

13TH CONGRESS OF THE)
 REPUBLIC OF THE PHILIPPINES)
First Regular Session)

'04 JUL -6 A10:17

SENATE

RECEIVED BY:

S. Bill No. **1327**

Introduced by Senator Ralph G. Recto

EXPLANATORY NOTE

The 1987 Constitution prescribes a progressive system of taxation that is uniform and equitable. It is a tall order that continues to be a struggle for the government, particularly the Bureau of Internal Revenue (BIR), to achieve. For fifteen years, since the re-democratization of our country, too many attempts by Congress and the Executive to evolve a tax system that reflects the democratic ideals of fairness, efficiency and simplicity, have been made but all these fell short of the promise.

To this day, our tax system remains highly flawed and regressive largely brought about by the excesses in the bureaucracy. It discourages people from paying the right taxes or worst, from paying taxes. The collective wisdom points to a general dissatisfaction over the public services that government provides or could hardly provide and to a mass disenchantment over the corruption that reigns in the revenue agency. Economists have often pointed out a corrupt bureaucracy easily weakens even the most efficient and effective tax system.

Government is desperate. Fiscal deficit has reached unprecedented proportions and the country's debt stock is increasing by almost a million pesos every minute. From a P210 billion budgetary shortfall in 2002 and P200 billion in 2003 and an outstanding debt of P4.1 trillion as of February 2004, the specter of a debt crisis looms ahead. Even if BIR collection increases from P425.4 billion in 2003 to P488.6 billion this year, government is still doomed to borrow more because every centavo that Juan De La Cruz pays in taxes will all be set aside for debt servicing which is programmed to reach P542.2 billion by end-2004.

This bill seeks to address the seemingly perennial problem in tax administration by proposing the creation of a National Revenue Authority (NaRA) which is vested with administrative independence and fiscal autonomy. It will provide for an institutional mechanism that will separate professionally competent employees, who are willing to work for a competitive salary, from those who want to continue with the old ways of doing things - political patronage, red tape, complicated and manual processes, and traditional mentality of government waiting for taxpayers to submit information rather than government actively seeking information.

Efficiency has never been the hallmark of civil service. Neither is integrity. And the BIR has always been known to be lacking in both departments. This bill endeavors to bring back both efficiency and integrity into the country's tax

administration system by granting the revenue agency corporate powers which will give its new management the flexibility to implement policies and measures as it sees fit in accordance with its vision, mission and goals. The BIR today is shackled by too much bureaucratic interference that its Commissioner cannot pursue new ways of doing things without having to seek approval by the Secretary of Finance or by Congress or even by the President.

As an independent body akin to the *Bangko Sentral ng Pilipinas*, the revenue agency will be sanitized from political pressure since it will not have to seek its yearly appropriations from Congress and it will have its own system of hiring, transferring, promoting and firing its personnel. Postings will no longer be discretionary as has been the practice under the present set-up and even the Chief Executive Officer will have a work performance contract for each four-year term and is not co-terminous with the appointing power.

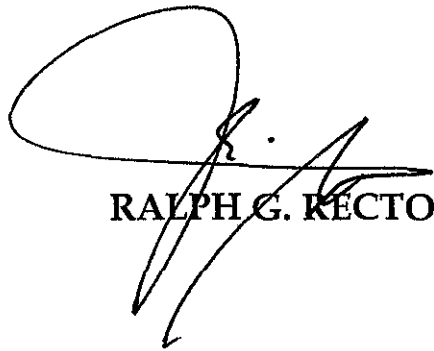
There have been proposals in the previous Congress that sought the creation of independent revenue authorities: the Internal Revenue Management Authority (IRMA), the National Authority for Revenue Administration (NARA), and the Internal Revenue Commission (IRC). This piece of legislation embodies similar features but differs in the details. To wit:

