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HOUSE OF REPRESENTATIVES

H. No. 2212

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AN ACT CREATING THE DEPARTMENT OF ENERGY, DEFINING ITS POWERS AND FUNCTIONS, AND FOR OTHER PURPOSES

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

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CHAPTER I

2

GENERAL PROVISIONS

3

SECTION 1. *Declaration of Policy.* - It is hereby declared

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the policy of the State: (a) to ensure a continuous, adequate, and

1 economic supply of energy with the end in view of ultimately
 2 achieving self-reliance in the country's energy requirements through
 3 an integrated and intensive exploration, production, management,
 4 and development of the country's indigenous energy resources and
 5 through the judicious conservation, renewal, and efficient utilization
 6 of energy to keep pace with the country's growth and economic
 7 development and taking into consideration the active participation
 8 of the private sector in the various areas of energy resource
 9 development; and (b) to rationalize, integrate, and coordinate the
 10 various programs of the Government towards self-sufficiency and
 11 enhanced productivity in power and energy without sacrificing
 12 ecological concerns.

13 **SEC. 2. *Department of Energy.*** - To carry out the above-
 14 declared policy, there is hereby created the Department of Energy,
 15 hereinafter referred to as the Department, which shall review,
 16 integrate, rationalize, and coordinate all activities, programs, and
 17 projects of existing government agencies relating to energy
 18 exploration, development, utilization, distribution, and conservation.

19 **SEC. 3. *Powers and Functions.*** - The Department shall
 20 have the following powers and functions:

21 (a) Formulate policies for the planning and implementation
 22 of a comprehensive program for the supply and use of energy which

1 is integrated with the country's economic development programs
2 and consistent with the policies on environmental protection,
3 conservation, and maintenance of ecological balance; and provide a
4 mechanism for the integration, rationalization, and coordination of
5 the various energy programs of the Government;

6 (b) Develop and update the Philippine energy program
7 which shall provide for an integrated and comprehensive
8 exploration, extraction, production, development, utilization,
9 distribution, and conservation of energy resources with
10 corresponding processing and distribution capability. The program
11 shall include a policy direction towards the privatization of
12 government agencies related to energy, deregulation of the power
13 and energy industry, and reduction of dependency on oil-powered
14 plants. Said program shall be formulated within one (1) year from
15 the effectivity of this Act and shall be submitted to Congress within
16 ten (10) days from its completion and annually thereafter;

17 (c) Establish and administer programs for the exploration,
18 transportation, marketing, distribution, utilization, conservation,
19 stockpiling, and storage of energy resources from fossil fuels, such
20 as petroleum, coal, natural gas and liquids, nuclear fuel resources,
21 and geothermal resources, to existing and potential forms of

1 nonconventional energy including but not limited to wind, solar,
2 biomass, and others;

3 (d) Coordinate and supervise all government activities and
4 encourage, guide, and whenever necessary regulate private-sector
5 activities relative to the exploration, development, extraction,
6 production, importation, exportation, processing, transportation,
7 marketing, distribution, utilization, conservation, stockpiling, and
8 storage of all forms of energy products and resources such as crude
9 oil and petroleum products, coal and coal-derived fuels, natural gas
10 and gas liquids, geothermal resources, nuclear fuels, electricity, and
11 nonconventional energy resources, including the manufacturing and
12 distribution of energy devices and equipment: *Provided*, That the
13 Department shall endeavor to provide for an environment condu-
14 cive to free and active private-sector participation and investment in
15 all energy activities;

16 (e) Assess the requirements of, determine priorities for,
17 provide direction to, and disseminate information resulting from
18 energy research and development programs for, the optimal
19 development of various forms of energy and energy production and
20 utilization technologies;

21 (f) Formulate and implement programs for the judicious

1 and efficient use of energy in all energy-consuming sectors of the
2 economy;

3 (g) Formulate and implement a program for the accelerated
4 development of nonconventional energy systems and the promotion
5 and commercialization of their applications;

6 (h) Formulate such rules and regulations as may be
7 necessary to implement the objectives of this Act; and

8 (i) Exercise such other powers as may be necessary or
9 incidental to attain the objectives of this Act.

10 CHAPTER II

11 THE DEPARTMENT PROPER

12 SEC. 4. *Composition.* - The Department shall be composed
13 of the Office of the Secretary and the Offices of the
14 Undersecretaries and Assistant Secretaries.

15 SEC. 5. *Office of the Secretary.* - The Office of the
16 Secretary shall consist of the Secretary who shall be appointed by
17 the President, subject to confirmation by the Commission on
18 Appointments, and his immediate staff.

