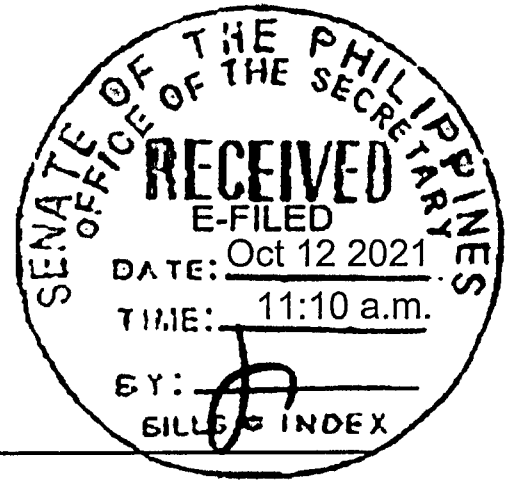


EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Third Regular Session)



SENATE

P.S. Res. No. 931

Introduced by SENATOR LEILA M. DE LIMA

RESOLUTION

EXPRESSING THE SENSE OF THE SENATE CONDEMNING THE 4 OCTOBER 2021 MEMORANDUM FROM THE EXECUTIVE SECRETARY DIRECTING ALL OFFICIALS AND EMPLOYEES OF THE EXECUTIVE DEPARTMENT TO NO LONGER APPEAR OR ATTEND THE SENATE BLUE RIBBON COMMITTEE HEARINGS ON THE 2020 AUDIT REPORT OF THE COMMISSION ON AUDIT FOR BEING VIOLATIVE OF THE SENATE'S POWER OF LEGISLATIVE INQUIRY AND THE PEOPLE'S RIGHT TO INFORMATION

1 WHEREAS, Article VI, Section 21 of the Constitution provides that “[t]he
2 Senate or the House of Representatives or any of its respective committees may
3 conduct inquiries in aid of legislation in accordance with its duly published rules of
4 procedure”;

5 WHEREAS, on 14 September 2021, President Rodrigo Duterte, in his public
6 address, acknowledged the authority and power of the Senate to investigate in aid of
7 legislation. However, he claimed that some resource persons, especially those coming
8 from the Executive Department, attended the hearings for hours but were not given a
9 chance to give their testimonies;¹

10 WHEREAS, in the same address, he said, “this time, I will require every Cabinet
11 member to clear with me any invitation and if I think, that he will be called for *walang*
12 *silbi* [no purpose] except to harass, to be berated in front of the republic, *eh hintuin ko*
13 *na yan at pagbawalan ko na* [I will bar them from attending]”;²

¹ Bordey, Hana. GMA News Online. *Duterte bars Cabinet execs from attending Senate Pharmally probe sans clearance*. (14 September 2021). Retrieved from: <https://www.gmanetwork.com/news/news/nation/803207/duterte-bars-cabinet-execs-from-attending-senate-pharmally-probe-sans-clearance/story/>

² *Ibid.*

1 WHEREAS, on 4 October 2021, Executive Secretary Salvador Medialdea issued
2 a Memorandum addressed to all heads of departments, agencies, offices, and
3 instrumentalities of the government, government owned or controlled corporations
4 and government financial institutions;

5 WHEREAS, said Memorandum, provides that “the President has DIRECTED
6 all officials and employees of the Executive Department to no longer appear before or
7 attend the ... Senate Blue Ribbon Committee hearings effective immediately. Instead,
8 they shall focus all their time and effort on the implementation of measures to address
9 the current State of Calamity on account of COVID-19, and in carrying out their other
10 functions.”;

11 WHEREAS, ironically, the Memorandum also reminds all officials and
12 employees of the Executive Department “to perform their functions in accordance with
13 the Constitution and laws, and observe utmost responsibility, integrity and efficiency”;

14 WHEREAS, as a result of the said Memorandum, officials from the Executive
15 Department did not attend the Blue Ribbon Committee hearing on 5 October 2021.
16 Among those notably absent were Health Secretary Francisco Duque III and DBM
17 officer-in-charge Jasonmer Uayan. The chief implementer of the country's pandemic
18 response, Carlito Galvez Jr., also skipped the hearing;³

19 WHEREAS, the absence of those executive officials appeared to have
20 encouraged Atty. Christopher Lloyd Lao to likewise skip the same hearing, even
21 though he is no longer part of the Executive Department;⁴

22 WHEREAS, the 4 October 2021 Memorandum is replete with constitutional
23 infirmities. Foremost of which is the violation of the authority of the Senate to conduct
24 inquiries in aid of legislation;

25 WHEREAS, in the case of *Senate vs. Ermita* (G.R. No. 169777, April 20, 2006),
26 the Supreme Court stated that, “[u]ltimately, the power of Congress to compel the
27 appearance of executive officials under Section 21 and the lack of it under Section 22
28 find their basis in the principle of separation of powers. **While the executive
29 branch is a co-equal branch of the legislature, it cannot frustrate the**

³ Perez-Rubio, Bella. Philstar.com. DOH, DBM execs skip Senate hearing after Duterte formally bars them from attending. (5 October 2021). Retrieved from: <https://www.philstar.com/headlines/2021/10/05/2131987/doh-dbm-exec-skip-senate-hearing-after-duterte-formally-bars-them-attending>

⁴ *Ibid.*

1 **power of Congress to legislate by refusing to comply with its demands for**
2 **information”;**⁵

3 WHEREAS, the interplay between the Department of Health (DOH) and the
4 Department of Budget and Management (DBM) in the procurement of apparently
5 overpriced goods under the Bayanihan Act is a clear and legitimate issue that
6 necessitates legislative intervention: from investigation to corrective legislation;

7 WHEREAS, the access to information is at the very heart of the proper exercise
8 of legislative power, for it is only when the information is available and accurate, that
9 the appropriate laws are enacted. From the national budget to private bills, public
10 interests are not served if Congress is denied access to information from the very
11 government that is mandated to enforce the laws;

12 WHEREAS, in the case of *Valmonte v. Belmonte* (G.R. No. 74930, February 13,
13 1989), the Supreme Court stated that “[i]t is in the interest of the State that the
14 channels for free political discussion be maintained to the end that the government
15 may perceive and be responsive to the people’s will. Yet, this open dialogue can be
16 effective only to the extent that the citizenry is informed and thus able to formulate its
17 will intelligently. Only when the participants in the discussion are aware of the issues
18 and have access to information relating thereto can such bear fruit”;

19 WHEREAS, it is imperative that this Senate assert its constitutional powers and
20 condemn the practices that disrespect and weaken our institution, lest we establish a
21 precedent that would diminish this chamber’s very role in our democracy;

22 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE, to express the sense
23 of the Senate condemning the 4 October 2021 Memorandum from the Executive
24 Secretary directing all officials and employees of the Executive Department to no
25 longer appear or attend the Senate Blue Ribbon Committee hearings on the 2020
26 Audit Report of the Commission on Audit for being violative of the Senate’s power of
27 legislative inquiry and the people’s right to information.

Adopted,


BEILA M. DE LIMA

⁵ Emphasis added.