1. The NaRA under this bill stands for National Revenue Authority compared to the National Authority for Revenue Administration defined in the House proposal.
2. In its declaration of policies, the bill puts more emphasis on principles of a good tax system than on the structure of the revenue agency itself.
3. It includes an incentive scheme wherein the bill grants an additional service fee to the NaRA if its actual tax collections exceed the tax collection targets in the preceding year. The additional service fee will be equivalent to one percent of the difference which shall be distributed as incentive bonus to employees of the NaRA who have shown exemplary work performance based on an evaluation system adopted by the Internal Revenue Board.
4. The powers and functions of NaRA are vested on the Internal Revenue Board which shall be composed of seven members, three of whom are ex-officio (Secretary of Finance, Secretary of Budget and Management, Director-General of NEDA), and four from the private sector. But unlike the House proposals, this bill requires that those coming from the private sector shall sit in the Board as full time members and as such, should divest any interests they might have in the private sector. They shall be appointed without regard to political affiliation and solely on the basis of their professional experience and expertise in certain field of specialization. In addition, the bill provides pre- and post-employment prohibitions for members of the Board.
5. It likewise emphasizes that the organizational structure to be determined by the Chief Executive Officer (CEO) and approved by the Board shall be based on functional lines to reduce collusion of taxpayers and tax collectors.
6. The bill mandates the CEO to establish and implement a written code of conduct for all employees in the NaRA.

The trend of separating the wheat from the chaff, i.e. tax administration from public administration, has gained momentum over the past decade and has shown impressive results. According to a study¹, "in countries where the revenue performance had been deteriorating badly, such as Argentina and Peru, revenues have increased by over ten percentage points of the GDP. In Uganda, the tax/GDP ratio increased from 4 percent pre-authority period to about 10 percent in the post-authority period. In countries such as Spain and Singapore, which have the ability to pay competitive salaries and to purchase the capital equipment needed to modernize, the quality of the tax administration has been dramatically improved. In all cases, the level of taxpayer service and the professionalism of the staff of the tax administrations have been greatly enhanced."

Indeed, the BIR is currently faced with a tremendous task of producing the financial resources the country needs without having to borrow more. It has to modernize if government wants it to respond to changes in market conditions. It has to provide a more suitable environment for the development of an honest, efficient, innovative, professional and service-minded revenue personnel if government wants to optimize revenue collection. It has to operate as efficiently as the private sector if it wants to keep up with the rest of the economy.

The approval of this bill is thus earnestly sought.



RALPH G. RECTO

¹ Jenkins, Glenn and Rup Khadka, "Modernization of Tax Administration in Low-Income Countries: The Case of Nepal" Discussion Paper No. 68 Consulting Assistance on Economic Reform II Harvard Institute for International Development September 2000.

TWELFTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)

'04 JUL -6 AIO:17

SENATE

RECEIVED BY: 

1327

S. Bill No. _____

Introduced by Senator Ralph G. Recto

**AN ACT
CREATING THE NATIONAL REVENUE AUTHORITY,
PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES**

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

Article I

ESTABLISHMENT AND ORGANIZATION OF THE
NATIONAL REVENUE AUTHORITY

SECTION 1. *Short Title.* - This Act shall be known and cited as the "National Revenue Authority Act of 2004."

SEC. 2. *Declaration of Policy.* - It is hereby declared the policy of the State:

- (a) to implement a progressive tax system;
- (b) to maximize national government tax revenues and optimize resource utilization through a fair, equitable and simple tax system;
- (c) to develop a highly motivated and professional internal revenue service employees with utmost responsibility, integrity, loyalty and efficiency, and who act with patriotism and justice, and lead modest lives;
- (d) to adopt measures that will promote morale, efficiency, integrity, credibility, responsiveness, progressiveness and optimization of all potentials in revenue-generation of the government; and
- (e) to establish a strong tax collection agency, devoid of political influence, that will provide Filipino taxpayers with top quality service by helping them understand and meet their tax responsibilities and by applying the tax law with integrity and fairness to all.

SEC. 3. *Creation of the National Revenue Authority (NaRA).* - There is hereby established an independent national revenue authority, which shall be a body corporate known as the National Revenue Authority, hereafter referred to as NaRA, and shall be attached to the Department of Finance (DOF).

1 The NaRA shall have an authorized capital of Ten Billion Pesos
2 (₱10,000,000,000.00), to be fully subscribed by the Government of the Philippines,
3 hereinafter referred to as the Government and shall be paid up by the transfer to the
4 NaRA of assets valued in such amount. Initially, the national government shall transfer
5 to the NaRA such assets as may be determined pursuant to Section 21 of this Act.

6 SEC. 4. *Responsibility and Primary Objective.* - The primary responsibility and
7 objective of the NaRA is to raise revenues to finance the operations of the Government
8 consistent with fiscal policy and revenue collection targets.

