EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session **)**

SENATE
S. No. 92

Introduced by Senator Aquilino "Koko" Pimentel III

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

EXPLANATORY NOTE

Out of an estimated ten million overseas Filipinos, an estimated 2.4 million are contract workers who support their respective families and other loved ones at home. Over the years, the remittances of the overseas Filipino workers (OFWs) have reached more than US $20 Billion, or about ten (10%) percent of our Gross Domestic Product (GDP).

The remittances of OFWs—which are sent to feed, educate, house, clothe, and maintain the health of their families and loved ones—have contributed to a sustained rise in household consumption that, according to the Philippine Statistics Authority (PSA), make up 73.7% of our GDP. Above all these, the OFWs' overall contribution to our society is well recognized as we refer to them as our "modern day heroes."

While laws have been passed, programs have been initiated, offices have been established, and funds have been provided to address the needs of our OFWS, these services lack focused management with many of them spread out in an assortment of programs lodged in different entities and systems of accountabilities.

Among the many government offices involved are the Department of Foreign Affairs Consular Affairs Office, PSA (formerly National Statistics Office), National Bureau of Investigation, Bureau of Immigration, Bureau of Customs, Department of Health, Philippine National Police, Technical Education and Skills Development Authority, Insurance Commission, Department of Social Work and Development, Social Security System, Home Development Mutual Fund (Pag-IBIG), Overseas Workers Welfare Administration, and the Philippine Overseas Employment Administration.

Despite efforts to reconcile and streamline these programs, better overall control, coordination, monitoring, and feedback are necessary to improve services for our OFWs. This is an urgent need given that as the numbers of our countrymen abroad rise, so do the number of distressed OFWs that require the assistance of our government due to numerous issues including non-payment and underpayment of wages, working beyond normal working hours coupled with insufficient rest periods, maltreatment, sexual abuse, and criminal charges filed against them.

The problems mentioned above require highly complex responses that call for whole-of-government approach. Hence, a creation of a specialized body is the best option so that it could focus solely on the specific needs of this important sector.

This bill seeks to provide for a Department of Overseas Filipino Workers, which will address the needs of our OFWs all under one government body. A department-level budget and the corresponding modern-day heroes—a commitment that is commensurate to their sacrifices and contributions, not just to their families but also to our country.

In view of the foregoing, approval of this measure is earnestly sought.

AQUILINO "KOKO" PIMENTEL III

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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 "Department of Overseas Filipino Workers Act."

SEC. 2. *Declaration of Policy.* — The following are hereby declared as State policies:

(a) The State shall, at all times, uphold the dignity of its Overseas Filipino Workers (OFWs);

(b) The State shall continuously monitor international conventions, adopt and ratify those that guarantee protection to our OFWs, and represent and negotiate for Philippine interest on matters pertaining to OFW affairs;

(c) The State shall provide adequate and timely, social, economic, and legal services to OFWs;

(d) The State recognizes non-governmental organizations, trade unions, workers associations, stakeholders, and similar legitimate entities as partners of the State in the protection of OFW and in the promotion of their welfare. The State shall cooperate with them in a spirit of trust and mutual respect. The significant contribution of recruitment and manning agencies shall form part of this partnership;

(e) While recognizing the significant contribution of OFWs to the national economy through their foreign exchange remittances, the State does not promote overseas employment as a means to sustain economic growth and achieve national development. The existence of the overseas employment program rests solely on the assurance that the dignity and fundamental human rights and freedoms of the Filipino citizens shall not, at any time, be compromised or violated. The State, therefore, shall continuously create local employment opportunities and promote the equitable distribution of wealth and the benefits of development;

(f) The State affirms the fundamental equality before the law of women and men and the significant role of women OFWs. The State shall apply gender sensitive criteria in the formulation and implementation of policies and programs affecting OFWs;

(g) Free access to the courts and quasi-judicial bodies and adequate legal assistance shall not be denied to any person by reason of poverty. In this regard, it is imperative that an effective or distressed OFWs whether regular/documented or irregular/undocumented, are adequately protected and safeguarded;

(h) The right of OFWs to participate in the democratic decision-making process of the State and to be represented in institutions relevant to overseas employment is recognized and guaranteed; and

(i) The State recognizes that the ultimate protection to all OFWs is the possession of marketable skills. Pursuant to this and as soon as practicable, and taking into consideration the fundamental right to work,

the government shall allow the deployment only of skilled Filipino workers.

SEC. 3. *Creation and Mandates.* — A Department of Overseas Filipino Workers, hereinafter referred to as the Department, is hereby created to serve as the primary agency under the Executive Branch tasked to formulate, plan, coordinate, promote, administer and implement policies, including, but not limited to, the national development agenda for OFWs. It shall render an annual report of its activities and achievements to the President and to Congress.

