HOUSE BILL NO. 69

AN ACT TO ESTABLISH A PERFORMANCE PAY PLAN FOR LICENSED TEACHERS; TO PRESCRIBE STANDARDS FOR PERFORMANCE LEVELS OF TEACHING LICENSES TO BE ADMINISTERED BY THE COMMISSION ON TEACHER AND ADMINISTRATOR EDUCATION, CERTIFICATION AND LICENSURE AND DEVELOPMENT; TO PROVIDE FOR THE PAYMENT OF SALARY SUPPLEMENTS FOR OUTSTANDING PERFORMANCE BY TEACHERS UNDER THE PERFORMANCE PAY PLAN; TO PROVIDE FOR THE IMPLEMENTATION OF THE PERFORMANCE PAY PLAN FOR PRESENTLY LICENSED TEACHERS AND PROSPECTIVE TEACHERS; TO PROVIDE EVALUATION PROCEDURES FOR TEACHERS AND CRITERIA FOR EVALUATIONS TO BE ESTABLISHED BY THE COMMISSION; TO PROVIDE TERMS OF EMPLOYMENT AND RENEWAL PERIODS FOR PERFORMANCE PAY PLAN TEACHERS; TO PROVIDE ADDITIONAL DUTIES FOR PERFORMANCE PAY PLAN TEACHERS; TO PROVIDE APPEAL PROCEDURES; TO PROVIDE REASONS FOR THE LOSS OF SALARY SUPPLEMENTS UNDER THE PLAN; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. (1) The purpose of this act is to establish a performance pay plan for full-time licensed teachers.

(2) The performance pay plan shall consist of Advanced Teacher, Lead Teacher and Master Teacher positions. The performance pay plan shall be designed: (a) to recognize career teachers in Mississippi; (b) to promote staff development among teachers in Mississippi; and (c) to reward those teachers evaluated as outstanding and who may accept additional responsibilities as applicable.

(3) All performance pay plan licenses shall be supplementary to the basic license.

SECTION 2. For the purposes of this act, unless the context otherwise requires:

(a) "Performance pay plan teacher" means a person who has been employed as a teacher for not less than three (3) years and who holds an Advanced Teacher license, Lead Teacher license or
Master Teacher license issued by the State Board of Education,
acting through the commission;

(b) "School month" means any month except June, July or
August, regardless of the actual months in which a school may be
in session;

(c) "School year" means the months of September through
May regardless of the actual months in which individual school
districts conduct classes; and

(d) "Commission" means the Commission on Teacher and
Administrator Education, Certification and Licensure and
Development created by Section 37-3-2.

SECTION 3. (1) This act shall apply to all teachers who
enter the teaching profession for the first time after July 1,
2001, or who are licensed or certified as a career ladder teacher
after July 1, 2001.

(2) Nothing in this act shall be construed to grant
duplicate supplements to such teachers.

(3) Participation in the performance pay plan shall be
voluntary for all teachers.

(4) Teachers employed by the Departments of Corrections,
Mental Health and Human Services shall be eligible to participate
in the performance pay plan provided for in this act. The State
Personnel Board, in consultation with the Department of Finance
and Administration and the departments involved, shall prepare an
implementation plan for the evaluation of its teacher employees
which substantially complies with the intent of this act. This
plan shall be approved by the State Board of Education before
implementation.

(5) Teachers who are employed on a part-time basis shall be
included under this act; such persons who work fifty percent (50%)
of the school days in successive years shall be granted credit for
the number of days actually worked for purposes of determining
eligibility for participation in the performance pay plan. Such
persons must obtain their license provided for in this act while performing such part-time service.

(6) Persons who are employed to teach vocational or other courses and who are not required to hold a college degree shall be eligible to participate in the performance pay plan on the same terms as other teachers. The commission, with the approval of the State Board of Education, shall develop comparable and appropriate licensure and evaluation standards, criteria, procedures and instruments in accordance with this act for the evaluation and advancement of such nondegree teachers.

(7) Licensed personnel who are not employed in academic classroom instruction, such as, but not limited to, principals, assistant principals, guidance counselors, special education teachers, physical education teachers, librarians, music or art teachers, shall be eligible to participate in the performance pay plan on the same terms as other teachers. The commission, with the approval of the State Board of Education, shall develop comparable and appropriate licensure and evaluation standards, criteria, procedures and instruments in accordance with this act for the evaluation and advancement of such teachers.