19 SEC. 6. *The Secretary.* - The Secretary shall have the
20 following functions:

21 (a) Establish policies and standards for the effective,

1 efficient, and economical operation of the Department in
2 accordance with the programs of the Government;

3 (b) Exercise direct supervision and control over all func-
4 tions and activities of the Department;

5 (c) Create regional offices as may be necessary; and

6 (d) Perform such other functions as may be necessary or
7 incidental to attain the objectives of this Act.

8 The Secretary shall be a member of the Board of the National
9 Economic and Development Authority (NEDA). He shall also be a
10 member of the NEDA's Committee on Infrastructure
11 (INFRACOM), and the Investment Coordinating Council (ICC).
12 For this purpose, the provisions of Executive Order No. 292,
13 otherwise known as the Administrative Code of 1987, relative to the
14 creation and organization of the NEDA and its component agencies
15 and offices are hereby modified accordingly.

16 **SEC. 7. The Undersecretaries.** - The Secretary shall be
17 assisted by three (3) Undersecretaries, all of whom shall be
18 appointed by the President upon the recommendation of the
19 Secretary.

20 The Offices of the Undersecretaries shall consist of the
21 Undersecretaries and their respective immediate staffs.

1 **SEC. 8. *Assistant Secretaries.*** - The Secretary shall also be
2 assisted by three (3) Assistant Secretaries who shall be appointed by
3 the President upon the recommendation of the Secretary.

4 **SEC. 9. *Qualifications.*** - No person shall be appointed
5 Secretary, Undersecretary or Assistant Secretary of the
6 Department unless he is a citizen and resident of the Philippines, of
7 good moral character, at least thirty-five (35) years of age, and of
8 proven competence in any of the following fields: (a) energy or
9 utility economics; (b) public administration; (c) physical or
10 engineering sciences; (d) management; and (e) law.

11 **SEC. 10. *Bureaus and Services.*** - The Department shall
12 have the following bureaus and services: Energy Resource
13 Development Bureau; Energy Utilization Management Bureau;
14 Energy Industry Administration Bureau; Energy Planning and
15 Monitoring Bureau; and Staff Support Services.

16 **(a) *Energy Resource Development Bureau*** - The Energy
17 Resource Development Bureau shall have the following powers and
18 functions:

19 **(1)** Formulate and implement policies to develop and
20 increase domestic supply of local energy resources like fossil fuels,
21 nuclear fuels and geothermal resources;

1 (2) Formulate, implement, monitor, and regularly review
2 sectoral programs and plans relative to the exploration,
3 development, and extraction of local energy resources;

4 (3) Conduct energy research and studies in support of the
5 aforementioned activities;

6 (4) Provide consultative training and advisory services to
7 practitioners and institutions in the areas of regulated activities; and

8 (5) Formulate, implement, and enforce financial and fiscal
9 policies, rules, guidelines, and requirements relative to the
10 operations of service contractors.

11 (b) *Energy Utilization Management Bureau* - The Energy
12 Utilization Management Bureau shall have the following powers
13 and functions:

14 (1) Formulate and implement policies for the efficient and
15 economical transformation, conversion, processing, refining,
16 marketing, distribution, transportation, and storage of petroleum,
17 coal, natural gas, and geothermal and other nonconventional
18 energy resources such as wind, solar, biomass and others; and
19 ensure their efficient and judicious utilization;

20 (2) Monitor sectoral energy consumption and conduct
21 energy audits, technical training, energy management advisory

1 services, and technology application projects on efficient energy
2 utilization;

3 (3) Develop, promote, and commercialize applications of
4 biomass, solar, hydro, wind, and other nonconventional energy
5 systems, including new and more efficient and economical
6 transformation, conversion, processing, refining, marketing,
7 distribution, transportation, and storage technologies for
8 conventional energy resources;

9 (4) Formulate, implement, monitor, and regularly review an
10 integrated rural energy program to effectively address the needs of
11 rural development and environmental programs;

12 (5) Formulate an operational plan for the allocation of oil
13 fuel and energy sources in the event of the declaration of critically
14 low-energy supply provided for in Section 19 hereunder;

15 (6) Provide information on energy technology and develop
16 middle- and long-term energy technology development strategies in
17 cooperation with the Department of Science and Technology;

18 (7) Monitor the implementation of energy projects in
19 coordination with the Department of Environment and Natural
20 Resources to ensure compliance with the prescribed environmental
21 standards;

1 (8) Recommend appropriate courses of action to resolve
2 major issues which may impede energy project siting or result in
3 adverse environmental impact;

4 (9) Require industrial, commercial, and transport
5 establishments to collect or cause the collection of waste oil for
6 recycling as fuel or lubricating oil; and

7 (10) Conduct a nationwide information campaign on energy
8 conservation.

