enable the executive branch to develop migration policies, programs and services that are more attuned to the needs and trends of the 21st century where labor mobility converges with cross-border security concerns.

In removing overseas labor policy-making, functions and programs from the DOLE, the department would now be able to focus on local employment generation, better working conditions, skills training and certification, occupational health and safety, frontline services for the out-of-school and out-of-work youth, women and children, as well as those who have retired but still wish to lead productive work lives.

Fears that the creation of an entirely new department to serve overseas Filipinos would be an admission that labor export shall be a permanent economic policy will be negated by a new DOLE with sharper focus on how to make local employment every Filipino's first and best choice.

Yet, for citizens on the move, their protection is a service that the State must provide. No less than the United Nations General Assembly recognizes the evolution of what we used to describe as "labor export policy" into a vital and innate component of globalization, a component that requires modern, fair, and efficient migration governance mechanisms. The United Nations' Global Compact for Safe, Orderly and Regular Migration states that migration should never be an act of desperation. All nations must strive "to create conducive conditions that enable all migrants to enrich societies through their human, economic and social capacities, and thus facilitate their contributions to sustainable development at the local, national, regional and global levels".

The Department for OFWs responds to this challenge, by being the lead agency that would manage, harmonize, strengthen and implement existing policies and programs to address the needs of foreign Filipino employment while recognizing the role that migrants including permanent residents abroad can play in building a strong nation.

We create this new department from a position of strength as one of the world's pioneers in labor migration governance. Filipino seafarers are considered the best in the world, and our land-based workers are highly valued for their skills, adaptability, hard work, and personal integrity.

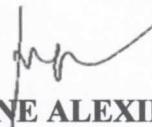
The Philippine Labor Code, enacted in 1974 or more than forty years ago, and the Migrant Workers' Act (RA 8042) approved in 1995 or twenty-four years ago, with amendments through Republic Act No. 10022 passed in 2010 or nine years ago, gave us the leadership role in global migration concerns. We owe it to future generations of Filipino migrants and overseas workers to adapt to the times and prepare for the future through institutional, legal and operational reforms.

With these over-arching goals in mind, the authors of this bill also considered the delicate and fluid nature of labor migration – that policy incoherence, red tape, and inconsistent rules and regulations will drive foreign employers away from our shores. To maintain our strong presence in existing overseas labor markets, the creation of this new department must be done with the least disruption while yielding the most palpable and progressive changes in favor of our modern-day heroes.

Thus, the Philippine Overseas Employment Administration and the Overseas Workers' Welfare Administration are maintained in this proposal as attached agencies. The Department of Foreign Affairs would still maintain control and jurisdiction over the Office of the Undersecretary for Migrant Workers' Affairs (OUMWA), in line with and in support of the third pillar of the Philippine foreign policy, namely, Assistance to Nationals. Maintaining these agencies and offices, however, does not mean that there is no room for reforms or operational as well as structural enhancements. Certainly, the incoming department Secretary must and should be given a free hand to create new units, transfer existing ones, and or pare down or expand sections, divisions, and even bureaus that deserves it.

Cutting across this new bureaucracy is the dictum that tripartite consultations hold the key to harmonization of all policies and programs. At the heart of this bill, and as a stern reminder to whoever shall run this department, the tripartite spirit – with and among OFWs, civil society groups, private recruitment and manning agencies and government – must prevail.

Finally, it must be underscored that this department was created to ensure that the dignity of all Filipinos must never be diminished, not by gender, age, religion or occupation, and certainly not by the distance to their beloved homeland. The State is directed at all times to promote quality overseas employment over and above any numeric or financial considerations. Vulnerable workers including domestic workers overseas deserve the State's most compassionate, prompt and effective mantle of protection. Migrant workers' rights are human rights, thus the exploitation of one OFW, severely diminishes us all.



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AN ACT

CREATING THE DEPARTMENT OF OVERSEAS FILIPINO WORKERS, DEFINING ITS POWERS AND FUNCTIONS, APPROPRIATING FUNDS THEREFOR, AND OTHER PURPOSES

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

1 **SECTION 1. Short Title.** – This Act shall be known as the “Department
2 of Overseas Filipino Workers Act of 2019.”
3

4 **SEC. 2. Declaration of Policy.** – The State shall afford full protection to
5 Overseas Filipino Workers (OFW) and other overseas Filipinos, promote full
6 employment, ensure equal work opportunities regardless of sex, gender, race, age,
7 creed or religion, regulate the relations between OFWs and their foreign
8 employers, and promote their welfare and living conditions at all times.