(8) The commission shall recommend to the State Board of Education appropriate rules regarding the applications and placement in the performance pay plan of full-time teachers who fill dual capacity positions, such as, but not limited to, principal-teachers, supervisor-teachers or teachers with split grade classes.

(9) All performance pay plan licenses for teachers and administrators and renewals thereof shall be issued by the State Board of Education, on the recommendation of the commission in accordance with the terms of Section 37-3-2. Persons applying for any license provided for in this act shall apply to the commission.
(10) All licenses of teachers who are not included in the performance pay plan provided for in this act, in effect on July 1, 2001, shall remain in full force and effect according to their terms and may be renewed, in accordance with the regulations of the State Board of Education.

SECTION 4. For the purposes of implementing the new licensure system known as the performance pay plan for teachers and providing the transition opportunity for presently licensed teachers to enter the new licensure system voluntarily: (a) any public school teacher who has been employed as a licensed teacher for at least eight (8) years on July 1, 2001, may apply for and is eligible to be considered for licensure as an Advanced Teacher, Lead Teacher or a Master Teacher; (b) any such teacher who has been employed as a licensed teacher for at least five (5) years may apply for and is eligible to be considered for licensure as an Advanced Teacher or a Lead Teacher; and (c) any person who has been employed as a licensed teacher for at least three (3) years may apply for and is eligible to be considered for licensure as an Advanced Teacher.

SECTION 5. When determining whether any person applying for any license provided for in this act meets a minimum qualification relating to prior years of experience, the applicant's total current, relevant years of experience shall be credited, notwithstanding any breaks in employment. The State Board of Education, on the recommendation of the commission, may establish, by rule, criteria by which the currency and relevancy of the prior experience may be determined.

SECTION 6. Costs of administration of this act shall not be a part of or paid through the Minimum Education Program.

SECTION 7. (1) Superintendents, principals, assistant principals, supervisors and teachers shall not be held liable, personally or officially, when performing their duties in the evaluation of teachers pursuant to this act.
(2) Immunity shall not extend to willful acts determined to be arbitrary, capricious, intended to damage the teacher's reputation, or which are discriminatory or illegally motivated.

SECTION 8. (1) The State Board of Education acting through the commission has jurisdiction over the issuance of all teaching licenses and performance pay plan licenses as otherwise provided in this act. Teachers possessing a current, valid license on July 1, 2001, are eligible to apply for performance pay plan licenses based on experience as set out in Section 4 of this act. Teachers who are employed initially after July 1, 2001, are eligible to apply for performance pay plan licenses based on experience, as follows:

(a) Advanced Teacher -- Employment for three (3) years as a licensed teacher;
(b) Lead Teacher -- Employment for at least two (2) years as an Advanced Teacher; or
(c) Master Teacher -- Employment for at least three (3) years as a Lead Teacher.

(2) Teachers shall be entitled to undergo evaluation during the year in which they gain eligibility for Advanced, Lead or Master Teacher status, based on experience set forth in subsection (1).

SECTION 9. (1) The initial license for Advanced, Lead and Master Teachers shall be valid for ten (10) years and shall be renewable for additional periods of ten (10) years.

(2) Any teacher holding an Advanced Teacher license whose license is not renewed in due course because of the teacher's failure to meet the relevant licensure standards shall be issued, at the expiration of the Advanced Teacher's license and if minimum competency standards are met, a license that shall be valid for ten (10) years and shall be subject to renewal in the same manner as other teacher licenses.
(3) Any teacher holding a Lead Teacher license whose license is not renewed in due course because of the teacher's failure to meet the relevant licensure standards shall be issued, at the expiration of such license and if minimum competency standards are met, an Advanced Teacher license that shall be valid for ten (10) years and shall be subject to renewal in the same manner as other such licenses.

(4) Any teacher holding a Master Teacher license whose license is not renewed in due course because of the teacher's failure to meet the relevant license standards shall be issued, at the expiration of the Master Teacher's license and if minimum competency standards are met, a Lead Teacher license that shall be valid for ten (10) years and shall be subject to renewal in the same manner as other such licenses.

(5) Any career ladder license may be extended by the State Board of Education for a period of time not to exceed one (1) year if a person's illness, disability or family hardship prevents the completion of the evaluation for the purpose of relicensure.

