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	SENATE S. No. 2653	. NCCEIV	FD IJY	Æ

Introduced by Senator Miriam Defensor Santiago

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. This is in response to reports of, and concern over, alleged illegalities or irregularities in the congressional earmarks or insertions in the 2008 Budget.

MIRIAM DEFENSOR SANTIAGO

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

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SENATE S. No. **2653**

Introduced by Senator Miriam Defensor Santiago AN ACT 1 TO PROVIDE TRANSPARENCY AND ACCOUNTABILITY IN THE LEGISLATIVE 2 3 PROCESS 4 5 Be it enacted by the Senate and the House of Representatives of the Philippines in 6 Congress assembled: 7 SECTION 1. Short Title. - This Act shall be known as the "Legislative Transparency and 8 Accountability Act of 2008." 9 SECTION 2. Definition. - For the purposes of this Act, the term -A. LEGISLATIVE BODY – means the Senate or the House of Representatives; 10 B. LEGISLATOR – means a Senator or a Member of the House of Representative; 11 C. PROPOSED LEGISLATION - means any bill or joint resolution (or an 12 accompanying report) or in any conference report on a bill or joint resolution 13 (including an accompanying joint explanatory statement of managers); 14 15 D. CONGRESSIONAL EARMARK - means a provision or report language included 16 primarily at the request of a Legislator providing, authorizing or recommending a specific amount of discretionary budget authority, credit authority, or other 17 spending authority for a contract, loan, loan guarantee, grant, loan authority, or 18 other expenditure with or to an entity, or targeted to a specific locality or 19 20 Congressional district, other than through a statutory or administrative formuladriven or competitive award process; 21 E. LIMITED TAX BENEFIT - means: 22

1. any revenue provision that—

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1	a. provides a tax deduction, credit, exclusion, or preference to a
2	particular beneficiary or limited group of beneficiaries under the
3	National Internal Revenue Code; and
4	b. contains eligibility criteria that are not uniform in application with
5	respect to potential beneficiaries of such provision; or
6	2. any tax provision which provides one beneficiary temporary or permanent
7	transition relief from a change to the National Internal Revenue Code; and
8	F. LIMITED TAX BENEFIT – means a provision modifying the Tariff and Customs
9	Code in a manner that benefits a particular or limited group of entities.
10	SECTION 3. Prohibition on Buying Votes – A Legislator may not condition the inclusion
11	of language to provide funding for a congressional earmark, a limited tax benefit, or a limited
12	tariff benefit in any proposed legislation on any vote cast by another Legislator.
13	SECTION 4. Additional Requirements for Congressional Earmarks, Limited Tax Benefits
14	and Limited Tariff Benefits. –
15	A. A Legislator who requests a congressional earmark, a limited tax benefit, or a limited
16	tariff benefit in any proposed legislation shall provide a written statement to the
17	chairman and other members of the committee of jurisdiction, including
18	1. the name of the Legislator;
19	2. in the case of a congressional earmark, the name and address of the intended
20	recipient or, if there is no specifically intended recipient, the intended location
21	of the activity;
22	3. in the case of a limited tax or tariff benefit, identification of the individual or
23	entities reasonably anticipated to benefit, to the extent known to the
24	Legislator;
25	4. the purpose and general program description of such congressional earmark or
26	limited tax or tariff benefit; and

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

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- B. Each committee shall maintain the written statements transmitted under paragraph
 (A). The written statements transmitted under paragraph (A) for any congressional
 earmarks, limited tax benefits, or limited tariff benefits included in any measure
 reported by the committee or conference report filed by the chairman of the
 committee or any subcommittee thereof shall be published in a searchable format on
 the committee's or the legislative body's website within 48 hours after receipt on such
 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

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withdrawn, the remainder of the proposed legislation or the provisions not otherwise affected
 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,

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