9 The State shall protect every citizen desiring to work overseas by securing
10 the best possible terms and conditions of employment consistent with
11 internationally accepted principles of decent work and safe and orderly migration.
12 Vulnerable workers in elementary occupations including domestic work, require
13 the most protection, in keeping with President Rodrigo Roa Duterte’s clear
14 directive that “the Filipino is no slave to anyone, anywhere, and everywhere.”

15 Thus, it is so declared as State policy that domestic work overseas for
16 Filipino women must be an option of last resort, and that the whole-of-
17 government approach must be applied to turn this aspiration into reality. The
18 gender, human rights, and development lens to labor migration governance must
19 be present from the point of recruitment to deployment and in all re-integration

1 programs aimed at making the lives of our most vulnerable workers safe, secure,
2 and successful.

3

4 **SEC. 3. *Creation of a Department of Overseas Filipino Workers.*** – There
5 is hereby created a Department of Overseas Filipino Workers, hereinafter referred
6 to as the Department, which shall among others, recommend and implement the
7 government's policies, plans and programs for the promotion or dignity, human
8 rights, safety, development and support of and for overseas Filipinos and their
9 families.

10

11 **SEC. 4. *Mandate.*** – The Department shall be the primary policy,
12 planning, coordinating, implementing, and administrative entity of the executive
13 branch of government that will plan, develop, and manage the national migration
14 and development agenda in behalf of Overseas Filipinos and their families. It shall
15 promote the empowerment and protection of Filipinos working overseas through
16 the possession and enhancement of appropriate skills and access to continuous
17 training and knowledge development. The Department's work and performance
18 must contribute to and compliment national efforts to create, sustain, and
19 strengthen local employment and decent work within national borders.

20

21 **SEC. 5. *Powers and Functions.*** -

- 22 (a) Formulate and recommend national policies and guidelines and conduct
23 in-depth studies on all policy areas and options that will ensure protection
24 of Filipino migrants and address perennial issues they face abroad, in
25 consultation with the relevant stakeholders;
- 26 (b) Assess, review, harmonize and coordinate all overseas Filipino worker-
27 related local policies and procedures and international agreements to
28 ensure overall consistency and implementation of the national policies;
- 29 (c) Promote, advance and implement general and specific government
30 objectives regarding migrant Filipinos' activities, programs, welfare and
31 interests;
- 32 (d) Build a strong and harmonious partnership with foreign countries and the
33 private sectors to formulate strategies and implement the same;

- 1 (e) Represent and negotiate for the Philippine interest on matters pertaining to
2 overseas Filipino affairs in international bodies;
- 3 (f) Develop, implement and improve coordination with other countries where
4 overseas Filipinos are present;
- 5 (g) Monitor foreign development to ensure humane and the most reasonable
6 working conditions for the OFWs and create a proactive approach in
7 providing assistance to them especially in times of war and civil unrest,
8 whether potential, real, imminent or apparent;
- 9 (h) Promote knowledge, information and resource sharing, and develop a
10 database to assist overseas Filipinos anywhere in the world;
- 11 (i) Coordinate and support the generation of resources or funds for use of
12 overseas Filipinos;
- 13 (j) Conduct symposia, consultations and seminars on effective programs
14 relating to overseas Filipinos;
- 15 (k) Assist and provide technical expertise to overseas Filipinos in distress and
16 tap the services of personnel, foreign and local, with expertise to help in
17 the repatriation of OFWs, if needed;
- 18 (l) Promote, develop and monitor the continuing education, training and
19 qualification, availability and deployment of OFWs and coordinate with
20 concerned agencies in the training of overseas Filipinos to improve their
21 competitiveness globally;
- 22 (m) Coordinate with concerned government agencies in the training and
23 support of Filipinos who have worked abroad and are returning to the
24 country;
- 25 (n) Ensure that there are existing and effective reintegration programs for
26 returning OFWs;
- 27 (o) Regulate and guide the business activities relative to the deployment of
28 Filipino workers and other related activities;
- 29 (p) Promulgate rules and regulations for the implementation of its guidelines
30 and policies and related laws;
- 31 (q) Administer, accept, hold and utilize property, both personal and real,
32 subject to limitation by existing laws, for the purpose of assisting or
33 expediting the work of the Department;

- 1 (r) Shall establish a Shared Government Information System for Migration
2 which shall allow free flow data exchanges and sharing among concerned
3 agencies;
4 (s) Establish a coordinating body for the purpose of absentee-voting including
5 registration of voters at jobsite in collaboration with COMELEC; and
6 (t) To perform such other functions, as maybe needed to achieve the
7 objectives provided under this Act.