9 SEC. 5. *Place of Business.* - The NaRA shall have its principal place of business in
10 Metro Manila and may establish branches and offices in such other places as may be
11 deemed necessary for the performance of its mandate.

12 SEC. 6. *Corporate Powers.* - The NaRA is hereby authorized to adopt, alter, and use
13 an official seal which shall be judicially noticed; to enter into contracts; to lease, own or
14 otherwise acquire real and personal property; and to hold, sell or otherwise dispose of
15 the same; incur obligations and other liabilities necessary in the conduct of its
16 operations; and to perform any and all acts necessary or proper to carry out the
17 purposes of this Act: *Provided, however,* That amounts to be used for the repayment of
18 loans and other obligations incurred under this provision, including the interest
19 payments for such obligations, shall be taken from the service fee that the NaRA shall
20 receive from the Government under Section 7 of this Act.

21 SEC. 7. *Service Fee.* - The NaRA shall receive an annual service fee from the
22 Government for services rendered in the discharge of its mandate. Subject to the
23 recommendation of the Development Budget Coordinating Council (DBCC) created
24 under Executive Order No. 232, series of 1970, as amended, said fee shall not fall below
25 one percent (1%) nor go beyond two percent (2%) of all national internal revenue taxes,
26 fees, and charges collected by the NaRA in the immediately preceding calendar year:
27 *Provided,* That in the initial year of operation, the service fee shall be 2% of all national
28 internal revenue taxes, fees, and charges collected in the immediately preceding year.
29 Said amount shall be appropriated in the annual General Appropriations Act.

30 In the event that the actual tax collection of the preceding year exceeds the tax
31 collection targets, the NaRA shall be granted an additional service fee in the amount
32 equivalent to one percent (1%) of the difference between the actual tax collection and
33 tax collection target which shall be distributed as an incentive bonus to employees of
34 the NaRA who have shown exemplary work performance based on an evaluation
35 system adopted by the Board.

1
2 Article II

3
4 THE INTERNAL REVENUE BOARD

5
6 SEC. 8. *Composition of the Internal Revenue Board* – The powers and functions of the
7 NaRA shall be exercised by the Internal Revenue Board, hereinafter referred to as the
8 Board, composed of seven (7) members appointed by the President of the Philippines.

9 The seven (7) members are:

- 10 (a) The Secretary of Finance who shall be the Chairperson of the Board.
11 Whenever the Secretary of Finance is unable to attend a meeting of the
12 Board, he/she shall designate an Undersecretary in his Department to act
13 as his alternate: *Provided*, That in such event, the Board shall designate one
14 of its members as acting Chairperson;
- 15 (b) Secretary of Budget and Management;
- 16 (c) Director-General of the National Economic Development Authority, and
- 17 (d) Four (4) members who shall come from the private sector, all of whom
18 shall serve full-time: *Provided, however*, That of the members first
19 appointed under this subsection, two (2) shall have a term of six (6) years,
20 and the other two (2), three (3) years.

21 Whenever the Secretary of Budget and Management and/or Director-General of
22 NEDA is unable to attend a meeting of the Board, he/she shall designate an
23 Undersecretary in his/her Department to attend as his/her alternate;

24 No member of the Board may be reappointed more than once.

25 During the entire period that an individual appointed under this section is a
26 member of the Board, such individual shall be treated as serving as a public official or
27 employee referred to in Republic Act No. 6713 (R.A. No. 6713), otherwise known as the
28 “Code of Conduct and Ethical Standards for Public Officials and Employees.”

29 SEC. 9. *Vacancy*. - Any vacancy on the Board shall be filled in the same manner as
30 the original appointment: *Provided, however*, That any member appointed to fill a
31 vacancy occurring before the expiration of the term for which the member’s predecessor
32 was appointed shall be appointed for the remainder of the term.

33 SEC. 10. *Qualifications*. - Members of the Board shall be appointed without regard
34 to political affiliation and solely on the basis of their professional experience and
35 expertise in one or more of the following areas:

- 36 (a) Management of large service organizations

- 1 (b) Customer service
- 2 (c) Taxation, including tax administration and compliance
- 3 (d) Fiscal policy
- 4 (e) Public finance
- 5 (f) Information technology
- 6 (g) Organization development
- 7 (h) The needs and concerns of taxpayers
- 8 (i) The needs and concerns of small businesses

9 In the aggregate, the members of the Board described above shall collectively
10 bring to bear expertise in all of the areas herein enumerated.

