

FIFTEENTH CONGRESS OF THE REPUBLIC )  
OF THE PHILIPPINES )  
First Regular Session )

SENATE  
S. No. 1535

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Introduced by Senator Miriam Defensor Santiago

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#### EXPLANATORY NOTE

The Constitution, Article 2, Sections 27 and 28 provide:

SEC. 27. The State shall maintain honesty and integrity in the public service and take positive and effective measures against graft and corruption.

SEC. 28. Subject to reasonable conditions prescribed by law, the State adopts and implements a policy of full public disclosure of all its transactions involving public interest.

Further, the Constitution, Article 3, Section 7 states:

The right of the people to information on matters of public concern shall be recognized. Access to official records, and to documents and papers pertaining to official acts, transactions, or decisions, as well as to government research data used as basis for policy development, shall be afforded the citizen, subject to such limitations as may be provided by law.

Under the Constitution, Congress may decrease but not increase the budget as proposed by the President. However, it is now accepted practice that Congress may cut the appropriation for any program or project of the President's Budget, and use the pool of appropriation cuts to increase (augment) the budget of any proposed – or even new – items in the President's Budget. The increases are made through budget insertions, initiatives or amendments, which are known in the United States as "earmarks". What is inherently wrong in the current practice is the lack of transparency.

Along with earmarking, the practice of providing limited tax benefits and tariff benefits comprise the legislative power of focusing government efforts and reliefs on a particular person, agency, project or program. These activities involve costs and revenue repercussions to the general treasury and benefit only a limited sector of our society. Thus, they require a higher level of transparency to minimize, if not totally eliminate the risks of unprofessional motivation to our legislators.

This bill seeks to provide transparency and accountability in the earmark process, including in the proposals for limited tax benefits or tariff benefits.<sup>1</sup>

  
MIRIAM DEFENSOR SANTIAGO

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<sup>1</sup> This bill was originally filed in the Fourteenth Congress, Second Regular Session

Introduced by Senator Miriam Defensor Santiago

AN ACT  
TO PROVIDE TRANSPARENCY AND ACCOUNTABILITY IN THE LEGISLATIVE  
PROCESS

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

SECTION 1. *Short Title.* – This Act shall be known as the “Legislative Transparency and Accountability Act.”

SECTION 2. *Definition.* – For the purposes of this Act, the term –

- A. LEGISLATIVE BODY – means the Senate or the House of Representatives;
- B. LEGISLATOR – means a Senator or a Member of the House of Representative;
- C. PROPOSED LEGISLATION – means any bill or joint resolution (or an accompanying report) or in any conference report on a bill or joint resolution (including an accompanying joint explanatory statement of managers);
- D. CONGRESSIONAL EARMARK - means a provision or report language included primarily at the request of a Legislator providing, authorizing or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific locality or Congressional district, other than through a statutory or administrative formula-driven or competitive award process;
- E. LIMITED TAX BENEFIT – means:
  - 1. any revenue provision that—

- a. provides a tax deduction, credit, exclusion, or preference to a particular beneficiary or limited group of beneficiaries under the National Internal Revenue Code; and
  - b. contains eligibility criteria that are not uniform in application with respect to potential beneficiaries of such provision; or
2. any tax provision which provides one beneficiary temporary or permanent transition relief from a change to the National Internal Revenue Code; and
- F. LIMITED TAX BENEFIT – means a provision modifying the Tariff and Customs Code in a manner that benefits a particular or limited group of entities.

SECTION 3. *Prohibition on Buying Votes* – A Legislator may not condition the inclusion of language to provide funding for a congressional earmark, a limited tax benefit, or a limited tariff benefit in any proposed legislation on any vote cast by another Legislator.

SECTION 4. *Additional Requirements for Congressional Earmarks, Limited Tax Benefits and Limited Tariff Benefits.* –

A. A Legislator who requests a congressional earmark, a limited tax benefit, or a limited tariff benefit in any proposed legislation shall provide a written statement to the chairman and other members of the committee of jurisdiction, including--

1. the name of the Legislator;
2. in the case of a congressional earmark, the name and address of the intended recipient or, if there is no specifically intended recipient, the intended location of the activity;
3. in the case of a limited tax or tariff benefit, identification of the individual or entities reasonably anticipated to benefit, to the extent known to the Legislator;
4. the purpose and general program description of such congressional earmark or limited tax or tariff benefit; and

1           5. a declaration under oath that the Legislator and his/her spouse and their  
2           relatives within fourth degree of consanguinity has no financial interest in  
3           such congressional earmark or limited tax or tariff benefit.

4           B. Each committee shall maintain the written statements transmitted under paragraph

5           (A). The written statements transmitted under paragraph (A) for any congressional  
6           earmarks, limited tax benefits, or limited tariff benefits included in any measure  
7           reported by the committee or conference report filed by the chairman of the  
8           committee or any subcommittee thereof shall be published in a searchable format on  
9           the committee's or the legislative body's website within 48 hours after receipt on such  
10          information but not less than 24 hours before its consideration.

11          C. The Department of Budget and Management and the Department of Finance shall  
12          also publish concurrently in their website a copy of the proposed legislation and the  
13          accompanying written statements from the Legislators.

14          SECTION 5. *Prohibition on Consideration.* – No proposed legislation that contains an  
15          earmark shall be considered unless the proposed legislation includes the written statement from  
16          the Legislator as provided in Section 4.

17          SECTION 6. *Prohibition on Advocating Congressional Earmarks, Limited Tax Benefits*  
18          *and Limited Tariff Benefits on Which There Exists Financial Interest.* – No Legislator may  
19          advocate to include a Congressional Earmark, Limited Tax Benefit and Limited Tariff Benefit in  
20          any proposed legislation if the Legislator and his/her spouse and their relatives within fourth  
21          degree of consanguinity has a financial interest in such Congressional Earmark, Limited Tax  
22          Benefit and Limited Tariff Benefit.

23          SECTION 7. *Separability of Congressional Earmarks, Limited Tax Benefits and Limited*  
24          *Tariff Benefits.* – A Legislator may withdraw his request for Congressional Earmark, Limited  
25          Tax or Tariff Benefit anytime before his legislative body considers the proposed legislation for  
26          the final approval. If any such Congressional Earmark, Limited Tax or Tariff Benefit is so

1 withdrawn, the remainder of the proposed legislation or the provisions not otherwise affected  
2 shall remain valid and subsisting.

3 SECTION 8. *Separability Clause.* – If any provision or part hereof, is held invalid or  
4 unconstitutional, the remainder of the law or the provision not otherwise affected shall remain  
5 valid and subsisting.

6 SECTION 9. *Repealing Clause.* – Any law, presidential decree or issuance, executive  
7 order, letter of instruction, administrative order, rule or regulation contrary to or is inconsistent  
8 with the provision of this Act is hereby repealed, modified, or amended accordingly.

9 SECTION 10. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its  
10 publication in at least two (2) newspapers of general circulation.

11 Approved,