8

9 **SEC. 6. *Composition.*** – The Department shall be headed by one (1)
10 Secretary to be assisted by five (5) Undersecretaries and five (5) Assistant
11 Secretaries.

12

13 **SEC. 7. *Qualifications.*** – No person shall be appointed Secretary or
14 Undersecretary and Assistant Secretary of the Department unless he or she is a
15 citizen and resident of the Philippines, of good moral character, of proven
16 integrity and has acquired competence and expertise in the field of migration and
17 development.

18 The Secretary shall be appointed by the President subject to confirmation
19 by the Commission on Appointments. The Undersecretaries and Assistant
20 Secretaries shall be appointed by the President upon recommendation of the
21 Secretary.

22

23 **SEC. 8. *Exercise of Powers and Functions.*** – The Secretary shall
24 exercise general administrative, executive, and policy-making functions and
25 adjudicatory powers. Further, the Secretary shall exercise supervision over the
26 entire operations of the Department, extend advice to the President on the
27 promulgation of executive and administrative orders and regulatory and legislative
28 proposals on matters pertaining to Overseas Filipino and exercise such other
29 powers and functions as may be provided by law or assigned by the President.

30

31 **SEC. 9. *Undersecretaries.*** – The Secretary shall be assisted by at least five
32 (5) Undersecretaries who shall be appointed by the President upon the
33 recommendation of the Secretary. The following offices are hereby created to be
34 each headed by an Undersecretary and assisted by other officers and staff:

- 1
- 2 a) **Office of the Undersecretary for Administration and Finance** which shall
3 provide the Department with efficient, effective and economic services
4 relating to records, management, supplies, equipment, collections,
5 disbursements, building administration and maintenance, security and
6 custodial work; administer personnel programs including selection and
7 placement, development, performance evaluation, employee relations, and
8 welfare; manage internal budgetary and financial matters. The Office shall
9 supervise the operational activities of the Administrative Unit, Human
10 Resource Development Unit and the Financial Management Unit;
- 11
- 12 b) **Office of the Undersecretary for Licensing, Adjudication and Regulation**,
13 which shall oversee the performance, operations and public accountability of
14 the POEA as an attached agency. The Office shall develop the criteria for
15 case referrals to the Anti-Illegal Recruitment Authority, and protocols for
16 case handling from investigation to prosecution. It shall also develop and
17 implement monitoring and compliance mechanisms to ensure access to justice
18 for vulnerable OFWs including overseas domestic workers. The Office will
19 also be the repository of the records of the OLTCC and as such, will extend
20 full support to the work of the Council;
- 21
- 22 c) **Office of the Undersecretary for Welfare and Protection**, which shall
23 oversee the performance, operations, and public accountability of the OWWA
24 as an attached agency. It will have its own Repatriation Office that would
25 cater to the needs of distressed overseas Filipinos in dire need of repatriation
26 regardless of immigration status and/or nature of occupation. All orientation
27 seminars and mandatory training programs whether for pre-employment or
28 onsite services geared towards welfare and protection shall be under the
29 jurisdiction of this Office;
- 30
- 31 d) **Office of the Undersecretary for Migration and Development**, which shall
32 preside and set the agenda for and in behalf of the Inter-Agency Council on
33 Migration and Development, jointly with the National Economic and
34 Development Authority (NEDA). Members of the Council shall include the

1 Department of Foreign Affairs, the Department of Labor and Employment,
2 Department of Social Welfare and Development, the Department of Interior
3 and Local Governments, the Department of Trade and Industry, Commission
4 on Higher Education, Department of Education, Department of Health, and
5 the Technical Education and Skills Development Authority. The Office shall
6 be responsible for the department's public diplomacy programs. It will also
7 oversee the targets, performance, and accountability of all OFW Malasakit
8 Centers. The programs and services offered by the Commission on Filipinos
9 Overseas to Filipino migrants shall be integrated into the work of this Office.