11 SEC. 11. *Disqualifications.* - In addition to the disqualifications imposed by R.A.
12 No. 6713, no director, officer, employee, consultant, external auditor, accountant, or
13 legal counsel agent or stockholder or in any other capacity of any individual, general
14 professional partnerships, professional corporations or any private company or
15 enterprises belonging to the top one five hundred (500) corporations in the country, as
16 determined by the Securities and Exchange Commission (SEC), shall be eligible for
17 appointment as member of the Board within two (2) years from his/her retirement,
18 resignation, or separation therefrom.

19 Likewise, no member of the Board shall be employed in any such institution
20 mentioned in the preceding paragraph within two (2) years after the expiration of
21 his/her term except when he/she serves as an official representative of the Government
22 to such institution.

23 SEC. 12. *Removal.* - Any member of the Board appointed under this Act may be
24 removed at the will of the President of the Philippines.

25 SEC. 13. *Meetings.* - The Board shall meet at least twice a month. The Board may
26 be called to a meeting by the chairperson or by four (4) other members of the Board.

27 The presence of four (4) members shall constitute a quorum: *Provided*, That in all
28 cases the chairperson or the chairperson's duly designated alternate shall be among the
29 four (4).

30 All decisions of the Board shall require the concurrence of at least four (4)
31 members.

32 The NaRA shall maintain and preserve a complete record of the proceedings of
33 the Board, including the tapes and transcripts of the stenographic notes, either in their
34 original form, in microfilm, or in any electronic medium. The records of the
35 proceedings of the Board shall be made available to the public in accordance with the

1 rules and regulations that the Board may adopt, except the records of proceedings
2 where data identifiable with the returns and tax records of specific taxpayers or are
3 otherwise considered confidential by the National Internal Revenue Code, hereinafter
4 referred to as the Code, are discussed.

5 SEC. 14. *Salary.* – The salary of the four members from the private sector shall be
6 fixed by the President of the Philippines at a sum commensurate to the importance and
7 responsibility attached to the position. Each *ex officio* member shall receive a *per diem* of
8 Two Thousand Pesos (₱2,000.00) for every meeting of the Board attended: *Provided,*
9 That *per diems* of each *ex officio* member shall not exceed Eight Thousand Pesos
10 (₱8,000.00) per month regardless of the number of Board meetings attended: *Provided,*
11 *further,* That the rate for *per diems* may be increased by the Board but no such increase
12 shall be made within two (2) years from the passage of this Act and within two (2) years
13 from the last increase.

14 SEC. 15. *Powers of the Internal Revenue Board.* – In the exercise of its authority, the
15 Board shall:

- 16 (a) Issue rules and regulations it considers necessary for the effective discharge
17 of the responsibilities and exercise of the powers vested upon the Board and
18 the NaRA. The rules and regulations issued shall be reported to the President
19 and the Congress within fifteen (15) days from the date of their issuance;
- 20 (b) Upon the recommendation of the CEO, approve the annual and supplemental
21 budget of receipts and expenditures of the NaRA, and authorize such
22 operating and capital expenditures of the NaRA as may be necessary or
23 proper for the effective management, operation and administration of the
24 NaRA;
- 25 (c) Form committees, including an executive committee, that shall assist the
26 Board in the performance of its functions;
- 27 (d) Appoint, upon the recommendation of the CEO, top management officials of
28 the NaRA down to the third highest level;
- 29 (e) Establish a compensation plan for the NaRA. The compensation plan shall be
30 subject to periodic review by the Board no more than once every two (2) years
31 without prejudice to yearly merit reviews or increases based on productivity
32 and efficiency; and
- 33 (f) Exercise such powers and perform such other acts, as may be necessary,
34 useful, incidental or auxiliary to carry out the provisions of this Act, or to
35 perform the purposes and objectives of this Act.

1 All references in the Code and other revenue laws, and in the rules and
2 regulations issued thereunder, to the Secretary of Finance shall be deemed to refer to
3 the Internal Revenue Board.

