

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

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SENATE

RECEIVED BY



S. No. 1545

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Introduced by Senator JUAN MIGUEL F. ZUBIRI

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### EXPLANATORY NOTE

Most people look forward to retirement as a moment when they will finally be able to relax and enjoy the pleasure of having more time for themselves and their families, away from the pressures of daily work. But without a dependable retirement plan, they are not assured of a comfortable and leisurely retirement.

The absence of retirement funds or savings is a critical but underreported national problem. Indeed, the government is called upon and obliged to develop in the Filipino people sufficient awareness and understanding on the importance of savings and the necessity that everyone starts the habit of saving as soon as possible. Sans savings, people will not enjoy the remaining years of their lives due to the uncertainties and insecurities that will plague them. It is always best to save and plan, to lay the groundwork at the earliest time possible, for the future. Indeed, there is no substitute for preparedness for the foreseeable and unforeseeable events that will come along.

This proposed measure seeks to introduce the Personal Equity and Retirement Account (PERA) which we hope will be accepted as an essential and valuable tool in encouraging savings for our people's retirement years.

A PERA is a savings plan to achieve a comfortable and financially-secure retirement through a sound investment and planning scheme. Through a PERA, one is encouraged to save because certain contributions to the savings funds are deductible from the taxable income, and earnings of said savings are sheltered from taxation as they know and are taxed only upon their withdrawal from PERA.

A PERA is likewise a flexible investment scheme. In case of an emergency, one can take out or withdraw his money or a portion of his savings from the PERA with a minimum inconvenience. It is unlike a pension scheme wherein one's money is locked in and rendered practically inaccessible for immediate and un-programmed needs.

PERA has likewise been designed to benefit a good part of our working populace who are neither members of government insurance funds and who have very limited options.


The PERA is a dynamic investment scheme. It can offer facilities to move funds to high levels and take advantage of prevailing market conditions. Investors will also be able to keep track of their funds and even directly manage their PERAs as an investment portfolio since PERA investors can always choose suitable arrangements in accordance with their present economic status and future financial objectives.

In view of the above premises and in order to reverse the long course of neglect on very vital retirement issues, approval of this bill is earnestly sought.



**JUAN MIGUEL F. ZUBIRI**

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**AN ACT**  
**ESTABLISHING A PROVIDENT PERSONAL SAVINGS PLAN KNOWN AS THE**  
**“PERSONAL EQUITY AND RETIREMENT ACCOUNT”**

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

1 **SECTION 1. Title.** – This Act shall be known as the “Personal Equity and Retirement  
2 Account (PERA)”.

3 **SECTION 2. Declaration of Policies.** – It is declared the policy of the State to promote  
4 capital market development and savings mobilization by establishing the legal and  
5 regulatory framework of retirement plans for persons, comprised of voluntary personal  
6 savings and investments that are supported by government incentives. For this  
7 purpose, the State shall rationalize the functions of the Regulatory Authorities with the  
8 main objective of generating investments and accelerating saving mobilization by  
9 providing tax incentives to eligible PERA Investment Vehicles.

10 **SECTION 3. Definition of Terms.** – As used in this Act, the following terms shall have  
11 the following significance, unless the context provides otherwise:

12 a) “Administrator” is an entity accredited by the Bureau of Internal Revenue (BIR),  
13 after pre-qualification by the Bangko Sentral ng Pilipinas (BSP), in the case of  
14 financial services institutions with trust licenses; or by the Securities and  
15 Exchange Commission (SEC), in the case of investment companies, investment  
16 houses, stockbrokerages and pre-need plan companies; or by the Office of the  
17 Insurance Commissioner (OIC), in the case of life insurance companies. The  
18 Administrator shall assume fiduciary responsibility over PERA funds. Its  
19 functions shall include but not limited to: reporting on contributions made to the  
20 account; computing the values of investments; educating the Contributor;  
21 enforcing PERA contributions with withdrawal limits; acting as withholding agent

1 in the collection of appropriate taxes and penalties; issuing certificates of  
2 contribution for BIR purposes; and consolidating reports on all investments,  
3 income, expenses, withdrawals on the account and ensuring that PERA  
4 contributions are invested only in permitted investment as required by the  
5 concerned Regulatory Authority;

6 b) *“Contributor”* is a citizen of the Philippines, of legal age, who possesses a  
7 Taxpayer Identification Number (TIN), and who establishes and makes  
8 contributions to a PERA;