SECTION 10. (1) The minimum criteria for the initial evaluation and relicensure of licensed teachers which are to be used by the commission for Advanced Teacher and Lead Teacher licensure shall be established by a nine-member task force of licensed teachers and administrators, appointed as provided in this section, and approved by the State Board of Education. The Governor shall appoint one (1) licensed teacher from each of Mississippi's five (5) congressional districts and the state superintendent shall appoint one (1) licensed school administrator from each of Mississippi's three (3) Supreme Court districts and one (1) licensed teacher from the state at large. The task force shall meet on the call of the state superintendent, shall organize and elect aldermen, and shall make its report of proposed minimum criteria for Advanced and Lead Teacher evaluation to the State Board of Education on or before January 1, 2002.
(2) In order to be licensed as a Master Teacher, the applicant shall meet the requirements and acquire a Master Teacher certificate from the National Board for Professional Teaching Standards.

SECTION 11. (1) The procedural rules for the evaluation of teachers which are to be used by the commission shall be designed to assure a fair and meaningful evaluation of a teacher's development, growth and performance in the teaching profession. These rules shall be developed in consultation with local school administrators and teachers and the State Board of Education.

(2) The procedural rules shall include the opportunity for multiple evaluations of all teachers holding performance pay plan licenses. The performance of all performance pay plan teachers shall be evaluated at least two (2) times between the time their license is issued or renewed and the license's expiration date and may be evaluated at more frequent intervals by the local school board using procedures and evaluation criteria promulgated by the State Board of Education, on recommendation of the commission. However, teachers holding Lead Teacher or Master Teacher licenses shall not be reevaluated until five (5) years after receiving such career ladder licensure. The scheduling of such evaluations shall be determined in accordance with the evaluation plan adopted by the local school board and approved by the State Board of Education.

(3) Nothing in the evaluation procedure mandated by this act shall require a decision by a local school board to grant continued employment from year to year to a performance pay plan teacher. Nothing in this act shall be construed to limit or prevent a local school board from nonrenewal of a teacher pursuant to the School Employment Procedures Act.

(4) Evaluations conducted pursuant to this act shall be open for inspection by the teacher, principal or local school board or their designated representatives.
Upon being informed of the composition of the evaluating team, the teacher being evaluated shall be entitled to request that one (1) member of the team be removed and that the commission name a new member.

SECTION 12. (1) Any duly licensed Advanced Teacher may be employed for ten (10) months. An Advanced Teacher shall perform those duties prescribed by the local school board and such additional duties as may be provided for in Section 15.

(2) Beginning with the 2002-2003 school year, a duly licensed Advanced Teacher who has met the standards for licensure established by the State Board of Education, on the recommendation of the task force, and who is employed as such by a local school board, shall receive a One Thousand Dollar ($1,000.00) salary supplement in addition to any other compensation to which the teacher may be entitled.

(3) For school years beginning after the 2002-2003 school year, the commission shall establish, with the approval of the State Board of Education, the deadline by which all requirements for licensure shall be met.

SECTION 13. (1) Any duly licensed Lead Teacher paid as such may be employed for not less than ten (10) nor more than eleven (11) months and shall perform those duties prescribed by the local school board and such other additional duties as may be provided for in Section 15. Upon receiving a Lead Teacher license, a teacher may choose either a ten-month or eleven-month contract. If the teacher chooses an eleven-month contract, that teacher may receive either the full amount of the eleven-month supplement, if that teacher's services are required during the eleventh month, or that part of the supplement paid for outstanding performance, if the services of that teacher are not required during the eleventh month. The amount received by the teacher shall be determined by the needs of the local school board for teachers during the eleventh month.
Beginning with the 2002-2003 school year, Lead Teachers who are employed by a local school board shall receive a Three Thousand Dollar ($3,000.00) salary supplement in addition to any other compensation to which the teacher may be entitled.

SECTION 14. (1) Any licensed Master Teacher may be employed for not less than ten (10) nor more than twelve (12) months and perform those duties prescribed by the local school board and such other additional duties as may be provided for in Section 15.

(2) Duly licensed Master Teachers who are employed as such by a local school board shall receive a Six Thousand Dollar ($6,000.00) salary supplement in addition to any other compensation to which the teacher may be entitled.

SECTION 15. (1) (a) An Advanced Teacher shall be eligible for assignment by the principal to supervise and assist student interns and probationary teachers as an additional responsibility.

(b) A Lead Teacher shall be subject to assignment by the system superintendent to work with gifted or remedial students or in other student enrichment programs as an additional responsibility in accordance with the plan required in subsection (2). Such teacher, at the discretion and direction of the principal, also may supervise and participate in the skills development of provisional and other licensed teachers. A Lead Teacher who has appropriate training and experience shall be subject to assignment by the system superintendent to work with special needs students.

