

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

First Regular Session
Thirteenth Congress

HOUSE BILL NO. **4251**

Introduced by **BENIGNO S. AQUINO III**

Explanatory Note

"The aim and the reason and, therefore, the justification of labor laws is social justice," thus said by a legal luminary of labor and social legislation.

This principle was given paramount significance by no less than the 1987 Constitution which commands the State in the Declaration of State Policies to "promote a just and dynamic social order that will ensure the prosperity and independence of the nation and free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living and an improved quality of life for all" (Article II, Sec. 9) and to "promote social justice in all phases of national development" (Article II, Sec. 10).

And also, when it affirmed that labor is "a primary social and economic force" and mandated the State to "promote the welfare and protect the rights of workers".

This landmark initiative which seeks to grant productivity incentive bonus to workers in the private sector is in accordance with these principles.

The rationale is based on the very plight of the Filipino worker and the dearth of laws that can effectively implement the many noble pro-labor provisions of the 1987 Constitution. It is a fact that the essential recognition and promotion of their rights had long been in place and the mantle of protection had also been invariably set.

Again, the bases are the social justice provisions of the 1987 Constitution as aforementioned and its most related provision is paragraph 4, Section 3, Article XIII:

"The State shall regulate the relations between workers and employers, **recognizing the right of labor to its just share in the fruits of production** and the right of enterprises to reasonable returns on investments, and to its expansion of its growth". (emphasis supplied)

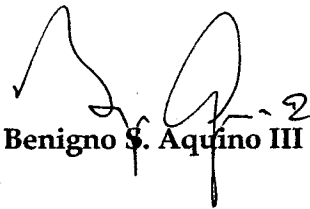
It must be pointed out that Constitution requires the State to implement a living wage which is defined as one that ensures a "decent standard of human existence beyond mere subsistence level" in contrast to a minimum wage which is the basic pay or daily wage plus cost of living allowance received by a worker, not falling under the exemptions as provided under the Wage Rationalization Act.

This legislative initiative, thus, seeks to help the workers advance their rights to uplift and improve their lives through policies that effectively contribute to greater economic gains, protection of their rights and improvement of their welfare, as we keep alive in our collective struggle all the other laudable causes for their upliftment.

This is an affirmation of our duty and commitment as members of Congress to tilt the balance of the scales in favor of labor towards their just share in the fruits of production especially at these times when the country is battered by a worsening economic recession, staggering foreign debt and a ballooning budget deficit.

And it does not violate nor affect the right of employers to a reasonable return on their investments and to the expansion and growth of their enterprises. Exemptions from the grant are also provided where it is also just under such circumstances.

It is in this light that the approval of this measure is earnestly requested.



Benigno S. Aquino III

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

First Regular Session
Thirteenth Congress

HOUSE BILL NO. **4251**

Introduced by **BENIGNO S. AQUINO III**

AN ACT
GRANTING AN ANNUAL PRODUCTIVITY INCENTIVES TO ALL WORKERS IN
THE PRIVATE SECTOR, ESTABLISHING MECHANISMS FOR ITS
IMPLEMENTATION, AND FOR OTHER PURPOSES

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

SECTION 1. Title.—This Act shall be known as the "Workers Productivity Incentives Act of 2005."

SEC. 2. Statement of Policy.—It is hereby declared the policy of the State to continuously empower Filipino workers in their continuing struggle to uplift and improve their lives through policies that effectively contribute to greater economic gains, protection of their rights and advancement of their welfare. The State shall, therefore, promote the rights of workers in their just and fair share in the profits from the production of goods and services in all endeavors where their labors and expertise are employed by virtue of a management-labor/employer-employee relation.

SEC. 3. Extent of Grant.—All workers in the private sector not excluded by this Act shall be granted an annual productivity incentive bonus which shall be equivalent to not less than ten percent (10%) of net profits before taxes gained by any company or business establishment for every fiscal year that engages their labor, skills and expertise for any period or duration and regardless of the terms of the work contract and tenure of the worker or employee. The amount of this incentive shall be determined by the external auditors enlisted by the company for such purpose to be approved by the Department of Labor and Employment (DOLE).

SEC. 4. Non-diminution of the grant.—The productivity incentive bonus shall not suffer any diminution nor deduction from any act of the employer, the company's labor union nor through the State's power of taxation, except by lawful garnishment and any other legal court order or process of the courts. It cannot be transferred or assigned to any other individual or entity, except the legal heirs and representatives of the worker.

SEC. 5. Unlawful interference or restraint.—It shall be unlawful for an employer or labor union or for any government official or employee and any other business enterprise or entity to interfere with, restrain or coerce employees in the right to receive this grant and to require as a condition of employment that the employee shall not collect this grant in his favor.

SEC. 6. Exemptions.—The provisions of this Act shall not apply to government employees, including those in government-owned and controlled corporations; managerial employees; house helpers; non-resident aliens; project employees; seasonal workers; piece-rate/piecework, *pakiaw* and other non-time workers; workers employed by retail service establishments employing not more than ten (10) workers; employees or workers in companies or enterprises undergoing receivership/liquidation; and those employed in new business enterprises only for a period of one (1) year from commencement of business operations. Applications for exemption strictly in accordance with those exempted employers, enterprises or establishments herein stated shall be duly filed with the Office of the Regional Director of the Department of Labor and Employment (DOLE) whose decision can be appealed to the DOLE Secretary within ten (10) days from its promulgation.

SEC. 7. Compliance Order.—All Regional Directors of the DOLE shall issue an annual compliance order for the payment of the grant as provided for in this Act. The order shall, among other things, direct the employer or manager to pay the amount due to each worker or employee, fifteen (15) days after the end of every fiscal year and shall also include the computation on which the order was based.

SEC. 8. Penalties.—Any person, corporation, trust, firm, partnership, association or entity which refuses or fails to pay the herein prescribed grant in accordance with this Act shall be punished by a fine of at least thrice (3x) the accrued grant for every affected worker plus moral damages not exceeding thirty thousand pesos (30,000.00) for each affected worker and the costs of litigation including attorney's fees.

If the violation is committed by a corporation, trust or firm, partnership, association or any other entity, the penalty of imprisonment shall be imposed on the entity's responsible officers, including, but not limited to, the president, vice-president, chief executive officer, general manager, managing director or partner. If the violation is committed by a foreign individual, he/she shall be summarily deported under applicable laws after complete satisfaction of his adjudged liabilities.

In cases where a fine is decreed by the National Labor Relations Commission (NLRC) against person/s who violated the provisions of this Act and cannot be immediately satisfied because of the unavailability or inadequacy of funds, the assets of the owner, president or manager of the corporation or any other entity, or fractions thereof, either movable and immovable property, estimated to be capable of fully satisfying the imposed fines shall be the subject of a summary forfeiture proceedings to be litigated by the same body which imposed the said penalty.

SEC. 9. Saving clause.—The provisions of this Act shall not prejudice existing productivity agreements lawfully entered into by labor and management.

SEC. 10. Separability Clause.—If any provision of this Act shall be declared unconstitutional, any other provision not affected thereby shall remain in full force and effect.

SEC. 11. Repealing Clause.— All laws, decrees, orders, rules and regulations, or parts thereof inconsistent with this Act are hereby repealed or amended accordingly.

SEC. 12. Effectivity.— This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,