9 c) *“Custodian”* is a financial services institution with trust licenses or an insurance  
10 company, separate and distinct from the Administrator, accredited by the BIR  
11 after pre-qualification by the concerned Regulatory Authority, providing services  
12 in connection with custodianship of funds and securities of the PERA funds and  
13 assets. It shall receive and disburse all funds in connection with the PERA,  
14 maintaining custody of all original securities, evidences of deposits or other  
15 evidences of investment. The Custodian shall operate independently from the  
16 Administrator. The Custodian is required to report to the Contributor and the  
17 concerned Regulatory Authority at regular intervals, all financial transactions and  
18 all documents in its custody under a PERA;

19 d) *“Investment Manager”* is an Administrator additionally authorized by a  
20 Contributor to make investment decisions for his PERA. As such, it shall assume  
21 fiduciary duty and responsibility for PERA investments. It shall act with utmost  
22 fidelity by observing policies directed towards confidentiality, scrupulous care,  
23 safety and prudent management of PERA funds;

24 e) *“Personal Equity Retirement Account (PERA)”* refers to the voluntary retirement  
25 account established by and for the exclusive use and benefit of the Contributor  
26 who shall retain the ownership of funds placed therein, including all earnings of  
27 such funds;

28 f) *“PERA Investment Vehicle”* refers to a common trust fund, mutual fund, annuity  
29 contract or pre-need pension plan, dedicated solely for PERA purpose and which  
30 has been pre-approved by the concerned Regulatory Authority before being  
31 granted tax-exempt privileges by the BIR: *Provided*, That the concerned  
32 Regulatory Authority may allow other PERA pooled investment vehicles under  
33 the rules, subject to the approval of the Secretary of Finance;

34 g) *“Investment Vehicle Provider”* refers to an entity authorized by any of the  
35 Regulatory Authorities to offer and manage a PERA Investment Vehicle;

1 h) *"Self-Directed PERA Account"* refers to a PERA in which the investment  
2 decisions are made by the Contributor;

3 i) *"Regulatory Authority"* refers to the BSP as regards financial services institutions  
4 or trust companies, the SEC for investment companies, investment houses,  
5 stock brokerages and pre-need plan companies, the OIC for life insurance  
6 companies, and the BIR as appropriate.

7 **SECTION 4. *Establishment of a PERA.*** - A contributor who establishes a PERA shall  
8 designate an Administrator. The Contributor may also designate an Investment  
9 Manager and a Custodian but has the option to ask the Administrator to choose the  
10 latter on his behalf.

11 The Contributor may transfer from one Administrator to another at any time:  
12 *Provided,* That a Contributor must only have one Administrator at any given time.

13 **SECTION 5. *Investment Decisions.*** - Generally, the Contributor shall make all  
14 investment decisions. However, he may authorize an Investment Manager, either in  
15 writing or electronic form, to make all investment decisions on his behalf without prior  
16 consultation.

17 **SECTION 6. *Fit and Proper Rule for Officers and Directors of Administrator, Investment***  
18 ***Managers, Custodians and Investment Vehicle Providers.*** - The concerned Regulatory  
19 Authorities shall coordinate to establish uniform, fit and proper standards for  
20 Administrators, Custodians, Investment Managers and Investment Vehicle Providers.  
21 This common regulatory framework shall maintain the quality of management in these  
22 institutions and afford better protection to the Contributors. Regulatory Authorities shall  
23 prescribe the qualification and disqualification standards of individuals elected or  
24 appointed as directors or officers of Administrators, Custodians, Investment Managers  
25 and Investment Vehicle Providers.

26 In determining whether an individual is fit and proper to hold the position of a  
27 director or officer of an Administrator, Custodian, Investment Managers and Investment  
28 Vehicle Provider, regard shall be given to his integrity, experience, education, diligence,  
29 training and competence.

30 **SECTION 7. *Maximum Fees.*** - An accredited Administrator, Custodian, or Investment  
31 Manager for a PERA account shall charge fees not to exceed the amount or  
32 percentage to be determined by the concerned PERA Regulatory Authority.

33 **SECTION 8. *PERA Investment Vehicles.*** - A Contributor, through his Administrator,  
34 shall invest only in any of the following tax-favored PERA Investment Vehicles:

- 1 a. Approved common trust funds and mutual funds registered in the Philippines;
- 2 b. Approved annuity contracts and pre-need pension plans; and
- 3 c. Other investment vehicles which the concerned Regulatory Authority may by
- 4 rule allow subject to the approval of the Secretary of Finance.

