



Republic of the Philippines
SENATE
Pasay City

JOURNAL

SESSION NO. 76
TUESDAY, 30 MAY 2023

NINETEENTH CONGRESS
FIRST REGULAR SESSION

PREPARED BY THE
LEGISLATIVE JOURNAL SERVICE
SENATE OF THE PHILIPPINES

SESSION NO. 76
Tuesday, May 30, 2023

CALL TO ORDER

At 3:02 p.m., Tuesday, May 30, 2023, the Senate President, Hon. Juan Miguel "Migz" F. Zubiri, called the session to order.

PRAYER

Sen. Ronald M. Dela Rosa led the prayer, to wit:

In today's gospel, Lord, You are quick to remind us of what Christian leadership means and what it demands.

Today, You speak to all of us in the halls of this Senate as You spoke to Peter: "In truth, I tell you, there is no one who has left house, brothers, sisters, mother, father, children, or land for My sake and for the sake of the gospel, who will not receive a hundred times as much houses, brothers, sisters, mothers, children, and land and persecutions, too, now in this present time, and in the world to come eternal life. Many who are first will be last, and the last, first."

We thank You, Lord, for this privilege to serve You by serving our people. Keep us in Your grace that we may always remember that You have told us to prioritize You and others above ourselves.

It is certainly not an easy battle. Sometimes taking up our cross as well as the crosses of those who depend on us feels like a burden too heavy to bear, but we continue to hold on to Your love and mercy, trusting that we can do all things because it is You who strengthens us.

We pray, Lord, that You continue to bless the work of our hands and purify the desires of our hearts. Bless our work so that they reflect nothing but Your goodness.

Purify our hearts so that we desire nothing but to glorify You alone.

Fill us with Your Spirit. Embolden us with the courage to lead by putting ourselves last and putting You first.

These we ask in Your mighty Name.

In the name of the Father, and of the Son, and of the Holy Spirit. Amen.



ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS

Senate President Zubiri acknowledged the presence in the gallery of the following guests:

- Dr. Maya Rumantir and Hon. Abdul Hakim, members of the Indonesian Regional Representative Council; and
- Minister Dodo Sudradjat of the Indonesian Embassy, as well as Minister Counsellor Partogi Samosir with his daughter Kiara and staff.

He then welcomed the guests to the Senate.

SUSPENSION OF SESSION

With the permission of the Body, the session was suspended.

It was 3:07 p.m.

RESUMPTION OF SESSION

At 3:16 p.m., the session was resumed.

ROLL CALL

Upon direction of the Senate President, the Deputy Secretary for Legislation, Atty. Edwin B. Bellen, called the roll, to which the following senators responded:

Angara, S.	Marcos, I. R.
Binay, M. L. N. S.	Padilla, R. C.
Dela Rosa, R. B. M.	Pimentel III, A. K.
Ejercito, J. V. G.	Poe, G.
Escudero, F. J. G.	Revilla Jr., R. B.
Estrada, J.	Tolentino, F. T. N.
Gatchalian, W.	Tulfo, R. T.
Go, C. L. T.	Villanueva, J.
Hontiveros, R.	Villar, C. A.
Lapid, M. L. M.	Villar, M. A.
Legarda, L.	Zubiri, J. M. F.

With 22 senators present, the Chair declared the presence of a quorum.

Senators Cayetano (P) and Cayetano (A) arrived after the roll call.

ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS

Senator Villanueva acknowledged the presence in the gallery of the following guests:

- Gov. Edcel Greco A. B. Lagman of Albay;
- Rep. Emmarie Ouano-Dizon of Mandaue, Cebu;
- Mayor Teresa “Nene” Alegado of Consolacion, Cebu;
- Gov. Sharee Ann Tee Tan-Delos Santos, First District Rep. Stephen James Tee Tan, and Second District Rep. Reynolds Michael Tee Tan of Samar;
- Mayor Jose Paolo Teves III of Baras, Catanduanes;
- Mayor Rogelio C. Yeke, together with Mr. Romero Navaja, Engr. Wyman Lubido, Engr. Judith Luis, Atty. Paul Vincent Villegas, and Mr. Alvin Domingcil of San Fernando, Bukidnon;

- Vice Gov. Bai Fatima Ainee Sinsuat and Mayor Datu Lester Sinsuat of Datu Odin Sinsuat, Maguindanao del Norte;
- Mayor Marcos Mamay of Nunungan, Lanao del Norte;
- Former Mayor Amadeo Gregorio “Bobom” Perez of Urdaneta, Pangasinan and wife;
- Mayor Randy Salamat and Vice Mayor Madona Mojica-Pel of Alfonso, Cavite;
- Gov. Edwin Jubahib of Davao del Norte;
- BSP Gov. Felipe M. Medalla; and
- DBM Sec. Amenah “Mina” Pangandaman.

Senate President Zubiri welcomed the guests to the Senate.

DEFERMENT OF THE APPROVAL OF THE JOURNAL

Upon motion of Senator Villanueva, there being no objection, the Body deferred the consideration and approval of the Journal of Session No. 75 (May 29, 2023) to a later hour.

REFERENCE OF BUSINESS

The Deputy Secretary for Legislation, Atty. Edwin B. Bellen, read the following matters and the Chair made the corresponding referrals:

BILLS ON FIRST READING

Senate Bill No. 2253, entitled

AN ACT MANDATING ALL GOVERNMENT AGENCIES TO POST AND DISPLAY NATIONAL SYMBOLS AND FIGURES TO REINSTILL FILIPINO YOUTH AWARENESS AND PATRIOTISM

Introduced by Senator Villar (M)

To the Committees on Youth; Civil Service, Government Reorganization and Professional Regulation; and Finance

Senate Bill No. 2254, entitled

AN ACT ENABLING THE COMMISSION ON ELECTIONS TO ESTABLISH AN AUTOMATED AND ONLINE SYSTEM FOR VOTER REGISTRATION, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES

Introduced by Senator Villar (M)

To the Committees on Electoral Reforms and People’s Participation; Science and Technology; and Finance

Senate Bill No. 2255, entitled

AN ACT TO ESTABLISH A GRANT PROGRAM TO PROVIDE VISION CARE TO CHILDREN

Introduced by Senator Villar (M)

To the Committees on Health and Demography; and Finance



Senate Bill No. 2256, entitled

AN ACT PROVIDING AN AMBER ALERT SYSTEM TO PREVENT KIDNAPPING
OF CHILDREN

Introduced by Senator Villar (M)

**To the Committees on Women, Children, Family Relations and Gender Equality;
Local Government; and Finance**

Senate Bill No. 2257, entitled

AN ACT STRENGTHENING THE ADOPTION OF STRAY AND IMPOUNDED
ANIMALS PROVIDING INCENTIVES

Introduced by Senator Villar (M)

**To the Committees on Agriculture, Food and Agrarian Reform; Local Government;
and Ways and Means**

Senate Bill No. 2258, entitled

AN ACT ESTABLISHING PROGRAMS AND SERVICES FOR THE SUPPORT OF
THE MENTAL HEALTH AND WELLNESS OF TEACHERS, PROVIDING FUNDS
THEREFOR, AND FOR OTHER PURPOSES

Introduced by Senator Villar (M)

To the Committees on Basic Education; Health and Demography; and Finance

Senate Bill No. 2259, entitled

AN ACT PROMOTING AWARENESS FOR THE INTELLECTUAL PROPERTY
RIGHTS OF INDEPENDENT ARTISTS, ESTABLISHING PROGRAMS
PURSUANT THERETO, AND PROVIDING FUNDS THEREFOR

Introduced by Senator Villar (M)

**To the Committees on Trade, Commerce and Entrepreneurship; Public Information
and Mass Media; and Finance**

Senate Bill No. 2260, entitled

AN ACT DECLARING ULOT RIVER IN THE MUNICIPALITY OF PARANAS,
PROVINCE OF SAMAR, AN ECOTOURISM DESTINATION

Introduced by Senator Marcos

**To the Committees on Tourism; Environment, Natural Resources and Climate
Change; and Finance**

Senate Bill No. 2261, entitled

AN ACT CONVERTING THE JOLO CIRCUMFERENTIAL ROAD IN THE
MUNICIPALITY OF JOLO, PROVINCE OF SULU, INTO A NATIONAL ROAD
AND APPROPRIATING FUNDS THEREFOR

Introduced by Senator Marcos

To the Committee on Rules

Senate Bill No. 2262, entitled

AN ACT CONVERTING THE CIRCUMFERENTIAL ROAD OF THE NINE (9) ISLAND BARANGAYS OF THE MUNICIPALITY OF DAPA, SURIGAO DEL NORTE, NAMELY, BAGAKAY, CABAWA, DAGOHOY, MONTSERRAT, SAN MIGUEL, STA. FELOMINA, CONSOLACION, SAN CARLOS, AND BUENAVISTA, INTO A NATIONAL ROAD AND APPROPRIATING FUNDS THEREFOR

Introduced by Senator Marcos

To the Committee on Rules

Senate Bill No. 2263, entitled

AN ACT DECLARING THE MINDANAO CIVIC CENTER COMPLEX LOCATED IN THE MUNICIPALITY OF TUBOD, PROVINCE OF LANA DEL NORTE, A SPORTS TOURISM DESTINATION AND APPROPRIATING FUNDS THEREFOR

Introduced by Senator Marcos

To the Committees on Tourism; Sports; and Finance

Senate Bill No. 2264, entitled

AN ACT MANDATING THE DEPARTMENT OF AGRICULTURE TO ESTABLISH A NATIONAL AGRICULTURAL CROP PROGRAM, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES

Introduced by Senator Dela Rosa

To the Committees on Agriculture, Food and Agrarian Reform; and Finance

RESOLUTIONS

Proposed Senate Resolution No. 640, entitled

RESOLUTION CONGRATULATING AND COMMENDING THE PHILIPPINE TEAM AND THEIR COACHING STAFF FOR BRINGING GREAT PRIDE AND HONOR TO THE COUNTRY WITH THEIR OUTSTANDING PERFORMANCE AT THE 32ND SOUTHEAST ASIAN GAMES, WINNING 58 GOLD MEDALS, 85 SILVER MEDALS, AND 117 BRONZE MEDALS

Introduced by Senator Villanueva

To the Committee on Rules

Proposed Senate Resolution No. 641, entitled

RESOLUTION DIRECTING THE APPROPRIATE SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE RISE OF UNREGISTERED AND UNAUTHORIZED ONLINE LENDING PLATFORMS AND THE ABUSIVE COLLECTION AND DEBT RECOVERY PRACTICES OF ONLINE LENDING COMPANIES

Introduced by Senator Villanueva

To the Committee on Banks, Financial Institutions and Currencies

Proposed Senate Resolution No. 642, entitled

RESOLUTION DIRECTING THE SENATE COMMITTEE ON TOURISM TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE IMPACT OF NATURAL AND MAN-MADE DISASTERS ON THE INTEGRITY OF CULTURAL HERITAGE SITES IN THE COUNTRY, IN LIGHT OF THE FIRE INCIDENT AT THE MANILA CENTRAL POST OFFICE, WITH THE END IN VIEW OF INTEGRATING CULTURAL HERITAGE SITES CONSERVATION INTO THE DISASTER RISK REDUCTION AND MANAGEMENT PLAN

Introduced by Senator Binay

To the Committees on Culture and the Arts; and Tourism

Proposed Senate Resolution No. 643, entitled

RESOLUTION DIRECTING THE SENATE COMMITTEE ON WOMEN, CHILDREN, FAMILY RELATIONS AND GENDER EQUALITY TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, INTO THE CEASE AND DESIST ORDER ISSUED BY THE DEPARTMENT OF SOCIAL WELFARE AND DEVELOPEMENT (DSWD) AGAINST GENTLE HANDS, INCORPORATED (GHI) ORPHANAGE THAT RESULTED IN THE PULLING OUT OF THE WARDS OF GHI FROM ITS FACILITY WITH THE END IN VIEW OF REVIEWING CURRENT POLICIES ON ORPHANAGES AND CHILD RESIDENTIAL CARE FACILITIES IN THE PHILIPPINES TO ENSURE ADHERENCE TO THE BEST INTERESTS OF THE CHILD

Introduced by Senator Hontiveros

To the Committee on Women, Children, Family Relations and Gender Equality

Proposed Senate Resolution No. 644, entitled

RESOLUTION URGING THE SENATE COMMITTEE ON WAYS AND MEANS TO INQUIRE, IN AID OF LEGISLATION, ON THE CIRCUMSTANCES SURROUNDING THE P50 BILLION TAX FRAUD PERPETRATED BY BREENTERPRISE INTERNATIONAL, INC. AGAINST THE REPUBLIC OF THE PHILIPPINES, WITH THE END IN VIEW OF LAYING DOWN STRICTER MEASURES TO SAFEGUARD AND PROTECT THE SECURITY OF ONLINE TRANSACTIONS

Introduced by Senator Tolentino

To the Committee on Ways and Means

Proposed Senate Resolution No. 645, entitled

RESOLUTION DIRECTING THE APPROPRIATE SENATE COMMITTEE TO CONDUCT AN INVESTIGATION, IN AID OF LEGISLATION, ON THE CIRCUMSTANCES WHICH PROMPTED THE DEPARTMENT OF SOCIAL WELFARE AND DEVELOPMENT (DSWD) TO ISSUE A CEASE AND DESIST ORDER AGAINST GENTLE HANDS INC. WITH THE END IN VIEW OF AMENDING OR PASSING LAWS WHICH WILL STRENGTHEN THE SPECIAL PROTECTION GRANTED TO CHILDREN BY THE 1987 CONSTITUTION AND OTHER VARIOUS LAWS

Introduced by Senator Pimentel III

To the Committee on Women, Children, Family Relations and Gender Equality

Proposed Senate Resolution No. 646, entitled

RESOLUTION EXPRESSING THE PROFOUND SYMPATHY AND SINCERE
CONDOLENCES OF THE SENATE OF THE PHILIPPINES ON THE DEATH
OF NUEVA VIZCAYA GOVERNOR CARLOS M. PADILLA

Introduced by Senator Villanueva

To the Committee on Rules

SENATE CONFEREES

Upon motion of Senator Villanueva, there being no objection, Senate President Zubiri designated the following to constitute the Senate panel in the bicameral conference committee on the disagreeing provisions of Senate Bill No. 2212 and House Bill No. 7751 (*Regional Specialty Centers Act*): Senator Go as chairman, and Senators Legarda and Hontiveros as members.

SUSPENSION OF SESSION

Upon motion of Senator Villanueva, the session was suspended.

It was 3:26 p.m.

RESUMPTION OF SESSION

At 3:31 p.m., the session was resumed.

COMMITTEE REPORT NO. 58 ON SENATE BILL NO. 2020 (Continuation)

Upon motion of Senator Villanueva, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 2020 (Committee Report No. 58), entitled

AN ACT ESTABLISHING THE MAHARLIKA INVESTMENT FUND, PROVIDING
FOR THE MANAGEMENT, INVESTMENT, AND USE OF THE PROCEEDS OF
THE FUND, AND FOR OTHER PURPOSES.

Senator Villanueva stated that the period of interpellations on the measure had been closed.

Upon motion of Senator Villanueva, there being no objection, the Body proceeded to the *turno en contra*.

Thereupon, the Chair recognized Senator Pimentel for his *turno en contra*.

TURNO EN CONTRA SPEECH OF SENATOR PIMENTEL

Senator Pimentel delivered the following *turno en contra* speech on Senate Bill No. 2020:

Thank you for the time this august Chamber is giving the Minority Leader to deliver his *turno en contra*.

Today, I rise before this august Chamber to deliver my *turno en contra* on the proposed measure, Senate Bill No. 2020, under Committee Report No. 58, "An Act Establishing the Maharlika Investment Fund, Providing for the Management, Investment, and Use of the Proceeds of the Fund, and for Other Purposes."

Under Section 75, Rule XXVII of our *Rules of the Senate*, it is provided that after the sponsor, subsequent speakers for or against a bill are allowed for debates on bills or other matters, provided that they are not on amendments. The sponsor of this Maharlika Bill has finished expressing the contents and purposes of the bill and now, this Representation who is vehemently against this measure, wishes to express his opposition thereto.

This measure is otherwise known as the Maharlika Investment Fund of 2023.

As Minority Leader in the Senate, I will not shirk away from my duty to constructively criticize all proposed measures that can adversely affect the future of our nation, which includes the youth, our children, and grandchildren.

This Representation is of strong belief that the establishment of the Maharlika Investment Fund is totally unjustified. Forcing it, therefore, presents significant risks and concerns that cannot be ignored. The MIF Bill will have far-reaching effects on our economy and the future of our country.

The MIF's promised land full of bread, honey, and wine may or may not happen. But what is certain is that the MIF will lead us to the road to debt, debt, and more debts, as if we are not yet swimming in an ocean of debt of more than P13 trillion. What is more certain in the midst of all these uncertainties to be brought about by the creation of the MIF is that the endless road to their promised land will be built with blood, sweat, and tears in the form of the hard-earned taxes paid by every Filipino.

Before I dwell more into that, I would like to bring to the attention of the Body a grave procedural error that this Chamber has committed. Having read the final version of the committee report more than once, I am more convinced now that the proper committee which the bill should have been referred to at the very start should have been the Committee on Government Corporations and Public Enterprises, not the Committee on Banks, Financial Institutions and Currencies. We have to correct this as the process is as important as the substance.

The bill is about the corporate formation of the Maharlika Investment Corporation. Corporate concepts dominate the proposed bill. There is hardly any banking concept that is mentioned in the bill.

Under Section 13, Rule X of the Senate *Rules*, the jurisdiction of the Committee on Banks, Financial Institutions and Currencies are all matters relating to "banks, financial institutions, government and private currencies, capital markets, mutual funds, securitization, coinage, and circulation of money." On the other hand, the jurisdiction of the Committee on Government Corporations and Public Enterprises is "all questions affecting government corporations, including all amendments to the charters, and the interests of the government in the different industrial and commercial enterprises' privatization."

The primary intention of the measure is to create a corporate body to be known as the Maharlika Investment Corporation (MIC). It does not directly involve matters relating to banks, financial institutions, government and private currencies, capital markets, mutual funds, securitization, coinage, and circulation of money. Its dealing with banks, financial institutions, *et cetera*, if at all, is a mere effect or consequence of its corporate purpose or existence.

The measure even states that the provisions of Republic Act No. 11232, as amended, also known as the Revised Corporation Code of the Philippines, which are not inconsistent with the measure, shall be applicable to the MIC. Corporate matters and principles are well scattered in the bill, and yet the banking concepts are nowhere to be found. This is clearly not a banking measure, but a bill creating a government-owned and -controlled corporation. We can still correct this basic mistake by recommitting the committee report not to the committee of origin, but to the correct committee, which is the Committee on Government Corporations and Public Enterprises, for it to conduct further hearings on the subject matter, taking into consideration, I hope, some of these suggestions which I will be mentioning in this speech.

There is also a recent development which is procedurally objectionable, based on our Constitution. The President has just sent to the Senate the presidential certification on the necessity of the immediate enactment of Senate Bill No. 2020. This is based on the power granted to the President under Article VI, Section 26(2) of the 1987 Constitution, which reads as follows: "No bill passed by either House shall become a law unless it has passed three readings on separate

days, and printed copies thereof in its final form have been distributed to its Members three days before its passage, except when the President certifies to the necessity of its immediate enactment to meet a public calamity or emergency.”

This has been a much-abused power by the Office of the President. He has even certified the national budget for the year 2023, a law which we consider and pass year in and year out at predictable periods of the year. And here we are again, facing a presidential certification of necessity or urgency when there is actually no public calamity or emergency right before our very eyes, which could be addressed by the Maharlika Bill. How could a fund with promised benefits to be felt 10 years to 20 years from now be the answer to an existing public calamity or emergency? That is a question that this Representation would want to be answered.

The existence of a public calamity or emergency is a constitutional requirement that should be taken seriously. If it is not present, then there should be no ground for a presidential certification.

I therefore urge the Senate to set aside the presidential certification for the Maharlika Bill for it is unconstitutional. Our three readings for this bill must be on three separate days in accordance with the Constitution.

The Origin of the Maharlika Proposal Remains a Mystery

Under the measure being considered, the Maharlika Investment Fund will swiftly take P75 billion from so-called “investible funds,” which are public funds and/or deposit liabilities; and later on come back for more to complete the P500 billion capitalization. This MIF can be insatiable. We have even given its board the power to increase the authorized capital stock (ACS), thereby allowing it to amend the law through executive or administrative action. This cannot be done.

Whose idea was the Maharlika Investment Fund? The origin of the MIF remains a mystery to us, to me. It was never mentioned during the presidential campaign, not in the SONA, and not even in the Medium-Term Fiscal Framework presentation. It was not even in the initial LEDAC list. So, the most logical question to ask is: “*Saan ba nanggaling ito?*” Is it possible that we are doing this as a favor to a businessman who has access to the ears of the powers that be, whose business or bottomline has been hit by the downturn in the world economy and, thus, would need a new client? We will hopefully know the identity of this big-time influencer in due time.

So, where did this idea really come from?

We have to start by examining the original versions filed.

Our earliest bill is House Bill No. 6398. The salient features of this bill are:

- The fund shall be sourced from the investible funds of the country’s top performing GFIs and from contributions of the National Government;
- The funds invested by the GFIs shall be exempt from any regulatory restrictions if invested solely in the MIF;
- The funding sources shall be the GSIS, to the tune of P125 billion; the SSS, to the tune of P50 billion; LBP, which is the Land Bank of the Philippines, P50 billion; DBP, the Development Bank of the Philippines, P25 billion; the National Government, P25 billion; BSP, our Bangko Sentral, 10% of foreign currency remittances of OFWs, and 10% of annual contributions of the business process outsourcing sector; the General or Supplemental Appropriations Act can also be a source of funding, and other sources like special assessments on natural resources, public borrowings, *et cetera*;
- The administrative and operational expenses is allowed to be 10% of the gross revenue of the immediately preceding year or its initial capitalization for the first year’s expenses;
- Compensation: The chairperson, the CEO, and the members of the board shall be entitled to honoraria and/or reasonable allowances, and/or per diem for each meeting actually attended, and shall be reimbursed for actual and reasonable expenses incurred in the performance of their duties and functions;
- Rewards and Incentives: The Board of Directors, officials, employees, and staff of the MIC shall be entitled to honoraria, performance bonus, or any similar performance-based compensation as may be determined by the Board, based on their sound judgment, taking into consideration, among others, the performance of the Fund, the performance of the individual employee or officer, and industry standards and practices;

- The MIC is exempted from RA 10149, (GOCC Governance Act of 2011), and from any and all forms and kinds and direct and indirect taxes, including output and input value-added taxes (VAT) and documentary stamp taxes (DST), assessments, fees, charges, customs or import duty or duties imposed by the national or local government;
- The MIF investment transactions shall be exempt from the provisions of RA 9184, which is the Government Procurement Act, and RA 10667, the Philippine Competition Act;
- The officers and employees of the MIC shall be exempt from Civil Service laws, rules and regulations. They shall likewise be exempt from the provisions of RA 6758, the Salary Standardization Act, and succeeding laws on salary standardization;
- Distribution of Net Profits: The MIC shall be exempt from RA 7656, or the Dividends Law of 1994. The Board of Directors shall have the discretion on how much shall be distributed as profits for each of the GFIs and how much thereof shall be carried to its surplus; and
- Appropriations: The amount of P25 billion was appropriated in the original bill to cover the initial contribution of the national government to the MIC to be sourced from funds actually available as certified by the National Treasurer.

Then followed House Bill No. 6608. Under this bill:

- Capitalization and Funding:
 - LBP: P50 billion;
 - DBP: P25 billion;
 - However, the founding GFIs shall be entitled to prudential and other regulatory reliefs, as may be determined by the BSP, to promote the financial soundness of these financial institutions while contributing to the overall objective of the MIF;
 - The security or debt instruments issued by the MIC to GFIs shall be guaranteed by the National Government (NG);
 - Other GFIs and GOCCs may be authorized to contribute to the MIF;
 - Subsequent annual contributions to the MIF shall be as follows:
 - BSP shall remit 100% of its dividends for the first two years;
 - Then BSP remits 50% to MIF and 50% to NG to fund the increase in the BSP's capitalization;
 - Thereafter, after completion of the BSP's capitalization, 100% of its dividends shall be remitted to the MIF;
 - Ten percent (10%) of gross gaming revenue streams created after the effectivity of this Act shall also be contributed by PAGCOR; and
 - Other sources such as royalties and/or special assessments on natural resources based on the fiscal regime to be implemented by the national government, proceeds from the privatization of government assets, and borrowings by the MIF.
- Administrative and operational expenses to be allowed is 2% of the funds managed. For the initial year, it is 2% of its initial capitalization;
- Rewards and incentives: The officials, employees, and staff of the MIC shall be entitled to honoraria, performance bonus, or any similar performance-based compensation as may be determined by the Board and as approved by the President of the Philippines, taking into consideration, among others, the performance of the Fund, the performance of the individual employee or officer, and industry standards and practices;
- Exemptions from the GOCC Governance Act of 2011:
 - Tax exemptions from local and national taxes, direct and indirect, imposed by the Local Government Code, the National Internal Revenue Code, *et cetera*.

- Importation of supplies and equipment by the MIC and MIF shall be exempt from customs duties under the Customs Modernization and Tariff Act (RA 10863); and
- There is also an exemption from the Government Procurement Reform Act (RA 9184), and from the Salary Standardization Act (RA 6758).
- Distribution of Net Profits:
 - 25% of the net profits shall be directly distributed in the form of poverty subsistence subsidies to families falling below the poverty threshold. The remainder shall be remitted to the NG to be earmarked for social welfare programs and projects, excluding infrastructure projects; and
 - It is worthwhile to note that there is no distribution of net profits to any other GFI or private investor in that said second House bill.

The initial bill in the House and even the one filed in the Senate all call the Maharlika Fund a "Sovereign Wealth Fund (SWF)," directly in the Explanatory Note, or indirectly by retaining the section, entitled "Compliance with Santiago Principles." However, it is clear that the Maharlika Fund is not a Sovereign wealth fund or no longer an SWF in the current version.

Let us trace the story and the history of the early real SWFs.

Sovereign wealth funds are defined by the International Federation of Sovereign Wealth Funds (IFSWF) as "Special-purpose investment funds or arrangements, owned by the general government, created by the general government for macroeconomic purposes, SWFs hold, manage, or administer assets to achieve financial objectives, and employ a set of investment strategies which include investing in foreign financial assets."

Where does the money for SWFs come from in the first place?

1. Budget surplus;
2. Trade surplus; or
3. Other sources of revenue like a high price for a commodity or a natural resource.

Oil-rich countries like Norway, Russia, and many in the Middle East have put up their SWF from their money from oil sales.

The first country in the world to establish SWF in modern times is Kuwait, which established its fund in 1953 right after they discovered oil. They invested their excess oil revenues. Abu Dhabi funds and Saudi Arabia funds also established an SWF backed up by their oil wealth and oil sales.

Norway struck oil in its exclusive economic zone (EEZ) in the Ekofisk field in 1969. It took Norway some time to come up with the idea of an SWF to address some of the problems it encountered with its sudden oil wealth. It took Norway around 12 years of discussion before establishing its SWF. All political parties agreed to its formation. The Norway SWF is supervised by the Central Bank and the Parliament supervises the choice of the managers. The fund invests very conservatively and only outside of Norway. If there is a "gold standard" in SWFs, then it is Norway's SWF.

I am not asking for 12 years to discuss the Maharlika Fund as that might be too long. But definitely, such a divisive, incomplete, and an unjustified idea needs more than 12 days, 12 weeks, or even 12 months of discussion. Time for discussion, not mere time that it is pending—*magkaiba po iyan*. Also, all political parties and the sectors of our society must be consulted and must be heard. We are not looking for unanimity in the decision-making process. All we want is inclusivity in the process itself. Also, it might be wise to subject this bill, should it become a law, to a referendum for approval or rejection by the Filipino people.

China, Hong Kong, and Singapore also have SWFs but they got their funding from their excess reserves from the Asian export boom because they exported more than they imported. In short, they had and continue to have trade surpluses.

Singapore's Temasek managed the "windfall" it got from the properties left behind by Singapore's former colonizer, Great Britain.

In the United States, the State of Alaska has the Permanent Fund which was created in the 1970s when they struck oil, which led to the significant increase in their revenue.

Chile's SWF is funded by the sale of mineral resources, primarily of copper, as Chile is the world's largest copper producer. Botswana's SWF is backed up by the sale of diamonds.

Some are arguing that the concept of an SWF has "evolved" and that countries without budget surplus, without trade surplus, without windfall earnings from the fortuitous discovery of an important commodity have or can put up their own SWF. Since there is no surplus, then these "evolved SWFs" most likely got their funding from debts. Debts, d-e-b-t-s. *Utang*.