10

11 e) **Office of the Undersecretary for Maritime Concerns**, which shall establish
12 and operate in partnership with stakeholders in the maritime sector, a Sea-
13 Based Center that would handle training, accreditation, processing and
14 welfare needs that are necessary and relevant to Filipino seafarers. It will
15 oversee the digitization, updating, and safeguarding of the Seafarers'
16 Registry. It will develop programs concerning occupational safety and health
17 in support of Filipino seafarers. To ensure strict compliance with global
18 maritime standards, the Office shall establish an International Maritime
19 Standards Monitoring and Compliance Board with designated representatives
20 from the private and workers' sectors.

21

22 **SEC. 10. *Regional Offices.*** – The Department may establish, operate,
23 and maintain a regional office in the different administrative regions of the
24 country as the need arises. Each regional office shall be headed by a Regional
25 Director, who may be assisted by one (1) Assistant Regional Director. The
26 Regional Director and Assistant Regional Director shall be appointed by the
27 President. The regional offices, shall have, within their respective administrative
28 regions, the following functions:

29

- 30 (a) Implement laws, policies, plans, programs, projects, rules and regulations
31 of the Department;
- 32 (b) Provide efficient and effective service to program beneficiaries particularly
33 families of Overseas Filipinos and relevant stakeholders through the operations of
34 the OFW Malasakit Centers;

- 1 (c) Coordinate with regional offices of other departments, offices and
2 agencies in support of the proper implementation of the national migration and
3 development agenda for Filipinos overseas;
4 (d) Coordinate with the LGUs; and,
5 (e) Perform such other functions as may be provided by law or assigned by
6 the Secretary.

7

8 **SEC. 11. Attached Agencies.** - The following agencies shall be attached
9 to the Department for policy and program coordination, and shall continue to
10 function in accordance with the charters, laws or orders creating them, unless
11 inconsistent with the substance and spirit of this Act:

- 12 1) Philippine Overseas Employment Administration (POEA); and,
13 2) Overseas Workers Welfare Administration (OWWA).

14

15 **SEC. 12. Transfer of Bureaus, Offices, and Agencies.** - The following
16 bureaus, offices and agencies are hereby transferred from their respective
17 departments to the Department:

18

- 19 1) International Labor Affairs Bureau (ILAB), including all Philippine
20 Overseas Labor Offices (POLOs), with direct supervision over Labor
21 Attaches and the Migrant Workers and Other Filipino Resource Centers
22 (from DOLE);
23 2) Commission on Filipinos Overseas (from the Office of the President)
24 3) Office for Social Welfare Attache (from DSWD);
25 4) National Maritime Polytechnic (from DOLE);
26 5) Pertinent offices of Maritime Industry Authority (MARINA) in relation to
27 the training, certification, and setting and monitoring of standards
28 concerning international seafarers (DoTr).

29

30 **SEC. 13. Establishment of an Anti-Illegal Recruitment Authority.** -
31 The Department shall establish an Anti-Illegal Recruitment Authority (AIRA) to
32 be supervised by the Undersecretary for Licensing, Adjudication and Regulation,
33 that would initiate, pursue and help prosecute anti-illegal recruitment cases
34 involving both POEA-licensed and non-licensed entities/individuals in partnership

1 with the Department of Justice and other member-agencies of the Inter-Agency
2 Council Against Trafficking (IACAT).

3

4 **SEC. 14. Establishment of the Overseas Land-Based Tripartite
5 Consultative Council (OLTCC) with a Permanent Secretariat.** - The Department
6 shall establish as a permanent and continuing multi-stakeholders consultative
7 body, the Overseas Land-Based Tripartite Consultative Council (OLTCC), to
8 meet every quarter, or as when convened by the Secretary. A permanent
9 Secretariat shall be created to support the work of the OLTCC.

10

11 **SEC. 15. Establishment of Overseas Filipinos Malasakit Centers.** – The
12 Department, in partnership with other government agencies, non-government
13 organizations, OFW Family Federations, and other development partners, shall
14 establish the Overseas Filipinos Malasakit Centers in all cities and major
15 municipalities nationwide. These Centers shall ensure prompt, efficient, vital and
16 relevant services to migrant Filipinos and their families while promoting inclusion
17 in national development policies and programs.