5 **SECTION 9. Permitted Investment of PERA Investment Vehicles.** - Investments made  
6 by Contributors in any of the products listed in Section 8 and earnings thereon shall be  
7 invested only in the following investments, subject to full disclosure standards and  
8 investments limits set by the concerned Regulatory Authority:

- 9 a. National government securities or issues guaranteed by the Philippine
- 10 government;
- 11 b. Corporate or government bonds, including issues of local governments or
- 12 government agencies, or debt instrument including asset-backed securities,
- 13 which are rated by a recognized rating agency in the Philippines;
- 14 c. Bank deposits in local and foreign currencies in Philippine financial
- 15 institutions;
- 16 d. Foreign currency denominated investments authorized by the BSP, including
- 17 the currencies themselves, traded on any recognized exchange but not to
- 18 exceed 7.5% or whatever is the current Social Security System (SSS) limit on
- 19 foreign denominated investments, for the aggregate PERA assets held by the
- 20 Administrator;
- 21 e. Non-speculative equities listed in the Philippine Stock Exchange (PSE); and
- 22 f. Other investment outlets which the concerned Regulatory Authority may by
- 23 rule allow subject to the approval of the Secretary of Finance.

24 **SECTION 10. Basic Investment Vehicles.** - Regulatory Authorities may designate basic  
25 PERA Investment Vehicles that will be commonly offered by all Administrators to  
26 provide simple-to-understand options for Contributions.

27 **SECTION 11. Maximum Annual PERA Contributions.** - A Contributor may make a  
28 contribution of no more than Fifty Thousand Pesos (P50,000.00) per year. The  
29 maximum contribution may be adjusted from time to time to such amount that the  
30 Secretary of Finance may determine.

31 **SECTION 12. Tax Treatment of Contributions.** - The annual PERA contribution to the  
32 extent of the Fifty Thousand Pesos (P50,000.00) shall be excluded from the gross  
33 income of the Contributor and shall be exempt from income taxation: *Provided*

1 however, That this tax treatment shall be applicable only to contributions taken from the  
2 Contributor's taxable income other than those subject to a final tax, as defined under  
3 the National Internal Revenue Code, as amended.

4 **SECTION 13. Tax Treatment of Investment Income.** - All investment income derived by  
5 BIR-approved PERA Investment Vehicles are exempt from income tax.

6 **SECTION 14. Tax Treatment of Distributions.** - All distributions from the PERA under  
7 Section 18 are tax-exempt.

8 **SECTION 15. Penalty on Early Withdrawal.** - No early withdrawal may be made until  
9 contributions have been made for at least five (5) years. Early withdrawal penalties  
10 which shall be payable to the Government as may be determined by the Secretary of  
11 Finance shall be imposed on any withdrawal of any funds for the following purposes:

- 12 a. For payment of hospitalization in excess of thirty (30) days;
- 13 b. For payment to a Contributor who has been subsequently rendered  
14 permanently disabled as defined under the Labor Code of the Philippines,  
15 Republic Act No. 7641, the Social Security Law, and Government Service  
16 Insurance System Law; and
- 17 c. For the purchase of the first family socialized housing unit of the Contributor.

18 However, no penalties shall be imposed on distributions made in the event that  
19 the Contributor reaches the age of fifty (50) years or upon his or her death.

20 **SECTION 16. Employer's Contribution.** - An employer may make contributions to its  
21 employee's PERA, and such shall be allowed as a deduction from the employer's gross  
22 income: *Provided*, That the employer complies with the mandatory SSS contribution  
23 and retirement pay under the Labor Code of the Philippines: *Provided further*, That the  
24 amount thereof plus the employee's contribution shall not exceed the maximum amount  
25 allowable under Section 11 hereof.

26 **SECTION 17. Records, Reporting and Audit.** - The Administrators, Custodians,  
27 Investment Managers and Investment Vehicle Providers shall, as applicable, keep  
28 records for all contributions, earnings and total account balances and shall be required  
29 to report to the Contributor these amounts on a quarterly basis for each calendar year.  
30 Such records shall be made available for inspection by the Regulatory Authority during  
31 office hours. The Regulatory Authority concerned may conduct routine and cause  
32 audits of Administrators, Custodians, Investment Managers and Investment Vehicle  
33 Providers.