One famous "evolved SWF" is Malaysia's 1MDB. This SWF lost an estimated \$4.5 billion but is still remembered for a Hollywood movie it produced, "The Wolf of Wall Street," which is a nice movie, ironically, about financial fraud. It was \$4.5 billion lost by the Malaysian people, one movie gained in Hollywood. And they raised their capital through bonds, or in plain language, debt.

The person who used his political connections in order to run 1MDB is still at large and is reported to already have left Malaysia and is in hiding. The political big boss who ran the 1MDB show was found guilty on multiple charges of corruption and money laundering.

Truth be told, during my breaks from studying this Maharlika proposal, I watched that movie "The Wolf of Wall Street."

In the movie, which was based on the story of a true-to-life financial criminal, swindler, and scammer, we see this scammer enjoying a lavish lifestyle involving fancy cars, yachts, helicopters, apartments in New York, bank accounts in Switzerland, and \$26,000 dinners, *et cetera*, all funded by stealing other people's money.

In real life concerning 1MDB, the brains behind 1MDB also enjoyed that lavish lifestyle I just mentioned: parties galore, fancy cars, yachts, helicopters, hotels in Los Angeles, USA, apartments in New York, bank accounts all over the world. If "The Wolf of Wall Street" enjoyed \$26,000 dinners, the brains behind 1MDB enjoyed \$25,000 bottles of champagne.

Iyan lamang po ang kaibahan nila na nakita ko. Kinawawa ng 1MDB ang Malaysia. Pero dito sa Pilipinas, parang gusto pa nating gumaya at magkaroon ng sarili nating 1MDB. Anong klaseng laro itong nilalaro natin, mga kababayan?

The Philippines' Version of the SWF

With no surplus from oil discovery or from trade activities and no windfall profit of any kind, the Philippines has no justifiable reason to form and enter into the world of SWFs and even investment funds. It is very obvious from the abovementioned list of nations that established SWFs that they funded them through budget surplus, trade surplus, and income from in-demand commodities such as oil.

The Philippines has no surplus budget or trade.

Our perennial budget deficit is proof that we do not have a budget surplus. Our trading goods deficit is around US\$40 billion to US\$60 billion a year. Our favorable trade in services balance is not enough to offset the massive trade in goods deficit.

According to the Senate Economic Planning Office (SEPO), our country has been in a perennial budget deficit. The only exception were the years 1994 to 1997 during the administration of Pres. Fidel V. Ramos, but these were not significant budget surpluses.

In the past 10 years, the average annual fiscal deficit amounted to P652.7 billion, or an average fiscal deficit-to-GDP ratio of 3.6%. To date, the highest deficit-to-GDP ratio was incurred in 2021, equivalent to 8.6%, no doubt made worse by the COVID-19 pandemic. Hence, the running average must now be greater than the 3.6% I mentioned.

Further, we have difficulty balancing our budget because our total revenue, both tax and non-tax, cannot answer for our expenditures. For example, in 2022, revenue was just in the amount of P3.5 trillion, while the budget-authorized expenditures were in the amount of P5.02 trillion.

In addition to the budget deficit is our trade deficit, which was recorded at US\$58.3 billion for 2022, which was more than double the \$24.6 billion recorded in 2020. It is not only our debt which is doubling, our trade deficit is too.

All of these deficits led or forced us to borrow. Our national debt now stands at P13.75 trillion as of end-February 2023. This means that each Filipino already has a debt in the amount of P120,000—even the newborn.

Under the Maharlika measure, we give the MIC the power to incur debt. In short, we want to authorize another entity to incur debt in the name of the Filipino people. *Parang hindi pa tayo nagsawang umutang.*

The national government debt-to-GDP ratio is an indicator of a country's economic health and its ability to repay its debt.

Last year, it was reported that we have a national government debt-to-GDP ratio of 62.1%. It now surpasses the 60% threshold considered as manageable by multilateral lenders for developing countries. In fact, the Philippine Institute for Development Studies (PIDS) estimated our debt-to-GDP ratio to peak as high as 66.8% by 2023 and 2024, before falling to 65.7% by 2026. This is an indication that we are not actually near the target of less than 60% by 2025.

With these figures, data, and metrics in mind, we see that our country is now at greater risk of defaulting on its debt. And yet here we are wanting to establish a Maharlika Investment Corporation with the power to incur more debt.

The road to hell is filled with good intentions, including this knowingly contracted unnecessary debt.

While we are a country blessed with abundant natural resources, our natural resources remain undeveloped. It is important to note that the Maharlika Bill does not categorically and explicitly impose or even suggest any revenue-generating measure on mining and the extraction and exploitation of our God-given natural resources. So, the intriguing question is, why?

The P75 billion taken from the LANDBANK and the DBP are not new money, new wealth, or surplus funds with a still unknown role in public financing. These are part of so-called "investible funds" already in the possession, balance sheets, and financial statements of these banks. *Nababagalan lamang daw tayo sa kanilang paggamit sa mga pondong ito.*

We criticized them for not being bolder risk-takers. But if their charters and the BSP regulations prevent them from doing these, then why are we not calling for the amendment of these regulations and give them more leeway or elbow room?

The solution being proposed is to create an entirely new entity and hire new people to gamble the funds which the LBP and the DBP are prohibited from gambling with.

I have, therefore, a very fundamental policy question: Should we allow the left hand to do what the right hand cannot do?

The sponsor mentioned several countries already having a sovereign wealth fund; in particular, he mentioned Indonesia. We had some guests earlier with the Indonesia Investment Authority (INA). It is often cited as the ideal model for the Philippines. We formerly used the Norwegian model but then all of a sudden, we turned to the INA. However, the INA was established only in 2021, so it is quite early to say if it will be successful or it is already a successful sovereign wealth fund or investment fund.

At any rate, if INA is indeed the Philippines' latest model, why did we not pattern our MIF after INA? Let us compare the MIF to the INA.

INA is wholly owned by the government of Indonesia. Maharlika Investment Corporation, on the other hand, is a government-owned and -controlled corporation to be created under this Act which may not be wholly owned by the Philippine government.

More importantly, in terms of the governance boards, INA's board of directors is formed by the supervisory board chosen from finance professionals. Headhunters and investors were consulted in the selection and there is a management contract between the supervisory board and the board of directors. On the other hand, our MIF has no supervisory board that controls the board of directors. We only have a passive advisory board which cannot do any management nor control functions. Not to mention that the members of our board of directors are primarily political appointees. And I have observed that INA seeks credibility by adhering to laws and global best practices, while our MIF seeks exemptions from our laws.

Inflation Rate of 5.8% for 2022

The proposed Maharlika Investment Fund Bill also diverts attention and resources away from addressing more pressing socioeconomic issues that our nation faces today. Our country faces numerous challenges and problems. Allow me to mention some of them:

1. Poverty;
2. Food production;
3. Education crisis;
4. Healthcare deficiencies;
5. Expensive energy cost;
6. Inflation;
7. Injustice;
8. Joblessness;
9. Crime; and
10. Corruption, among many others.

Instead of channeling our efforts and funds into a large investment fund, we should prioritize addressing these urgent issues that directly impact the well-being of our citizens and the future of our country.

Our full-year 2022 average inflation rate is at 5.8%, higher than the 3.9% posted a year before. According to the Senate Economic Planning Office (SEPO), while the acceleration of inflation is evident across many countries, the Philippines posted the highest inflation rate among the ASEAN-member countries. The most obvious impact of a high inflation rate is that we and our people have "less purchasing power."

What does less purchasing power mean to the 20 million poor Filipinos? They will have to make very difficult choices every day on which of their needs they will have to prioritize.

What is this government's answer to the problem of inflation? I have not heard a concrete sensible one.

A Poverty Rate of 18.1% for 2021

According to the PSA, the poverty incidence in the Philippines was 18.1% in 2021. What is the meaning of this? It means that there are at least 20 million poor Filipinos who cannot meet their basic food and non-food needs. They live below the poverty threshold income of about P12,030.00 per month for a family of five. Yes, you heard me correctly. That translates to a daily budget of P401.00 for the entire family. *Kasama na riyon ang gastos para pagkain, tubig, damit, kuryente, renta sa bahay, gamot, edukasyon, transportasyon, at iba pa.*

As of the moment, many Filipinos are losing their jobs or are experiencing a decline in income. Many businesses are closing.

Aside from *ayuda*, what is this government's answer to widespread poverty?

We should ask the same questions for all of the other problems, and we should start demanding answers. Let us not be distracted by this Maharlika Investment Fund. The MIF will only lead us to more death, more misery, and hopefully, not more corruption scandals.

The "Solution" of the Government

Sad to say, I get the impression that the solution of the government towards our long-term goals of reducing poverty and raising the quality of life for all Filipinos is the creation of this Maharlika Investment Fund. It is presented as if it is a necessity. This is not the solution. The proposed measure is not the right investment that will give our economy the momentum to zoom forward. This is not even in the right direction.

The argument against the MIF can be captured by the statement of one of our constituents: *"Ipambibili mo na lang ng pagkain, isusugal mo pa."*

Before we do that, *isugal kung ano mang kakarampot na mayroon tayo*, let us please consider the following events or misfortunes that transpired recently.

The "gold standard of SWFs," the Norwegian Sovereign Wealth Fund, lost 1.6 trillion Norwegian kroner, or \$164 billion, for the whole of 2022. You see, even the largest sovereign wealth fund in the world, considered to be one of the best, is also suffering from the bad situation or condition of the world economy. The loss is a "B," "B" as in billions, and that dollar sign is the U.S. dollar. So, at P55.00 to a U.S. dollar, this loss of the Norwegian SWF is in the amount of P9 trillion.

These are very difficult times nowadays. Not less than three U.S. banks have failed recently: First Republic Bank, Silicon Valley Bank, and Signature Bank. And the contagion reached the banking-safe haven of Switzerland leading to the collapse of Credit Suisse.

Credit Suisse was founded in 1856 to finance the expansion of the Swiss railway system. Through the years, Credit Suisse played an important role in the economic development of Switzerland. However, in recent years, Credit Suisse has faced several controversies, scandals, and questionable decisions that made investors and depositors lose confidence and eventually led to substantial withdrawals of their deposits.

What is the lesson here? The collapse of Swiss banking legend Credit Suisse in March 2023 is a testament to the reality that during these difficult economic times, no bank, no business, is immune to financial difficulties, crisis, and collapse.

This is the reason why we should be very concerned that our banks—the LBP, DBP, and BSP—are involved in the creation and capitalization of this Maharlika Investment Fund. Let us be very afraid of this banking contagion, especially if the MIF fails. We are, therefore, subjecting our banking system to an unnecessary systemic risk.

In addition, the world has been made very unpredictable by geopolitical tensions like the Russia-Ukraine shooting war and the China-Taiwan-USA brinkmanship. In short, the present world economy is not good for investing. Actually, we can say that the present world economic situation is not good at all.

Our world economy has been under enormous pressure for the past few years. Several major countries are now struggling with high inflation rate, increasing debt burden, war in Europe, and rising geopolitical tensions. The COVID-19 pandemic has only worsened the situation.

According to Global Economic Prospects, the United States, the Euro area, and China are all undergoing a period of pronounced weakness, and the resulting spillovers are exacerbating other headwinds faced by emerging market and developing economies (EMDEs). The combination of slow growth, tightening financial conditions, and heavy indebtedness is likely to weaken investment and trigger corporate defaults. Further negative shocks—such as higher inflation, even tighter monetary policy, financial stress, deeper weakness in major economies, or rising geopolitical tensions—could push the global economy into recession.

So, what are these global events telling us? We need to avoid making hasty decisions that could have long term consequences.

Allow me to quote Nicolai Tangen, the CEO of Norway's SWF, the "gold standard" of SWFs. He said this: "We had 25 good years, but I think the next 10 will be very different. I think it will be much, much more difficult to generate returns in the next 10 years." He said that in an interview just a few months ago.

Wala ka na ngang surplus, gusto mo pang umutang para maka-invest ka sa panahong napakahirap kumita at ang daming negosyong nagsasara sa pagkalugi.

Reality Check for the Government

Given the present world economy, it will be very challenging for our government to allocate funds toward this Maharlika Investment Fund.

In the 2023 National Budget, with the overarching objective of economic transformation, this administration's agenda is focused on the following goals:

- 1) 6.5% to 8% real GDP growth annually between 2023 to 2028;
- 2) Nine percent or single-digit poverty rate by 2028;
- 3) Less than 3% National Government (NG) deficit-to-GDP ratio by 2028;
- 4) Less than 60% national government debt-to-GDP ratio by 2025; and
- 5) At least US\$4,256 gross national income (GNI) per capita.

These are the measurable medium-term macroeconomic fiscal objectives in this administration's Medium-Term Fiscal Framework (MTFF).

If you can recall, during our deliberations on the MTFF, the Committee on Finance reported the following data about our economy and our budget:

- 1) 5.7% real GDP growth (2021);
- 2) 18.1% poverty rate (2021);
- 3) 6.5% national government deficit-to-GDP ratio;
- 4) 62.1% national government debt-to-GDP ratio; and
- 5) A GNI per capita of US\$3,643 (at the end of 2021).

These macroeconomic indicators do not indicate wealth. They do not give us the confidence and should not give us the bravado to establish this kind of fund—the Maharlika Investment Fund. There must at least be some kind of economic viability to sustain it. A surplus would be a better indicator of our readiness.

In the President's certification, which I have alluded to earlier, he stated the need for a "sustainable national investment fund." The Maharlika Investment Fund, which has no surplus, no windfall, and no revenue-generating asset underlying it, is not and cannot be that sustainable national investment fund.

Since I have mentioned economic viability, allow me to adopt as my own argument, the argument provided by Sen. Francis G. Escudero. He cited Article XXII, Section 16 of our Constitution, which reads as follows: "Government-owned or -controlled corporations may be created or established by special charters in the interest of the common good and subject to the test of economic viability."

The Supreme Court, in the case of *City of Lapu-Lapu vs. Philippine Economic Zone Authority*, mentioned the purpose of this test, as explained by Commissioner Blas Ople, the proponent of this test of economic viability. The decision quotes Mr. Ople as follows:

"Mr. Ople: We know what happened in the past. If a government corporation loses, then it makes its claim upon the taxpayers' money through new equity infusions from the government and what is always invoked is the common good. x x x

"Therefore, when we insert the phrase "ECONOMIC VIABILITY" together with the "common good," this becomes a restraint on future enthusiasts for state capitalism to excuse themselves from the responsibility of meeting the market test so that they become viable."

So, in relation to this argument, we have to ask the following questions:

- Is the Maharlika Investment Corporation created in the interest of the common good?
- Does the Maharlika Investment Corporation satisfy the test of economic viability?

Where is the "test of economic viability" for this super GOCC, the Maharlika Investment Corporation? This is a constitutional requirement and, in this case, this test presents a so-called "prejudicial question," meaning, we have to answer this question first before we can proceed with the bill that we are considering. "Is the super GOCC Maharlika Investment Corporation an economically viable enterprise or activity?"

The creation of a sovereign wealth fund without a surplus can create a false sense of security.

We are forcing ourselves to believe that we have a cushion against economic instability when, in reality, we may be putting our economy at risk.

It is said that the expected return of the Maharlika Investment Fund is estimated to be 8.6% on average. I do not know the formula used in arriving at such a positively brave estimate. But what if the investments made by the Maharlika Investment Fund do not perform as expected?

Our country could and would be left in a worse financial position than if the fund had not been created in the first place. *Ito ay dagdag deficit lamang*. And let me add—deficit equals debt, *kaya dagdag utang lamang ang ending*.

It will be very unfortunate if our country stubbornly puts up an SWF or any kind of state-initiated investment fund which is not based on surplus of funds, windfall profits, or even on a revenue-generating underlying asset, for the government will then be forced to borrow money or raise taxes to fund the investments in this SWF.

This will be the road to perdition—not to paradise—hereon earth.

Our history is replete with corruption scandals. This does not augur well for the creation of an entity of this magnitude enjoying all the powers and privileges that we have never seen before being granted to a GOCC.

With MIF, we run the risk of concentrating a large sum of public money in the hands of a few who will manage the funds. Such a scenario could potentially lead to all kinds of misuse and abuse, as our history shows us.

Our country has been in a constant struggle against corruption. In the Global Corruption Index 2022, the Philippines ranked 105th out of 196 countries and territories. The higher the rank, the more corrupt. It even mentioned that financial aid programs during the pandemic created opportunities for corruption and bribery. *Nakalulungkot, pero dito sa Pilipinas, ang kahirapan ng taong-bayan ay pinagsasamantalahan pa at pinagkakakitaan.*

We should be conscious that the attempt here is to create a super GOCC. And the original intention was to pack this super GOCC with all the available tax exemptions, and exemptions from every and all forms of regulation, and to grant it with an overabundance of privileges. With such super all-powerful GOCC, great financial crimes would not be far away.

Since the MIC can invest in the domestic market, it can therefore choose the winners and losers among our domestic industries, enterprises, and business people.

Since the MIC can accept capital and investments from domestic private institutions and corporations, it can therefore practically be partnered or married for life to a monied domestic corporation. I say "monied" *dahil wala naman mahirap na Pilipino na puwedeng mag-partner sa kapital ng Maharlika.*

Under Section 14, paragraph (j), the MIC Board can also authorize "other investments as may be approved by the Board."

Add to this the third paragraph of Section 8, on *Corporate Powers*, which reads: "The MIC may compromise or release, in whole or in part, any claim of or settled liability to the MIC, regardless of the amount involved, under such terms and conditions as may be prescribed by the Board, upon favorable recommendation of the Advisory Body, to protect the interests of the MIC and the integrity of the MIF."

Reading these two sections together, I worry that crony capitalism is about to rear its evil ugly head again. This crony capitalism is evil because it is immoral, unfair, wasteful; it does not consider the general welfare, and it distorts the broader economy.

Allow me to quote Andrew Jackson, a former U.S. President: "There are no necessary evils in government. Its evils exist only in its abuses. If it would confine itself to equal protection, and, as heaven does its rain, shower its favors alike on the high and on the low, the rich and the poor, it would be an unqualified blessing."

This topic led me to what Jesus taught us in the prayer that He left with us, "And lead us not into temptation, but deliver us from evil."

If there is a government entity, which can choose who the winners will be in the Philippine economy, then can we say that we have a "level playing field"? And if our playing field is not level, then do we honestly believe that serious law-abiding foreign investors will still be interested in coming here?

I therefore go back to the most fundamental question of all: Why are we doing this?

Although the MIF is claimed to be a sovereign wealth fund, it is an SWF without a surplus. It will also be the only SWF with private capital and investment, as Section 6 allows private financial institutions and corporations, including foreigners, to buy into the preferred shares of the MIC. Here, the attempt to label the MIF as a Sovereign Wealth Fund must end, as the Santiago Principles are clearly applicable only to funds 100% owned by the State or the government.

Section 4, second paragraph of the proposed measure provides that "(t)he MIC shall govern and manage the Fund in accordance with the objectives and principles set forth in this Act, and, it shall adhere to the Santiago Principles and other internationally-accepted standards of transparency and accountability."

The Maharlika measure, in its present form, is already in conflict, or potentially in conflict with the following Santiago Principles:

Principle No. 3. Where the SWF activities have significant direct domestic macroeconomic implications, those activities should be closely coordinated with the domestic fiscal and monetary authorities so as to ensure consistency with the overall macroeconomic policies.

Principle No. 15. SWF operations and activities in host countries should be conducted in compliance with all applicable regulatory and disclosure requirements of the countries in which they operate.

Principle No. 16. The governance framework and objectives, as well as the manner in which the SWF's management is operationally independent from the owner, should be publicly disclosed.

Principle No. 20. The SWF should not seek or take advantage of privileged information or inappropriate influence by the broader government in competing with private entities.

Principle No. 23. The assets and investment performance of the SWF should be measured and reported to the owner, according to clearly-defined principles or standards.

Private money should not be through the MIF; in such close contact with the government. Another point with private money, the MIF will not likely be treated or considered as a sovereign wealth fund in other jurisdictions.

Also, with the introduction of private money into what we envisioned to be a sovereign wealth fund, are we not afraid or even concerned that "private profit" would now take over as the controlling motive of the Fund?

At this point, allow me to identify some more concepts or provisions in, and portions of the bill, which I find problematic, or which raised some serious concerns:

The P75 billion to be taken from LBP and DBP are not surplus, windfall, or new money. These are already part of "public finance." These are already found in the balance sheets of these government-owned banks.

In the capitalization and initial funding of the Maharlika Investment Corporation, the corporation shall have an authorized capital stock of P500 billion divided into common shares and preferred shares.

On the common shares, P125 billion shall initially be subscribed by the following: Land Bank of the Philippines, P50 billion; Development Bank of the Philippines, P25 billion; and the national government, P50 billion.

The initial capitalization taken from Landbank and the Development Bank of the Philippines are money which already serve a public finance purpose.

For the Landbank, the amount taken from it could and should have been used for its mandate. The Land Bank of the Philippines is a government financial institution that strikes a balance in fulfilling its social mandate of promoting countryside development while remaining financially viable.

It is an implementing agency of the Comprehensive Agrarian Reform Program (CARP) involved in land valuation, compensation to owners of private agricultural lands, and until recently, collection of amortizations from CARP farmer-beneficiaries. It sets aside provision for credit assistance to small farmers, fisherfolk, and agrarian reform beneficiaries (ARBs).

So, *ang* Landbank *tumutulong sa mga magsasaka at mangangisda*. Landbank is also the official depository of government funds. It is a government bank with a social mandate to spur countryside development.

On the part of the DBP, the amount to be taken from it could have and should have been used for its mandate. DBP primarily provides banking services, principally to cater to the medium and long-term financing needs of agricultural and industrial enterprises, particularly in the countryside, with emphasis on small and medium-scale industries.

Forcing or taking out these amounts from the Land Bank of the Philippines and the Development Bank of the Philippines will reduce the fund for agricultural, agrarian, and rural development, as well as support for MSMEs.

Another point needs to be clarified: Are these amounts taken from the deposit in the banks or from their capital? Will the deductions of these amounts affect the Capital Adequacy Ratio of these banks? How about the other important ratios like the Liquidity Ratio and the Leverage Ratio? Were studies called "sensitivity analysis" made on these matters? I submit that this is another prejudicial question. *Kailangang sagutin muna bago tayo pumunta sa main matter, bago natin sagutin iyong main matter ng ating bill.*

If the Land Bank of the Philippines and the DBP could really afford these disbursements, then why did they request for regulatory relief from the Bangko Sentral during the committee hearings?

Another major concern is the recent announcement of the Department of Finance regarding the proposed merger between Landbank and Development Bank. After the merger, it is said that the Landbank will now be the surviving entity. The Department of Finance justified the merger by saying that this will eliminate redundancy and inefficiency in operations, resulting in savings.

First of all, merging Landbank and DBP with different mandates can be a complex and troubling issue that requires careful consideration of the potential risks and benefits.

Second, with the establishment of the Maharlika Investment Corporation, are we really eliminating redundancy and inefficiency? It is not proper to be "rightsizing" Landbank and the DBP, which are claimed to be the outstanding and top performing GFIs, and then eliminate their "redundant" employees, while at the same time creating from scratch a totally ill-timed and unjustifiable super GOCC which will be allowed to spend two percent of the amount of the funds under its management for its "administrative and operational expenses"? So, 2% of the initial P75 billion capitalization is already P1.5 billion. *Hindi ko pa po isinama riyan iyong national government capital.*

So, is this what is going to happen? Get money from Landbank and DBP, merge and eliminate some of their employees in order to "save money" and then spend P1.5 billion to hire new people? And, the 2% peg is, by the way, every year.

The merger of Landbank and DBP will result in a possible retrenchment or retirement of employees. The Landbank of the Philippines has 10,100 employees. The Development Bank of the Philippines has 3,600 employees.

So, what is the reason that there is a proposal to merge these two? To accommodate the employees under the Maharlika Investment Corporation? I hope not. These employees of the LBP and the DBP have already developed unique expertise in their respective banking areas. In fact, under this complex and difficult financial world, now is the perfect time to develop and invest in our bank employees.

Considering that these two banks are the initial capital contributors of the Maharlika Investment Fund, can we not wait for the fate of these two banks before committing them to the Fund? *Pag-usapan muna natin ang merger ng Landbank at DBP bago ang Maharlika Investment Corporation or Fund.*

On this matter of the LBP and DBP merger, it is the position of this Representation that this could only be done through legislation as these two banking entities have their own charters. And, dissolving one or both of them amounts to an amendment of their legislative charters.

The NDC and the PPP

The purpose of Maharlika Investment Corporation is also just like the National Development Corporation.

What the MIC is proposed to do can be done by the NDC.

The NDC is mandated to pursue commercial, industrial, agricultural, or mining ventures in order to give the necessary impetus to national economic development. NDC may, on its own or in joint venture with the private sector, undertake vital projects when necessary or when the private sector is not willing or able to undertake such projects due to high risks or to lack of funds and resources.

The MIC, on the other hand, shall act as a vehicle for the purpose of mobilizing and utilizing the MIF for investments in transactions in order to generate optimal returns on investments while contributing to the overall goal of reinvigorating job creation and poverty reduction by sustaining the economy's high growth trajectory.

We could have more easily amended the NDC Charter in order to accommodate whatever new purposes or ideas we have in this proposed MIC Charter.

At this juncture, Senate President Zubiri relinquished the Chair to Senator Ejercito.

In the committee hearing, the NDC mentioned that they could "complement the proposed Maharlika Investment Fund," but they were so modest that they limited themselves to smaller scale investments.

The key word here is "investment." We are now in a situation wherein there are two entities which will be performing basically the same functions. For sure, this is a waste of government resources.

It is also undeniable that some big-ticket infrastructure projects of the government have been implemented through Public-Private Partnership—*iyang po iyong* PPP. How come we appeared to have given up on this mode of financing big-ticket items?

And just last week, I remember a bill improving the PPP mechanism was sponsored here in our Chamber by our colleague who is currently now presiding.

If a GFI, such as the Landbank of the Philippines and the Development Bank of the Philippines, is already earning on its own, why divert its fund to a new and unreliable system like the Maharlika Investment Fund?

So, obviously, we are just creating another layer of investment under a new set of management.

We plan to spend billions of pesos for a business activity which is the domain of the private sector. We want to "make money out of money" which is a pure capitalist play, something which, I submit, the government of the Republic of the Philippines should not engage or be involved in.

This will be an extravagant waste of resources—in money and manpower. This is not the direction that government should be taking. State intervention in matters like this should be reserved only in cases of market failures.

There is also this catch-all phrase under *Allowable Investments*.

Section 14 of the Maharlika Bill, which is very critical, reads as follows:

"Sec. 14. Allowable Investments. - Subject to strict compliance with Investment and Risk Management Guidelines, the Board of Directors of the MIC shall authorize the following investments:

- a) Cash, foreign currencies, metals, and other tradeable commodities;
- b) Fixed income instruments issued by sovereigns, quasi-sovereigns, and supranationals;
- c) Domestic and foreign corporate bonds;
- d) Listed and unlisted equities, whether common, preferred, or hybrids;
- e) Islamic investments, such as Sukuk bonds;
- f) Joint Ventures or Co-Investments;
- g) Mutual and Exchange-traded Funds invested in underlying assets;
- h) Real estate and infrastructure projects;
- i) Loans and guarantees to, or participation into ventures or consortiums with Filipino and foreign investors, whether in the majority or minority position in commercial, industrial, mining, agricultural, housing, energy, and other enterprises, which may be necessary or contributory to the economic development of the country, or important to the public interest; and
- j) Other investments as may be approved by the Board."

So, Section 14 enumerates the “allowable investments” that the MIC can make. However, such an attempt at enumeration which is actually an attempt to limit the said power is negated at the end of the enumeration by the catch-all phrase that the MIC can make “other investments as may be approved by the Board.”

The legislature tries to limit the Board’s discretion by enumerating the allowable investments to those listed in paragraphs (a) to (i) but then immediately reverses the policy by allowing it to make other investments subject to its complete discretion.

Another point. The word “shall” is used like this: “xxx, the Board of Directors of the MIC shall authorize the following investments xxx.” Is the legislature commanding the MIC to make the enumerated investments, or are we just merely allowing it?

If this is merely directory, then why not go direct to the point and simply recognize the power of the Board to make any and all investments that the Board approves? So, this is another example of the inherent confusion which afflicts the bill.

Another worrisome provision is what I call a “compromise provision.”

The Compromise Provision

It is very important for us to understand the meaning of the third paragraph of Section 8 on *Corporate Powers*, which reads, as follows:

“The MIC may compromise or release in whole or in part any claim of or settled liability to the MIC regardless of the amount involved under such terms and conditions as may be prescribed by the Board upon favorable recommendation of the Advisory Board to protect the interests of the MIC and the integrity of the MIF.”

