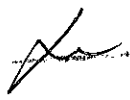


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SENATE

P.S. Res. No. 1564

RECEIVED BY: 

Introduced by Senator Francis N. Pangilinan

**RESOLUTION EXPRESSING THE SENSE OF THE SENATE THAT
THE COMMISSION ON ELECTIONS SHOULD FILL THE VACANCY IN THE SENATE
CREATED UPON THE ASSUMPTION OF SENATOR BENIGNO SIMEON AQUINO III
OF THE PRESIDENCY OF THE REPUBLIC OF THE PHILIPPINES BY PROCLAIMING
THE 13TH PLACER IN THE SENATORIAL ELECTIONS**

WHEREAS, Article VI, Section 2 of the Constitution provides that the Senate shall be composed of 24 Senators who shall be elected at large;

WHEREAS, Republic Act No. 7166 provides that a permanent vacancy in the Senate at least one (1) year before the expiration of the term shall be filled by a special election simultaneously held with the succeeding regular elections;

WHEREAS, on May 10, 2010, synchronized national and local elections were conducted to elect candidates to various government posts, including the Office of President of the Republic of the Philippines, and members of the Philippine Senate;

WHEREAS, according to the latest partial unofficial tally of the Commission on Elections (COMELEC), based on direct electronic transmissions from 90.26% of the clustered precincts nationwide, it appears that Senator Benigno Simeon Aquino III will emerge as the probable winner in the Presidential race, having received 13,842,049 votes, or over 5 million votes over his closest rival;

WHEREAS, in the event Senator Aquino is elected President, his assumption of said office will create a vacancy in the Senate, since he was elected Senator in 2007, and is set to serve until 2013;

WHEREAS, in the case of the vacancy created by the presumptive election of Senator Aquino as President of the Republic of the Philippines, it will not be possible to hold such special election simultaneously with the next succeeding regular elections as these will take place in 2013, or after his Senate term has already expired;

WHEREAS, the apparent solution to this dilemma is to effectively consider the May 10, 2010 Senatorial Elections as the special election necessary to fill up the possible vacancy created by the election of Senator Aquino as President;

WHEREAS, this will ensure compliance with the constitutional requirement that the Senate be composed of 24 Senators, while at the same time avoiding the expense, inconvenience, and delay of another, separate special election.;

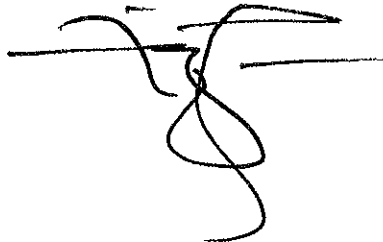
WHEREAS, in *Tolentino vs. COMELEC*, the Supreme Court held that the COMELEC's decision to proclaim the candidate receiving the 13th highest number of votes as a Senator during the 2001 national elections, to fill in the vacancy created by the appointment of then Senator Teofisto Guingona, Jr. as Vice President, was valid;

WHEREAS, *further*, it was recognized that the voters are charged with the knowledge of the circumstances surrounding the elections and, as such, are deemed to have been given "statutory notice" that they would be electing a 13th Senator to fill the vacancy in the Senate.

WHEREAS, the same general principle can be applied to the present situation, given that the voters were aware that by electing Senator Aquino as President, they would be creating a vacancy in the Senate, and consequently, they would also be choosing a 13th Senator to complete the remaining three (3) years in his term;

RESOLVED, to express, as it hereby expresses, the sense of the Senate, that the Commission on Elections should fill the vacancy in the Senate created upon the assumption of Senator Benigno Simeon Aquino III of the Presidency of the Republic of the Philippines by proclaiming the 13th placer in the May 10, 2010 Senatorial Elections.

ADOPTED,

A handwritten signature in black ink, consisting of a series of loops and flourishes, positioned below the text.