18

19 **SEC. 16. Establishment of Inter-Agency Council on Migration and
20 Development.** – An inter-agency coordinating Council on Migration and
21 Development, shall be composed of the secretaries of the following departments:

- 22 1) Department of OFWs – Chairperson
23 2) National Economic Development Authority – Co-Chairperson
24 3) DOLE
25 4) DFA
26 5) DOJ
27 6) DSWD
28 7) DILG
29 8) DTI
30 9) CHED
31 10) DepEd
32 11) TESDA
33 12) COMELEC

34

1 The inclusion of other departments and/or agencies in the Council shall be
2 at the sole discretion of the body through a Council resolution promulgated by a
3 majority of all its members.

4 The Council is expected to spearhead the development of a national
5 migration and development agenda in support of the objectives of the Global
6 Compact on Safe and Orderly Migration as well as bilateral, multi-lateral and
7 international agreements. It will look into private-public partnerships to advance
8 technology transfer and harness the untapped potential of returning Filipino
9 migrants.

10 The Council may also submit appropriate recommendations to the Office
11 of the President and/or members of Congress on executive and legislative
12 remedies that would address gaps and urgent concerns relevant to migration
13 governance and development.

14

15 **SEC. 17. Establishment of a Global Migration Institute.** – The Global
16 Migration Institute will be directly under the Office of the Secretary and shall
17 serve as the primary training institution for employees of the Department. It will
18 provide substantive, analytical and strategic leadership training programs meant to
19 promote a global understanding of current events, economic trends, international
20 security concerns, political movements, and technological advancements. The
21 Institute will serve as the Department's resource center, with research, teaching,
22 and publication capabilities.

23

24 **SEC. 18. Establishment of the Barangay OFW Council.** – There is
25 hereby created a Barangay OFW Council in all barangays all over the country.
26 The said council shall be composed of the following:

- 27 1) Punong Barangay – Chairperson
28 2) Brgy. Committee on Welfare Chairperson – Vice-Chairperson
29 3) 3 residents from the barangay who are from the OFW Sector as members.

30

31 The mandates/ functions of the Barangay OFW Council are as follows:

- 32 1) Serve as guardians of families left behind by OFWs;
33 2) Initiate livelihood and reintegration programs for OFW families;

- 1 3) Strengthen the drive against illegal recruitment and human trafficking;
2 and
3 4) Set up policies and programs for the protection and welfare of children of
4 OFWs.

5

6 **SEC. 19. Special Assistance Fund for Distressed Filipinos Overseas.** –
7 A Special Assistance Fund for Distressed Filipinos Overseas in the amount of at
8 least P5-B in annual appropriations is hereby created to assist distressed overseas
9 Filipinos. The criteria, protocols and mechanisms in the application of the Fund
10 shall be specified in the Implementing Rules and Regulations of this Act.

11

12 **SEC. 20. Appropriations.** – The amount of One Billion Pesos
13 (P1,000,000,000.00) for the initial operation of the Department shall be sourced
14 from the Contingent Fund of the President as well as from the existing funds
15 and/or appropriations of bureaus, agencies, and offices identified in this Act for
16 transfer or attachment to the Department.

17 The proceeds from the Documentary Stamp Tax (DST) accruing from
18 dollar remittances of overseas Filipinos, as determined by Congress, shall be used
19 to fund the establishment of and sustain the operations of OFW Malasakit Centers
20 nationwide.

21

22 **SEC. 21. Implementing Rules and Regulations.** - The Department will
23 create a Technical Working Group with representatives from agencies affected by
24 this Act as well as other agencies to include non-government organizations and
25 private sector representatives that the Secretary may deem essential for the
26 drafting and promulgation of the implementing rules and regulations within one
27 hundred and twenty (120) days from the effectivity of this Act.

28

29 **SEC. 22. Transitory Provision.** – All existing orders, rules, regulations
30 and other issuances shall remain in force until the effectivity of this Act.

31

32 **SEC. 23. Separability Clause.** – If any provision of this law or the
33 application thereof to any person or circumstance, is held invalid, the remainder

1 of this law, or the application of such provision or part to other persons of
2 circumstances, shall not be affected thereby.

3

4 **SEC. 24. Repealing Clause.** – All laws, decrees, rules and regulations or
5 parts thereof, which are contrary to or inconsistent with this Act are hereby
6 repealed or modified accordingly.

7

8 **SEC. 25. Effectivity.** – This Act shall take effect fifteen (15) days after its
9 publication in the Official Gazette or in a newspaper of general circulation.

Approved,