Are we talking about compromising a claim of the MIC against another party? Or are we talking also about compromising the settled liability of another party in favor of the MIC? Is this not the meaning of the phrase “settled liability” to the MIC?

So, would this not amount to a big billboard put up by the MIC announcing to the whole world—“Sue us, we can talk”? *Delikado po ito* especially when the section includes the phrase “regardless of the amount involved.”

Extraordinary Diligence

On *Extraordinary Diligence*, this is a concept which is very important and explained by the Supreme Court, as follows:

“As the extreme measure of care and caution which persons of unusual prudence and circumspection use for securing and preserving their own property rights, banks and GOCCs are required to exercise extra ordinary diligence.”

In the case of *Philippine National Bank vs. Raymundo*, the Supreme Court held that:

“Since their business and industry are imbued with public interest, banks are required to exercise extraordinary diligence which is more than that of a Roman *pater familias* or a good father of a family in handling their transactions. Banks are also expected to exercise the highest degree of diligence in the selection and supervision of their employees. By the very nature of their work in handling millions of pesos in daily transactions, the degree of responsibility, care and trustworthiness expected of bank employees and officials is far greater than those of ordinary clerks and employees.”

This concept of extraordinary diligence is also mentioned explicitly in the GOCC Governance Act of 2011 found in Section 19, paragraph (b) of RA 10149.

So, the question is, why was the mention of this very important concept of extraordinary diligence omitted in our measure?

An Advisory Board and Board of Directors that are Primarily Political Appointees

The proposed measure has included an Advisory Board and a Board of Directors whose members are primarily political appointees.

So, the Advisory Board shall be composed of the following:

- a) Secretary of the Department of Budget and Management;
- b) Secretary of the National Economic and Development Authority; and
- c) The Treasurer of the Philippines.

Meanwhile, the Board of Directors shall be composed of the following:

- a) The Secretary of Finance who sits in an *ex-officio* capacity as chairperson;
- b) Chief Executive Officer of the MIC;
- c) President of LBP;
- d) President of DBP;
- e) Two (2) regular directors; and
- f) Three (3) Independent Directors from the private sector.

The regular and independent directors shall be appointed by the President of the Philippines.

The challenge here is, how do we avoid a politically-driven investment? Let us not forget the 1 Malaysia Development Berhad, *iyang po iyong* 1MDB, a sovereign wealth fund set up in 2009 to promote economic development in Malaysia. According to Malaysian authorities, a high-ranking official, who co-founded the 1MDB and chaired its advisory board, received US\$1 billion traceable to 1MDB. It was considered one of the most sensational trials in Malaysia with cases involving breach of trust, corruption, and money laundering.

The main problem here is when the government controls a large pool of money in a setting more like a private corporation, it becomes difficult—very difficult—to track how that money is being used and whether it is being used in the best interest of the people.

How do we avoid politically-driven investments with an advisory board and a Board of Directors that are primarily political appointees? Certainly, under this set up, the Maharlika Investment Corporation cannot be ran 100% professionally as politics will surely creep its way in. And since we are on the topic of the advisory board, with all due respect, looking at its composition, can we say that the advisory board members are really better than the members of the MIC Board of Directors at what the MIC is supposed to do?

Also, in Section 29, on the powers and function of the Advisory Body under paragraph (d), the advisory board can perform other functions, duties, and responsibilities as it may deem necessary. This is, again, problematic as we will empower a body to give itself more powers. This is violative of the grant by the Constitution of the legislative power to Congress. We cannot delegate to the advisory board the power to legislate on the extent of its own powers.

I earlier asked if the members of the advisory board are better than the members of the Board of Directors at what they are supposed to do. We can only answer this if we know and are very clear about what the MIC/MIF is supposed to do. Is the Maharlika Investment Fund a mere investment fund, a mutual fund, an asset management fund, a hedge fund, a private equity fund, a venture capital fund? Is the MIC a holding company, a real estate firm, a bank?

Looking at Section 14 on allowable investments, the MIC/MIF can be all of the above. But it cannot be all of the above because it is simply impossible to be all of the above because these different types of investments, business activities and commercial transactions require and demand different kinds of expertise. *Sa demokrasya, hindi bawal ang mangarap*, but under a democratic system, the people can demand that their policy makers be realistic.

According to the president of the Foundation for Economic Freedom, they are investing blind. They do not even know what the business plan is, and yet, they are investing. So, that is really a problem. It is not very clear what it is really for.

I am concerned that the Maharlika Investment Corporation attacks the independence of the Bangko Sentral ng Pilipinas.

This measure turns the Constitution on its head as it negates the independence of the BSP.

Article XII, Section 20 of our Constitution provides, that “The Congress shall establish an independent central monetary authority, the members of whose governing board must be natural-born Filipino citizens, of known probity, integrity, and patriotism, the majority of whom shall come from the private sector. They shall also be subject to such other qualifications and disabilities as may be prescribed by law. The authority shall provide policy direction in the areas of money, banking, and credit. It shall have supervision over the operations of banks and exercise such regulatory powers as may be provided by law over the operations of finance companies and other institutions performing similar functions.”

If this MIC is indeed created, then the BSP will, for a long time, if not forever, be tied to it. BSP dividends will go to the MIC as the national government’s capital contribution. Dividends come from profits and the BSP earns profits from its operations. *Ang kita ng BSP sa Maharlika mapupunta.*

Imagine the BSP, which is a government agency mentioned in the Constitution, shall now be considered as working for the MIC. Should this be the new function of the BSP—making money for the MIC? We should relieve the BSP from the pressure of making money since this is the least of its concerns.

Another point of observation: the BSP, our Central Bank, is to be capitalized at P200 billion. The MIC is to be capitalized at P500 billion. So, *sino sa dalawa ang mas mahalagang institusyon ng gobyerno?*

Revising the BSP’s Capital

The BSP was established on July 3, 1993 as our country’s independent central monetary authority pursuant to the constitutional provision which I just read, and Republic Act No. 7653, or the New Central Bank Act.

On February 14, 2019, RA 11211 was passed amending RA 7653. The charter amendments bolster the capability of the BSP to safeguard price stability and financial system stability. The amendments were made to provide policy direction in the areas of money, banking, and credit and also to maintain price stability conducive to a balanced and sustained growth of the economy and employment.

Under Section 1 of RA 11211, “the capital of the Bangko Sentral shall be two hundred billion pesos (P200,000,000,000), to be fully subscribed by the Government of the Republic of the Philippines, xxx *Provided*, That the increase in capitalization shall be funded solely from the declared dividends of the Bangko Sentral in favor of the National Government. For this purpose, any and all declared dividends of the Bangko Sentral in favor of the National Government shall be deposited in a special account in the General Fund, and earmarked for the payment of Bangko Sentral’s increase in capitalization. Such payment shall be released and disbursed immediately and shall continue until the increase in capitalization has been fully paid.”

Section 51 of the proposed measure provides that “A portion of the National Government capital contribution, xxx shall be sourced from the xxx BSP Dividends. For the first and second fiscal years upon effectivity of this Act, the BSP shall remit one hundred percent (100%) of its total declared dividends xxx to the National Government for the capitalization of the MIC. In the succeeding fiscal years, the BSP shall remit fifty percent (50%) of its total declared dividends to the National Government for the capitalization of the MIC and the remaining fifty percent (50%) to the National Government to fund the increase in the capitalization of BSP in accordance with law xxx, until the increase in the capitalization of BSP has been fully paid.”

Just a few years after the enactment of our RA 11211, we are now revising the method of capital accumulation of the BSP to accommodate this Maharlika Investment Fund Act of 2023.

Can the BSP maintain its mandate of price stability conducive to a balanced and sustainable growth of the economy and employment in the next two years that it is going to remit 100% of its total declared dividends to the National Government for the capitalization of the MIC? Are we

consciously changing our minds? Does the BSP need this capital or not? I thought the timetable in the law increasing the BSP's capital was important.

Prohibited Investments are Too General

Likewise, in the proposed measure, the MIC has prohibited, in whatever manner or device, to invest in areas that are explicitly prohibited under existing laws and convention to which the Philippines is a party. Unfortunately, not a single law or convention has been mentioned. It then becomes open for everyone to argue what should be considered a prohibited investment.

No Ceiling in the Fees and Charges incurred in the Establishment and Effective Management of the MIF

I have noticed that there is also no ceiling in the fees and charges incurred in the establishment and effective management of the MIF.

Ceilings are important because it prevents unfair advantage and the charging of exorbitant fees and charges. However, in the proposed measure, third party fees and all charges in connection with the establishment and effective management of the MIF such as custody fees, transaction fees, clearing fees, and management fees payable to external fund managers shall be charged against the MIF without any ceiling.

Sky is the limit, and this might lead some to conclude that it would be nice to be friends with the people running the MIC.

Take No Comfort In the Presence of Auditors

I also take no comfort in the statement that there are auditors. I understand that auditors play an important role in ensuring transparency and accountability. In the proposed measure, the Committee on Banks decided to include the engagement of an external and an internal auditor as one of its safeguard measures.

However, I take no comfort with this idea of an external auditor. *Bakit?* Let us go back to our experience with PAGCOR, which is another government-owned and -controlled corporation. PAGCOR failed big time in this external auditor mandate.

PAGCOR hired Global ComRCI as the third-party auditor for Philippine Off-shore Gaming Operators (POGOs) under a 10-year P6 billion contract. It took the Senate Committee on Ways and Means under the eagle eyes of our chairperson to discover that this external auditor tapped by PAGCOR was unqualified and not doing its job. It was practically a fly-by-night operation which submitted falsified bank certifications. *Lusot sa PAGCOR, GOCC, pero mabuti sa Senado, nahuli.*

So, let us learn from this PAGCOR scandal that the presence of an external auditor does not absolutely guarantee the protection of our interests.

The Penal Provisions are a Curiosity

I also find the penal provisions a curiosity. I have wondered from the very start why we are putting up this MIF. Why are we touching the funds of the LBP and DBP which are already in their balance sheets and being managed by their own risk management teams and boards of directors?

Nananahimik na ang perang ito, mayroon nang in-charge rito. Tapos ililipat pa natin sa bagong ahensiya ng gobyerno? Paano kung dahil sa laki ng halaga ng pera, paano kung ma-tempt, mayroong ma-tempt o matukso? May makukulong pa.

Then I noticed that the bill's penal provisions do not provide for jail time. *Wala naman palang makukulong.*

The amounts of the fines stated in the bill looked on paper to be humongous. The fine is up to the tremendous amount of P5 million. However, if we realize that frauds in investment schemes can amount to billions of U.S. dollars, then the amount of our fines now look puny. Will the possibility of a P5-million fine deter the criminal mind from taking advantage of an illegal payout to the tune of US\$50 million?

I want to make it of record that I am not interested in sending people to jail, especially when it is unnecessary. By not enacting this unjustified and unneeded idea into law, we take away the

temptation and the opportunity to commit a financial crime. Let us avoid the scenarios which make possible the criminal violation of an unnecessary law.

Legislators Should Be Disqualified from Benefitting from the MIF

Also, I believe it is the better policy to disable legislators who belong to the Congress which approves this bill and to all the congresses thereafter from benefitting from this Maharlika Law. Legislators should be disqualified from working directly or indirectly for the MIC/MIF, investing directly or indirectly with the MIC/MIF. Neither can the MIC invest directly or indirectly in corporations and other institutions linked to legislators directly or indirectly. I have stressed the phrase “directly or indirectly” *dahil gusto nating pagbawalan ang “palusot.”*

And why include future congresses in the ban? Because there is a joint congressional oversight committee, the MIF-JCOC.

Implementing Rules and Regulations (IRRs) Should Never be Greater than the Law

We have also noticed that a lot of the details are left to the implementing rules and regulations (IRRs). It is well settled that the rules and regulations which are the product of a delegated power to create new or additional legal provisions that have the effect of law should be within the scope of the statutory authority granted by the legislature to the administrative agency. It should not be the other way around that the IRRs are greater than the law.

The proposed measure allows the crafting of powerful implementing rules and regulations capable of doing the following examples:

First, on the rewards and incentives. “The criteria for the grant of rewards and incentives shall be determined in the IRR, including the formula for the computation of any amount that will be granted to the Board of Directors, officials, employees, and staff of the MIC.”

Second, on the duties and qualifications of the Chief Investment and Operating Officer (CIOO), the CIOO shall be appointed by the board of directors and terminated for a term as provided in the IRR.” There is something wrong with the phraseology. *Hindi ko po mistake iyan.* I am quoting from the bill itself.

Third, on the Financial Reporting Framework, “the financial statements and reports shall be prepared upon the advice of the Advisory Body in accordance with the pertinent provisions of this Act and its IRR.”

Another one is on the appointment, election, and termination of membership in the Board, which shall likewise be provided in the IRR.

It is interesting to note that the “Treasurer of the Philippines, in consultation with the founding GFIs, shall be the one to promulgate the necessary rules and regulations for the implementation of this Act. I thought that the Treasurer was supposed to be merely a member of the advisory board.

IRRs should never be greater than the law. This would amount to an undue and invalid delegation of legislative power.

The Return of the “Bawal” Through Voluntary Investment

And then another troubling point on the GSIS and SSS funds. This Maharlika fund proposal started on the wrong foot, and the proponents were forced to suffer a retreat. Their first versions wanted to raid the coffers of the GSIS and SSS as the source for the initial capital of Maharlika. When the owners of the fund objected to this proposal, the proponents agreed to remove them. A clever move, as the opposition from the contributors of the GSIS and the SSS, who are the government workers and the private sector employees, abated.

While they removed the forced contribution from GSIS and SSS, they inserted a sentence that would allow these funds to invest in Maharlika voluntarily as long as their boards agree.

Section 6, last paragraph of the proposed measure, states “Under no circumstance shall the GOCCs providing for the social security of government employees, private sectors, workers and employees, and other sectors and subsectors, such as but not limited to the Government Service Insurance System, Social Security System, and Home Development Mutual Fund, be requested or required to contribute to the MIC.”

However, Section 12 of the measure allows voluntary investment. It mentions that “other GFIs and GOCCs may invest into the MIF, subject to their respective investment and risk management strategies, and approval of their respective boards. Additional investments may likewise be sourced from investments of reputable private and state-owned financial institutions and corporations in the form and under the terms and conditions that the board of directors may prescribe.”

Hindi puwedeng pilitin; hindi puwedeng hingian; pero kung kusa at boluntaryong magbibigay, tatanggapin naman.

I thought they listened to the concerns of the public, but they executed a clever maneuver, and the danger is still there—that the conservatively managed pension and retirement funds of our retirees from the government and the private sectors will be entrusted to the Maharlika Investment Fund for riskier placements, or in other words, for gambling.

Conclusion

I have reached the part where I share my conclusions. While the MIF may have been presented to us as an appealing proposition with a noble intention, to boost investment and grow our money, it carries significant risks that the Philippines cannot afford to make. The overall risk is too great that it outweighs whatever the potential benefits of the measure are, if there is any at all. With our current fiscal and economic situation, we cannot afford to make a P500 billion mistake or even a P75 billion mistake. This will be a costly mistake that will be paid with our people’s hard-earned money, representing their blood, sweat, and tears. Although a mistake like this can also allow others to lead a lavish lifestyle, if you know what I mean.

The implications of the proposed Maharlika Investment Fund are simply too great for us not to do anything to stop it. The following are good grounds to reject the Maharlika Investment Fund Act—these are the reasons why the Philippines should not establish a sovereign wealth fund, a state investment fund, a state-initiated investment fund, a national investment fund, or however way we might want to call it:

1. The Philippines is a developing country with a large and growing population, and we have a number of pressing economic and social challenges that need to be addressed. Establishing a sovereign wealth fund, or the MIF, would require the government to divert resources away from these more immediate priorities, such as addressing:
 - poverty o *malawakang kahirapan ng ating mga mamamayan*;
 - hunger, o *kakulangan sa pagkain*;
 - debt, o *utang*;
 - quality education and health care;
 - *murang pabahay, kuryente, at tubig*;
 - jobs, o *trabaho*; and
 - inequality and injustice, among others.
2. The Philippines is not a major exporter of natural resources, such as oil and gas, which are the main sources of revenue for many sovereign wealth funds. This means that the Philippines would need to find other sources of funding for its sovereign wealth fund, or the MIF, which could be difficult and potentially involve taking on more debt.
3. There is no surplus, no budget surplus, no trade surplus. There is no windfall revenue or profit from anything at all which will serve as the funding for this MIF. We cannot even point to the underlying asset for this MIF because there is none.
4. The Philippines has a history of corruption and mismanagement of public funds which raises concerns about the transparency and accountability of a sovereign wealth fund, or this MIF. There have been numerous instances of government officials misusing public funds for personal gain, and there are concerns that the Sovereign Wealth Fund or this MIF could be used as a means of disguising or concealing corrupt activities.
5. The Philippines is already facing significant economic challenges, including a large and growing budget deficit, high levels of debt, a weak currency, and high inflation.

Our fiscal space has shrunk, food production is very low, yet smuggling is very rampant. Establishing a sovereign wealth fund, or this MIF, could further strain our country’s financial

resources and increase our dependence on external funding, which could make us more vulnerable to external economic shocks and market fluctuations.

6. We should fund the budget, instead of the MIF. Come to think of it, the MIF Bill is, if not an insult to Congress, an indictment of the budget process.

The proponents of this MIF Bill would rather have an unelected nine-person Board of Directors meeting behind closed doors in the conference room the Filipino people cannot freely enter, decide on the approval and funding of big-ticket mega infrastructure projects, rather than the elected Members of Congress whose proceedings are open to the public covered by the media and even live-streamed.

The MIC can change the landscape of our country without the participation of the people's elective representatives. Why should we, in Congress, allow this to happen?

7. The current version of the MIF has too many inherent inconsistencies, not to mention the very difficult to understand paragraphs and sections in the said bill.
8. Too many details are left to the IRR, hence, we have no idea on how the MIF will finally look like and how it will be governed.
9. The creation of the MIF could undermine democratic principles in the management of funds and weaken democratic institutions, for transparency and accountability are compromised in the MIF.

We should not forget that transparency and accountability are the foundations that allow democracy to thrive.

10. Since the MIF will invest domestically and can partner with private business interests, the MIF can, in effect, choose who will be the winners in our domestic economy. We must, therefore, always be on the lookout for favoritism, crony capitalism, and unequal treatment—a violation of the equal protection clause of the Constitution.
11. I submit that before we can decide on establishing the MIF, we have to first answer the prejudicial questions which I have raised before: 1) Is it economically viable? 2) Have both Land Bank of the Philippines and the Development Bank of the Philippines been subjected to sensitivity tests? and 3) Are we proceeding with the proposed merger of the Land Bank and the Development Bank of the Philippines?
12. If the MIF is really being established for the Filipino people including the future generations, and the proponents are so confident that the expected high returns will be realized and will really redound to the benefit of the Filipino people, then I propose that the law establishing the Maharlika Wealth Fund be submitted to the Filipino people through a referendum.

In short, the creation of the Maharlika Investment Fund will be more harmful to our economy, country, people, and future than if the fund had not been created or were not to be created in the first place.

The decision to allocate billions of pesos to the creation of this Maharlika Investment Fund is a matter that should be carefully considered and reviewed by us. It is important to consider the potential risks associated with this measure. We should not rush our consideration of this bill.

Allow me to quote the President—not the Senate President—the President of the Republic, when he was interviewed about the MIF:

“Ang message ko sa Senado, suriin ninyo nang mabuti para magandang-maganda ang batas natin. Suriin ninyo nang mabuti. Siyempre mas maganda na matapos sa lalong madaling panahon pero hindi naman dapat minamadali dahil napaka-importante ng bawat salita na ilalagay mo doon sa batas na iyon, may kabuluhan iyon. Kailangan talagang pag-aralan nang mabuti. Malaki naman ang tiwala ko sa mga senador. Alam naman nila ang kanilang trabaho. Pag-aaralan talaga nila nang mabuti iyan. And that's the process, tama iyon. Basta ako, sa akin, mas importante na maging tama kaysa sa maging mabilis. So, kailangan gawin nating tama. We have to get it right. Getting it wrong would be a very bad mistake.”

Those are the words of the President. President Ferdinand “Bongbong” R. Marcos Jr. addressed that message to us—*tayo po ang kausap ng Presidente diyen.*

To close, thank you for the time that you have given me. According to a former high-ranking Central banker, the Maharlika Investment Fund proposal is the madness of some people.

I, therefore, object to the proposed establishment of the Maharlika Investment Fund.

I take my consolation from the thought that the Filipino people know another meaning for the letters M-I-F, and that is that this Madness Is not Forever.

MOTION OF SENATOR PIMENTEL

Senator Pimentel moved that the measure under consideration, or the bill attached to the committee report, be referred or recommitted to the proper committee, which is the Committee on Government Corporations and Public Enterprises.

MANIFESTATION OF SENATOR VILLANUEVA

Senator Villanueva expressed his objection to the motion of Senator Pimentel to recommit Senate Bill No. 2020 to the Committee on Government Corporations and Public Enterprises.

POINT OF ORDER

Senator Escudero stated that while he sympathized with Senator Pimentel in his desire to recommit the proposed measure to another committee, the period for requesting a reconsideration of the Plenary's decision has long since passed. He stated that even when he was still a member of the House of Representatives, he had been subjected to such incidents. He added that the *Rules* make it explicit that 24 hours after the matter has been decided in Plenary, it cannot be reversed; however, it has been months since the matter was referred to the committee. He stated that although the vote would likely pass with a majority, it might not serve as a good precedent.

In response, Senator Pimentel clarified that the motion was not a reconsideration due to the theoretical nature of the measure initially discussed on the floor. He stated that the measure currently before the Body was attached to the committee report.

Senate President Zubiri stated that the matter had been acted and voted on.

Senator Pimentel reiterated that the action during the First Reading was of a theoretical nature. He emphasized that he was referring to a particular bill which was attached to the committee report. Senate President Zubiri stated that once a measure has been approved in a committee report, it is finalized, even if a substitution is made. He cited a situation in which what could have been a tourism measure, after undergoing several amendments in committee, would become an economic zone with tourism potential, to which no one would object.

MANIFESTATION OF SENATOR VILLANUEVA

Senator Villanueva stated that since he had objected to Senator Pimentel's motion and Senator Escudero had raised a point of order, the proper course was for the Chair to rule on the point of order.

He recalled that Senator Pimentel objected to the referral of the Maharlika Bill to the Committee on Banks, Financial Institutions and Currencies because its purpose was to establish an independent investment fund. He stated that the Body deliberated and voted on the matter on January 25, 2023.

MANIFESTATION OF SENATOR HONTIVEROS

Senator Hontiveros stated that despite her desire to interpellate on the *turno en contra*, she would instead second Senator Pimentel's motion.

SUSPENSION OF SESSION

With the permission of the Body, the session was suspended.

It was 5:32 p.m.

RESUMPTION OF SESSION

At 5:36 p.m., the session was resumed.

RULING OF THE CHAIR

Senate President Zubiri stated that the point of order raised by Senator Escudero was well taken. However, he ruled that the motion of Senator Pimentel had been previously acted upon by the Body and should be disposed of.

Senator Pimentel appealed the ruling of the Chair.

DIVISION OF THE HOUSE

Upon motion of Senator Villanueva, there being no objection, Senate President Zubiri called for a division of the House on the ruling of the Chair.

With 16 senators voting in favor and two against, the Body sustained the Senate President's ruling that the motion of Senator Pimentel to remand Senate Bill No. 2020 to the committee had been previously acted upon by the Body and should be disposed of.

MANIFESTATION OF SENATOR CAYETANO (P)

Senator Cayetano (P) stated that she voted in favor of the ruling of the Chair that the matter had been previously disposed of by the Body; however, if the issue was on the referral of Senate Bill No. 2020 to the Committee on Government Corporations and Public Enterprises, she would have abstained, consistent with her vote when the matter was previously resolved.

MANIFESTATION OF SENATOR HONTIVEROS

Senator Hontiveros stated that she would have interpellated Senator Pimentel's *turno en contra* had she been allowed to do so. She stated that she would use instead the remaining 10 minutes for her *turno en contra*.

Senate President Zubiri instructed the Secretariat to set the timer to limit the *turno en contra* of Senator Hontiveros to 10 minutes.

TURNO EN CONTRA SPEECH OF SENATOR HONTIVEROS

Senator Hontiveros delivered the following *turno en contra* speech on Senate Bill No. 2020:

Beginning with this, I would have said to the Minority Leader, "The sponsor disagrees with you and tells us that the Maharlika Fund will not generate more debts." On the contrary, the

sponsor says that the capitalization we would put into the MIF would be the basis and could be leveraged to attract and deploy more resources for our development needs.

How can we understand this great divergence of thinking between two obviously intelligent people? Are you, Minority Leader, nearly being pessimistic, inattentive to opportunities, or suspicious of the experts who would be recruited to run Maharlika?

My second question to the Minority Leader would have been this—I appreciate the candor of the sponsor. When I revealed the information yesterday that it was the GSIS President himself who originally proposed the Maharlika Fund to the President *dahil po* the sponsor basically said, “What is wrong with that?” He explained that high returns must often be secured through being exposed to higher risks, and success in such venture is secured by having the brightest technocrats giving you guidance.

You reminded us in your *turno en contra*, Minority Leader, that the first-ever version of the Maharlika Bill sought the biggest contribution from the GSIS a whopping P75 billion. And what is wrong with that, Minority Leader? Would you agree that it would be unpatriotic of us if we would not harness the money of our pension funds in the service of our domestic infrastructure development and commercial goals?

And then, I would have asked the Minority Leader about what he cited on page 4 of his *turno en contra* that there is a recent development which is also procedurally objectionable based on the Constitution. When he cited that there is a power granted to the President under Article VI, Section 26(2) of the 1987 Constitution which reads as follows and in part: “except when the President certifies to the necessity of its immediate enactment to meet a public calamity or emergency.”

And then the Minority Leader said: “There is actually no public calamity or emergency right before our very eyes which could be addressed by the Maharlika Bill. How could the fund with promised benefits to be felt in 10 to 20 years from now be the answer to an existing public calamity or emergency? Who can answer that?”

So, I would have asked the Minority Leader to further describe why, therefore, this is a misapplication of that power granted to the President under Article VI, Section 26.

Next, I would have asked the Minority Leader his own thoughts about whose idea was the Maharlika Investment Fund. Where did this idea come from? *Saan ba nanggaling ito?* Is it possible that we are doing this as a favor to a businessman who has access to the ears of the powers that be, whose business or bottom line has been hit by the downturn in the world economy and, thus, would need a new client? And he expressed the hope that we will hopefully know the identity of this big-time influencer in due time to finally answer this nagging question, “Where did this idea really come from?”

Next, I would have asked the Minority Leader a lot of follow-up questions about his descriptions on where the money for sovereign wealth funds come from, in the first place.

He cited oil-rich countries like Norway, Russia, and countries in the Middle East who put up their SWFs from their money from oil sales. He cited Kuwait, which established its fund in 1953 and, currently, has over \$500 billion in assets under management. He further cited the Abu Dhabi funds and the Saudi Arabia funds which also established their SWFs backed up by their oil wealth and oil sales. Most dramatically, he cited that Norway struck oil in its EEZ in the Ekofisk field in 1969 and only 12 years later, or around 1981, after a dozen years of discussion, established its SWF. He described that the Norway SWF is supervised by its Central Bank, and the parliament—the legislature—supervises the choice of the managers, and that the fund invests very conservatively and only outside Norway.

Most importantly, perhaps for us as an Asian legislature, the Minority Leader narrated how China, Hong Kong, and Singapore also have SWFs but they got their funding from their excess reserves from the Asian export boom. In short, they had and continue to have trade surpluses. Why is this important? Because just a few pages later, the Minority Leader described our situation in the Philippines. Not an export boom, not a trade surplus, but, indeed, our trade in goods deficit which is in the amount of \$40 billion to \$60 billion a year. *Kabaliktarang kabaliktaran po talaga* at this point in time *sa mga bansang Tsina, Hong Kong, at Singapore noong kanilang itinatag ang kanilang* sovereign wealth funds.

And then our trade deficit, it was, the Minority Leader said, at \$58.3 billion for 2022, more than double the \$24.6 billion recorded in 2020. So, *may* downward trend *pa po* in terms of our trade deficit. Again, the opposite direction in which we should be moving, *kung katulad ng* China, Hong Kong, *at* Singapore *noong kanilang itinatag ang kanilang* sovereign wealth funds. And, therefore, we are unable to establish those SWFs.

Following that, the Minority Leader cited that Singapore's Temasek managed the windfall it got from the properties left behind by Singapore's former colonizer, Great Britain. *Wala po tayong ganyang klaseng* windfall from any properties left behind to us by our former colonizers—not Spain, not the United States. And speaking of the United States, the Minority Leader cited that the State of Alaska has the Permanent Fund created in the 1970s when they struck oil, something which we have yet to do even in our exclusive economic zone in the West Philippine Sea.