(c) As an additional responsibility, a Master Teacher, at the direction of the principal, shall supervise and assist in the skills development of provisional, licensed, Advanced and Lead Teachers. Teachers with eleven- or twelve-month contracts shall be assigned, as an additional responsibility, to work with remedial or gifted students according to the plan required in subsection (2), or in other student enrichment programs designed by the local school board. A Master Teacher who has appropriate training and experience shall be subject to assignment by the system superintendent to work with special needs students.
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system superintendent to work with special needs students.

(d) In addition to the foregoing, Lead and Master Teachers may perform other activities consistent with the plan
called for in subsection (2), including, but not limited to,
teaching in the adult education and literacy program.

(2) (a) Each local school board shall conduct an annual
needs assessment to determine the focus of the extended contract
activities authorized by this section. Priority for such
activities shall be student needs, with school and teacher needs
of secondary importance. Subject to guidelines developed by the
commission and approved by the State Board of Education, each
local school board shall have an extended contract committee
consisting of teachers, including one (1) Lead or Master Teacher
where possible, and administrators, which, as determined by the
local school board, shall conduct or assist in the needs
assessment and advise on or certify to the need for specific
programs served through extended contracts. Each local
superintendent shall devise a plan consistent with the needs and
abilities of the district to utilize the additional months of
service which may be required from teachers in accordance with the
provisions of this section. Such plans shall include, but not be
limited to:

(i) Enrichment programs for gifted and talented
students;

(ii) Programs to enhance adult literacy and
education;

(iii) Programs relative to students who are at
risk of dropping out of school;

(iv) Parent involvement projects aimed at
assisting and improving their children's performance at school;

(v) Extended programs for the full range of
handicapped students;
(vi) Developmental or remediation programs for students according to their needs; and

(vii) Enrichment programs in academic projects for all students or activities that will best utilize the particular talents and qualifications of the performance pay plan teachers and meet the needs of the local school population.

(b) The plan also shall include the time periods in which the programs and activities shall occur. If at all possible, each system shall include a summer program in order to fully employ those teachers on ten-, eleven- and twelve-month contracts. Only if a superintendent and local school board certify that it would not be feasible to finance the cost of attendance by students in the summer months may a plan be devised to utilize extra time each day, or during weekends or holidays to offer such programs, instead of summer sessions. A plan, however, may include enrichment or other programs at any time.

(3) Appropriately licensed teachers with Lead and Master level status shall be given priority of opportunity to participate in extended contract activities. When extended contract positions cannot be filled by Lead and Master Teachers, other teachers may be used.

SECTION 16. (1) Any person who has been duly licensed as a performance pay plan teacher shall be qualified to teach in any local school district. Any local school board, upon the superintendent's recommendation, shall have the authority to employ a teacher with a performance pay plan license. Such a teacher may be employed from within or without the local school district, but may not be employed in place of a licensed teacher currently employed by that local school district, or a teacher on leave.

(2) A person licensed as a Lead or Master Teacher may enter into an employment agreement with a local school district to be
employed as a Lead or Master Teacher for a term not to exceed the
time within which such license is valid.

SECTION 17. Any Lead or Master Teacher who declines the
duties of Lead or Master Teacher may not receive the state salary
supplement authorized in this act.

SECTION 18. (1) All supplements due to teachers under this
act shall be paid directly by the Department of Education to the
local school district and shall be in addition to its minimum
program entitlement and not a part of its minimum program
allotment.

(2) Once determined, the state salary supplement for
performance pay plan teachers shall remain constant
notwithstanding any increased training and experience attained,
except the salary supplements for Lead Teachers may be increased,
as applicable, if the teacher chooses a ten-, eleven- or
twelve-month contract.

(3) All supplements shall be subject to the availability of
funds as appropriated by the Legislature.

(4) Any person receiving a salary supplement shall continue
to receive the state base pay to which he would be entitled if he
were not receiving a salary supplement provided for in this act.
In devising its local salary schedule, a local school district may
not reduce or freeze the pay of any person receiving a salary
supplement under this act, but such person shall receive any local
pay to which teachers with similar training and experience
otherwise are entitled.

(5) In order to ensure that no federal funds used to pay a
teacher are withheld due to payments made under this act, any
payment made under this act to a teacher whose base compensation
is paid from federal funds shall be limited, to the extent
necessary, to those funds which constitute the supplement for
outstanding performance and not those funds which in the case of a
teacher on a ten-, eleven- or twelve-month contract constitute
compensation for work performed during that month.