1 **SECTION 18. *Distributions Upon Retirement.*** - Distributions shall be made upon  
2 reaching the age of fifty (50) years provided that contributions have been made to the  
3 PERA for at least five (5) years. The distribution shall be made in any mode that may  
4 be elected by the Contributor. The Contributor then has the option to continue on with  
5 the account. In the event that a Contributor opens an account at the age of fifty-six (56)  
6 and above, distribution shall be made at any time without the corresponding five (5)-  
7 year holding period nor penalties.

8 **SECTION 19. *Non-Assignability.*** - No portion of the assets of a PERA may be  
9 assigned, alienated, pledged, encumbered, attached, garnished, seized or levied upon.  
10 PERA assets shall not be considered assets of the Contributor for purposes of  
11 insolvency and estate taxes.

12 **SECTION 20. *Penalty.*** - A fine of not less than Fifty Thousand Pesos (P50,000.00) nor  
13 more than Two Hundred Thousand Pesos (P200,000.00) or imprisonment for not less  
14 than six (6) years nor more than twenty-one (21) years or both such fine and  
15 imprisonment, at the discretion of the court, shall be imposed upon any person,  
16 association, partnership or corporation, its officer, employee or agent, who shall:

- 17 a. Act as Administrator, Custodian, Investment Manager or Investment Vehicle  
18 Provider without being properly qualified or without being granted prior  
19 accreditation by the concerned Regulatory Authority;
- 20 b. Invest the contribution without written or electronically authenticated authority  
21 from the Contributor except in the case of Self-Directed Accounts;
- 22 c. Knowingly and willfully make any statement in any application, report or  
23 document required to be filed under this Act, which statement is false or  
24 misleading with respect to any material fact; and
- 25 d. Violate any provision of this Act or rules and regulations issued pursuant to  
26 this Act.

27 Notwithstanding the foregoing, any willful violation by the accredited  
28 Administrator, Custodian, Investment Manager or Investment Vehicle Provider for any  
29 of the provisions of this Act, or its implementing rules and regulations, or other terms  
30 and conditions of the authority to act as Administrator may be subject to the  
31 administrative sanctions provided for in applicable laws.

32 **SECTION 21. *Abuse of Tax Exemptions and Privileges.*** - Any person, natural or  
33 juridical, who unduly avails of the tax exemption privileges herein granted, or who  
34 willfully aids or abets in the commission of the same, possibly by co-mingling PERA  
35 accounts in an investment with other investments, when such person is not entitled



1 hereto, shall be subject to the penalties provided in Section 20 hereof. In addition, the  
2 offender shall refund to the government double the amount of the tax exemptions and  
3 privileges enjoyed under this Act, plus interest of twelve percent (12%) per year from  
4 the date of enjoyment of the tax exemptions and privileges to the date of actual  
5 payment.

6 **SECTION 22. *Implementing Rules and Regulations.*** - The Regulatory Authorities,  
7 together with the BIR, shall promulgate and amend such rules and regulations as may  
8 be necessary or appropriate to implement the provisions of this Act. Within thirty (30)  
9 days after the promulgation of the implementing rules and regulations or their  
10 amendments, the same shall be submitted to the Congressional Oversight Committee,  
11 hereinafter created, for approval.

12 **SECTION 23. *Congressional Oversight Committee.*** - There is hereby created a  
13 Congressional Oversight Committee composed of seven (7) members from the Senate  
14 and seven (7) members from the House of Representatives. The members from the  
15 Senate shall be appointed by the Senate President with at least two (2) Senators  
16 representing the Minority. The members from the House of Representatives shall also  
17 be appointed by the Speaker with at least two (2) Representatives representing the  
18 Minority.

19 The Congressional Oversight Committee shall have the power to oversee the  
20 implementation of this Act and approve such rules and regulations promulgated  
21 pursuant to Section 22 hereof. It shall also have the power to promulgate its own rules.

22 **SECTION 24. *Repealing Clause.*** - All laws, decrees, order, rules and regulations or  
23 parts thereof, inconsistent with this Act are hereby repealed, amended or modified  
24 accordingly.

25 **SECTION 25. *Separability Clause.*** - If any provision or part hereof, is held invalid or  
26 unconstitutional, the remainder of the law or the provision not otherwise affected shall  
27 remain valid and subsisting.

28 **SECTION 26. *Effectivity.*** - This Act shall take effect 15 days following its publication in  
29 the Official Gazette and in a newspaper of general circulation.

30 Approved,