Then, the Minority Leader cited Chile's SWF, funded by the sale of mineral resources, primarily of copper. *Samantala, ang* Botswana *naman po, sa* Africa, *ang kanilang* SWF *ay* backed up by the sale of diamonds. None of these fortunate circumstances obtains in the Philippines right now as we contemplate setting up the Maharlika Fund.

For all the reasons stated by the Minority Leader in his *turno en contra*, and the questions we were able to raise to the sponsor in interpellation, I stand before you as well to express my deep concern, and opposition as well, to the Maharlika Bill, specifically Senate Bill No. 2020, which aims to create a sovereign wealth fund for our nation. While the intentions behind this bill may seem noble, I believe that it is crucial to critically examine further the potential consequences and implications of such a fund before we proceed any further.

As mentioned yesterday, the creation of the Maharlika fund will outlive us. First and foremost, let us consider the issue of transparency and accountability. The creation of a sovereign wealth fund, as proposed in the Maharlika Bill, raises questions about the proper management and oversight of the funds. The alleged mechanisms in place are not sufficient to protect the billions of public funds that will be used for this purpose. Without robust safeguards, there is a risk of mismanagement, corruption, and the misuse of public funds. We must prioritize transparency and accountability in any financial endeavor of this magnitude.

The establishment of a sovereign wealth fund diverts resources away from pressing domestic needs. As emphasized by our esteemed Minority Leader, with which I concur, our country faces numerous challenges that demand immediate attention and investment, such as education, healthcare, infrastructure development, and poverty alleviation. By channeling a significant portion of our national wealth into a sovereign wealth fund, we run the risk of neglecting these urgent priorities and failing to address the urgent needs of our citizens. We must prioritize the well-being of our people over the accumulation of wealth.

Additionally, it is important to consider the economic impact of the Maharlika Bill. While a sovereign wealth fund may provide some economic benefits in the long run, we must not overlook the potential risks and downsides. The sudden injection of large sums of money into the economy can lead to inflation, which erodes the purchasing power of the average citizen. It may also distort market dynamics and create imbalances that could have unintended consequences for our economy as a whole.

We must carefully assess the potential risks and weigh them against the perceived benefits before committing to such a drastic measure. We must exercise caution and consider the potential consequences of such a move. We must prioritize transparency, accountability, and the immediate needs of our citizens.

The creation of a sovereign wealth fund should not come at the expense of neglecting pressing domestic needs risking economic stability or compromising our international standing.

Let us pursue policies that promote the well-being of all Filipinos and ensure a sustainable and prosperous future for our nation.

PARLIAMENTARY INQUIRY OF SENATOR PIMENTEL

Senator Pimentel inquired if, under the *Rules*, he was required to respond to the queries posed to him by Senator Hontiveros in her *turno en contra* speech. Senator Villanueva responded that

the *Rules* did not mention that a *turno en contra* speech would be subject to interpellations. After which, he stated that the period of general debates should follow if there are Members who would wish to speak in favor of the bill under deliberation.

TERMINATION OF THE TURNO EN CONTRA

There being no further speeches against the bill, upon motion of Senator Villanueva, there being no objection, the Body closed the *turno en contra*.

MANIFESTATION OF SENATOR ESCUDERO

Senator Escudero, speaking as an *amicus curiae*, cautioned that the Body might be committing fatal, procedural, and substantive errors that could still be corrected prior to the final ratification of Senate Bill No. 2020 by both Chambers of Congress.

He then cited Article XII, Section 16 of the Constitution, which had been previously cited in committee hearings and debates on the bill:

“Section 16. The Congress shall not, except by general law, provide for the formation, organization, or regulation of private corporations. Government-owned or -controlled corporations may be created or established by special charters in the interest of the common good and subject to the test of economic viability.”

Consequently, he explained that the creation of GOCCs must meet three conditions: 1) it must be through an act of Congress; 2) it must be for the common good; and 3) it must pass the test of economic viability.

Regarding the “act of Congress” requirement, he stated that once the measure is enacted into law, it will be manifestly compliant.

Regarding the “common good” requirement, he recalled that during the Constitutional Convention debate on August 22, 1986, someone had posed the following questions:

“Is it okay to organize a government-owned and -controlled corporation that will compete with the private sector? Or shall we limit government-owned and -controlled corporations only to perform those functions that the private sector cannot or is not willing to perform and is for a stated public purpose, such as providing utilities, or utility services, or social services that the private sector do not find to be profitable enough for them to do themselves?”

He noted that the purpose of the sovereign wealth fund was to perform functions that the private sector already performs. He also noted that MIF would retain a government function that may require clarification in the bill’s provisions.

Regarding the third requirement, he stated that the SWF must also pass the economic viability test. He then cited Commissioner Blas F. Ople of the Philippine Constitutional Commission of 1986, who stated that “GOCCs cannot be created as a rule but only as an exception and they must pass the test of economic viability.” He noted that the clause in question was also cited in the Supreme Court’s decision in *Manila International Airport Authority vs. Court of Appeals*, G.R. No. 155650, dated July 20, 2006. He stated that the decision specifically explained and referenced that Congress must evaluate and be able to determine that the creation of the GOCC indeed passed the economic viability test.

He then stated that he would be submitting the entire case and *ratio decidendi* of the 2006 *MIAA vs. CA* case for reference.

INSERTION OF DOCUMENTS INTO THE JOURNAL AND RECORD OF THE SENATE

At the instance of Senator Escudero, there being no objection, the Body approved the insertion of the following documents into the *Journal and Record of the Senate*:

1. Excerpts from the transcript of stenographic notes in the August 22, 1986 ConCon debates pertaining to the statement of then-Commissioner Blas F. Ople of the Philippine Constitutional Commission of 1986 on the economic viability requirement of GOCCs (*See Annex A*); and
2. The Supreme Court ruling in *Manila International Airport Authority vs. Court of Appeals*, G.R. No. 155650, dated July 20, 2006 (*See Annex B*).

Senator Escudero asserted that the documents supposedly complying with the test of economic viability were not compliant with the requirements of the Constitution, which was a condition precedent before voting on and approving the creation of a GOCC. He then requested that the three-page Business Proposal for the Maharlika Investment Fund, together with the covering letter dated 21 February 2023 addressed to Hon. Mark A. Villar, signed by the Treasurer of the Philippines, Rosalia V. De Leon, be inserted into the *Record* (*See Annex C*).

He contended that the business proposal was not compliant because it only talked about investment securities and equities. In fact, he noted Secretary Pangandaman saying in the news that the DBM would invest in the 194 infrastructure flagship projects of the administration, but the document did not discuss the economic viability of the investments in the infrastructure flagship projects which might not have a return on investment.

He then defined the “test of economic viability” as a method of evaluating the financial feasibility of a certain business idea or project to assess whether it has the potential to generate enough revenue to cover costs and profitability, including analysis of market demand, competition, profit margins, operating costs, and other financial factors which affect the success of a proposed venture. The test of economic viability is often used by investors, lenders, and other stakeholders, he said.

In the case of the Maharlika Fund, he observed that the requirement imposed by the Constitution was not sufficiently complied with because its business proposal did not include the 2% overhead cost of the MIC in running the fund. Further, he stated that the test of economic viability for a sovereign wealth fund refers to the assessment of whether the funds’ investments and operations would be financially sustainable and profitable in the long-term, and that it involves the evaluation of the fund’s ability to generate returns that meet or exceed its financial obligations, such as the payment of dividends to the government, or supporting the country’s economic goals. He then inquired on the rate of return of the GOCCs that would be required to invest in the fund.

Furthermore, he posited that the viability test involves analyzing various factors such as the size of fund, investment strategy, governance, diversification, risk management, and returns. He said that the test should also take into account the size of the economy vis-à-vis other economies, to find out if it would be economically sustainable and feasible.

In conclusion, he remarked that there was still time to comply with the constitutional requirement to avoid scrutiny and the possibility of the law being struck down by the Supreme Court for being non-compliant with the requirement of the 1987 Constitution. He also noted that the submitted Maharlika business proposal, although there was a covering letter, was not even signed. He suggested that the government, with the assistance of NEDA or the NEDA-ICC, should clarify the matter, including as to which office is supposed to prepare the document complying with the constitutional requirement so that Congress would be guided accordingly, as similar questions would be asked in the future creation of new GOCCs.

The Chair took note of Senator Escudero’s manifestation.

COMMITTEE AMENDMENTS

Upon motion of Senator Villanueva, there being no objection, the Body proceeded to the period of committee amendments.

TERMINATION OF THE PERIOD OF COMMITTEE AMENDMENTS

There being no committee amendment, upon motion of Senator Villanueva, there being no objection, the Body closed the period of committee amendments and proceeded to the period of individual amendments.

At this juncture, the Chair directed the Secretariat to distribute copies of the proposed amendments.

SUSPENSION OF SESSION

With the permission of the Body, the session was suspended.

It was 6:06 p.m.

RESUMPTION OF SESSION

At 7:55 p.m., the session was resumed with Senate President Zubiri presiding.

Senate President Zubiri stated that the Body would proceed with the period of individual amendments page by page.

VILLAR (M) AMENDMENTS

As submitted by Senator Villar (M), there being no objection, the Body approved the following amendments, one after the other:

Page 1

- On line 3, after the word "to," insert the phrase GENERATE, PRESERVE, AND GROW NATIONAL WEALTH;
- At the instance of Senator Legarda, on line 11, insert a new paragraph to read as follows:

THE STATE FURTHER RECOGNIZES THE COUNTRY'S NATURAL CAPITAL AND ITS ROLE AS THE BASIS FOR THE ECONOMY, HENCE THE NEED TO ENSURE ITS INTEGRITY AND MEASURE ITS CONTRIBUTION IN NATIONAL INCOME ACCOUNTING TO IMPROVE DECISION MAKING, AND INVESTMENTS IN CONSERVATION AND PROTECTION OF NATURAL RESOURCES AND BIODIVERSITY;

Page 2

- On line 11, as amended by Senators Cayetano (P) and Angara, subject to style, insert a new subparagraph (c) on Section 3 to read as follows:
 - C) DIVESTMENT REFERS TO THE TRANSFER OF TITLE OR DISPOSAL OF INTEREST IN PROPERTY BY VOLUNTARILY, COMPLETELY AND ACTUALLY DEPRIVING OR DISPOSSESSING ONESELF OF HIS RIGHT OR TITLE TO IT IN FAVOR OF A PERSON OR PERSONS OTHER THAN HIS FAMILY AND RELATIVES UP TO THE FOURTH CIVIL DEGREE OF CONSANGUINITY OR AFFINITY;
- On line 17, insert a new subparagraph (e) on Section 3 to read as follows:
 - E) REGULAR DIRECTOR REFERS TO A DIRECTOR APPOINTED BY THE PRESIDENT OF THE PHILIPPINES WHO SHALL SERVE IN THE BOARD FULL-TIME, AND SHALL

NOT HOLD ANY OTHER PUBLIC OFFICE DURING THEIR TENURE, UNLESS OTHERWISE PROVIDED UNDER THIS ACT;

- Renumber the succeeding subparagraphs accordingly.

At this juncture, Senator Cayetano (P) suggested that the amendments being introduced be encoded and shown on the screen or copies thereof be distributed for the guidance of the Body.

Senate President Zubiri instructed the Secretariat to distribute to the Members the list of the amendments that Senator Villar (M) was reading.

SUSPENSION OF SESSION

With the permission of the Body, the session was suspended.

It was 8:04 p.m.

RESUMPTION OF SESSION

At 8:05 p.m., the session was resumed.

VILLAR-LEGARDA AMENDMENTS

As proposed by Senator Villar (M), at the instance of Senator Legarda, there being no objection, the following amendments on page 2 were approved by the Body, one after the other:

- On line 32, before the word "vehicle," replace the word "a" with THE SOLE;
- On line 35, before the word "poverty," insert ACCELERATING;
- On the same line, after the word "trajectory," at the instance of Senator Legarda and amended by Senator Cayetano (P), replace the period (.) with a comma (,) and insert the phrase WHILE ENSURING SUSTAINABLE DEVELOPMENT;

VILLANUEVA AMENDMENT

As proposed by Senator Villanueva and accepted by the sponsor, there being no objection, the Body approved on page 3, line 2, after the word "Act," the insertion of the phrase AND OTHER LAWS, RULES, AND REGULATIONS.

Thereafter, Senator Villar (M) presented the amendment of Senator Angara on page 3, line 3, after the word "accountability," to insert the proviso *PROVIDED*, THAT THE MIC SHALL COORDINATE WITH ALL RELEVANT INSTITUTIONS TO ENSURE HARMONIZATION OF POLICIES.

To Senate President Zubiri's query whether the proposal was the same as the amendment by Senator Villanueva which was earlier approved, Senator Villar (M) replied in the negative.

SUSPENSION OF SESSION

With the permission of the Body, the session was suspended.

It was 8:11 p.m.

RESUMPTION OF SESSION

At 8:13 p.m., the session was resumed.

VILLAR-ANGARA AMENDMENT

As proposed by Senator Villar (M), at the instance of Senator Angara, there being no objection, the Body approved on page 3, line 3, after the word "accountability," the insertion of the phrase *PROVIDED, THAT THE MIC SHALL COORDINATE WITH ALL THE RELEVANT INSTITUTIONS TO ENSURE HARMONIZATION OF POLICIES.*

SUSPENSION OF SESSION

Upon motion of Senator Villar (M), the session was suspended.

It was 8:14 p.m.

RESUMPTION OF SESSION

At 8:31 p.m., the session was resumed.

VILLANUEVA AMENDMENT

As proposed by Senator Villanueva, and accepted by the sponsor, there being no objection, the Body approved on page 3, line 5, after the word "agencies," the deletion of the words "and correspondents."

Senator Villanueva explained that "correspondents" was a banking term referring to a correspondent bank that provides services to another bank called the respondent bank, which was not applicable to the MIC.

MANIFESTATION OF SENATOR HONTIVEROS

Senator Hontiveros stated that she had no objection to continuing with the amendments pending the printing of a clean copy of the bill, but she requested that the bill be displayed onscreen while the amendments are being considered, or for the printed copy itself.

SUSPENSION OF SESSION

With the permission of the Body, the session was suspended.

It was 8:35 p.m.

RESUMPTION OF SESSION

At 8:39 p.m., the session was resumed.

MANIFESTATION OF SENATE PRESIDENT ZUBIRI

Senate President Zubiri begged the Body's indulgence for the technical problem, as the Google document submitted to the Secretariat kept moving as amendments were typed in, which was also the reason why the bill could not be printed.

He appealed to the Members to continue the deliberations and amendments, and assured them that a clean copy of the bill would be made available shortly. He urged the Body to pay close attention as Senator Villar (M) read each individual amendment. He stated that if there were no objections, the amendment would be carried through to the end, and only then would a clean copy be printed and reviewed by the Plenary in order to expedite the proceedings.

VILLANUEVA AMENDMENT

As proposed by Senator Villanueva and accepted by the sponsor, there being no objection, the Body approved on page 3, line 5, before the word “agencies,” to replace the word “correspondents” with AND.

PROPOSED AMENDMENT OF SENATOR TULFO

On page 3, lines 28 to 30, Senator Tulfo proposed to delete the phrase “as well as reputable private financial institutions and corporations: *Provided*, that no single private sector shareholder shall, directly or indirectly, own more than five percent (5%) of the authorized capital stock” and after the acronym “GFIs,” insert the phrase EXCEPT SSS, GSIS, PHILHEALTH, PAG-IBIG, OWWA FUND, PHILIPPINE VETERANS AFFAIRS OFFICE PENSION FUND, AND OTHER GOVERNMENT SOCIAL WELFARE ENTITIES.

In addition, on the same page, line 30, after the word “Provided,” he proposed to delete the word “further.”

He explained that the amendment would ensure that the Maharlika Investment Corporation was wholly owned by the government, including its GOCCs and instrumentalities. He stated that the amendment was consistent with the fact that the sovereign wealth funds are owned and managed by the government alone, as it restricts private sector investment without giving up beneficial ownership or control to the MIC. He added that the amendment would prohibit government social welfare entities such as the SSS, GSIS, PhilHealth, Pag-IBIG, OWWA Fund, and Philippine Veterans Affairs Office Fund from buying MIC shares with social funds intended for the people.

Senator Cayetano (P) stated that a number of senators had proposed very similar amendments, but are applied to various sections of the bill. She asked that she be allowed to propose her own amendment so that Senator Villar (M) could determine where it could be best placed. Senate President Zubiri then requested the committee to determine where the amendments should be placed.

Senator Villanueva likewise manifested that he has an amendment similar to Senator Tulfo’s on page 3, line 25 of Section 6.

Senator Villar (M) believed that the amendments proposed by Senator Tulfo should be placed on Section 6, which prohibits the capitalization of the fund by the aforementioned institutions.

Senator Tolentino inquired if agencies such as the PCSO were included in the phrase “and other government social welfare entities.” He proposed that the amendment enumerate the entities included in the phrase.

Senate President Zubiri believed that the finance managers would want to use part of PAGCOR’s investible income for MIC’s capitalization. He then proposed limiting the prohibition to SSS, Pag-IBIG, GSIS, OWWA, and other agencies of the same nature, while deleting the phrase “and other social welfare funds.”

SUSPENSION OF SESSION

With the permission of the Body, the session was suspended.

It was 8:49 p.m.

RESUMPTION OF SESSION

At 8:54 p.m., the session was resumed.

TULFO AMENDMENT

As proposed by Senator Tulfo and accepted by the sponsor, there being no objection, the Body approved on page 3, lines 28 to 30, after the word "GFIs," to replace the phrase "as well as reputable private financial institutions and corporations: *Provided*, that no single private sector shareholder shall, directly or indirectly, own more than five percent (5%) of the authorized capital stock" with EXCEPT SSS, GSIS, PHILHEALTH, PAG-IBIG, OWWA FUND, AND PHILIPPINE VETERANS AFFAIRS OFFICE PENSION FUND.

VILLAR (M) AMENDMENT

As proposed by Senator Villar (M), there being no objection, the Body approved on page 3, line 33, after the word "thereof," to insert the phrase FOR THIS PURPOSE, A SINGLE PRIVATE SECTOR SHAREHOLDER'S INTEREST INCLUDES THE DIRECT OR INDIRECT SHAREHOLDINGS IN MIC HELD BY THE SHAREHOLDER, AS WELL AS THOSE HELD BY THE CORPORATION, ITS SUBSIDIARIES, AFFILIATES, AND RELATED PARTIES, THAT ARE OWNED OR CONTROLLED DIRECTLY OR INDIRECTLY BY THE SHAREHOLDER.

ANGARA AMENDMENT

As proposed by Senator Villar (M), at the instance of Senator Angara, there being no objection, the Body approved on page 4, to delete the entire section from lines 2 to 16 starting with the word "For" and ending with the word "warrant," and to replace it with a new paragraph to read as follows:

FOR THE FIRST AND SECOND FISCAL YEARS UPON THE EFFECTIVITY OF THIS ACT, ONE HUNDRED PERCENT (100%) OF THE BSP'S TOTAL DECLARED DIVIDENDS, AS COMPUTED UNDER R.A. NO. 7653, AS AMENDED BY R.A. NO. 11211, ALSO KNOWN AS THE NEW CENTRAL BANK ACT, SHALL BE REMITTED TO THE NATIONAL GOVERNMENT FOR THE CAPITALIZATION OF THE MIC, IN THE AMOUNT NOT EXCEEDING THE P50 BILLION INITIAL SUBSCRIPTION OF THE NATIONAL GOVERNMENT TO THE CAPITALIZATION OF THE MIC UNDER THIS SECTION: *PROVIDED*, THAT THE MONETARY BOARD MAY RECOMMEND TO THE PRESIDENT OF THE PHILIPPINES THE REDUCTION OF BSP'S DIVIDEND CONTRIBUTION TO THE MIC WHENEVER ECONOMIC CONDITIONS MAY WARRANT; THEREAFTER, THE DIVIDENDS OF THE BSP SHALL BE REMITTED TO THE NATIONAL GOVERNMENT TO FUND THE INCREASE IN THE CAPITALIZATION OF THE BSP IN ACCORDANCE WITH SECTION 2 OF R.A. NO. 7653, AS AMENDED BY R.A. NO. 11211.

PROPOSED AMENDMENT OF SENATOR GATCHALIAN

On page 4, lines 2 to 16, Senator Gatchalian proposed to delete paragraph (i) and to renumber the succeeding paragraphs accordingly.

He explained that his proposal would ensure that the BSP's capitalization increase is fully realized as soon as possible in order to strengthen the institution and preserve its credibility.

He pointed out that when RA 11211 was passed, Congress was led to believe that there was an urgent need to increase the BSP's capitalization. He then opined that redirecting the funds to finance the capitalization of the MIC would set a poor precedent for future legislation involving BSP. In addition, he stated that the recapitalization of the BSP could become necessary in the

course of various monetary policy-easing and tightening cycles. As a result, he stated that the Body must ensure that the BSP's financial position remains sound under future conditions of the U.S. Federal Reserve, the BSP easing, and the U.S. recession.

SUSPENSION OF SESSION

With the permission of the Body, the session was suspended.

It was 9:01 p.m.

RESUMPTION OF SESSION

At 9:09 p.m., the session was resumed.

Upon resumption, Senate President Zubiri stated that Senator Gatchalian proposed to delete Section (i) on page 4 of the bill.

As a response to Senator Gatchalian's proposal, Senator Villanueva recalled that during the period of interpellations, he reminded the Body that it had voted on RA 11211 (New Central Bank Act), which increased the BSP's capitalization from P50 billion to P200 billion for the purpose of enhancing the BSP's ability to withstand economic disruptions. In rejecting Senator Gatchalian's proposed amendment, Senator Villar (M) stated that the BSP's economic team had already expressed that they prioritize the use of BSP dividends for the MIC.

VILLAR AMENDMENT

As proposed by Senator Villar (M), there being no objection, the Body approved the deletion of the proviso on page 5, lines 1 to 5.

Asked by Senator Cayetano (P) on the rationale for removing the provision, Senator Villar (M) stated that during the interpellations, it was questioned why there was a need for automatic review of the Secretary of Finance every five years.

SUSPENSION OF SESSION

With the permission of the Body, the session was suspended.

It was 9:14 p.m.

RESUMPTION OF SESSION

At 9:32 p.m., the session was resumed.

PROPOSED AMENDMENT OF SENATOR DELA ROSA

On page 5, line 13, Senator Dela Rosa proposed to replace the phrase "requested or required to contribute" with USED TO FUND.

SUSPENSION OF SESSION

Upon motion of Senator Villanueva, the session was suspended.

It was 9:34 p.m.

RESUMPTION OF SESSION

At 9:46 p.m., the session was resumed.

CAYETANO (P)-LEGARDA-VILLANUEVA-DELA ROSA AMENDMENT

As proposed by Senator Cayetano (P), on behalf of Senators Legarda, Villanueva, Dela Rosa, and other senators, and accepted by the sponsor, there being no objection, the Body approved the deletion of the paragraph on page 5, lines 10 to 14 and in lieu thereof, the insertion of the following:

THE GOVERNMENT AGENCIES AND GOCCs PROVIDING FOR THE SOCIAL SECURITY AND PUBLIC HEALTH INSURANCE OF GOVERNMENT EMPLOYEES, PRIVATE SECTOR WORKERS AND EMPLOYEES, AND OTHER SECTORS AND SUBSECTORS, SUCH AS BUT NOT LIMITED TO THE GOVERNMENT SERVICE INSURANCE SYSTEM, SOCIAL SECURITY SYSTEM, PHILIPPINE HEALTH INSURANCE CORPORATION, OVERSEAS WORKERS WELFARE ADMINISTRATION, PHILIPPINE VETERANS AFFAIRS OFFICE, AND HOME DEVELOPMENT MUTUAL FUND SHALL BE ABSOLUTELY PROHIBITED, WHETHER MANDATORY OR VOLUNTARY, TO CONTRIBUTE TO THE CAPITALIZATION OF THE MIC.

Senator Cayetano (P) explained that while the senators would want the MIF to succeed, they would like to ensure that all pension funds would not be touched but rather preserved, considering the past experiences where the hard-earned money of Filipinos were lost.

Associating herself with the amendment, Senator Poe remarked that social security funds and other funds, which were already invested safely at this time, should be protected from undue risk. Senator Cayetano (P) agreed that the social security funds should not be put to risk. For instance, she believed that the investment of PhilHealth in LANDBANK and DBP was enough exposure of its funds, and it would anyway be benefitted if the investments of LANDBANK and DBP in the MIF would get returns.

PROPOSED AMENDMENT OF SENATOR VILLANUEVA

On the previous amendment, after the words "Home Development Mutual Fund," Senator Villanueva proposed to insert the phrase "and other private funds held in trust by the government." He said that the reason for OWWA's inclusion was to ensure that the MIC would not deviate from the purpose of its fund.

On Senate President Zubiri's query whether the inclusion of OWWA would suffice, without mentioning other private funds are held in trust, Senator Villanueva pointed out that royalties from mining firms, for instance, have become part of the private funds held in trust. Nonetheless, he withdrew his proposed amendment.

SUSPENSION OF SESSION

With the permission of the Body, the session was suspended.

It was 9:56 p.m.

RESUMPTION OF SESSION

At 9:57 p.m., the session was resumed.

Upon resumption, Senator Villar (M) proposed an amendment on page 5, line 23, after the word "operations."

However, the Senate President observed that Senator Villar (M) might be holding a different copy of the bill because the word “operations” could not be found on page 5, line 23.

SUSPENSION OF SESSION

With the permission of the Body, the session was suspended.

It was 9:59 p.m.

RESUMPTION OF SESSION

At 10:02 p.m., the session was resumed.

VILLAR (M) AMENDMENTS

As proposed by Senator Villar (M), there being no objection, the Body approved the following amendments on page 4:

1. On line 23, after the word “operations,” insert the following paragraphs:

WITHIN THIRTY (30) DAYS FROM THE EFFECTIVITY OF THE IRR, THE GOVERNANCE COMMISSION FOR GOCCs (GCG) SHALL SUBMIT A LIST OF GOVERNMENT-OWNED GAMING OPERATORS AND/OR REGULATORS THAT SHOULD REMIT TO THE MIC. THE LIST SHALL BE UPDATED ANNUALLY, OR AS OFTEN AS NECESSARY. THE REMITTANCE OF REVENUES OF GAMING OPERATORS AND/OR REGULATORS SHALL BE FOR FIVE (5) YEARS;

PAGCOR AND OTHER GOVERNMENT-OWNED GAMING OPERATORS AND/OR REGULATORS SHALL REMIT THE NATIONAL GOVERNMENT’S SHARE TO THE BUREAU OF THE TREASURY (BT_r). THEREAFTER, THE BT_r SHALL IMMEDIATELY RELEASE AND TRANSFER THE PORTION INTENDED FOR THE MIF TO THE MIC, SUBJECT TO THE USUAL BUDGETING, ACCOUNTING, AND AUDITING RULES AND REGULATIONS; and

2. On line 28, add a colon (:) after the acronym “MIC” and the following proviso: *PROVIDED*, THAT THE MIC SHALL IN NO CASE BE HELD LIABLE FOR OUTSTANDING TAX LIABILITIES OF THE PROPERTIES;.

SUSPENSION OF SESSION

With the permission of the Body, the session was suspended.

It was 10:10 p.m.

RESUMPTION OF SESSION

At 10:12 p.m., the session was resumed.

LEGARDA AMENDMENT

As proposed by Senator Legarda and accepted by the sponsor, there being no objection, the Body approved on page 4, line 25, after the period (.), the insertion of the sentence THE REAL AND PERSONAL PROPERTIES TO BE IDENTIFIED BY THE PRIVATIZATION COUNCIL TO BE CONTRIBUTED TO THE MIC SHALL BE DIRECTLY RELATED TO ITS MANDATE.

PROPOSED AMENDMENT OF SENATOR VILLANUEVA

On page 5, line 31, Senator Villanueva proposed the deletion of the phrase “regardless of the amount involved,” and on the same page, line 33, after the acronym “MIF,” the insertion of the following proviso: *PROVIDED, THAT IN NO EVENT SHALL THE MIC COMPROMISE OR RELEASE ANY CLAIM OR LIABILITY IN EXCESS OF ONE PERCENT (1%) OF THE OUTSTANDING CAPITAL STOCK OF MIC.*

He explained that there was a need to limit the amount that could be compromised or released by the board, that is, 1% of the P125 billion subscribed capital stock of the MIC, which was already a substantial amount. This, he believed, would be an additional safeguard under the particular measure.

SUSPENSION OF SESSION

Upon motion of Senator Villar (M), the session was suspended.

It was 10:16 p.m.