9 (c) *Energy Industry Administration Bureau - The Energy*
10 *Industry Administration Bureau* shall have the following powers and
11 functions:

12 (1) Formulate, recommend, and monitor the
13 implementation of regulatory policies to encourage and guide the
14 operations of both government and private entities involved in
15 energy resource supply activities such as independent power
16 production and electricity distribution, as well as the importation,
17 exportation, stockpiling, storage, shipping, transportation,
18 refinement, processing, marketing, and distribution of all forms of
19 energy and energy products such as crude oil, petroleum products,
20 natural gas, coal and coal-derived fuels, uranium and other nuclear
21 fuels, geothermal resources, hydro systems, and electricity

1 generated from the abovementioned energy resources; and

2 (2) Formulate, implement, and enforce financial and fiscal
3 policies, rules, guidelines, and requirements relative to the
4 operations of entities involved in the supply of energy resources
5 such as oil companies, petroleum product dealers, coal importing
6 and distributing companies, natural gas distributing companies,
7 independent power producers, and all other entities involved in
8 conventional energy supply activities.

9 (d) *Energy Planning and Monitoring Bureau* - The Energy
10 Planning and Monitoring Bureau shall have the following duties and
11 responsibilities:

12 (1) Develop and update an integrated energy plan for short-,
13 medium-, and long-term periods to provide a comprehensive
14 assessment on the demand scenarios and supply options as well as
15 the impacts of energy policies on the economy and environment;

16 (2) Develop and maintain a centralized, comprehensive, and
17 unified data and information program to ensure the efficient
18 collection, evaluation, analysis, and dissemination of data and
19 information on energy resources reserves, production, demand,
20 development technology, and related economic and statistical
21 information which are required for policy formulation, program
22 planning, and implementation;

1 (3) Supervise, coordinate, and integrate the formulation,
 2 monitoring, and review of programs and plans for energy supply
 3 development such as power development, local energy resource
 4 development and production, and energy importation;

5 (4) Regularly review and analyze past and current patterns
 6 of energy consumption vis-a-vis growth and development
 7 performance of the country's various economic sectors to evaluate
 8 current and foreseeable trends in energy demand; and conduct
 9 energy supply-demand balancing studies to define energy supply
 10 and utilization strategies, estimate the resources required, and
 11 assess the energy program's economic, environmental, social, and
 12 political impact;

13 (5) Assure the incorporation of national environmental
 14 goals in the formulation and implementation of energy programs,
 15 and to advance the goals of restoring, protecting, and enhancing
 16 environmental quality and assuring public health and safety; and

17 (6) Conduct studies on international energy issues that have
 18 a direct impact on the supply and utilization of energy and provide
 19 technical advice on international negotiations involving energy
 20 resources and technologies.

21 (e) *Staff Support Services* - The Staff Support Services

1 shall be composed of the Office of the Legal Counsel and the
2 Financial and Management Services.

3 The Office of the Legal Counsel shall be responsible for
4 providing legal advice and services on all policies, programs, and
5 operational matters of the Department. It shall provide legal
6 counseling services in cases where the Department is a party and
7 shall also handle administrative cases against any personnel of the
8 Department and submit recommendations pertaining to them.

9 The Financial and Management Services, which shall consist
10 of the Human Resource Management Division, the General
11 Services Division, and the Financial Management Division, shall be
12 responsible for providing the Department with services relating to
13 personnel information, records, supplies, equipment, collection and
14 disbursements, security, and custodial work. It shall also be
15 responsible for providing the Department with staff advice and
16 assistance on budgetary, financial, and management improvement
17 matters.

18 CHAPTER III

19 ATTACHED AGENCIES AND CORPORATIONS

20 SEC. 11. *Attached Agencies and Corporations.* - The
21 Philippine National Oil Company, the National Power Corporation

1 and the National Electrification Administration are hereby attached
 2 to the Department for policy and program coordination, but shall
 3 continue to perform their respective functions insofar as they are
 4 not inconsistent with the provisions of this Act. A representative of
 5 the Department shall be an *ex officio* member of the respective
 6 boards of said agencies and for this purpose the provisions of their
 7 respective charters or organic acts are hereby amended or modified
 8 accordingly.

CHAPTER IV

TRANSITORY PROVISIONS

11 SEC. 12. *Transfer of Powers and Functions.* - The powers
 12 and functions of the Energy Coordinating Council and the Office of
 13 Energy Affairs are hereby transferred to the Department. Likewise,
 14 the non-price regulatory jurisdiction, powers, and functions of the
 15 Energy Regulatory Board as provided in Section 3 of Executive
 16 Order No. 172 are hereby transferred to the Department.