SEC. 4. *Powers and Functions.* — To carry out its mandate the Department shall exercise the following powers and functions:

(a) Formulate, recommend, and implement national policies, plans, programs, and guidelines that will ensure the protection of OFWs and address the problems that they face abroad in consultation with all relevant stakeholders;

(b) Assess, review, harmonize, and coordinate applicable policies and procedures, as well as multilateral or bilateral treaties and agreements with OFW receiving countries and other migrant sending countries, the United Nations and its affiliate organizations, and other international and regional organizations, fora, and process, in coordination with the Department of Labor and Employment (DOLE) and the Department of Foreign Affairs (DFA);

(c) Improve cooperation and coordination with OFW host countries and monitor labor developments in these jurisdictions to ensure that the terms and conditions of work afforded to OFWs are in accordance with applicable and appropriate local, on-site, and international standards;

(d) Employ a proactive approach in providing assistance to OFWs in times of war, civil unrest, or other analogous circumstances, whether potential or actual;

(e) Encourage and enhance information and resource-sharing, develop an electronic database to improve services for OFWs and linkages among government agencies, consistent with national and OFW-focused objectives;

(f) Regulate the operation of private recruitment agencies and other relevant business entities involved in the deployment of OFWs taking into account the primacy of upholding the welfare and protection of OFWs, and with due consideration to relevant market conditions;

(g) Assist in the professionalization, training, and capacity building of private recruitment agencies, and recognize their freedom of association for the purpose of self-regulation, raising accountability and effective representation, and the adoption of code of ethical conduct among its member, and provide a system of incentives therefor;

(h) Assist and provide timely assistance to OFWs in distress and, for this purpose, tap the services of local and foreign-based personnel, lawyers, labor experts, security providers, and other professionals;

(i) Represent Philippine interest and negotiate on matters pertaining to migrant workers in international bodies, in coordination with the DFA and the DOLE;

(j) Conduct research and studies, and submit policy recommendations on migration and development to the President and to Congress;

(k) Promulgate rules and regulations for the implementation of pertinent laws and related policies;

(l) Administer, accept, hold, and utilize property, both personal and real, subject to limitations set by existing laws, in pursuit of the mandates of the Department stated herein;

(m) All other powers, functions, and responsibilities assigned to the DOLE relating to OFWs provided for under *Republic Act No. 8042,*

as amended, otherwise known as the *Migrant Workers Act of 1995, R.A. No. 10801* otherwise known as the *Overseas Workers Welfare Administration Act,* and other related laws are hereby transferred to the Department; and

(n) Perform such other functions as may be necessary to achieve the objectives provided for by this Act.

SEC. 5. *Composiiton.* — The Department shall be headed by a Secretary. The Department proper shall be composed of the Office of the Secretary and the Offices of the Undersecretaries and the Assistant Secretaries.

SEC. 6. *Secretary of the Department of Overseas Filipino Workers.* — The Secretary shall be appointed by the President, subject to confirmation by the Commission on Appointments. The Secretary shall have the following functions:

(a) Provide executive direction and supervision over the entire operations of the Department and its attached agencies;

(b) Establish policies and standards for the effective, efficient and economical operation of the Department, in accordance with the programs of government;

(c) Review and approve requests and manpower resources of all operating offices of the Department;

(d) Designate and appoint offices and employees of the Department, excluding the undersecretaries, assistant secretaries, and regional and assistant directors, in accordance with the civil service laws, rules, and regulations;

(e) Exercise disciplinary powers over officers and employees of the Department in accordance of a committee or officer to conduct such investigation;

(f) Coordinate with other agencies and public and private interest groups, including non-government organizations and people's organizations, on Department policies and initiatives;

(g) Prepare and submit to the President through the Department of Budget and Management (DBM) an estimate of the necessary expenditure of the Department during the next fiscal year, on the basis of the reports and estimates submitted by bureaus and offices under the Department;

(h) Advise the President on the promulgation of executive and administrative orders and formulation of necessary regulatory and legislative proposals on matters pertaining to OFWs;

(i) Formulate such rules and regulations and exercise such other powers as may be required to implement the objectives of this Act; and

(j) Perform such other tasks as may be provided by law or assigned by the President.

SEC. 7. *Undersecretaries.* — The Secretary shall be assisted by three (3) undersecretaries, who shall be appointed by the President upon the recommendation of the Secretary: Provided, that two (2) of the undersecretaries shall be career officers.

SEC. 8. *Assistant Secretaries.* — The Secretary shall be assisted by three (3) assistant secretaries, who shall be appointed by the President upon the recommendation of the Secretary: *Provided,* that (2) of the assistant secretaries shall be career officers: *Provided,* further, at least one (1) of the assistant secretaries shall be a lawyer.