RESUMPTION OF SESSION

At 10:20 p.m., the session was resumed.

VILLANUEVA AMENDMENT

Upon resumption, as proposed by Senator Villanueva and accepted by the sponsor, there being no objection, the Body approved the rewording of the paragraph on page 5, lines 30 to 33, as follows:

THE MIC MAY COMPROMISE OR RELEASE, IN WHOLE OR IN PART, ANY CLAIM, HOLD OR SETTLE LIABILITY TO THE MIC, UNDER SUCH TERMS AND CONDITIONS, AS MAY BE PRESCRIBED BY THE BOARD, UPON FAVORABLE RECOMMENDATION OF THE ADVISORY BODY TO PROTECT THE INTEREST OF THE MIC AND THE INTEGRITY OF THE MIF: *PROVIDED, THAT IN NO EVENT SHALL THE MIC COMPROMISE OR RELEASE ANY CLAIM OR LIABILITY IN EXCESS OF THE AMOUNT AS PRESCRIBED UNDER RELEVANT LAWS, RULES AND REGULATIONS.*

INQUIRY OF SENATOR ANGARA

At this juncture, Senator Angara inquired whether the 13th amendment on page 8 of the copy provided to the senators was already approved. He observed that the sponsor was using a different working draft of the bill.

The Chair suggested that the Members refer to the bill under the committee report for the purpose of the individual amendments.

VILLAR (M) AMENDMENT

As proposed by Senator Villar (M), there being no objection, the Body approved the deletion of the entire Section 7 on page 5, lines 15 to 21.

Senator Cayetano (P) stated that Senator Legarda also had amendments to Section 7 that had just been deleted.

In response, Senate President Zubiri explained that Section 7 had been deleted so that, should the MIC need to increase its capitalization, it would have to go through the legislative process and request an amendment from Congress.

Senator Villanueva noted that the BSP increased its capitalization from P50 billion to P200 billion through legislation because RA 11211 lacked a provision authorizing such an increase.

Senator Cayetano (P) explained that Senator Legarda's proposal was a new section that could be included in the next provision because it involves an independent body undertaking a review every five years.

Senator Legarda sought clarification regarding the status of her amendment on page 5, which she believed Senator Villar (M) accepted. Senate President Zubiri clarified that it was no longer accepted, as Section 7 had been deleted in its entirety.

Senator Legarda explained that several senators had asked her to craft the amendment requiring the MIC to submit a request to Congress for any increase in its capitalization.

Senate President Zubiri opined that Senator Villanueva had clearly explained that the MIC must return to Congress if it wishes to increase its capital due to the deletion of Section 7.

Senator Legarda responded that she would defer to the Body so long as it is documented in the *Record of the Senate* that the MIC must request Congress for an increase in its capitalization.

Senate President Zubiri then requested Senator Legarda to introduce her proposal.

LEGARDA AMENDMENT

As proposed by Senator Legarda and accepted by the sponsor, there being no objection, the Body approved to replace on page 5, lines 15 to 21, the whole Section 7, with the following:

SEC. 7. INCREASE IN CAPITALIZATION. — THE BOARD, UPON RECOMMENDATION OF THE ADVISORY BODY, SHALL REQUEST CONGRESS FOR LEGISLATION TO INCREASE THE CAPITALIZATION OF THE MIC UP TO SUCH AN AMOUNT THAT IS NECESSARY TO OBTAIN THE OBJECTIVES OF THIS ACT.

THE INCREASE IN THE AUTHORIZED CAPITAL STOCK MAY BE SUBSCRIBED AND PAID FOR BY THE FOUNDING GFIS AND/OR THE NATIONAL GOVERNMENT FROM THE UNAPPROPRIATED RETAINED EARNINGS OF THE MIC: *PROVIDED*, THAT PAYMENT FOR SUBSCRIPTION BY THE NATIONAL GOVERNMENT OF THE INCREASE IN AUTHORIZED CAPITAL STOCK OTHER THAN THOSE SUBSCRIBED AND PAID FROM ITS SHARE IN THE UNAPPROPRIATED RETAINED EARNINGS SHALL BE APPROPRIATED BY CONGRESS.

PROPOSED AMENDMENT OF SENATORS LEGARDA AND CAYETANO (P)

On page 5, after line 21, Senator Cayetano (P), at the instance of Senator Legarda, proposed to insert a proviso at the last paragraph of Section 7 to read as follows:

THERE SHALL BE AN AUTOMATIC REVIEW OF AN INDEPENDENT BODY COMPOSED OF REPRESENTATIVES FROM BSP, COMMISSION FOR GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS, INTERNAL AUDITOR OF MIC, AND A REPRESENTATIVE OF A NON-INVESTING GFI EVERY FIVE YEARS, TAKING INTO CONSIDERATION THE

ADEQUACY OF THE FUND IN RELATION TO THE OBJECTIVES OF THIS ACT, THE FISCAL CONDITION OF THE NATIONAL GOVERNMENT, THE CONDITION OF THE INVESTING GFIS IN RELATION TO THEIR EXPOSURE TO THE FUND, AND THE OVERALL ECONOMIC ENVIRONMENT.

SUSPENSION OF SESSION

With the permission of the Body, the session was suspended.

It was 10:39 p.m.

RESUMPTION OF SESSION

At 10:41 p.m., the session was resumed.

WITHDRAWAL OF MOTION

Upon resumption, Senator Cayetano (P) withdrew her proposed amendment.

GATCHALIAN AMENDMENT

As proposed by Senator Gatchalian and accepted by the sponsor, there being no objection, the Body approved on page 6, line 27, to insert a new paragraph to read as follows:

IN NO INSTANCE SHALL THE PHILIPPINE GOVERNMENT GUARANTEE ANY BONDS ISSUED BY THE MIC.

PROPOSED AMENDMENT OF SENATOR VILLANUEVA

On page 6, line 31, after the word "exceed," Senator Villanueva proposed to replace the word "two" with ONE; and after the word "percent," to replace the figure "2" with 1.

He explained that since fees are typically based on a sliding scale, the 2% ceiling should be adjusted based on the asset size. He opined that, in effect, they should also include a provision stating that the aforementioned ceiling will decrease as the size of the fund grows.

He stated that Black Rock Financial Management Inc.'s management fee in the United States was .30%, plus .51% in operating expenses, or .81%.

According to Senate President Zubiri, the difference was that Black Rock was denominated in U.S. dollars, while MIC was denominated in Philippine pesos.

Senator Villanueva stated that, at the proper time, he will propose another amendment that would reduce the percentage of operating costs as the value of the assets increases.

SUSPENSION OF SESSION

Upon motion of Senator Villar (M), the session was suspended.

It was 10:46 p.m.

RESUMPTION OF SESSION

At 10:50 p.m., the session was resumed.

MANIFESTATION OF SENATOR CAYETANO (A)

Senator Cayetano (A) stated that he had sent a letter to the Senate leadership to reserve his right to ask questions regarding the amendments. He then inquired about the industry standard for administrative and operational costs. Senator Villar (M) responded that according to financial literature, the range was between 0.2% to 2%, depending on the size of the fund.

Senator Cayetano (A) proposed using the top five fund managements of the same nature as a benchmark for administrative and operational expenses, so that the Board of Directors will be guided to keep the expenditures within the range. He believed that a 1% limit could pose a problem in the future, as the actual cost would be between 1.5% and 2%. He stated that it was difficult to establish a sliding scale if the actual cost exceeds 1%. He added that although the Body would like to implement safeguards, it should not limit the fund to 1%, when the industry standard was 1.5%.

At this juncture, Senator Villanueva stated that he would temporarily withdraw his proposed amendment on page 6, line 3 and reconsider it at a later time.

Senator Cayetano (A) believed that the sovereign wealth fund was neither inherently evil nor beneficial. He compared the fund to a weapon that can be both used and abused. He stated that even without the MIF, public funds could be used to bolster private businesses. He stated that if Congress passes the correct law with the necessary safeguards, it would be difficult to commit malfeasance in the MIF. He reiterated that if the proposed measure was neither intrinsically evil nor intrinsically good, it is the Senate's responsibility to pass a law with the necessary safeguards. However, he stated that excessive safeguards would impede the fund's ability to compete with other sovereign funds and thousands of private funds worldwide. He urged the Body to adopt a law that not only provides protections, but also guarantees its success. He stated that some Members oppose the fund because it could be used for corruption, but he encouraged them to participate because it was their right to express their opinion and the majority will respect it. He emphasized that the Body should guarantee the fund's operation with the P500 billion capital. He stated that if the fund fails, it will be the people who will be embarrassed, not the government.

He stated that his only hesitation with MIC was that the funds should rather be spent to construct, for example, classrooms in order to resolve the K-12 problem.

Additionally, he stated that the government could support agriculture with MIC funds. He noted that productivity and commodity production have remained constant despite the growing population. He also suggested that the funds be used to address transportation issues. He noted that Senator Villar (M) mentioned that the Fund may engage in joint ventures, such as the construction of railways and highways. He added that Pag-IBIG, GSIS, and SSS could invest in paid highways because they generate income. He stated that he could censure the MIF and demand that the P500 billion be allocated to education, agriculture, and transportation. He said, however, that the government could have both if Congress could align the MIF's priorities and implement significant reforms in the General Appropriations Act of 2024.

He averred that one-third of the DPWH budget, or P300 billion, was allocated to flood control and maintenance. Instead of rectifying the excessive reliance on maintenance and flood control, he suggested that the agency build more productive infrastructure.

He recalled that Senator Bam Aquino IV filed a similar measure before the end of President Aquino III's term. He stated that personally, he would support the measure and continue to advocate for agriculture, health, and education as the proper priorities, both then and at the present time.

He informed the Body that according to the most recent statistics, 16,000 barangays still lack a primary health unit or health center. He emphasized that even though the P500 billion could easily be used to fund the sectors that needed it the most, placing it in the MIF and ensuring that it not only passes with the proper safeguards but also achieves its goals of earning money for the Filipino people was essential.

MANIFESTATION OF SENATOR HONTIVEROS

Senator Hontiveros recalled that when the Maharlika Sovereign Welfare Fund measure was first introduced, the economy was much stronger and on the rise, in contrast to the current situation, in which the country was experiencing systemic problems and the lingering economic effects of the pandemic.

Senator Cayetano (A) interjected, stating that he did not wish to speak for Senator Aquino, except for the fact that when the latter filed the bill, it was during the Aquino administration, whereas the current bill was filed during the Marcos administration.

He stated that Senator Aquino can speak to the media about it, and thanked Senator Hontiveros for pointing out that the proposed measure was debated during a time when the nation was experiencing difficult times and the effects of the pandemic. He informed the Body that the economic expansion between 2017 and 2019 was considerably greater than in 2016, except that the pandemic happened. He stated that in terms of per capita, the current level was higher than in 2016. He added that it was the responsibility of the economic managers and the Sponsor to prove to the Body that the country's position in the global and regional economies has improved. He pointed out that whether it was filed in 2016, 2019, or 2022, he would view the measure in the same manner.

LEGARDA-VILLANUEVA AMENDMENT

As proposed by Senators Legarda and Villanueva and accepted by the sponsor, there being no objection, the Body approved on page 7, lines 1 and 2, to delete the phrase "the Secretary of Finance may reduce the allowed expense ratio," and in lieu thereof, to insert the phrase **THE FOREGOING CEILING SHALL DECREASE AS THE SIZE OF THE FUNDS INCREASES BASED ON INDUSTRY PRACTICE.**

DELA ROSA AMENDMENT

As proposed by Senator Dela Rosa and accepted by the sponsor, the Body approved on page 7, line 12, to replace the period (.) with a colon (:) and to insert the following proviso, subject to style: **PROVIDED, FURTHER, THAT THE GOCCS PROVIDING FOR THE SOCIAL SECURITY AND PUBLIC HEALTH INSURANCE OF GOVERNMENT EMPLOYEES, PRIVATE SECTOR WORKERS AND EMPLOYEES, AND OTHER SECTORS AND SUBSECTORS, SUCH AS BUT NOT LIMITED TO THE GSIS, SSS, PHILHEALTH, OWWA, PVAO, HDMF, AND OTHER PRIVATE FUNDS HELD IN TRUST BY THE GOVERNMENT SHALL BE ABSOLUTELY PROHIBITED TO INVEST INTO THE MIF.**

SUSPENSION OF SESSION

With the permission of the Body, the session was suspended.

It was 11:10 p.m.

RESUMPTION OF SESSION

At 11:13 p.m., the session was resumed.

CAYETANO (P)-DELA ROSA-TULFO-LEGARDA-VILLANUEVA-POE-BINAY-ANGARA AMENDMENT

As proposed by Senators Cayetano (P), Dela Rosa, Tulfo, Legarda, Villanueva, Poe, Binay, and Angara and accepted by the sponsor, there being no objection, after the word “boards,” the Body approved on page 7, line 12, to insert a colon (:) and the following proviso, subject to style:

PROVIDED, FURTHER, THAT THE GOVERNMENT AGENCIES AND GOCCS PROVIDING FOR THE SOCIAL SECURITY AND PUBLIC HEALTH INSURANCE OF GOVERNMENT EMPLOYEES, PRIVATE SECTOR WORKERS AND EMPLOYEES, AND OTHER SECTORS AND SUBSECTORS, SUCH AS, BUT NOT LIMITED TO, THE GOVERNMENT SERVICE INSURANCE SYSTEM (GSIS), SOCIAL SECURITY SYSTEM (SSS), PHILIPPINE HEALTH INSURANCE CORPORATION (PHILHEALTH), OVERSEAS WORKERS WELFARE ADMINISTRATION, PHILIPPINE VETERANS AFFAIRS OFFICE, AND HOME DEVELOPMENT MUTUAL FUND SHALL BE ABSOLUTELY PROHIBITED, WHETHER MANDATORY OR VOLUNTARY, TO INVEST IN THE MIF: *PROVIDED, FURTHERMORE*, THAT THE INVESTMENTS FROM THE LBP, THE DBP, AND OTHER GFIS SHALL NOT EXCEED TWENTY-FIVE PERCENT (25%) OF THEIR NET WORTH.

VILLAR (M) AMENDMENT

As proposed by Senator Villar (M), there being no objection, after the acronym “MIC,” the Body approved on page 7, line 32, to replace the words “shall authorize” with MAY ENGAGE.

MANIFESTATION OF SENATOR HONTIVEROS

Senator Hontiveros associated herself with the amendment on page 7, line 12, which excludes social protection funds, such as the GSIS, from investing in the MIC.

MANIFESTATION OF SENATOR LEGARDA

Senator Legarda thanked Senator Villar (M) for earlier accepting her proposed amendment on the exclusion of the social welfare GOCCs, despite the fact that he had not read it into the *Record*. She noted that her proposal had also been expanded and improved by other Members.

PROPOSED AMENDMENT OF SENATOR VILLANUEVA

On page 8, line 4, after the word “hybrids,” Senator Villanueva proposed to insert the following proviso: *PROVIDED*, THAT IF THE EQUITY INVESTMENT IS ULTIMATELY FOR THE PURPOSE OF RAISING CAPITAL FOR AN INFRASTRUCTURE OR RELATED PROJECT, THE RULE ON INVESTMENTS IN REAL ESTATE AND INFRASTRUCTURE PROJECTS SHALL APPLY.

SUSPENSION OF SESSION

Upon motion of Senator Villar, the session was suspended.

It was 11:24 p.m.

RESUMPTION OF SESSION

At 11:41 p.m., the session was resumed.

Upon resumption, Senator Villar (M) explained that he did not accept Senator Villanueva’s

amendment because the safeguards being pushed by the latter were already covered in the last paragraph of Section 14.

TOLENTINO AMENDMENT

As proposed by Senator Villar (M), at the instance of Senator Tolentino, there being no objection, after the word "Co-Investments," the Body approved on page 8, line 6, to insert the phrase **MERGERS AND ACQUISITIONS**.

ANGARA-LEGARDA AMENDMENT

As proposed by Senator Villar (M), at the instance of Senators Angara and Legarda, there being no objection, the Body approved on page 8, line 8, to insert after the words "infrastructure projects," the following proviso, subject to style:

PROVIDED, THAT INVESTMENTS IN INFRASTRUCTURE PROJECTS SHALL BE DIRECTED TOWARDS THE FULFILLMENT OF NATIONAL PRIORITIES SUCH AS THE NATIONAL INFRASTRUCTURE PROGRAM OF THE DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS (DPWH) AND OTHER INFRASTRUCTURE AGENCIES, THE INCLUSIVE INNOVATION INDUSTRY STRATEGY OF THE DEPARTMENT OF TRADE AND INDUSTRY (DTI), AND THE PUBLIC INFRASTRUCTURE PROGRAMS OF THE NATIONAL ECONOMIC AND DEVELOPMENT AUTHORITY (NEDA).

CAYETANO (P) AMENDMENTS

On page 8, as proposed by Senator Cayetano (P) and accepted by the sponsor, there being no objection, the Body approved the following amendments:

1. On line 9, insert a new subsection (i) to read as follows:

PROGRAMS AND PROJECTS ON HEALTH EDUCATION, RESEARCH AND INNOVATION, AND OTHER SUCH INVESTMENTS THAT CONTRIBUTE TO SUSTAINABLE DEVELOPMENT; and reletter the subsections accordingly; and
2. On line 14, after the word "investments," insert the phrase **WITH SUSTAINABLE AND DEVELOPMENTAL IMPACT ALIGNED WITH SECTION 17 OF THIS ACT**.

Senator Cayetano (P) explained that while the objective of the fund was to earn, it should also contribute to the attainment of the goals of sustainable development.

VILLAR (M) AMENDMENTS

On page 8, as proposed by Senator Villar (M), there being no objection, the Body approved the following amendments, one after the other:

1. On line 17, replace the words "major capital" with **HIGH IMPACT**;
2. On lines 17 and 18, delete the phrase "as endorsed by the National Economic and Development Authority (NEDA) Board or;"
3. On line 28, replace the word "periodically" with **REGULARLY**; and
4. On line 29, after the word "arrangement," insert the phrase **IN THE FORM AND MANNER AS DETERMINED BY THE BOARD**.

Senator Villar (M) stated that the amendments on lines 28 and 29 were in collaboration with Senator Angara.

CAYETANO (P) AMENDMENT

On page 8, after line 20, Senator Cayetano (P) proposed the insertion of a new paragraph to read as follows:

THE BOARD OF DIRECTORS OF THE MIC SHALL LIKEWISE ENSURE THAT ALL ALLOWABLE INVESTMENTS AS PROVIDED IN THIS SECTION ARE IN ACCORDANCE WITH THE PRINCIPLES OF SUSTAINABILITY.

Senator Cayetano (P) explained that the amendment would ensure that the fund would not only make money but also address the concerns of future generations.

SUSPENSION OF SESSION

Upon motion of Senator Villar (M), the session was suspended.

It was 11:52 p.m.

RESUMPTION OF SESSION

At 11:53 p.m., the session was resumed.

Upon resumption, Senator Villar (M) accepted the amendment of Senator Cayetano (P) and, there being no objection, the same was approved by the Body.

FURTHER INDIVIDUAL AMENDMENTS

As proposed by the senators herein indicated, there being no objection, the following amendments were approved by the Body, one after the other:

Page 8

By Senator Legarda

- On line 26, before the word “prejudicial” delete the word “grossly”;

By Senator Gatchalian

- On line 29, before the word “financial,” replace the word “the” with ALL;
- On line 30, after the word “co-investment,” insert the phrase IN ITS WEBSITE WHICH SHALL BE IMMEDIATELY UPDATED AND MADE EASILY ACCESSIBLE TO THE PUBLIC, subject to style;

Page 9

By Senator Villar (M)

- At the instance of Senator Gatchalian, on line 10, after the word “investments,” insert a comma (,) and the phrase INCLUDING PRUDENTIAL STANDARDS AND CONCENTRATION LIMITS TO AVOID UNDUE RISK CONCENTRATION FROM EXCESSIVE EXPOSURES;
- On line 19, delete the word “and;”
- After line 19, insert a new subsection to read as follows:

DISCLOSURE AND TRANSPARENCY MECHANISMS TO OVERSEE COMPLIANCE BY VARIOUS DEPARTMENTS OF THE MIC WITH THE STANDARDS, PROCEDURES AND POLICIES SET BY THE BOARD; and;
- Reletter the subsections accordingly;

- At the instance of Senator Legarda, under the Section 17, insert a new paragraph to read as follows:

ASIDE FROM THE POTENTIAL EARNINGS, THE BOARD SHALL TAKE INTO ACCOUNT RISKS OTHER THAN ECONOMIC, I. E., CLIMATE RISK AND THOSE THAT ARE REPORTED UNDER RULES AND REGULATIONS OF GOVERNMENT AGENCIES REQUIRING ENVIRONMENTAL, SOCIAL, AND GOVERNANCE REPORTING AS WELL AS RESOURCE EVALUATION STUDIES AND NATURAL CAPITAL COUNTING IN MAKING INVESTMENT DECISIONS; AND

By Senator Cayetano (P)

- On line 27, after the word “considerations,” insert the phrase AND SUSTAINABLE PRACTICES;

By Senator Gatchalian

- On line 29, after the word “review,” insert the paragraph ALL INVESTMENT POLICIES APPROVED BY THE BOARD OF THE MIC SHALL BE POSTED ON ITS WEBSITE, WHICH SHALL BE IMMEDIATELY UPDATED AND BE MADE EASILY ACCESSIBLE TO THE PUBLIC.

Page 10

By Senator Villar (M) and Senator Gatchalian

- After line 2, after the word “Fund,” insert a new paragraph to read as follows:

INVESTMENT AND RISK MANAGEMENT PLANS, STRATEGIES AND ACTIVITIES OF THE MIC INVOLVING THE MIF, SHALL BE DISCLOSED AND PUBLISHED ON ITS WEBSITE THAT WILL BE IMMEDIATELY UPDATED AND BE MADE EASILY ACCESSIBLE TO THE PUBLIC.

NO GUARANTEE INVOLVING FINANCIAL LIABILITY ARISING FROM ANY ACTION OF THE MIC SHALL BE BINDING UPON THE PHILIPPINE GOVERNMENT WITHOUT UPDATING THE WRITTEN AUTHORITY OF THE PROPER AUTHORITIES UNDER EXISTING LAWS.;

By Senator Villar (M)

- On line 14, before the word “Chief,” insert the words PRESIDENT AND;
- On the same line 14, after the word “Officer,” insert the acronym (PCEO);
- On line 15, after the word “President,” insert the word and acronym AND CEO;

PROPOSED AMENDMENT OF SENATOR HONTIVEROS

On page 10, line 15, subsection c), after the acronym “LBP,” Senator Hontiveros proposed to insert the phrase OR DBP AS RECOMMENDED BY THE ADVISORY BOARD.

SUSPENSION OF SESSION

With the permission of the Body, the session was suspended.

It was 12:07 a.m.

RESUMPTION OF SESSION

At 12:16 a.m., the session was resumed.

Upon resumption, Senator Hontiveros withdrew her proposed amendment to Section 20.

FURTHER INDIVIDUAL AMENDMENTS*(Continuation)*

As proposed by the senators hereunder indicated, there being no objection, the following amendments were approved by the Body, one after the other:

Page 10*By Senator Hontiveros*

- After line 18, insert the following paragraph:

PROVIDED, THAT, IN CASE OF A MERGER, CONSOLIDATION, ABOLITION, OR DISSOLUTION OF ANY OF THE FOUNDING GFIS, THE SEAT IN THE BOARD OF THE ABSORBED, DISSOLVED, OR ABOLISHED GFI SHALL BE FILLED BY THE NEXT HIGHEST RANKING OFFICER OF THE GFI WHO HAS ASSUMED THE RIGHTS OF THE ABSORBED, DISSOLVED, OR ABOLISHED GFI.

By Senator Villar (M)

- On line 25, after the word “years” and the period (.), insert the following sentences: IN CASE OF REMOVAL OR RESIGNATION, THE APPOINTMENT TO ANY VACANCY SHALL ONLY BE FOR THE UNEXPIRED TERM OF THE PREDECESSOR. THE APPOINTMENT OF A REGULAR DIRECTOR TO FILL SUCH A VACANCY SHALL BE IN ACCORDANCE WITH THE MANNER PROVIDED FOR REGULAR NOMINATION, SHORTLISTING, AND APPOINTMENT OF REGULAR DIRECTORS;

Page 11*By Senator Villar (M)*

- On line 1, after the word “Philippines,” insert the phrase UPON THE RECOMMENDATION OF THE ADVISORY BODY;

By Senator Hontiveros

- After line 22, add a new subsection (d) to read as follows, subject to style:
(D) OR HAS A PENDING ADMINISTRATIVE OR JUDICIAL CASE RELATING TO FRAUD, PLUNDER, CORRUPT PRACTICES, MONEY LAUNDERING, TAX EVASION, OR ANY SIMILAR CRIMES INVOLVING MISUSE OF MONEY OR BREACH OF TRUST;

Senator Cayetano (P) emphasized that the amendment is subject to style, as “MISUSE OF MONEY” could be rephrased as MISUSE OF FUNDS IN A PERSON’S POSSESSION.

- On line 24, delete the phrase “as approved by the Advisory Body” and the comma (,) thereafter.

INQUIRY OF SENATOR CAYETANO (A)

Senator Cayetano (A) requested clarification on the meaning of “pending case” in Senator Hontiveros’ amendment on line 22 of page 11, so that people cannot simply file cases against an individual to prevent him from being appointed. Senator Hontiveros responded that the amendment was included to ensure that there would be no doubts regarding the integrity and probity of MIC officials, given that the proposed corporation would be in charge of a substantial amount of money.

Senator Cayetano (A) believed that a fiscal or prosecutor should file the charges against an MIC board member if there is probable cause to do so.

Senate President Zubiri proposed making the amendment “subject to style” in order to codify such intent in the law. Senator Hontiveros said that she was open to further improvements to her amendment.

Senate President Zubiri believed that the amendment of Senator Hontiveros applies to those who have been charged in court by a fiscal or the Ombudsman; therefore, they should not be appointed to the MIC.

Senator Hontiveros expressed confidence that the Secretariat could properly draft the amendment, subject to style.

INDIVIDUAL AMENDMENTS

(Continuation)

Page 11

By Senator Poe

- Between lines 25 and 26, insert a new paragraph to read as follows:

ALL MEMBERS OF THE BOARD OF DIRECTORS SHALL BE BONDED TO THE GOVERNMENT FOR THE FAITHFUL PERFORMANCE OF ALL DUTIES IMPOSED UPON HIM BY LAW AND FOR THE FAITHFUL ACCOUNTING OF ALL FUNDS AND PUBLIC PROPERTIES COMING INTO HIS CUSTODY OR CONTROL IN ACCORDANCE WITH THE PUBLIC BONDING LAW UNDER THE REVISED ADMINISTRATIVE CODE, EO 449 S. 1997, AND RELATED LAWS AND ISSUANCES. PRIOR TO THE DISCHARGE OF DUTIES, EACH MEMBER SHALL BE REQUIRED TO SECURE A FIDELITY BOND OF TEN MILLION PESOS (P10,000,000.00).

At this juncture, on line 24, Senator Hontiveros proposed to delete the phrase “as approved by the Advisory Body.” Senate President Zubiri stated that the amendment was previously approved.

Page 12

By Senator Villar (M)

- On line 11 (h), after the word “engage,” delete the phrase “and/or appoint” and insert AS MAY BE NECESSARY;
- On the same line, after the word “Consultant,” delete the slash (/) and the word “Council”;
- On line 17 and 18, after the word “dividends,” delete the phrase “in accordance with Section 42 of R.A. No. 11232 or the Revised Corporation Code of the Philippines, notwithstanding the provisions of R.A. No. 7656,” and insert the phrase LAW AND SUBJECT TO THE PROVISIONS OF R.A. NO. 7656.
- On line 19, after the word “determine,” insert the phrase CONSULTATION WITH THE GCG.

PROPOSED AMENDMENT OF SENATOR VILLAR (M)

Still on page 12, line 23, after the word “contrary,” Senator Villar (M) proposed to replace the phrase “the organizational structure, staffing pattern and compensation structure of the MIC shall be subject to the approval of the President of the Philippines” with the phrase *PROVIDED, THAT THE COMPENSATION AND EMOLUMENTS SHALL BE COMPARABLE WITH THE PREVAILING RATES IN THE PRIVATE SECTOR, NECESSARY TO ATTRACT AND RETAIN COMPETENT TALENT: PROVIDED, FURTHER, THAT THE COMPENSATION AND OTHER EMOLUMENTS SHALL NOT EXCEED THAT OF THE PCEO, AS PROVIDED UNDER SECTION 26 OF THIS ACT.*

However, he stated that Senator Legarda’s proposed amendment was to delete the entire Section 21(k). Senator Cayetano (P), however, noted that there were two separate proposals.