17 The foregoing transfer of powers and functions shall include
 18 all applicable funds and appropriations, records, equipment,
 19 property, and such personnel as may be necessary: *Provided, That*
 20 only such amount of funds and appropriations of the Board as well
 21 as only the personnel thereof which are completely or primarily

1 involved in the exercise by said Board of its non-price regulatory
2 powers and functions shall be affected by such transfer.

3 The same shall apply to agencies and government units
4 which have not been abolished but whose functions have been
5 transferred to the Department.

6 SEC. 13. *Transfer of Rights, Assets, and Liabilities.* - The
7 National Government through the Department shall, by virtue of
8 this Act, succeed to all the rights and assume all the liabilities of the
9 Office of Energy Affairs, the Energy Coordinating Council, and all
10 other agencies, or government units whose functions and powers
11 have been transferred to the Department, and all their funds,
12 records, property, assets, equipment, and such personnel as may be
13 necessary, including unexpended appropriations and/or allocations.
14 All contracts and liabilities of said offices, agencies, and government
15 units are hereby transferred to and assumed by the National
16 Government through the Department and shall be acted upon in
17 accordance with the Auditing Code and other pertinent laws, rules,
18 and regulations: *Provided,* That the officers and employees of said
19 offices, agencies, and government units shall continue in a holdover
20 capacity until such time as the new officers and employees of the
21 Department shall have been duly appointed pursuant to the
22 provisions of this Act.

1 for the implementation of this Act shall be taken from the current
 2 fiscal year appropriations of the Office of Energy Affairs and such
 3 amounts as the President of the Philippines may allocate from other
 4 sources in accordance with law. Thereafter, the amount needed for
 5 the operation and maintenance of the Department shall be included
 6 in the annual General Appropriations Act.

7 CHAPTER VI

8 MISCELLANEOUS PROVISIONS

9 SEC. 18. *Relationship With Other Government Departments.*

10 - The Department and its priority projects shall enjoy preferential
 11 attention from the Department of Environment and Natural
 12 Resources relative to the exploration, development, exploitation,
 13 and extraction of petroleum, coal, and geothermal resources and in
 14 the matter of providing technical support necessary for the
 15 establishment of power-generating plants.

16 Upon request of the Department or any of its bureaus, all
 17 government agencies with functions relative to the approval of the
 18 projects of the Department or its duly authorized and endorsed
 19 entities, whether government or private, shall act upon and resolve
 20 the matter within ten (10) calendar days. Toward this end, the
 21 Secretary, with the approval of the President, may establish an

1 inter-agency secretariat for the purpose of expediting the approval
2 of said projects.

3 SEC. 19. *Contingency Powers.* - In times of critically low-
4 energy supply or imminent danger thereof, the President may, upon
5 the determination and recommendation of the Secretary, issue a
6 declaration of the same. Thereafter, the Secretary is hereby
7 authorized to implement the fuel and energy allocation plan
8 provided for in Section 10(b)(5) above and to formulate and
9 implement other measures for the conservation of energy, including
10 but not limited to power or fuel rationing, load curtailment of
11 commercial and industrial establishments, and restrictions on the
12 use of government vehicles and resources.

13 SEC. 20. *Disclosure and Divestment of Financial Interest.* -
14 Before assumption of office, the Secretary of the Department, the
15 Undersecretaries, and Assistant Secretaries shall submit to the
16 Civil Service Commission a list of all companies, partnerships, or
17 business enterprises, including nonprofit organizations, with which
18 they or any immediate member of their families within the fourth
19 degree of consanguinity or affinity has any form of financial
20 interest or employment relationship, including consultancy:
21 *Provided, however,* That all other forms of employment relationship

1 held by the heads of the Department shall be immediately
2 terminated upon assumption of office.

3 Within thirty (30) days thereafter, complete divestment of
4 financial interests in any institution, firm, or company which fall
5 under the supervisory or regulatory jurisdiction of the Department
6 shall be made: *Provided, however,* That, in cases where confirmation
7 of appointments by the Commission on Appointments is required,
8 the divestment mandated herein shall be complied within thirty (30)
9 days after such confirmation.

10 The divestment provided in the preceding paragraph shall
11 likewise apply to the members of the immediate family within the
12 second degree of consanguinity having interest in any institution or
13 activity which falls under the regulatory jurisdiction or supervision
14 of the Department and the attached agencies.

15 SEC. 21. *Repealing Clause.* - All laws inconsistent with the
16 provisions of this Act are hereby repealed.

17 SEC. 22. *Separability Clause.* - If, for any reason, any
18 section or provision of this Act shall be held unconstitutional or
19 invalid, the other sections or provisions hereof shall not be affected
20 thereby.

1 **SEC. 23. *Effectivity Clause.*** - This Act shall take effect
2 upon its publication in two (2) national newspapers of general
3 circulation.

Approved,

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