4 Article III

5
6 THE CHIEF EXECUTIVE OFFICER

7
8 SEC. 16. *The Chief Executive Officer; Qualifications; Appointment; Term of Office.* –
9 The NaRA shall be headed by a Chief Executive Officer, hereinafter referred to as CEO,
10 who shall be a citizen of the Philippines, of good moral character, known for honesty
11 and patriotism, of unquestionable integrity, with at least seven (7) years experience in
12 management, and a recognized expert in the field of taxation, finance, fiscal
13 administration, economics, public administration or public finance.

14 The President of the Philippines shall appoint for a term of four (4) years the
15 CEO of the NaRA, upon the recommendation of the Board: *Provided*, That the
16 incumbent Commissioner of the BIR as of the date of the approval of this Act shall not
17 be qualified to serve as CEO of the NaRA except in a holdover capacity pending the
18 appointment of the CEO. The CEO shall enter into a performance contract with the
19 Board and may be re-appointed depending on the CEO's performance: *Provided*,
20 *however*, That no person may be appointed as CEO for more than three (3) terms. In
21 addition to other grounds for removal as may be provided for by law, the CEO may be
22 removed by a majority vote of all the members of the Board prior to the end of the
23 CEO's 3-year term for failure to meet commitments in the performance contract, unless
24 such failure is attributable to a cause or causes beyond the CEO's control.

25 SEC. 17. *Powers and Functions of the CEO.* – The CEO of the NaRA shall exercise
26 the powers and functions of the Commissioner of Internal Revenue under Sections 4, 5,
27 6, 7, 8, 14, 15, 16, 17, 19, 20, and other provisions of the Code. In addition, the CEO
28 shall:

- 29 (a) Execute, administer and implement the policies and measures approved by
30 the Board, and ensure that tax laws are enforced with the highest degree of
31 integrity;
- 32 (b) Direct and supervise the operations and administration of the NaRA;
- 33 (c) Represent the NaRA in all dealings with offices, agencies and
34 instrumentalities of the Government and with all persons and entities, public
35 or private, domestic or foreign;

- 1 (d) Direct and supervise the preparation of the agenda for the meeting of the
2 Board, and to submit for the consideration of the Board such policies and
3 measures as he or she believes necessary to carry out the purposes and
4 objectives of this Act;
- 5 (e) Promulgate, with the approval of the Board, all necessary rules and
6 regulations for the effective enforcement of the provisions of the Code, this
7 Act and other revenue laws;
- 8 (f) Determine, with the approval of the Board, the organizational structure based
9 along functional lines, including the geographical location of the branches
10 and offices, of the NaRA; reorganize its personnel; and issue such rules and
11 regulations, as he or she may deem necessary or convenient for these
12 purposes;
- 13 (g) Establish, with the approval of the Board, a performance-based management
14 system which shall govern the selection, hiring, appointment, transfer,
15 promotion, or dismissal of all personnel. Such system shall aim to attract
16 and retain professionally competent, well-trained, honest, courteous and
17 efficient personnel and to establish professionalism and excellence at all levels
18 of the NaRA.
19 All positions in the NaRA shall be governed by a compensation and position
20 classification system and qualification standards approved by the Board
21 based on a comprehensive job analysis and audit of actual duties and
22 responsibilities.
- 23 (h) Appoint, fix the remuneration and other emoluments, and remove personnel
24 of the NaRA in accordance with civil service rules and regulations: *Provided,*
25 That the Board shall have final appellate authority in cases involving
26 promotion, transfer, assignment, or reassignment of personnel of the NaRA
27 and these personnel actions are deemed made in the interest of the service
28 and not disciplinary;
- 29 (i) Maintain a provident fund which consists of contributions made by both the
30 NaRA and its officials and employees or their heirs under such terms and
31 conditions as it may prescribe;
- 32 (j) Provide for the continuing education and training of NaRA officials and
33 employees. For this purpose, the NaRA may establish a training institute or
34 enter into agreements with institutions of higher learning in the country for
35 the establishment of training programs for its technical personnel in the field

1 of taxation, tax administration, information technology, and related fields.
2 The NaRA is likewise authorized to defray the costs of study, at home or
3 abroad, of qualified employees of the NaRA, of promising university
4 graduates or of any other qualified persons who shall be determined by
5 proper competitive examinations;

6 (k) Adopt, with the approval of the Board, a Workforce Rationalization Plan,
7 including the provision of incentives and/or financial assistance to NaRA
8 personnel who retire or are separated from the service as a consequence of
9 such Plan;

10 (l) Provide the Secretary of Finance with revenue estimates on existing and
11 proposed tax laws;

12 (m) Establish and implement a written code of conduct for all employees in
13 the NaRA; and

14 (n) Exercise such other powers and functions as may be vested in the CEO by the
15 Board.