(6) Any teacher who applies for performance pay plan
licenses after January 1, 2002, shall receive his performance pay
plan supplement beginning the year after he completes all
requirements for such licensure, but not before the 2002-2003
school year.

(7) Persons eligible for evaluation pursuant to the criteria
set out in this act, who are chosen as evaluators in the first
year of a new evaluation system implemented by the commission, and
who return to the assignment previously held before evaluator
service, shall receive pay supplements retroactive to the
beginning of the academic year in which such persons are
evaluated; however, such persons must make timely application for
evaluation and such evaluation must be completed during the first
year of their return to the previous assignment following service
as an evaluator.

SECTION 19. (1) Any person applying for a license provided
for in this act who is not recommended for licensure by the
commission may request the State Board of Education to review the
decision by filing a written request for review of the decision of
the commission within sixty (60) days following the date of the
decision. This request shall contain a detailed statement of the
basis of the request for review. The detailed statement of the
basis of the request for review may be amended any time before the
state board’s staff member closing the record and preparing the
proposed findings of fact and recommended decision that will be
mailed to the parties. The person requesting a review by the
State Board of Education also shall file a copy of the request for
review with the local school district employing him.

(2) Upon its receipt of the copy of the request for review,
the local school board, at its option, may intervene before the
State Board of Education. Upon such intervention, the local
school board shall have all the rights of other parties provided for in this section.

(3) The State Board of Education shall conduct this review based upon the record prepared by the commission and shall have the authority, by rule, to prescribe the contents and form of this record. This record shall include any statements or written evidence which the person applying for the license desires to submit. The record shall be available to the parties for review and, upon payment of reasonable copying costs, the record shall be mailed to the party requesting it. The parties shall have sixty (60) days from receipt of the record to add additional statements or evidence. All parties shall be given notice that additions have been made to the record, and have the opportunity to secure copies of such additions to the record.

(4) Upon the receipt of the request for review of a decision and the record of the proceedings of the commission, the State Board of Education shall authorize a staff member to review the record and prepare proposed findings of fact and a recommended decision which shall be sent to the parties. The proposed findings of fact shall specify the staff member's evidentiary facts for each contested content area or data source.

(5) Any person applying for the licensure who does not agree with this proposed decision in his case may file, within forty-five (45) days of his receipt of the decision, written exceptions to the decision stating his reasons for taking exception to the proposed decision and may request a hearing before a duly authorized hearing officer of the State Board of Education. If a hearing is requested, it shall be limited to the record below. The person filing the exception shall be entitled to introduce new evidence relating to the bias or prejudice of the commission or, with the approval of the hearing officer, any other additional evidence when it has been shown to the satisfaction of the hearing officer that the additional evidence is material and
that there were good reasons for failure to present it in the proceedings before the commission. The hearing officer shall forward a recommendation to the State Board of Education which shall make a final decision in a timely manner.

(6) Any person applying for a license provided for in this act who is aggrieved by the decision of the State Board of Education, or local school board employing such person, is entitled to judicial review in the manner provided by law.

(7) No person seeking to review a decision of the commission or the State Board of Education shall be entitled to be paid the salary supplement for the license in dispute but shall be entitled to receive the salary supplement for any current, valid license held by such person.

(8) The State Board of Education, in its discretion, may direct the commission to extend the validity of a license provided for in this act, for a period not to exceed one (1) year, for any person requesting a review of a decision of the commission. However, any person whose license is extended after it otherwise expires shall not be entitled to the salary supplement provided for in this act and shall not be required to perform the additional duties, if any, required in this act.

(9) The State Board of Education shall construe this act, and the rules, regulations and evaluation criteria promulgated pursuant to this act, in favor of the person seeking review, absent substantial and material evidence to the contrary. However, the burden of going forward with the evidence shall be upon the person seeking to review the decision of the commission.

SECTION 20. Once a person qualifies for and receives a salary supplement as an Advanced, Lead or Master Teacher, such person shall not be denied the supplement unless:

(a) He is dismissed for cause;

(b) He fails to maintain or renew any license provided for in this act; or
(c) He elects not to or refuses to perform the extra duties required in this act. Any performance pay plan teacher who has a change in positions but who remains within the performance pay plan licensure system shall retain his state salary supplement for the remaining year(s) of validity of the performance pay plan license. However, a teacher who holds more than one (1) performance pay plan license may receive only one (1) state salary supplement, the highest of those for which he is otherwise eligible.

SECTION 21. This act shall take effect and be in force from and after July 1, 2001.