Thereafter, Senator Villar (M) withdrew his motion.

SUSPENSION OF SESSION

Upon motion of Senator Villar (M), the session was suspended.

It was 12:32 a.m.

RESUMPTION OF SESSION

At 12:32 a.m., the session was resumed.

MANIFESTATION OF SENATOR VILLAR (M)

Senator Villar (M) believed that there was a request by Senator Legarda to explain her proposal to delete the entire Section 21(k). Senate President Zubiri, however, noted Senator Legarda shaking her head. Thus, Senator Villar (M) stated that his original amendment remains in effect.

Senator Cayetano (P), however, stated that she would propose an amendment to the amendment of Senator Villar (M), which she drafted prior to hearing the latter's proposal.

PROPOSED AMENDMENT OF SENATOR CAYETANO (P)

On page 12, Senator Cayetano (P) proposed to delete lines 19 to 25 and replace it with the following:

TO DETERMINE, IN ACCORDANCE WITH REPUBLIC ACT NO. 10149, OR THE GOCC GOVERNANCE ACT, THE ORGANIZATIONAL STRUCTURE, STAFFING PATTERN, AND NUMBER OF PERSONNEL OF THE MIC AND DEFINE THEIR DUTIES AND RESPONSIBILITIES: *PROVIDED*, THAT THE BOARD MAY FIX THE COMPENSATION AND OTHER EMOLUMENTS OF HIGHLY TECHNICAL OFFICIALS, EMPLOYEES AND STAFF, INCLUDING THEIR BONUSES AND THE PERFORMANCE BONUS AUTHORIZED UNDER SECTION 30 OF THIS ACT. NOTWITHSTANDING ANY PROVISION OF LAW, RULES AND REGULATIONS, ISSUANCES TO THE CONTRARY. THE ORGANIZATIONAL STRUCTURE, STAFFING PATTERN AND COMPENSATION STRUCTURE OF THE MIC SHALL BE SUBJECT TO THE APPROVAL OF THE PRESIDENT OF THE PHILIPPINES.

She explained that the amendment allows the board to determine the compensation and emoluments of highly technical officials, employees, and staff only. She recalled that during the period of interpellations, she spoke about the looming crisis in the health care and education sectors, as well as the need for sufficient funding to increase their salaries and provide the MIC with highly technical staff. She stated that Congress cannot unilaterally create a new entity in which compensation and other emoluments are not subject to presidential approval. She reiterated that her proposed amendment, subject to style, was intended to restrict the Board's authority to determine the compensation and other emoluments to only highly technical officials, employees, and staff.

As the amendment was lengthy, Senate President Zubiri suggested that it be deferred for the time being. Senator Villar (M) concurred with Senate President Zubiri that it would afford them the opportunity to discuss and draft a consolidated amendment.

INDIVIDUAL AMENDMENTS

(Continuation)

Page 12

By Senator Villar (M)

- On line 28, after the word "To," delete the word "exclusively";

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- On lines 12 to 14, delete the entire Section 21 (r) and replace it with the following (as proposed by Senator Legarda):
 - R) TO CONSTITUTE AN AUDIT COMMITTEE FROM AMONG ITS MEMBERS. THE AUDIT COMMITTEE SHALL RECOMMEND TO THE BOARD THE ENGAGEMENT OF AN EXTERNAL AUDITOR AND OVERSEE THE INTERNAL AND EXTERNAL AUDITS MANDATED UNDER THIS ACT;
- On line 27, after the article “The,” insert the words PRESIDENT AND;
- On the same line, after the article “The,” and before the acronym “CEO,” insert the letter P next to the acronym “CEO”.

Page 14

- On line 14, after the article “The,” and before the acronym “CEO,” insert the letter P next to the acronym “CEO”;
- On line 16, after the article “The,” and before the acronym “CEO,” insert the letter P next to the acronym “CEO”;
- On line 23, after the article “The,” and before the acronym “CEO,” insert the letter P next to the acronym “CEO”;
- Delete lines 7 to 12 and reletter the succeeding sections accordingly (as proposed by Senator Legarda, subject to style);
- On line 35, after the word “every,” insert the phrase TWO (2) WEEKS, OR AS OFTEN AS MAY BE NECESSARY, UPON ITS CONSTITUTION;

Page 15

- On lines 7 and 8, delete the phrase “tapes and transcripts of the stenographic notes” and insert MINUTES, TRANSCRIPTS, AND RECORDS;
- On line 8, after the word “original,” delete the word “form”; and replace the words “microfilm” with DIGITAL FORM;
- Delete lines 11 to 21;
- Delete lines 22 to 27 and replace with the following:
 - SEC. 27. *RISK MANAGEMENT COMMITTEE*. – THE BOARD SHALL ORGANIZE A RISK MANAGEMENT COMMITTEE COMPOSED OF FIVE (5) MEMBERS AS FOLLOWS:
 - A) ONE (1) INDEPENDENT DIRECTOR AS CHAIRPERSON;
 - B) ONE (1) EX-OFFICIO MEMBER OF THE BOARD;
 - C) ONE (1) REGULAR DIRECTOR; AND
 - D) TWO (2) SENIOR EXECUTIVES WITH MIC, ONE OF WHOM IS THE KEY RISK MANAGEMENT OFFICER;
- On line 28, after the words “Risk Management,” replace the word “Unit” with COMMITTEE;
- On line 30, before the word “measurement,” delete the word “risk”;
- On line 31, before words “mitigation” and “reporting,” delete the word “risk”;
- On lines 31 and 32, delete the phrase “and risk governance towards a risk informed approach to the capitalization of the MIC”;

Page 16

- On line 7, replace the acronym “MIF” with MIC;
- On line 8, after the word “Recommend,” insert the words REGULAR AND;

- On line 10, before the word “necessary,” delete the phrase “as it may deem” and replace it with TO EFFECTIVELY CARRY OUT ITS MANDATE;
- On line 11, before the phrase “The Advisory Board,” insert the phrase EXCEPT AS OTHERWISE PROVIDED UNDER THIS ACT;
- On the same line, after the word “management,” delete the words “or control”;
- Delete lines 12 to 28, or the entire Article VI.

Senator Cayetano (P) questioned why the entire Article VI was deleted. She stated that she had an amendment to the provision, consistent with her earlier amendment that the bonuses would only apply to those with a high degree of technical expertise.

Senator Villar (M) stated that the committee decided to remove the bonuses and incentives. However, Senate President Zubiri expressed concern that the MIC might not be able to hire anyone without the bonuses. Senator Villar (M) stated that existing rules will apply.

Senate President Zubiri suggested that they request Senator Villar (M) not to delete Article VI (*Rewards, Incentives and Termination*) so that there would be an option for granting such rewards and incentives and that it is always preferable to have options, regardless of whether rewards and incentives are granted. Senator Cayetano (P) remarked, however, that the criteria for awarding rewards and incentives will be established in the IRR.

SUSPENSION OF SESSION

Upon motion of Senator Villar, the session was suspended.

It was 12:46 a.m.

RESUMPTION OF SESSION

At 12:46 a.m., the session was resumed.

Upon further consultation, Senator Villar (M) withdrew his proposed amendment to delete Article VI of the bill.

INDIVIDUAL AMENDMENTS

(Continuation)

As proposed by the senators hereunder indicated, there being no objection, the Body approved the following amendments, one after the other:

Page 16

By Senator Cayetano (P)

- On line 14, before the word “officials,” insert the words “HIGHLY TECHNICAL”;

By Senator Villar (M)

- On line 31, delete the words “Exemptions from”;
- On line 32, delete the phrase “Except as otherwise provided in this Act” and the comma (,); and
- On the same line, before the acronym “MIC,” capitalize the letter “t” in the word “the”;

Page 17*By Senator Legarda*

- On line 18, after the word “agencies,” add the proviso *PROVIDED, THAT THEY SHALL BE PAID HONORARIA FOR THE ADDITIONAL AND/OR HIGHER DUTIES TO BE PERFORMED FOR THE MIC*;
- After line 18, insert a new section to read as follows:

SEC.(). *APPLICABILITY OF REPUBLIC ACT NO. 7656. – THE MIC SHALL BE SUBJECT TO THE PROVISIONS OF REPUBLIC ACT NO. 7656, OR AN ACT REQUIRING GOVERNMENT-OWNED OR -CONTROLLED CORPORATIONS TO DECLARE DIVIDENDS UNDER CERTAIN CONDITIONS TO THE NATIONAL GOVERNMENT, AND FOR OTHER PURPOSES.*;

- Renumber the succeeding sections accordingly;

By Senator Villar (M)

- On line 29, delete the phrase “upon the advice of the Advisory Body”;
- On lines 29 and 30, replace the phrase “pertinent provisions of this Act and its IRR, and International” with the words *THE RELEVANT*;
- On line 33, after the word “provide,” insert the phrase *AUDIT REPORTS TO THE BOARD OF DIRECTORS*;
- On lines 33 and 34, delete the phrase “written interim financial and management reports as requested by the Advisory Body”;

Page 18*By Senator Villar (M)*

- On line 5, after the word “shall,” insert the phrase *CONDUCT ANNUAL AUDIT, FOR MAXIMUM ENGAGEMENT PERIOD OF THREE (3) CONSECUTIVE YEARS UNDER SUCH TERMS AND CONDITIONS AS MAY BE DETERMINED BY THE BOARD OF DIRECTORS*;
- Delete lines 6 to 9;

By Senator Villar (M)

- On line 17, after the word “of,” insert the word *INVESTMENT*;
- On lines 20 to 22, delete the sentence “The aforementioned financial assets shall be considered as forming part of MIC’s inventory of assets held in the regular course of its business activities.”;

By Senators Villar (M) and Legarda

- On line 16, after the word “Act,” insert the phrase *THE COA SHALL CONDUCT A SPECIAL AUDIT EVERY FIVE (5) YEARS*;

By Senator Angara

- On line 29, delete the words “Joint Congressional”;

SUSPENSION OF SESSION

Upon motion of Senator Viillar (M), the session was suspended.

It was 12:56 a.m.

RESUMPTION OF SESSION

At 12:57 a.m., the session was resumed.

INDIVIDUAL AMENDMENTS*(Continuation)*

As proposed by the senators hereunder indicated, there being no objection, the Body approved the following amendments, one after the other:

Page 18*By Senator Villar (M)*

- On line 30, replace the word and figure “five (5)” with SEVEN (7);

By Senator Hontiveros

- On line 37, capitalize the letter “m” in the word “minority,” subject to style;

By Senator Poe

- On line 37, after the period (.), insert the following paragraphs to read as follows:

THE MIC SHALL MAKE A QUARTERLY CONFIDENTIAL SUBMISSION OF ALL INVESTMENTS, WHETHER PLANNED OR UNDER NEGOTIATION BY THE MIC AND ON THE PORTFOLIO OF THE MIF, TO THE MIF-JCOC.

ALL AUDIT REPORTS OF THE INTERNAL AND EXTERNAL AUDITORS FOR EACH ACCOUNTING PERIOD SHALL LIKEWISE BE SUBMITTED TO THE MIF-JCOC.;

Page 12*By Senator Cayetano (P)*

- Delete lines 19 to 25 and replace it with the following subsection to read as follows, subject to style:

K) TO DETERMINE IN ACCORDANCE WITH REPUBLIC ACT NO. 10149, OR THE GOCC GOVERNANCE ACT, THE ORGANIZATIONAL STRUCTURE, STAFFING PATTERN, NUMBER OF PERSONNEL OF THE MIC, AND DEFINE THEIR DUTIES AND RESPONSIBILITIES AS WELL AS THEIR COMPENSATION AND OTHER EMOLUMENTS: *PROVIDED*, THAT THE BOARD SHALL DETERMINE THE POSITIONS THAT ARE HIGHLY TECHNICAL INCLUDING THEIR COMPENSATION AND OTHER EMOLUMENTS, BONUSES, AND THE PERFORMANCE BONUS AUTHORIZED UNDER SECTION 30 OF THIS ACT: *PROVIDED, FURTHER*, THAT IN ALL CASES, SUCH COMPENSATION AND EMOLUMENTS SHALL BE COMPARABLE WITH THE PREVAILING RATES IN THE PRIVATE SECTOR. THE ORGANIZATION STRUCTURE, STAFFING PATTERN, AND COMPENSATION STRUCTURE OF THE MIC SHALL BE SUBJECT TO THE APPROVAL OF THE PRESIDENT OF THE PHILIPPINES IN ACCORDANCE WITH SECTION 26 OF THIS ACT.

Page 19*By Senator Villar (M)*

- On line 2, after the word “public,” insert the phrase AS MAY BE ALLOWED BY THE LAW;
- On lines 4 and 5, delete the sentence “(a) All investments thereof, whether planned or under negotiation by the MIC and on the portfolio of the MIF”;
- Reletter the succeeding subsections accordingly;
- Reword lines 6 and 7 to read as follows:
 - (A) THE STATEMENTS OF ASSETS, LIABILITIES AND NET WORTH (SALNs) OF THE MEMBERS AND OFFICIALS OF THE BOARD OF DIRECTORS, RISK MANAGEMENT COMMITTEE AND ADVISORY BODY;
- Still on lines 6 and 7, capitalize only the first letter of the words “STATEMENTS, ASSETS, LIABILITIES, NET WORTH, BOARD, DIRECTORS, RISK MANAGEMENT, and BODY”;
- On line 7, capitalize letters “b” and “d” in the words “board of directors”;

- On the same line, capitalize letters “r” and “m” in the words “risk management”;
- On the same line, replace the word “unit” with COMMITTEE;
- On the same line, replace the word “board” with BODY;
- On line 8, replace the letter “(c)” with (B), and after the word “officials,” insert the word AND;
- Delete line 9;
- On line 10, replace the letter “(e)” with (C);

By Senator Padilla

- On line 2, Section 41, after the word “public,” before the comma (,) and insert the phrase IN BOTH ENGLISH AND FILIPINO;

By Senators Poe and Villar (M)

- Under Section 41, reinstate subparagraph (a), but delete the phrase “whether planned or under negotiation,” and reinstate subparagraph (d), but delete the phrase “internal auditor, external auditor, and”;

By Senator Gatchalian

- After line 17, insert a new paragraph to read as follows:

ALL REPORTS OF THE MIC PURSUANT TO THE DISCLOSURE RULES UNDER EXISTING LAWS SHALL BE PUBLISHED ON ITS WEBSITE THAT SHALL BE IMMEDIATELY UPDATED AND BE MADE EASILY ACCESSIBLE TO THE PUBLIC.;

By Senator Poe

- On lines 30 and 31, replace the phrase “five hundred thousand pesos (P500,000.00) to two million pesos (P2,000,000.00),” with FIVE MILLION PESOS (P5,000,000.00) TO SEVEN MILLION PESOS (P7,000,000.00);
- On line 31, delete the phrase beginning with the word “shall” until the word “corporation” on line 33, and in lieu thereof, insert the phrase PERPETUAL DISQUALIFICATION FROM HOLDING PUBLIC OFFICE;
- On lines 34 and 35, replace the phrase “three million pesos (P3,000,000.00) to five million pesos (P5,000,000.00)” with TEN MILLION PESOS (P10,000,000.00) TO FIFTEEN MILLION PESOS (P15,000,000.00).

Senator Poe believed that the amount of penalty should even be higher since the MIF would involve a P500-billion fund involving taxpayers’ money.

Asked by Senate President Zubiri whether an officer or employee of the MIF could be charged with plunder if the person stole P1 million, Senator Villar (M) replied in the affirmative. However, Senator Poe explained that under her amendment, the stolen amount would not matter; as long as someone would do something illegal with MIF funds, she would be fined and perpetually disqualified from holding public office.

To Senate President Zubiri’s suggestion of coming up with a provision on plunder in case an officer or employee of the MIF runs away with P50 million or more, Senator Villar (M) noted that Section 50 provides for the penalty to the offense without prejudice to existing laws, like the law on plunder.

By Senator Tolentino

- After line 24, insert a new Section 45, subject to style, to read as follows:

SEC. 45. DISPUTE SETTLEMENT. – THE PROVISION OF EXISTING LAWS TO THE CONTRARY NOTWITHSTANDING, ANY DISPUTE, CONTROVERSY OR CLAIM ARISING

OUT OF OR RELATING TO INVESTMENTS ENTERED PURSUANT TO THIS ACT OR THE BREACH, TERMINATION OR INVALIDITY THEREOF SHALL BE RESOLVED BY GOOD FAITH NEGOTIATIONS BETWEEN THE PARTIES.

IN THE EVENT THAT SUCH NEGOTIATIONS DO NOT SUCCEED, ANY DISPUTE, CONTROVERSY OR CLAIM ARISING OUT OF OR RELATING TO, INVESTMENTS ENTERED PURSUANT TO THIS ACT, OR THE BREACH, TERMINATION OR INVALIDITY THEREOF SHALL BE SETTLED IN ACCORDANCE WITH THE INTERNATIONALLY ACCEPTED INSTITUTIONAL SYSTEMS OF ARBITRATION OF WHICH THE PHILIPPINES IS A SIGNATORY.

THE MAHARLIKA INVESTMENT FUND JOINT CONGRESSIONAL OVERSIGHT COMMITTEE CREATED UNDER SECTION 38 HEREOF SHALL REGULARLY BE APPRISED OF THE STATUS OF ANY DISPUTE SETTLEMENT PROCEEDING.

SUSPENSION OF SESSION

Upon motion of Senator Villar (M), the session was suspended.

It was 1:18 a.m.

RESUMPTION OF SESSION

At 1:18 a.m., the session was resumed.

Senator Tolentino explained that the reason for the use of the word "shall" was based on the international gold standard which the Maharlika Bill speaks of the Santiago principles on Section 1. He stressed that there is no other sound legal framework other than the generally accepted principles of international arbitration.

He stated that if the government really wanted to entice investment in the Maharlika Fund, or for the Maharlika Fund to invest in another host state, a mechanism to resolve disputes between the investor and the host state should be established; it should be mandatory in nature, and no party has the discretion on whether or not to accept the internationally sound arbitration principles. He believed that it would be best to observe the gold standard of sound legal practice as in other countries, whether as a recipient of foreign investment (host state), or as the national source of foreign investment (investor state).

Asked by Senate President Zubiri where the arbitration would be in case of conflict between the Maharlika Investment Fund being invested in another country, for instance, Indonesia or Kuala Lumpur, Senator Tolentino said that since the Philippines is a signatory to the Convention on the Settlement of Investment Disputes Between States and Nationals of Other States (ICSID Convention) since 1978, there has to be clear parameters before entering into a venture with another country. Furthermore, he noted that the rules remain the same whether the Philippines is the *lex arbitri* or not.

Senate President Zubiri mentioned that as a businessman, he had dealings with Australians and Kiwis from New Zealand to build the solar power plant in Bukidnon, and that during the contract signing, both parties chose Singapore as the place of arbitration. He asked if it is normally acceptable for the government to choose the place of arbitration involving the MIF, to which Senator Tolentino replied that rules would have to be spelled out at the outset because the Philippines is not a rules-based host country, and that the decision of the arbitrator who would be selected by the parties would be final.

Asked by Senator Villar (M) if the proposed amendment would apply to both international and local dealings, Senator Tolentino said that the first paragraph of his amendment would apply to

domestic situations, but international arbitration standards would have to be used as regards international negotiations and investments.

HONTIVEROS-POE AMENDMENT

On page 20, line 1, Senator Villar (M) proposed the replacement of the section titled "Auditor Penalties" with VIOLATION BY AN INDEPENDENT AUDITOR; PENALTIES.

However, Senator Hontiveros proposed to amend the entire Section 46 as follows:

SEC. 46. AUDITOR PENALTIES. – AN INDEPENDENT AUDITOR WHO KNOWINGLY CERTIFIES THE CORPORATION'S FINANCIAL STATEMENTS DESPITE THEIR GROSS INCOMPLETENESS OR INACCURACY, THEIR FAILURE TO GIVE A FAIR AND ACCURATE PRESENTATION OF THE CORPORATION'S CONDITION, OR DESPITE CONTAINING FALSE OR MISLEADING STATEMENTS SHALL BE PUNISHED WITH A FINE RANGING FROM FIVE MILLION PESOS (P5,000,000.00) TO SEVEN MILLION PESOS (P7,000,000.00) AND IMPRISONMENT OF SIX (6) YEARS. WHEN THE STATEMENT OR REPORT CERTIFIED IS FRAUDULENT OR HAD THE EFFECT OF CAUSING INJURY TO THE GENERAL PUBLIC, THE AUDITOR OR RESPONSIBLE OFFICER MAY BE PUNISHED WITH A FINE RANGING FROM TEN MILLION PESOS (P10,000,000.00) TO FIFTEEN MILLION PESOS (P15,000,000.00) AND IMPRISONMENT OF SIX (6) YEARS.

At this juncture, Senator Poe proposed to add AN ADDITIONAL PENALTY OF PERPETUAL DISQUALIFICATION FROM PUBLIC OFFICE.

SUSPENSION OF SESSION

With the permission of the Body, the session was suspended.

It was 1:32 a.m.

RESUMPTION OF SESSION

At 1:33 a.m., the session was resumed with Senator Gatchalian presiding.

Upon resumption, Senator Villar (M) accepted the amendment of Senator Hontiveros as amended by Senator Poe and, there being no objection, the same was approved by the Body.

HONTIVEROS AMENDMENT

On page 20, line 13, Senator Hontiveros proposed to replace the phrase "one million pesos (P1,000,000.00) to five million pesos (P5,000,000.00)" with TWENTY MILLION PESOS (P20,000,000) TO THIRTY MILLION PESOS (P30,000,000) AND IMPRISONMENT OF 20 YEARS.

SUSPENSION OF SESSION

Upon motion of Senator Villar (M), the session was suspended.

It was 1:36 a.m.

RESUMPTION OF SESSION

At 1:43 a.m., the session was resumed.

Upon resumption, Senator Hontiveros withdrew her proposed amendment, and instead proposed the insertion of the phrase AND IMPRISONMENT OF SIX (6) YEARS after the figure “(P5,000,000.00)”.

Senator Villar (M) accepted the amendment which, there being no objection, was approved by the Body.

VILLAR (M) AMENDMENT

As proposed by Senator Villar (M), there being no objection, the Body approved on page 20, line 31, to delete the words “Other Violations” in the title of Section 50.

At this juncture, Senator Gatchalian relinquished the Chair to Senate President Zubiri.

INDIVIDUAL AMENDMENTS

(Continuation)

As proposed by the senators indicated, there being no objection, the Body approved the following amendments, one after the other:

Page 20

By Senator Poe

- As an anterior amendment, on Sections 46 to 48, before the word “imprisonment,” insert the phrase AND ADDITIONAL PENALTY OF PERPETUAL DISQUALIFICATION FROM PUBLIC OFFICE;

By Senators Hontiveros and Estrada

- On line 22 and 23, replace the phrase “fine ranging from one million pesos (1,000,000.00) to five million pesos (P5,000,000.00)” with FIVE MILLION PESOS (P5,000,000.00) TO TEN MILLION PESOS (P10,000,000.00) AND IMPRISONMENT OF 20 YEARS;

By Senator Hontiveros

- On line 29, replace the phrase “fine ranging from one hundred thousand pesos (P100,000.00) to one million pesos (P1,000,000.00) with ONE MILLION PESOS (P1,000,000.00) TO TWO MILLION PESOS (P2,000,000.00) AND IMPRISONMENT OF SIX YEARS;

PROPOSED AMENDMENT OF SENATOR HONTIVEROS

On page 20, after line 30, Senator Hontiveros proposed to add a new section to read as follows:

SEC. 50. EMBEZZLEMENT OR MISAPPROPRIATION OF THE MAHARLIKA FUNDS. — ANY PERSON WHO SHALL EMBEZZLE OR MISAPPROPRIATE FUNDS ENTRUSTED TO THE MIC SHALL BE GUILTY OF FRAUD AND SHALL BE PENALIZED IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION. ANY PERSON FOUND GUILTY OF EMBEZZLEMENT OR MISAPPROPRIATION OF FUNDS UNDER THIS SECTION SHALL BE PUNISHED BY A FINE RANGING FROM TWENTY MILLION PESOS (P20,000,000.00) TO THIRTY MILLION PESOS (P30,000,000.00) AND IMPRISONMENT OF TWENTY YEARS.

IF THE PERSON IS A DIRECTOR, OFFICER, EMPLOYEE OR AGENT OF THE MIC, OR IS A GOVERNMENT OFFICIAL OR EMPLOYEE, THE CRIME IS AGGRAVATED AND THE PERSON SHALL BE PUNISHED BY A FINE RANGING FROM THIRTY MILLION PESOS (P30,000,000.00) TO FORTY MILLION PESOS (P40,000,000.00) AND LIFE IMPRISONMENT.

IN CASES WHERE MULTIPLE INDIVIDUALS ARE INVOLVED IN THE FRAUDELENT SCHEME, EACH PERSON SHALL BE HELD INDIVIDUALLY LIABLE AND THE PENALTIES IMPOSED SHALL BE APPLIED SEPARATELY TO EACH PERSON. RESIGNATION OR TERMINATION FROM OFFICE SHALL NOT EXEMPT SUCH DIRECTOR, OFFICER, EMPLOYEE

OR AGENT FROM ADMINISTRATIVE OR CRIMINAL SANCTIONS. VIOLATION OF THIS PROVISION SHALL BE CONSIDERED AS AN UNLAWFUL ACTIVITY UNDER REPUBLIC ACT NO. 9160, AS AMENDED, OR THE ANTI-MONEY LAUNDERING ACT OF 2001. EXISTING LAWS AND REGULATIONS ON FORFEITURE AND RESTITUTION SHALL BE SUPPLEMENTARILY APPLICABLE.

Senate President Zubiri inquired as to whether the proposal intends to amend the Penal Code, as there are already laws for syndicated estafa and plunder. He stated that adding the amendments to the bill could have the consequence of amending the existing penal provisions already found in the Penal Code.

Senator Villar (M) did not accept the amendment on the grounds that these offenses are already covered by extant laws.

INDIVIDUAL AMENDMENTS

(Continuation)

As proposed by the senators indicated, there being no objection, the Body approved the following amendments, one after the other:

Page 20

By Senator Hontiveros

- On line 32, after the word "from," insert a comma (,) and the phrase AND IN ADDITION TO; and
- On line 33, after the word "laws," replace the period (.) with a comma (,) and add the following sentence: SUCH AS, BUT NOT LIMITED, TO THE PROVISIONS OF THE REVISED PENAL CODE, PLUNDER ACT, ANTI-GRAFT AND CORRUPT PRACTICES ACT, ANTI-MONEY LAUNDERING ACT, REVISED CORPORATION CODE, AMONG OTHERS.

By Senator Poe

- On line 33, as an anterior amendment to the amendment of Senator Hontiveros, after the phrase "SUCH AS BUT NOT LIMITED TO," insert the phrase REPUBLIC ACT NO. 6713 OR THE CODE OF CONDUCT AND ETHICAL STANDARDS FOR PUBLIC OFFICIALS AND EMPLOYEES; PRESIDENTIAL DECREE NO. 46, SERIES OF 1972; EXECUTIVE ORDER NO. 292 OR THE ADMINISTRATIVE CODE OF 1987; REPUBLIC ACT NO. 9184 OR THE GOVERNMENT PROCUREMENT ACT; REPUBLIC ACT NO. 386 OR THE CIVIL CODE OF THE PHILIPPINES, AS AMENDED."

Pages 20 and 21

By Senator Villar (M)

- Replace lines 34 to 36 of page 20, up to lines 1 to 33 of page 21, with the following proviso:

SEC. 51. *APPROPRIATIONS.* — A PORTION OF THE NATIONAL GOVERNMENT CAPITAL CONTRIBUTION, EITHER THROUGH SUBSCRIPTION OF COMMON SHARES OR OF PREFERRED SHARES, UNDER SECTION 6 HEREOF SHALL BE SOURCED FROM THE FOLLOWING:

- i) Bangko Sentral ng Pilipinas (BSP) Dividends. FOR THE FIRST AND SECOND FISCAL YEARS UPON THE EFFECTIVITY OF THIS ACT, ONE HUNDRED PERCENT (100%) OF THE BSP'S TOTAL DECLARED DIVIDENDS, AS COMPUTED UNDER R.A. NO. 7653, AS AMENDED BY R.A. NO. 11211, ALSO KNOWN AS THE NEW CENTRAL BANK ACT, SHALL BE REMITTED TO THE NATIONAL GOVERNMENT FOR THE CAPITALIZATION OF THE MIC, IN THE AMOUNT NOT EXCEEDING THE P50 BILLION INITIAL SUBSCRIPTION OF THE NATIONAL GOVERNMENT TO THE CAPITALIZATION OF THE MIC UNDER THIS SECTION: *PROVIDED*, THAT THE MONETARY BOARD MAY

RECOMMEND TO THE PRESIDENT OF THE PHILIPPINES THE REDUCTION OF BSP'S DIVIDEND CONTRIBUTION TO THE MIC WHENEVER ECONOMIC CONDITIONS MAY WARRANT; THEREAFTER, THE DIVIDENDS OF THE BSP SHALL BE REMITTED TO THE NATIONAL GOVERNMENT TO FUND THE INCREASE IN THE CAPITALIZATION OF THE BSP IN ACCORDANCE WITH SECTION 2 OF R.A. NO. 7653, AS AMENDED BY R.A. NO. 1121.