16 The CEO shall have the NaRA to delegate any of the foregoing powers in such
17 official or officials of the NaRA, as he or she deems necessary.

18 All references in the Code and other revenue laws, and in the rules and
19 regulations issued thereunder, to the Commissioner of Internal Revenue shall be
20 deemed to refer to the CEO.

21 SEC. 18. *Salary of the CEO.* - The Board shall fix the salary of the CEO based on an
22 objective classification system to be specified in the Implementing Rules and
23 Regulations of this Act at a sum commensurate to the importance and responsibilities
24 attached to the position.

25 Article IV

26 GENERAL PROVISIONS

27
28
29 SEC. 19. *Indemnification for Legal Defense Costs and Expenses* - Section 227 of the
30 Code is hereby amended to read as follows:

31 "SEC. 227. [*Satisfaction of Judgment Recovered Against any Internal Revenue*
32 *Officer.* -When an action is brought against any Internal Revenue officer to
33 recover damages by reason of any act done in the performance of official duty,
34 and the Commissioner is notified of such action in time to make defense against
35 the same, through the Solicitor General, any judgment, damages or costs
36 recovered in such action shall be satisfied by the Commissioner, upon approval

1 of the Secretary of Finance, or if the same be paid by the person used shall be
2 repaid or reimbursed to him.

3 "No such judgment, damages, or costs shall be paid or reimbursed in
4 behalf of a person who has acted negligently or in bad faith, or with willful
5 oppression.]

6 "THE NATIONAL REVENUE AUTHORITY (NARA) SHALL INDEMNIFY MEMBERS
7 OF THE INTERNAL REVENUE BOARD AND OTHER OFFICIALS OF THE NARA, INCLUDING
8 PERSONNEL OF THE UNITS PERFORMING ASSESSMENT, AUDIT AND COLLECTION
9 FUNCTIONS, AGAINST ALL COSTS AND EXPENSES REASONABLY INCURRED BY SUCH
10 PERSONS IN CONNECTION WITH ANY CIVIL OR CRIMINAL ACTION, SUIT OR PROCEEDING
11 TO WHICH THEY MAY BE OR MADE A PARTY BY REASON OF THEIR PERFORMANCE OF
12 THEIR FUNCTIONS OR DUTIES, UNLESS THEY ARE FINALLY ADJUDGED IN SUCH ACTION
13 OR PROCEEDING TO BE LIABLE FOR GROSS NEGLIGENCE OR MISCONDUCT.

14 "IN THE EVENT OF SETTLEMENT OR COMPROMISE, INDEMNIFICATION SHALL BE
15 PROVIDED ONLY IN CONNECTION WITH SUCH MATTERS COVERED BY THE SETTLEMENT
16 AS TO WHICH THE NARA IS ADVISED BY EXTERNAL COUNSEL THAT THE PERSONS TO BE
17 INDEMNIFIED DID NOT COMMIT ANY GROSS NEGLIGENCE OR MISCONDUCT.

18 "THE COSTS AND EXPENSES INCURRED IN DEFENDING THE AFOREMENTIONED
19 ACTION, SUIT OR PROCEEDING MAY BE PAID BY THE NARA IN ADVANCE OF THE FINAL
20 DISPOSITION OF SUCH ACTION, SUIT OR PROCEEDING UPON RECEIPT OF AN
21 UNDERTAKING BY OR ON BEHALF OF THE MEMBER OF THE INTERNAL REVENUE BOARD,
22 OFFICIAL OR EMPLOYEE TO REPAY THE AMOUNT ADVANCED SHOULD IT ULTIMATELY BE
23 DETERMINED BY THE NARA THAT SAID MEMBER OF THE INTERNAL REVENUE BOARD,
24 OFFICIAL OR EMPLOYEE IS NOT ENTITLED TO BE INDEMNIFIED AS PROVIDED IN THIS
25 SECTION."