SEC. 9. *Qualifications.* — No person shall be appointed Secretary, Undersecretary, or Assistant Secretary of the Department unless he or she is a citizen and resident of the Philippines, of good moral character, of proven integrity, and with at least six (6) years of competence and expertise in labor law or migrant workers affairs.

SEC. 10. *Regional Offices.* — The Department shall establish, operate, and maintain a regional office in all the administrative regions of the country, and such lower level offices as may be deemed necessary. Each regional office shall be headed by a Regional Director, who may be assisted by one (1) Assistant Regional Director. The Regional Director and Assistant Regional Director shall be appointed by the President. The regional offices shall have, within their respective administrative jurisdictions, the following functions:

(a) Implement laws, policies, plans, programs, and projects, and enforce compliance with rules and regulations of the Department;

(b) Provide timely, affordable, efficient, and effective services to the people in line with Department policies and programs;

(c) Coordinate with the local government units (LGUs); and

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

SEC. 11. *Transfer of Agencies and Personnel.* — The following agencies and their functions are hereby specifically transferred to the Department:

(a) Office of the Legal Assistant for Migrant Workers Affairs of the DFA as provided for under *Section 24* of *R.A. No. 8042,* as amended;

(b) All Philippine Overseas Labor Offices under DOLE;

(c) The National Reintegration Center for OFWs under DOLE;

(d) The International Labor Affairs Bureau under DOLE;

(e) The Philippine Overseas Employment Administration (POEA); and

(f) Overseas Workers Welfare Administration (OWWA).

SEC. 12. *Special Assistance to Nationals Fund.* — The Legal Assistance Funds provided for under *Section 25* of *R.A. No. 8042,* as amended, is abolished. In its stead, a Special Assistance to Nationals Fund (SATNAF) for OFWs in distress, in the amount of Five Billion Pesos (P5,000,000,000.00), is hereby created, to be administered and maintained by the Department. In addition to those provided for under *Section 26* of *R.A. No. 8042,* as amended, and in accordance with guidelines to be formulated by the Department, the SATNAF shall be used for repatriation, medical and hospitalization expenses, legal retainers and lawyers fees, other legal fees and costs, payment of blood money, and other needs of OFWs facing legal cases and/or detention and other forms of emergencies where such cost and fees are currently not covered by OWWA and other existing funds and sources.

SEC. 13. *Institute for Advances and Strategic Studies on Migration and Development.* — There is hereby established an Institute for Advanced and Strategic Studies on Migration and Development (IASSMD) headed by an Executive Director with the rank of Assistant Secretary. It shall carry out the following functions:

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

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

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

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

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

(f) Receive grants and endowments; and

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

SEC. 14. *Separation and Retirement form Service.* — Employees who are separated from service within six (6) months from the effectivity of this Act as a result of the organization and rationalization process as provided for by this Act shall receive separation benefits to which they may be entitled under *Executive Order No. 366, s, 2004: Provided,* That those who are qualified to retire under existing retirement laws shall be allowed to retire and receive retirement benefits to which they may be entitled under applicable laws and issuances.

SEC. 15. *Structure and Staffing Pattern.* — Subject to the approval of the DBM, the Department shall determine its organizational structure and create new divisions or units as it may deem necessary, and shall appoint officers and employees of the Department in accordance with civil service laws, rules, and regulations.

The laws and rules on government reorganization as provided for by *R.A. No. 6656*, otherwise known as the *Reorganization Law,* shall govern the organization and rationalization processes of the Department.

SEC. 16. *Transition Period.* — The transfer of functions, assets, funds, equipment, properties, transactions, and personnel of the affected agencies, and the formulation of the internal organic structure, staffing pattern, operating system, and revised budget of the Department shall be completed within six (6) months from the effectivity of this Act: Provided, That within this period, the existing personnel shall continue

to assume their posts in holdover capacities until new appointments shall have been issued: Provided further, That after the organization and rationalization process, the Department, in coordination with the DBM, shall determine and create new positions, the funding requirements of which shall not exceed the equivalent cost of positions abolished.

SEC. 17. *Appropriations.* — The amount needed for the operation and maintenance of the Department shall be included in the GAA.

SEC. 18. *Implementing Rules and Regulations.* — The DFA, DOLE, DBM, and Civil Service Commission shall, within sixty (60) days after the effectivity of this Act, promulgate such rules and regulations necessary to implement this Act.

SEC. 19. *Separability Clause.* — If any provision of this Act is declared invalid or unconstitutional, the other provisions not affected by such declaration shall remain in full force and effect.

SEC. 20. *Repealing Clause.* — All laws, executive and administrative orders, rules and regulations inconsistent with the foregoing provisions are hereby repealed or modified accordingly.

SEC. 21. *Effectivity.* — This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,