- ii) GOVERNMENT SHARE IN PAGCOR, AND REVENUE FROM OTHER GOVERNMENT-OWNED GAMING OPERATORS AND/OR REGULATORS. TEN PERCENT (10%) OF THE NATIONAL GOVERNMENT'S SHARE FROM THE INCOME OF PAGCOR AS PROVIDED FOR IN PRESIDENTIAL DECREE NO. 1869, AS AMENDED: *PROVIDED, THAT* THE SHARE EARMARKED FOR THE UNIVERSAL HEALTHCARE ACT UNDER SECTION 37 (B) OF R.A. NO. 11223 SHALL NOT IN ANY MANNER BE DIMINISHED: *PROVIDED, FURTHER,* THAT THE ABOVE FUNDING FROM PAGCOR WILL BE FOR THE PERIOD OF FIVE YEARS. ACCORDINGLY, OTHER GOVERNMENT-OWNED GAMING OPERATORS AND REGULATORS SHALL ALSO CONTRIBUTE 10% OF THE REVENUES FROM GAMING OPERATIONS FOR A PERIOD OF FIVE YEARS.
- iii) DOF CLAIM OF PROCEEDS FROM THE PRIVATIZATION OF GOVERNMENT ASSETS, THE AMOUNT OF WHICH SHALL BE DETERMINED BY THE PRIVATIZATION COUNCIL, SUBJECT TO BUDGETING ACCOUNTING AND AUDITING LAWS, RULES AND REGULATIONS SUBJECT TO THE CONDITIONS PROVIDED UNDER SECTION 6 OF THIS ACT AND
- iv) FOR OTHER SOURCES, SUCH AS ROYALTIES AND/OR SPECIAL ASSESSMENTS, SUBJECT TO BUDGETING, ACCOUNTING, AND AUDITING LAWS, RULES AND REGULATIONS.

THE AMOUNT OF CONTRIBUTIONS PROVIDED IN SECTION 6 SHALL BE REMITTED TO THE NATIONAL TREASURY AS A SPECIAL ACCOUNT IN THE GENERAL FUND AND ARE HEREBY APPROPRIATED SOLELY FOR THE PAYMENT OF THE MIC'S CAPITALIZATION SUBSCRIBED BY THE NATIONAL GOVERNMENT WHICH SHALL NOT EXCEED 51% OF THE AUTHORIZED CAPITAL STOCK. THEREAFTER, ALL FUNDS SHALL BE DEPOSITED TO THE NATIONAL TREASURY UNDER THE GENERAL FUND TO SUPPORT THE NATIONAL BUDGET.

HONTIVEROS-VILLAR AMENDMENT

On page 21, line 34, Senator Hontiveros proposed to insert a new Section 52 to read as follows: **SEC. 52. PRESCRIPTION OF CRIMES.** – THE CRIMES PUNISHABLE UNDER THIS ACT SHALL PRESCRIBE IN TWENTY (20) YEARS. HOWEVER, THE RIGHT OF THE STATE TO RECOVER PROPERTIES UNLAWFULLY ACQUIRED BY THE PERSON INVOLVED, NOMINEES OR TRANSFEREES IN THE EMBEZZLEMENT AND MISAPPROPRIATION OF THE FUNDS SHALL NOT BE BARRED BY PRESCRIPTION, LACHES OR ESTOPPEL; and renumber the succeeding sections accordingly.

Senator Villar (M) proposed replacing the amendment of Senator Hontiveros from 20 years to 10 years.

Senator Hontiveros stated that she proposed 20 years because it is also the statute of limitations under the Anti-Agricultural Smuggling Law; therefore, the statute of limitations for violations of the MIC Law should not be reduced.

Senator Villar (M) rejected the amendment, maintaining that 10 years should be the maximum period.

As a final note, Senator Hontiveros stated that the prescription for plunder is also 20 years like her original amendment, but that she would accept if the sponsor declines her proposal. Senator Villar (M) stated that he was firm on the ten years.

With the consent of the Body, the Hontiveros amendment, as amended by Senator Villar (M), was accepted, subject to style.

At this juncture, Senate President Zubiri pointed out to Senator Villar (M) that Section 51 (*Appropriations*) was actually Article XI (*Offense and Penalties*). He asked if he would like to remove it from Article XI. Senator Villar (M) responded that the article would be renumbered, subject to style.

POE AMENDMENT

As proposed by Senator Poe and accepted by the sponsor, there being no objection, the Body approved on page 20, line 33, Section 50, after the word "laws," to delete the period (.) and insert the phrase SUCH AS, BUT NOT LIMITED TO REPUBLIC ACT NO. 6713 OR THE CODE OF CONDUCT AND ETHICAL STANDARDS FOR PUBLIC OFFICIALS AND EMPLOYEES AND PRESIDENTIAL DECREE NO. 46, SERIES OF 1972; EXECUTIVE ORDER NO. 292 OR THE ADMINISTRATIVE CODE OF 1987; REPUBLIC ACT NO. 9184 OR THE GOVERNMENT PROCUREMENT ACT; REPUBLIC ACT NO. 386 OR THE CIVIL CODE OF THE PHILIPPINES, AS AMENDED, subject to style.

At this juncture, Senator Cayetano (P) asked what Presidential Decree No. 46 was all about. Senator Poe responded that PD 46, series of 1972, made it punishable for public officials and employees to receive gifts on any occasion, including Christmas, and for private individuals to give them. Senator Cayetano (P) believed that the Anti-Graft and Corrupt Practices Act had already amended the statute. Senate President Zubiri concurred.

PROPOSED AMENDMENTS OF SENATOR POE

On page 20, line 31, before "Section 50," Senator Poe proposed to insert three new sections to read as follows:

SECTION 50. PREVENTIVE SUSPENSION. – ANY PUBLIC OFFICER AGAINST WHOM ANY CRIMINAL PROSECUTION UNDER A VALID INFORMATION UNDER THIS ACT, IN WHATEVER STAGE OF EXECUTION AND MODE OF PARTICIPATION IS PENDING IN COURT, SHALL BE SUSPENDED FROM OFFICE. SHOULD HE BE CONVICTED BY FINAL JUDGMENT, HE SHALL LOSE ALL RETIREMENT OR GRATUITY BENEFITS UNDER ANY LAW.

Senator Cayetano (P) noted that there was a pending similar provision, which was subject to style, so it simply needs to be aligned with the provisions of existing laws, as instructed by the Senate President. Senator Villar (M) believed that the issue was already addressed by extant Civil Service laws.

Senate President Zubiri expressed concern that if the penal provisions were reinstated, the MIC might not be able to hire anyone.

Senator Poe proceeded to read the remaining sections proposed for inclusion in the bill as follows:

SECTION 51. LIABILITY OF DIRECTORS, TRUSTEES, OFFICERS OR OTHER EMPLOYEES.
– IF THE OFFENDER, UNDER SECTION 47 OF THIS ACT, IS A CORPORATION, THE PENALTY MAY, AT THE DISCRETION OF THE COURT, BE IMPOSED UPON SUCH CORPORATION AND/OR UPON ITS DIRECTORS, TRUSTEES, STOCKHOLDERS, MEMBERS, OFFICERS, OR EMPLOYEES WHO ARE WILLFULLY OR KNOWINGLY RESPONSIBLE FOR THE VIOLATION;

SECTION 52. *LIABILITY OF AIDERS AND ABETTORS AND OTHER SECONDARY LIABILITY.* – ANYONE WHO SHALL AID, ABET, COUNSEL, COMMAND, INDUCE, OR CAUSE ANY VIOLATION OF THE ACT SHALL BE PUNISHED WITH THE FINE NOT EXCEEDING THAT IMPOSED OF THE PRINCIPAL OFFENDERS AT THE DISCRETION OF THE COURT AFTER TAKING INTO ACCOUNT THEIR PARTICIPATION IN THE OFFENSE.

SUSPENSION OF SESSION

With the permission of the Body, the session was suspended.

It was 2:04 a.m.

RESUMPTION OF SESSION

At 2:11 a.m., the session was resumed.

Senator Villar (M) opined that the intent of the amendment was to reaffirm and reinforce the existence of the laws that applied to the Maharlika fund. He proposed that the amendments be subject to style. Senate President Zubiri stated that Section 50 already listed relevant statutes, including the Civil Service Law.

Senator Poe explained that the proposals were read aloud to ensure that they could be referred to in future debates, and she manifested for the record that they are subject to existing laws.

INDIVIDUAL AMENDMENTS

(Continuation)

As proposed by the senators indicated, there being no objection, the Body approved the following amendments:

Page 20

By Senator Cayetano (P)

- On line 22, before the word “employee,” delete the word “or,” and after the word “employee,” insert the phrase AGENT OR REPRESENTATIVE;

Senator Cayetano (P) stated that the amendment was consistent with the preceding paragraph, which referred to an agent or representative engaging in graft and corrupt practices, which a director or officer was duty-bound to report or sanction.

Page 21

By Senator Villar (M)

- After line 33, insert a new Section to Article XII (*Miscellaneous Provisions*), read as follows:

SECTION (). *STATUTORY COUNSEL.* – THE OFFICE OF THE GOVERNMENT CORPORATE COUNSEL IS THE STATUTORY COUNSEL OF THE MIC AND SHALL HANDLE ITS LEGAL AFFAIRS;

- Renumber the subsequent sections accordingly;

Page 22

- On line 3, before the phrase “R.A. No. 11232,” delete the word “the”;
- On line 4, after the word “Philippines,” insert the phrase TO THE EXTENT RELEVANT AND;
- On the same line, before the word “inconsistent,” delete the phrase “which are not in”;

By Senator Legarda

- On line 3, insert a new section to read as follows:

SECTION (). *CORPORATE TERM OF THE MIC*. – THE MIC SHALL EXIST FOR A TERM OF THIRTY-FIVE (35) YEARS FROM THE DATE OF THE EFFECTIVITY OF THIS ACT, UNLESS SOONER REPEALED OR EXTENDED BY CONGRESS;

- Renumber the succeeding sections accordingly.

MANIFESTATION OF SENATOR CAYETANO (P)

Senator Cayetano (P) mentioned that during a previous discussion, the sponsor proposed the deletion of Section 30 but the Body decided to retain the provision. She explained that retaining Section 30 could be confusing because bonuses for the staff were already covered since Section 21 refers to all compensation and bonuses to be determined by the Board in accordance with the GOCC Governance Act, and the Board will also make the determination for the technical positions.

Senate President Zubiri stated that, in effect, the Body will revert to the previous proposal of Senator Villar (M) to delete Sections 30 and 31. Senator Villar (M) replied in the affirmative. Senator Cayetano (P) added that the reference to Section 30 should also be removed from Section 21, as it no longer exists.

Senate President Zubiri likewise stated that Article VI would be deleted in its entirety.

ANTERIOR AMENDMENT

At this juncture, Senator Cayetano (P) proposed an anterior amendment, which was accepted by the Sponsor and approved by the Body, subject to style.

- On page 16, lines 12 to 28, delete the entire Article VI;
- Renumber the succeeding provisions accordingly; and
- On Section 21, delete the line referencing Section 30.

PADILLA AMENDMENT

As proposed by Senator Padilla and accepted by the sponsor, there being no objection, the Body approved on page 22, line 19, to replace the entire Section 57 with a new Section 57 as follows:

SECTION 57. *EFFECTIVITY*. – THIS ACT SHALL TAKE EFFECT IMMEDIATELY UPON ITS PUBLICATION IN THE OFFICIAL GAZETTE OR IN A NEWSPAPER OF GENERAL CIRCULATION IN THE PHILIPPINES. SIXTY (60) DAYS AFTER THE EFFECTIVITY OF THIS ACT, ITS FILIPINO TRANSLATION SHALL BE PUBLISHED IN THE OFFICIAL GAZETTE OR IN A NEWSPAPER OF GENERAL CIRCULATION IN THE PHILIPPINES.

Asked by Senator Villanueva whether the law should be published in English or Filipino, Senator Padilla stated that it would be published in English, with only a translation in Filipino.

Senator Cayetano (P) stated that the wording of Section 57 was unclear due to the phrases “SHALL TAKE EFFECT IMMEDIATELY” and “SIXTY (60) DAYS AFTER THE EFFECTIVITY OF THIS ACT.” She stated that the phrase referencing sixty (60) days would need to be removed if the law was to take effect immediately. She added that the IRR should be completed simultaneously.

She also clarified that Filipino and Tagalog are distinct languages, with Tagalog not being entirely Filipino; therefore, the law will be published in English and Filipino.

CAYETANO (P) AMENDMENT

As proposed by the Senator Cayetano (P) and accepted by the sponsor, there being no objection, the Body approved on page 22, line 19, with reference to the new Section 57 that was previously proposed by Senator Padilla and approved by the Body, to remove any reference to "SIXTY (60) DAYS;" therefore, the Act shall take effect immediately upon its publication in the Official Gazette or in a newspaper of general circulation in the Philippines.

REMARKS OF SENATOR ESTRADA

Senator Estrada remarked that Senator Hontiveros proposed numerous amendments to the measure, many of which were accepted by Senator Villar (M). He supposed that she was already persuaded to vote in favor of the measure. Senator Hontiveros stated that she was informed that the bill would be voted on in Second Reading the next day, and that a clean copy of the bill would be distributed to the Members prior to the vote. She said she was looking forward to Senator Pimentel's participation in the vote on Second and Third Readings the following day, as the bill has been certified as urgent.

REMARKS OF THE CHAIR

Senate President Zubiri informed the Body that the House had already elected its members to the bicameral conference committee, which was scheduled for the following morning at 11:00 a.m. In addition, he believed that the Members might be unable to vote on the bill the following day.

He believed that the Body had satisfied its demand for transparency and accountability on the measure, as a number of the amendments placed would assure the public that the funds will be used properly, efficiently and effectively.

TERMINATION OF THE PERIOD OF INDIVIDUAL AMENDMENTS

There being no other individual amendment, upon motion of Senator Villanueva, there being no objection, the Body closed the period of individual amendments.

APPROVAL OF SENATE BILL NO. 2020 ON SECOND READING

Submitted to a vote, there being no objection, Senate Bill No. 2020 was approved on Second Reading.

EXPLANATION OF VOTE OF SENATOR HONTIVEROS

At this juncture, Senator Hontiveros explained her negative vote on Senate Bill No. 2020 through the following statement:

Just a short explanation of my vote, and I am hoping that if the Minority Leader also wishes to make his manifestation tomorrow, there will, of course, be time for him.

First of all, I want to thank the sponsor. I thank Sen. Mark A. Villar for accepting a good number of my amendments that say that the corporation shall admit into its ranks only those persons unblemished by any hint of corruption, and also that stiff penalties await if corrupt acts are ever perpetrated.

Nagagalak po ako na hindi natin pinayagan na itaya ang pera ng SSS, GSIS, PhilHealth, Pag-IBIG, OWWA, at PVAO rito sa Maharlika Fund. Sigurado at maasahan po ang mga pondong iyon at para iyon sa seguridad ng ating mga kababayan. Sabi nga nila, "a bird in the hand is worth two in the bush." I think we were wise to sense the uncertainties of the times and to act on that intuition.

So, again, congratulations to everyone.

I also want to thank the sponsor and Senator Angara for ensuring that there would be a 25% limit to the investible funds of the DBP and the LANDBANK that would be exposed to the operations of the Maharlika Fund. And I thank Senator Gatchalian for consistently going against the grain in his effort to protect the financial strength of our *Bangko Sentral*.

But, in the end, we still have this Maharlika Fund, into which scarce public resources will be poured. And, of course, I will not enumerate here again the multiple crises that cry urgently for resources. I want to reiterate, however, that I fully agree with the sponsor's belief that a new kind of public financing is needed. We need to learn how to leverage the capital resources that we have so that we could do more with the little that we have.

My belief is that the idea of a sovereign wealth fund will make sense sometime in the medium term, perhaps when we have the surpluses. It is ahead of its time, so to speak. But, at this time, I think that what we need is to capitalize on our GOCCs so that they can venture where the private sector hesitates to go—into utility-scale batteries, cold storage for fish and vegetables, and PUV modernization. But, to my mind, it is not a Maharlika fund that is fit for this purpose. These challenges require the subsector-specific knowledge of risks, opportunities, and regulatory challenges that our GOCCs possess.

At a later time, years from now, after the GOCCs have soaked up the little capital that we have and solved the problems that are most real to Filipinos, it is at that point, I think, that the capabilities of a sovereign wealth fund would have come into consideration. At that point, the wealth of publicly-funded innovations and businesses already earning their keep can be handed over to the private sector through the financial facilitation of a Maharlika fund so that a new round of public investments by our GOCCs and their venture partners can then begin again.

For these reasons, I vote "No."

PRESIDENTIAL CERTIFICATION

Upon direction of the Chair, Secretary Bantug read the Presidential certification as to the necessity of the immediate enactment of Senate Bill No. 2020, to wit:

MALACAÑAN PALACE
MANILA

22 May 2023

SEN. JUAN MIGUEL F. ZUBIRI
Senate President
The Philippine Senate
Pasay City

Mr. Senate President:

Pursuant to the provisions of Article VI, Section 26 (2) of the 1987 Constitution, I hereby certify to the necessity of the immediate enactment of Senate Bill No. 2020, entitled:

“AN ACT ESTABLISHING THE MAHARLIKA INVESTMENT FUND, PROVIDING FOR THE MANAGEMENT, INVESTMENT, AND USE OF THE PROCEEDS OF THE FUND, AND FOR OTHER PURPOSES.”

With the downgrade of the global growth projection this year on account of debilitating inflation, fluctuating and unstable prices of crude oil and other fuels due to the protracted conflict between Ukraine and Russia, and continuing interest rate hikes in the international financial sector, there is a compelling need for a sustainable national investment fund as a new growth catalyst to accelerate the implementation of strategic and high-impact large infrastructure projects that will stimulate economic activity and development.

Best regards.

Very truly yours,

(Sgd.) FERDINAND ROMUALDEZ MARCOS JR.
THE PRESIDENT OF THE PHILIPPINES

Copy furnished:

Rep. Ferdinand Martin G. Romualdez
 Speaker of the House
 House of Representatives
 Batasan Hills, Quezon City

Secretary Mark Llandro L. Mendoza
 Presidential Legislative Adviser and Head
 Presidential Legislative Liaison Office
 2/F New Executive Building
 Malacañang, Manila

APPROVAL OF SENATE BILL NO. 2020 ON THIRD READING

Upon motion of Senator Villanueva, there being no objection, the Body considered, on Third Reading, Senate Bill No. 2020, entitled

AN ACT ESTABLISHING THE MAHARLIKA INVESTMENT FUND, PROVIDING FOR THE MANAGEMENT, INVESTMENT, AND USE OF THE PROCEEDS OF THE FUND, AND FOR OTHER PURPOSES.

Pursuant to Section 67, Rule XXIII of the *Rules of the Senate*, upon motion of Senator Villanueva, there being no objection. Secretary Bantug read only the title of the bill without prejudice to the insertion of its full text into the *Record of the Senate*.

Secretary Bantug called the roll for nominal voting.

RESULT OF THE VOTING

The result of the voting was as follows:

In favor

Angara	Padilla
Cayetano (A)	Poe
Cayetano (P)	Revilla Jr.
Dela Rosa	Tolentino
Ejercito	Tulfo
Estrada	Villanueva
Gatchalian	Villar (C)
Go	Villar (M)
Lapid	Zubiri
Legarda	

Against

Hontiveros

Abstention

Binay

With 19 senators voting in favor, one against, and one abstention, the Chair declared Senate Bill No. 2020 approved on Third Reading.

MANIFESTATION OF SENATOR VILLANUEVA

At this point, Senator Villanueva manifested that several Members would be submitting their respective explanations of vote for insertion into the *Journal and Record of the Senate*.

EXPLANATIONS OF VOTE

Following are the senators' explanations of vote on Senate Bill No. 2020:

By Senator Gatchalian

I would like to explain my YES vote to the passage of Senate Bill No. 2020, otherwise known as the Maharlika Investment Fund Act.

The passage of this proposed measure represents our collective commitment to fulfill our shared vision of building a prosperous and vibrant future for our beloved nation. By making this vision a reality, we can harness the power of strategic investments, foster economic growth, and create a legacy of progress that will benefit generations to come.

Primarily, this representation would like to extend appreciation to the good sponsor of this bill, Senator Mark Villar, as some of my proposals submitted to the Committee on Banks, Financial Institutions, and Currencies have been adopted in this bill. Allow me to shed light on these significant provisions:

First, the provision providing a guarantee to the capital contributions of the founding Government Financial Institutions or GFIs in the Maharlika Investment Corporation or MIC has been removed. This move is crucial as retaining such provision discourages the GFIs and their respective representatives to the MIC to exercise due diligence in optimizing their investments in the MIC. In essence, it reduces the accountability of the GFIs from the consequences of the investment decisions of the MIC.

Second, the proposal to remove the grant of tax exemptions to the MIC and the Maharlika Investment Fund or MIF was also considered. As discussed during the public hearing, granting tax exemptions to these entities would create an unfair advantage for the MIC investors compared to other corporations with similar nature of business.

Third, the suggestion to reject any proposal granting relief to the founding GFIs was likewise adopted. By subjecting them to the same regulatory requirements, we ensure that the risks associated with their investments in the MIC and the MIF are accurately reflected and will push these GFIs to take the necessary actions to protect their investments.

Lastly, the proposal on privatization as the preferred source for the MIF. Drawing inspiration from successful sovereign wealth funds, we recognize the tremendous potential that privatization holds in generating substantial resources for the MIF.

In addition to the proposals that have been put forth, this representation thoroughly assessed the inclusion of robust safeguarding provisions within this proposed measure. During the interpellations, we learned that the MIF will be shielded by a range of safeguards, including the presence of internal and external auditors, an advisory board comprising of financial experts from the public and private sectors, an investment risk management group, and oversight from both the Senate and the House of Representatives through a joint congressional oversight committee. Further, the Commission on Audit will exercise rigorous oversight, ensuring transparency and accountability in the fund's operations. The measure also mandates the MIC to adhere to investment policies, risk management limits, international financial reporting standards, and the Santiago principles. It also subjects the MIC to comply with the requirements of the GOCC Governance Act and the Government Procurement Reform Act, as amended, except for certain instances, to ensure transparency and accountability in managing the MIF.

Moreover, it is crucial to acknowledge that the body has acknowledged and accepted our individual amendments, encompassing the following key aspects: (a) enhancing disclosure and transparency mechanisms, (b) integrating prudential standards and risk concentration limits, (c) prohibiting Philippine government guarantee on the bond issuance of the MIC, and

(d) mandating compliance with approval procedures to ensure that any guarantee involving financial liability resulting from the MIC's actions is binding.

Notwithstanding all of these safeguards, I raise a serious concern on the inclusion of BSP's dividend contribution as a funding source for the MIC's capitalization. When Republic Act No. 11211 was enacted in 2019, Congress was made to understand the urgency of increasing the capitalization of BSP due to the growth of the banking industry. Thus, allowing the diversion of these funds to the MIC will result in a delay in the increase of BSP's capitalization while also undermining the credibility of BSP and its ability to respond to various monetary policy easing and tightening cycles of the U.S. Fed.

Given the following discussions, I am confident that we can fulfill the primary objective of this proposed measure— to promote socio-economic development in our country. By making strategic and profitable investments in key sectors, we can effectively preserve and enhance the long-term value of the Fund, thus enabling us to achieve our common goals.

Once passed into law, rest assured that this representation will also diligently fulfill my duty to oversee, monitor, and evaluate the effective implementation of this Act.

By Senator Go

The intention of the proposed measure that is to ensure that our country will attain economic transformation, growth, and sustainability is noble. *Lahat naman po tayo gustong tuluyang makarecover ang ekonomiya.*

Government resources are limited, *lalo na ngayon bawat piso, bawat sentimo ay napakahalaga.* That is why I commend the good sponsor for ensuring that safeguards are in place to protect the funds of the Filipino people.

Given this, I give my conditional support to this measure knowing that this went through scrutiny by the collective wisdom of the whole legislative body and with utmost trust and respect in the capability of the executive to implement this as intended.

To the executive, we will hold you to your commitment that safeguards will be followed and fully enforced. *Hindi dapat masasayang and pondo ng bayan. Pangalagaan at siguruhin na walang mawawala sa korapsyon o misuse of funds.*

Babantayan po namin ito. And just a reminder that any law can be amended or repealed when necessary. We will exercise to the fullest extent our oversight to ensure that the welfare and future of Filipinos are upheld and protected.

By Senator Poe

Legislation is the art of compromise. We give a little and take a little. We temper our policy dreams with financial realities.

And our financial reality is simple. Our coffers are short on capital. This is most evident during our deliberations on the National Budget, when we must squeeze water from stone to make the smallest amendments.

We must also remember the wise words of Warren Buffett: "The first rule of an investment is don't lose money. The second rule of an investment is don't forget the first rule. And that's all the rules there are."

Kaya pinanday natin ang Maharlika para maging mas katanggap-tanggap ito. We proposed crucial amendments to stem losses, temper irrational optimism, and deter the sticky fingers of corruption.

Key amendments, which were graciously accepted by the sponsor, plugged the gaps of this measure:

- a. We prohibited Government from dipping into the funds of social benefits, such as SSS, GSIS, PHILHEALTH, PAG-IBIG, PVAO, and OWWA to bankroll Maharlika;
- b. We also capped the investments of government banks like LandBank, DBP to just 25% of their respective net worth to preserve their fiscal stability;

- c. We put a time limit on BSP's contribution of dividends to two years;
- d. We required Maharlika's Board members to pay a P 10 Million fidelity bond;
- e. We encouraged public scrutiny by requiring the publication of Maharlika's activities and risk management strategies;
- f. We strengthened Congressional oversight by requiring the quarterly submission of investment portfolio and audit reports. Any increase in Maharlika's capitalization will require Congressional authorization as well;
- g. We removed all government guarantees on bonds issued by the Maharlika Corporation. At the same time, we required the written authority of proper authorities for any guarantee involving financial liability to be binding against Maharlika Corporation;
- h. We required Maharlika's investments in infrastructure to focus on the national priorities of the DPWH, DTI, NEDA, and other relevant agencies;
- i. We preserved the public's right to freedom of information and access to investment portfolio and audit documents; and
- j. Finally, we increased the fines, imposed imprisonment, and added perpetual disqualification from public office in all penalty provisions.

None of these amendments will guarantee that Maharlika will turn a profit. That will depend on the skill of its board of directors, the performance of President and his Economic Team; and the moods of the Market, which no fortune-teller could accurately predict.

Instead, we focused on risk reduction. Our amendments have reduced the size of the pot and the temptation to go "all in." And we have closely guarded its riches by putting severe penalties in place.

By Senator Revilla

I rise today to reflect in the records my reason behind voting for this measure.

Ang akin pong pagsang-ayon sa panukalang ito ay bunga ng mithing matamasa ng ating mga kababayan ang ginhawang matagal na nilang pinapangarap.

It is also with a prayer of hope that it becomes a catalyst for economic growth and stability that our nation needs.

In the end, we need to take the leap to move forward and farther. *Lahat naman ng pakikipagsapalaran ay may kaakibat na pangamba, ngunit sa tama nating paghahanda ay matutugunan naman natin ang lahat ng pangambang 'yan.*

Lagi po nating tatandaan, walang paglalakbay na hindi nag-simula sa isang hakbang na kinailangang tahakin upang makamit ang ating mga adhikain at pangarap.

At sa lahat ng ito, kaisa tayo ng sambayanang Pilipino na magmamatyag sa panukalang ito upang hindi ito maabuso at maging instrumento ng katiwalian. Ito ay simula pa lamang, at habang ang dulo ay hindi pa tanaw - may kalma sa katiyakang tayo ay magiging bantay na tatanuran ito at babantayan hanggang maisakatuparan ang mga magaganda at makabuluhang layunin nito.

COAUTHOR

Upon motion of Senator Villanueva, there being no objection, Senator Padilla was made coauthor of Senate Bill No. 2020.

SUSPENSION OF SESSION

Upon motion of Senator Villanueva, the session was suspended.

It was 2:33 a.m.

RESUMPTION OF SESSION

At 2:39 a.m., the session was resumed.