26 SEC. 20. *Implementing Details.* - The NaRA shall be made operational by the
27 performance of the following acts:

28 (a) The President shall constitute the Board by appointing the members thereof
29 within one hundred eighty (180) days from the effectivity of this Act; and

30 (b) The completion of the transfer of such assets of the NaRA as provided in the
31 succeeding Section.

32 SEC. 21. *Transfer of Assets.* - (a) Upon the effectivity of this Act, a Committee
33 composed of the Chairperson and *ex officio* members of the Board and the Chairpersons
34 of the Committees on Ways and Means of the Senate and the House of Representatives
35 shall determine the assets of the BIR which shall be transferred to the NaRA. Only such

1 assets whose value, in addition to the initial service fee for the NaRA as indicated in the
2 proviso to the second sentence of Section 7 of this Act, is needed to complete the total
3 capitalization of the NaRA shall be transferred. The Committee shall be assisted by the
4 Commission on Audit (COA) in the appraisal of the value of the assets to be transferred
5 to the NaRA. The Chairperson of COA shall assign a group of auditors to assist the
6 Committee in its work.

7 (b) The Committee shall complete its work within ninety (90) days from the
8 commencement of its work. It shall submit a comprehensive report of its findings and
9 justifications to Congress and the President within fifteen (15) days from the completion
10 of its work.

11 SEC. 22. *Transition Provisions.* - (a) The NaRA shall be organized by the Board,
12 by adopting if it so desires, an entirely new organizational structure or staffing pattern
13 to suit the operations of the NaRA under this Act. Selection of NaRA personnel shall be
14 based strictly on merit and fitness and applicants may likewise be subject to lifestyle
15 checks to ensure their suitability for appointment to the new organization. The
16 formulation of the program of organization shall be completed within six (6) months
17 after the effectivity of this Act, and shall be fully implemented within a period of six (6)
18 months thereafter, both of which periods shall be collectively referred to as the
19 transition period.

20 (b) Personnel of the BIR at the time of the approval of this Act who apply for
21 positions in the NaRA shall enjoy preferential absorption into the new organization.
22 For the purposes of this provision, "preferential absorption" means that BIR personnel
23 who meet the new qualification standards and selection criteria shall enjoy priority in
24 the hiring of personnel for the NaRA. Those who cannot be absorbed due to either the
25 inability to meet the qualification standards and selection criteria or the non-existence of
26 a suitable position in the NaRA shall be deemed separated from the service.

27 (c) Subject to the preceding paragraph and to minimize the disruption of internal
28 revenue administration during the transition period, all incumbent personnel in the BIR
29 as of the date of the approval of this Act shall continue to exercise their duties and
30 functions as personnel of the NaRA. To help ensure that revenue targets are met during
31 the same period, and in addition to the provisions of Section 285 of the Code, an
32 additional amount equivalent to five percent (5%) of the excess in collection targets for
33 the said period shall be used to pay separation benefits authorized under the
34 succeeding Section and shall likewise be treated as receipts appropriated for this
35 purpose. Towards the same end, the hiring of auditors, suspension of assessments,

1 institution of voluntary assessment programs, conduct of a taxpayer census, and similar
2 measures are hereby authorized during the transition period to augment revenue
3 collection.

4 (d) The Secretary of Finance shall create a transition committee to manage the
5 organization of the Authority, including the initial selection and appointment of
6 Authority officials subject to confirmation once the Board has been constituted. The
7 committee shall likewise consider the issues of job descriptions and specifications,
8 hiring criteria and methods, job grading and compensation, staffing levels, training,
9 performance evaluations, codes of conduct, and disciplinary and grievance handling
10 procedures. The committee shall be headed by an Undersecretary of the Department of
11 Finance and include, among others, the incumbent Commissioner of the BIR.

12 SEC. 23. *Separation Benefits.* – The national government is hereby authorized to
13 provide separation incentives, the details and mechanics of which are to be specified in
14 the implementing rules and regulations of this Act, and all those who shall retire or be
15 separated from the service on account of the organization under the preceding Section
16 shall be entitled to such incentives, which shall be in addition to all gratuities and
17 benefits to which they may be entitled under existing laws.