SENATE CONFEREES

Upon motion of Senator Villanueva, there being no objection, Senate President Zubiri designated the following senators to constitute the Senate panel in the bicameral conference committee on the disagreeing provisions of Senate Bill No. 2020 and House Bill No. 6608 (*Maharlika Investment Fund Act of 2023*): Senator Villar (M) as chairperson, and Senators Cayetano (P), Dela Rosa, Gatchalian, Tolentino, Cayetano (A), and Pimentel as members.

REMARKS OF THE CHAIR

Senate President Zubiri thanked the government's economic team head, Finance Secretary and Benjamin Diokno, and members, National Treasurer Rosalia De Leon, Budget Secretary Amenah Pangandaman, NEDA Secretary Arsenio Balisacan, Trade and Industry Secretary Alfredo Pascual, BSP Governor Felipe Medalla, and SEC chairperson Emilio Aquino. He also thanked PLLO Secretary Mark Llandro "Dong" Mendoza, Senate Committee on Banks Chairperson Mark Villar and all committee members, Executive Secretary Lucas Bersamin, and Special Assistant to the President Anton Lagdameo. Lastly, he expressed his gratitude to all the senators' staffs and the Secretariat for their hard work.

ADJOURNMENT OF SESSION

Upon motion of Senator Villanueva, there being no objection, the Chair declared the session adjourned until four o'clock in the afternoon of that same day.

It was 2:42 a.m.

I hereby certify to the correctness of the foregoing.

Approved on August 2, 2023

Atty. **RENATO N. BANTUG Jr.**
Secretary of the Senate



**STENOGRAPHIC NOTES OF THE CONCON DEBATES
ON THE ECONOMIC VIABILITY OF GOCCS
(August 22, 1986)**

MR. OPLE. Commissioner Davide is aware that there are about P200 billion of nonperforming assets that have to be segregated and taken over by the national government from government corporations. This is a millstone around the neck of the nation. Will Commissioner Davide, therefore, consider raising the standard for the enactment of special charters to create new government corporations by qualifying the common good, which I think is a standing invitation for government corporations to lose money in the interest of the common good? Will he consider putting in the standard of economic viability together with the common good?

xxx

MR. OPLE. (T)he reason for this concern is really that when the government creates a corporation becomes exempt from the test of economic performance. We know what happened in the past. If a government corporation loses, then it makes its claim upon the taxpayers' money through new equity infusions from the government and what is always invoked is the common good. That is the reason why this year, out of a budget of P115 billion for the entire government, about P28 billion of this will go into equity infusions to support a few government financial institutions. And this is all taxpayers' money which could have been relocated to agrarian reform, to social services like health and education, to augment the salaries of grossly underpaid public employees. And yet this is all going down the drain.

Therefore, when we insert the phrase "ECONOMIC VIABILITY" together with the "common good," this becomes a restraint on future enthusiasts for state capitalism to excuse themselves from the responsibility of meeting the market test so that they become viable. And so, madam President, I reiterate, for the committee's consideration and I am glad that I am joined in this proposal by Commissioner Foz, the insertion of the standard of "ECONOMIC VIABILITY FOR THE ECONOMIC TEST," together with the common good. Thank you.

MR. MONSOD. (M)ay I just ask Commissioner Ople a question? When we say "ECONOMIC VIABILITY," is this not synonymous with "financial viability"?

xxx

MR. MONSOD. Economic viability normally is determined by the cost-benefit ratio that takes into consideration all benefits, including economic external as well as internal benefits. These are what they call externalities in economics, so that these are not strictly financial criteria. Economic viability involves what we call economic returns or benefits of the country that are not quantifiable in financial terms. For example, the establishment of a copper smelter in the area in Leyte may mean that we have to build roads, resulting in an inducement for economic activity along the roads leading to the place around the area where the plan is to be set up. In this case, this has some relationship with regional planning and with dispersion of industry. These returns are not captured by the firm itself, but they involve benefits to the surrounding areas and to other enterprises and are not quantifiable in financial terms.

xxx

MS. QUESADA. So, would this particular formulation now really limit the entry of government corporations into activities engaged in by corporations?

MR. MONSOD. Yes, because it is also consistent with the economic philosophy that this Commission approved—that there should be minimum government participation and intervention in the economy.

xxx

MR. VILLEGAS. Commissioner Ople will restate the reason for his introducing that amendment.

MR. OPLE. I am obliged to repeat what I said earlier in moving for this particular amendment jointly with Commissioner Foz. During the past three decades, there had been a proliferation of government corporations, very few of which have succeeded, and many of which are now earmarked by the Presidential Reorganization Commission for liquidation because they failed the economic test. For example, I already pointed out the P28 billion of new equity infusions this year out of a budget of P115 billion in order to support some of these government corporations, DBP and PNB in particular, and this money could have gone into healthcare, for example.

Now, if we do not provide for an additional standard of economic viability, the words "common good," so wonderful, so elevated a principle, will be used as a license by some people to set up more government corporations that will have to be funded by taxpayers' money *ad infinitum* because there is no standard of the economic test. This merely means that there will be fewer government corporations that will fail in order to become an albatross around the neck of the taxpayers and of the nation. But the common good is still the principal standard.

xxx

MR. PADILLA. This is an inquiry to the committee. With regard to corporations created by a special charter for government-owned or controlled corporations, will these be in the pioneer fields or in places where the private enterprise does not or cannot enter? Or is this so general that these government corporations can compete with private corporations organized under a general law?

MR. MONSOD. (T)hat was already discussed the other day, but we would like to repeat our answer to that. There are two types of government corporations—

those that are involved in performing governmental functions, like garbage disposal, Manila waterworks, and so on; and those government corporations that are involved in business functions. As we said earlier, there are two criteria that should be followed for corporations that want to go into business. First is for government corporations to first prove that they can be efficient in the areas of their proper functions. This is one of the problems now because they go into all kinds of activities but are not even efficient in their proper functions. Secondly, they should not go into activities that the private sector can do better.

MR. PADILLA. There is no question about corporations performing governmental functions or functions that are impressed with public interest. But the question is with regard to matters that are covered, perhaps not exhaustively, by private enterprise. It seems that under this provision the only qualification is economic viability and common good, but shall government, through government-controlled corporations, compete with private enterprise?

MR. MONSOD. As we said, the government should not engage in activities that private enterprise is engaged in and can do better.

MR. PADILLA. But that is not mentioned here. As it is now, there are only two standards—economic viability and the general phrase "common good." As it is, special charters may be granted to government corporations in fields of economic activity where the private sector is already engaged in, and a private corporation cannot compete with a government-owned corporation.

MR. MONSOD. The committee feels that the "common good" provision already subsumes the meaning that the government should not go into an activity where it competes with business because that is not their proper area of activity.

MR. PADILLA. That is precisely my point—government should not be in business, especially in fields where there are private enterprises. But the term "common good" is all very good. I do not know how many times the word "common good" appears in the Constitution, but there is no specific reference to the effect that these government-owned or controlled corporations, especially if they are to engage in private business, may be stifling, competing with and destroying private initiative and private enterprise. That is my concern.

MR. VILLEGAS. (T)he key to the answer to the Gentleman's question is found in the answer given by Commissioner Monsod about the difference between financial viability and economic viability,

and that is precisely why the phrase "ECONOMIC VIABILITY" means that even if the corporation cannot recover all of the costs like the roads that are built in Leyte as a result of the copper smelter being put up, the government can still put up a corporation by special charter because it is beneficial to society without, in turn, being able to capture that benefit through the so-called market forces or through the financial channels. This is the justification for the government to go into these types of businesses—either because it is so capital-intensive that it will not be financially viable for a private corporation, or it has a lot of these external benefits that are not captured by the market and the government would still be entitled to go into those types of businesses precisely for the common good.

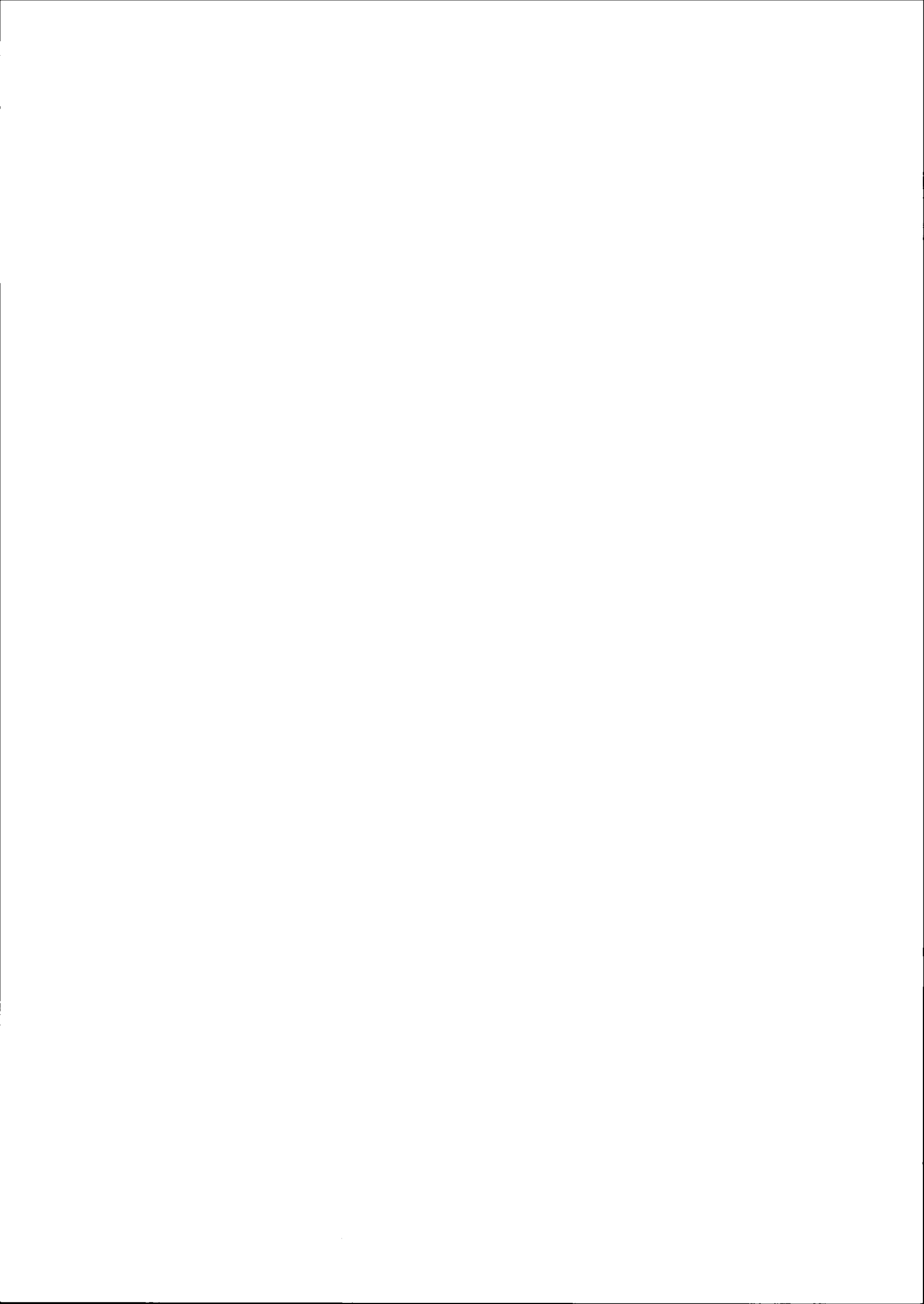
xxx

MR. QUESADA. which will benefit the common good, those run by government or those run by private enterprises?

MR. VILLEGAS. That is right; it has to be studied. Congress in a study on the special charter will precisely have to study the specific circumstances which would warrant public corporations.

xxx







ANNEX B



REPUBLIC OF THE PHILIPPINES
Supreme Court
Manila
EN BANC

G.R. No. 155650 July 20, 2006

MANILA INTERNATIONAL AIRPORT AUTHORITY, petitioner,
vs.
COURT OF APPEALS, CITY OF PARAÑAQUE, CITY MAYOR OF PARAÑAQUE, SANGGUNIANG PANGLUNGSOD NG PARAÑAQUE, CITY ASSESSOR OF PARAÑAQUE, and CITY TREASURER OF PARAÑAQUE, respondents.

DECISION

CARPIO, J.:

The Antecedents

Petitioner Manila International Airport Authority (MIAA) operates the Ninoy Aquino International Airport (NAIA) Complex in Parañaque City under Executive Order No. 903, otherwise known as the *Revised Charter of the Manila International Airport Authority* ("MIAA Charter"). Executive Order No. 903 was issued on 21 July 1983 by then President Ferdinand E. Marcos. Subsequently, Executive Order Nos. 909¹ and 298² amended the MIAA Charter.

As operator of the international airport, MIAA administers the land, improvements and equipment within the NAIA Complex. The MIAA Charter transferred to MIAA approximately 600 hectares of land,³ including the runways and buildings ("Airport Lands and Buildings") then under the Bureau of Air Transportation.⁴ The MIAA Charter further provides that no portion of the land transferred to MIAA shall be disposed of through sale or any other mode unless specifically approved by the President of the Philippines.⁵

On 21 March 1997, the Office of the Government Corporate Counsel (OGCC) issued Opinion No. 061. The OGCC opined that the Local Government Code of 1991 withdrew the exemption from real estate tax granted to MIAA under Section 21 of the MIAA Charter. Thus, MIAA negotiated with respondent City of Parañaque to pay the real estate tax imposed by the City. MIAA then paid some of the real estate tax already due.

On 28 June 2001, MIAA received Final Notices of Real Estate Tax Delinquency from the City of Parañaque for the taxable years 1992 to 2001. MIAA's real estate tax delinquency is broken down as follows:

TAX DECLARATION	TAXABLE YEAR	TAX DUE	PENALTY	TOTAL
E-016-01370	1992-2001	19,558,160.00	11,201,083.20	30,789,243.20
E-016-01374	1992-2001	111,689,424.90	68,149,479.59	179,838,904.49
E-016-01375	1992-2001	20,276,058.00	12,371,832.00	32,647,890.00
E-016-01376	1992-2001	58,144,028.00	35,477,712.00	93,621,740.00
E-016-01377	1992-2001	18,134,614.65	11,065,188.59	29,199,803.24
E-016-01378	1992-2001	111,107,950.40	67,794,681.59	178,902,631.99
E-016-01379	1992-2001	4,322,340.00	2,637,360.00	6,959,700.00
E-016-01380	1992-2001	7,776,436.00	4,744,944.00	12,521,380.00
*E-016-013-85	1998-2001	6,444,810.00	2,900,164.50	9,344,974.50
*E-016-01387	1998-2001	34,876,800.00	5,694,560.00	50,571,360.00

I submit that the definition of "government-owned or controlled corporations" under the Administrative Code refer to those corporations owned by the government or its instrumentalities which are created not by legislative enactment, but formed and organized under the Corporation Code through registration with the Securities and Exchange Commission. In short, these are GOCCs without original charters.

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It might as well be worth pointing out that there is no point in requiring a capital structure for GOCCs whose full ownership is limited by its charter to the State or Republic. Such GOCCs are not empowered to declare dividends or alienate their capital shares.

The contention of the minority is seriously flawed. It is not in accord with the Constitution and existing legislations. It will also result in gross absurdities.

First, the Administrative Code definition of the phrase "government-owned or controlled corporation" does not distinguish between one incorporated under the Corporation Code or under a special charter. Where the law does not distinguish, courts should not distinguish.

Second, Congress has created through special charters several government-owned corporations organized as stock corporations. Prime examples are the Land Bank of the Philippines and the Development Bank of the Philippines. The special charter⁴⁰ of the Land Bank of the Philippines provides:

SECTION 81. Capital. — The authorized capital stock of the Bank shall be nine billion pesos, divided into seven hundred and eighty million common shares with a par value of ten pesos each, which shall be fully subscribed by the Government, and one hundred and twenty million preferred shares with a par value of ten pesos each, which shall be issued in accordance with the provisions of Sections seventy-seven and eighty-three of this Code. (Emphasis supplied)

Likewise, the special charter⁴¹ of the Development Bank of the Philippines provides:

SECTION 7. Authorized Capital Stock – Par value. — The capital stock of the Bank shall be Five Billion Pesos to be divided into Fifty Million common shares with par value of P100 per share. These shares are available for subscription by the National Government. Upon the effectivity of this Charter, the National Government shall subscribe to Twenty-Five Million common shares of stock worth Two Billion Five Hundred Million which shall be deemed paid for by the Government with the net asset values of the Bank remaining after the transfer of assets and liabilities as provided in Section 30 hereof. (Emphasis supplied)

Other government-owned corporations organized as stock corporations under their special charters are the Philippine Crop Insurance Corporation,⁴² Philippine International Trading Corporation,⁴³ and the Philippine National Bank⁴⁴ before it was reorganized as a stock corporation under the Corporation Code. All these government-owned corporations organized under special charters as stock corporations are subject to real estate tax on real properties owned by them. To rule that they are not government-owned or controlled corporations because they are not registered with the Securities and Exchange Commission would remove them from the reach of Section 234 of the Local Government Code, thus exempting them from real estate tax.

Third, the government-owned or controlled corporations created through special charters are those that meet the two conditions prescribed in Section 16, Article XII of the Constitution. The first condition is that the government-owned or controlled corporation must be established for the common good. The second condition is that the government-owned or controlled corporation must meet the test of economic viability. Section 16, Article XII of the 1987 Constitution provides:

SEC. 16. The Congress shall not, except by general law, provide for the formation, organization, or regulation of private corporations. Government-owned or controlled corporations may be created or established by special charters in the interest of the common good and subject to the test of economic viability. (Emphasis and underscoring supplied)

The Constitution expressly authorizes the legislature to create "government-owned or controlled corporations" through special charters only if these entities are required to meet the twin conditions of common good and economic viability. In other words, Congress has no power to create government-owned or controlled corporations with special charters unless they are made to comply with the two conditions of common good and economic viability. The test of economic viability applies only to government-owned or controlled corporations that perform economic or commercial activities and need to compete in the market place. Being essentially economic vehicles of the State for the common good — meaning for economic development purposes — these government-owned or controlled corporations with special charters are usually organized as stock corporations just like ordinary private corporations.

In contrast, government instrumentalities vested with corporate powers and performing governmental or public functions need not meet the test of economic viability. These instrumentalities perform essential public services for the common good, services that every modern State must provide its citizens. These instrumentalities need not be economically viable since the government may even subsidize their entire operations. These instrumentalities are not the "government-owned or controlled corporations" referred to in Section 16, Article XII of the 1987 Constitution.

Thus, the Constitution imposes no limitation when the legislature creates government instrumentalities vested with corporate powers but performing essential governmental or public functions. Congress has plenary authority to create government instrumentalities vested with corporate powers provided these instrumentalities perform essential government functions or public services. However, when the legislature creates through special charters corporations that perform economic or commercial activities, such entities — known as "government-owned or controlled corporations" — must meet the test of economic viability because they compete in the market place.

This is the situation of the Land Bank of the Philippines and the Development Bank of the Philippines and similar government-owned or controlled corporations, which derive their income to meet operating expenses solely from commercial transactions in competition with the private sector. The intent of the Constitution is to prevent the creation of government-owned or controlled corporations that cannot survive on their own in the market place and thus merely drain the public coffers.

Commissioner Blas F. Ople, proponent of the test of economic viability, explained to the Constitutional Commission the purpose of this test, as follows:

MR. OPLE: Madam President, the reason for this concern is really that when the government creates a corporation, there is a sense in which this corporation becomes exempt from the test of economic performance. We know what happened in the past. If a government corporation loses, then it makes its claim upon the taxpayers' money through new equity infusions from the government and what is always invoked is the common good. That is the reason why this year, out of a budget of P115 billion for the entire government, about P28 billion of this will go into equity infusions to support a few government financial institutions. And this is all taxpayers' money which could have been relocated to agrarian reform, to social services like health and education, to augment the salaries of grossly underpaid public employees. And yet this is all going down the drain.

Therefore, when we insert the phrase "ECONOMIC VIABILITY" together with the "common good," this becomes a restraint on future enthusiasts for state capitalism to excuse themselves from the responsibility of meeting the market test so that they become viable. And so, Madam President, I reiterate, for the committee's consideration and I am glad that I am joined in this proposal by Commissioner Foz, the insertion of the standard of "ECONOMIC VIABILITY OR THE ECONOMIC TEST," together with the common good.⁴⁵

Father Joaquin G. Bernas, a leading member of the Constitutional Commission, explains in his textbook *The 1987 Constitution of the Republic of the Philippines: A Commentary*:

The second sentence was added by the 1986 Constitutional Commission. The significant addition, however, is the phrase "in the interest of the common good and subject to the test of economic viability." The addition includes the ideas that they must show capacity to function efficiently in business and that they should not go into activities which the private sector can do better. Moreover, economic viability is more than financial viability but also includes capability to make profit and generate benefits not quantifiable in financial terms.⁴⁶ (Emphasis supplied)

Clearly, the test of economic viability does not apply to government entities vested with corporate powers and performing essential public services. The State is obligated to render essential public services regardless of the economic viability of providing such service. The non-economic viability of rendering such essential public service does not excuse the State from withholding such essential services from the public.

However, government-owned or controlled corporations with special charters, organized essentially for economic or commercial objectives, must meet the test of economic viability. These are the government-owned or controlled corporations that are usually organized under their special charters as stock corporations, like the Land Bank of the Philippines and the Development Bank of the Philippines. These are the government-owned or controlled corporations, along with government-owned or controlled corporations organized under the Corporation Code, that fall under the definition of "government-owned or controlled corporations" in Section 2(10) of the Administrative Code.

The MIAA need not meet the test of economic viability because the legislature did not create MIAA to compete in the market place. MIAA does not compete in the market place because there is no competing international airport operated by the private sector. MIAA performs an essential public service as the primary domestic and international airport of the Philippines. The operation of an international airport requires the presence of personnel from the following government agencies:

1. The Bureau of Immigration and Deportation, to document the arrival and departure of passengers, screening out those without visas or travel documents, or those with hold departure orders;
2. The Bureau of Customs, to collect import duties or enforce the ban on prohibited importations;
3. The quarantine office of the Department of Health, to enforce health measures against the spread of infectious diseases into the country;
4. The Department of Agriculture, to enforce measures against the spread of plant and animal diseases into



REPUBLIKA NG PILIPINAS
KAGAWARAN NG PANANALAPI
KAWANIHAN NG INGATANG-YAMAN
(BUREAU OF THE TREASURY)
Intramuros, Manila

21 February 2023

HON. MARK A. VILLAR

Senator

Chairperson, Committee on Banks, Financial Institutions and Currencies

Senate of the Philippines

Financial Center, Diokno Blvd., Pasay City


ATTENTION: ATTY. MARY ANN T. SALADA
Committee Secretary

Dear **Senator Villar**:

With reference to the Committee's request during the public hearing on the Maharlika Investment Fund (MIF) bills, this is to respectfully submit the attached business proposal for the MIF.

Thank you.

Very truly yours,


ROSALIA V. DE LEON
Treasurer of the Philippines

ISO 9001:2015 Quality Management System
Certificate No. SCP000233Q



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Business Proposal for the Maharlika Investment Fund

1. Business Model

In accordance with the proposed dual objectives of optimizing financial returns and accelerating development of infrastructure and other priority projects, the Maharlika Investment Corporation (MIC) is envisioned to maintain two major sub-funds, specifically:

- (1) a **Capital Market Investment Sub-Fund** that will prioritize the generation of returns from investments in a diversified portfolio of liquid assets to meet the former objective; and
- (2) a **Sectoral Investment Sub-Fund** that will participate in various high-return projects that are strategically relevant to the country's sustained development in order to attain the latter objective.

2. Simulating Potential Returns of the MIC

2.1 Methodology – The potential returns of the MIC can be estimated using the following approach:

- (1) First is the identification of investment vehicles and the corresponding allocation profile for each of the two major Sub-Funds. This was accomplished by mirroring the portfolio of an established Sovereign Wealth Fund with similar declared objectives.
- (2) Second is finding the appropriate domestic funds, holdings companies, or indices, when available, that will serve as proxies for determining the return of each asset class.
- (3) Last is the generation of potential long-term rate of return for each asset class using statistical techniques and matching the resulting returns with the portfolio allocation assignments to produce a 10-year series of aggregate portfolio returns.

2.2 For the **Capital Market Investment Sub-Fund**, the following investment vehicles and local proxy funds or indices were identified:

Asset Class	Description
Developed Market Equities	Fund that closely tracks the total returns of the S&P 500 Index
Nominal Bonds	Fund that invests in medium to long-term PHP-denominated fixed income securities
Emerging Market Equities	Fund that engages in trading equity securities of emerging market corporations
Real Estate	Stock Price of a reputable real estate organization listed in the PSE
Private Equity Infrastructure	Global infrastructure investment fund

Asset Class	Description
Natural Resources	Index consisting of large publicly-traded corporations involved in agribusiness, energy, and commodities processing
Money Market	Fund that focuses on short-term fixed-income instruments and prioritizes liquidity

Meanwhile, the investment allocation across the asset classes within the Capital Market Investment Sub-Fund was set to mirror the allocation profile of a similar Sovereign Wealth Fund in the region.

2.3 For the **Sectoral Investment Sub-Fund**, the following investment sectors and local proxy companies were identified:

Sector	Description
Power	Selected companies that have investments in the area of power generation, including wind power projects, solar farms, geothermal power plants, hydropower plants, and other renewable energy facilities
Real Estate	Companies invested in the development of mixed-use and commercial properties
Infrastructure	Companies invested in expressways, airports, rail, and road projects
Logistics	Companies involved in port development and expansion projects as well as investments in port equipment, cold storage, and other facilities

Sector allocation within the Sectoral Investment Sub-Fund is assumed to be equally distributed at 25% each to reflect the equal importance of each sector to the development needs of the Philippine economy. Potential returns are based on the average return on equity (ROE) of identified local companies operating in the sector.

3. **Estimated Returns** – Following the methodology described above, the MIC may generate a return on equity of around 6.51% to 10.78%, depending on the blend of placements between the Capital Market Investment Sub-Fund and Sectoral Investment Sub-Fund.

Allocation Mix between Major Sub-Funds		10-Year Average of Simulated Annual Returns
Capital Market Investment (%)	Sectoral Investment (%)	
100%	0%	6.51%
75%	25%	7.58%
50%	50%	8.64%
25%	75%	9.68%
0%	100%	10.78%

3.1 Findings and Conclusion

- **Case 1: All Capital Market Investments** – On the extreme scenario that all of MIC's investible funds are allocated towards the more conservative **Capital Market**

investment Sub-Fund, the return on equity is expected to be around 6.51% on average for the next 10 years.

- The return is higher than both (i) the upper-bound of BSP's long-term inflation target of 4%, thereby implying positive real return, and (ii) the current 10-year Government Securities (GS) yield of 6.36% (long-term average of 10-year GS yield is 4.70%), indicating better return than the traditional conservative investment option.
 - For illustration, under this scenario and on the assumption that all earnings are retained by the MIC, the proposed seed fund of Php100 billion may grow to around Php187.9 billion by 2033. - overhead
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- **Case 2: All Sectoral Investments** – On the other extreme scenario that the entire investible funds of MIC are allocated towards the more aggressive **Sectoral Investment Sub-Fund**, the potential return on equity is expected to be substantially higher at 10.78% on average for the next 10 years.
 - Under this scenario and on the same assumption of complete earnings retention, the MIC's assets will grow from the initial Php100 billion seed fund to around Php278.4 billion by 2033.
 - **Case 3: Realistic Allocation and Return Scenario** – Bearing in mind the standard industry practice of diversification, as well as the long gestation periods associated with projects under sectoral investments, the more realistic allocation strategy is the one that combines placements in both the Capital Market Investment Sub-Fund and the Sectoral Investment Sub-Fund.
 - On the most straightforward blend of 50:50 allocation between the two major sub-funds, the expected return on equity is around 8.64% per year on average, which is double the 4% upper-bound long-term inflation target and more than 2% above the most recent yield of the comparative 10-year Government Securities benchmark.
 - This is enough to grow the seed fund from Php100 billion to Php229.0 billion by 2033, under the same set of assumptions.

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CERTIFICATION

The undersigned members of the Economic Team hereby submit the attached business proposal for the activities that the proposed Maharlika Investment Corporation (MIC) will be undertaking in relation to Senate Bill Nos. 1670 and 1814.

In line with Section 16, Article XII of the 1987 Constitution, the undersigned certifies that due diligence was conducted showing that the purpose of the proposed MIC is in furtherance of the common good, and that it is economically viable based on the assumptions and projections in the attached business proposal.

BENJAMIN E. DIOKNO
DOF Secretary

ARSENIO M. BALISACAN
NEDA Secretary

AMENAH E. PANGANDAMAN
DBM Secretary

FELIPE M. MEDALLA
BSP Governor

FEB 22 2023