18 SEC. 24. *Transfer of Powers.* – All powers, duties and functions vested by law in
19 the BIR shall be deemed transferred to the NaRA. The powers, duties and functions
20 vested by the Code and other revenue laws in the Deputy Commissioners, Service
21 Chiefs, Assistant Service Chiefs, Revenue Regional Directors, Assistant Revenue
22 Regional Directors, Chiefs and Assistant Chiefs of Divisions, Revenue District Officers,
23 special deputies of the Commissioner, internal revenue officers and other employees of
24 the BIR shall be deemed transferred to the officers and employees of the NaRA who are
25 appointed to exercise the same powers, duties and functions as the abovementioned
26 BIR officers and employees: *Provided, however,* That pursuant to the power of the CEO to
27 determine the organizational structure of the NaRA and to reorganize its personnel
28 under Section 15 of this Act, the positions and bodies mentioned in Sections 7, 9, 10, 11,
29 13, 14, 15, 51(B), 58(A), 77(A), 81, 90(D), 95, 103(B), 114(B), 128(B), 130(A)(3),
30 130(A)(4)(b), 163, 164, 166, 171, 172, 196, 200(C), 202, 204, 206, 207(A), 207(B), 209, 213,
31 214, 215, 227, 236(A), 236(B), 236(E), 236(F), 236(G), 236(J), 241, 242, 245(a), 245(e), 245(j),
32 248, and 271 of the Code may be changed, abolished, combined with another position or
33 body, or substituted with another and the powers and functions granted by these
34 provisions to said positions and bodies may be performed by such officials or
35 employees deemed appropriate by the CEO: *Provided, further,* That for purposes of

1 applications for abatement, cancellation, and compromise under Section 204 of the
2 Code, the Board shall be authorized to fix the terms and conditions, including the levels
3 of approving NaRA and the creation of committees to process said applications.

4 All references to the BIR in the Code and other revenue laws, and in the rules
5 and regulations issued thereunder shall be deemed to refer to the NaRA.

6 SEC. 25. *Applicability of Prohibitions and Sanctions; Administrative Complaints.* -
7 The penalties imposed on officials, agents or employees of the BIR who are guilty of the
8 offenses enumerated in the Code and other criminal statutes shall be applied to
9 members of the Board and officials, agents and employees of the NaRA who are found
10 guilty of such offenses.

11 For purposes of administrative complaints against officers and employees of the
12 NaRA, an internal audit unit to be created by and reporting directly to the Board shall
13 conduct the investigations on such complaints. For this purpose, such internal audit
14 unit shall be deemed deputized by the Office of the Ombudsman under Republic Act
15 No. 6770.

16 SEC. 26. *Implementing Rules and Regulations.* - The Board shall promulgate the
17 implementing rules and regulations for this Act within sixty (60) days from its
18 constitution. Failure to promulgate such rules and regulations shall not affect the
19 implementation of the self-executory provisions of this Act.

20 SEC. 27. *Repealing Clause.* - The provisions of Sections 18, 19, 20, 21, and 22 of
21 Chapter 4, Title II, Book IV of Executive Order No. 292, otherwise known as the
22 Administrative Code of 1987, are hereby repealed. The provisions of Title I of the Code
23 insofar as they are inconsistent with the provisions of this Act are hereby repealed or
24 amended accordingly. The other provisions of the Code, including Sections 51(B),
25 58(A), 77(A), 81, 90(D), 95, 103(B), 114(B), 128(B), 130(A)(3), 130(A)(4)(b), 163, 164, 166,
26 171, 172, 196, 200(C), 202, 204, 206, 207(A), 207(B), 209, 213, 214, 215, 227, 236(A), 236(B),
27 236(E), 236(F), 236(G), 236(J), 241, 242, 245(a), 245(e), 245(j), 248, 271, and 285 are hereby
28 amended, and those of other laws, rules and regulations inconsistent with this Act are
29 hereby repealed or modified accordingly.

30 SEC. 28. *Separability Clause.* - If any provision or section of this Act is held
31 invalid, the other provisions and sections not affected thereby shall remain in full force
32 and effect.

33 SEC. 29. *Effectivity Clause.* - This Act shall take effect fifteen (15) days following
34 its publication in the *Official Gazette* or in two (2) newspapers of general circulation.

Approved,