

By: Senator(s) Chaney

To: Education;
Appropriations

SENATE BILL NO. 2539

1 AN ACT TO ESTABLISH A PERFORMANCE PAY PLAN FOR CERTIFIED
 2 TEACHERS; TO PRESCRIBE STANDARDS FOR PERFORMANCE LEVELS OF
 3 TEACHING CERTIFICATES TO BE ADMINISTERED BY THE COMMISSION ON
 4 TEACHER AND ADMINISTRATOR EDUCATION, CERTIFICATION AND
 5 DEVELOPMENT; TO PROVIDE FOR THE PAYMENT OF SALARY SUPPLEMENTS FOR
 6 OUTSTANDING PERFORMANCE BY TEACHERS UNDER THE PERFORMANCE PAY
 7 PLAN; TO PROVIDE FOR THE IMPLEMENTATION OF THE PERFORMANCE PAY
 8 PLAN FOR PRESENTLY CERTIFIED TEACHERS AND PROSPECTIVE TEACHERS; TO
 9 PROVIDE EVALUATION PROCEDURES FOR TEACHERS AND CRITERIA FOR
 10 EVALUATIONS TO BE ESTABLISHED BY THE COMMISSION; TO PROVIDE TERMS
 11 OF EMPLOYMENT AND RENEWAL PERIODS FOR PERFORMANCE PAY PLAN
 12 TEACHERS; TO PROVIDE ADDITIONAL DUTIES FOR PERFORMANCE PAY PLAN
 13 TEACHERS; TO PROVIDE APPEAL PROCEDURES; TO PROVIDE REASONS FOR THE
 14 LOSS OF SALARY SUPPLEMENTS UNDER THE PLAN; AND FOR RELATED
 15 PURPOSES.

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

17 **SECTION 1.** (1) The purpose of this act is to establish a
 18 new performance pay plan for full-time certified teachers.

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

26 (3) All performance pay plan certificates shall be
 27 supplementary to the basic certificate.

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

30 (a) "Performance pay plan teacher" means a person who
 31 has been employed as a teacher for not less than three (3) years
 32 and who holds an Advanced Teacher certificate, Lead Teacher

33 certificate or Master Teacher certificate issued by the State
34 Board of Education, acting through the commission;

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

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

41 (d) "Commission" means the Commission on Teacher and
42 Administrator Education, Certification and Development created by
43 Section 32-3-2, Mississippi Code of 1972.

44 **SECTION 3.** (1) This act shall apply to all teachers who
45 enter the teaching profession for the first time after July 1,
46 2005, or who are licensed or certified as a career ladder teacher
47 after July 1, 2005.

48 (2) Nothing herein shall be construed to grant duplicate
49 supplements to such teachers.

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

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

61 (5) Teachers who are employed on a part-time basis shall be
62 included under the provisions of this act; such persons who work
63 fifty percent (50%) of the school days in successive years shall
64 be granted credit for the number of days actually worked for
65 purposes of determining eligibility for participation in the

66 performance pay plan. Such persons must obtain their certificates
67 provided for herein while performing such part-time service.

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

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

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

93 (9) All performance pay plan certificates for teachers and
94 administrators and renewals thereof shall be issued by the State
95 Board of Education, on the recommendation of the commission in
96 accordance with the terms of Section 37-3-2, Mississippi Code of
97 1972. Persons applying for any certificate provided for in this
98 act shall apply to the commission.

99 (10) All certificates of teachers who are not included in
100 the performance pay plan provided for in this act, in effect on
101 July 1, 2005, shall remain in full force and effect according to
102 their terms and may be renewed, in accordance with the regulations
103 of the State Board of Education.

104 **SECTION 4.** For the purposes of implementing the new
105 certification system known as the performance pay plan for
106 teachers and providing the transition opportunity for presently
107 certified teachers to enter the new certification system
108 voluntarily, (a) any public school teacher who has been employed
109 as a certified teacher for at least eight (8) years on July 1,
110 2005, may apply for and is eligible to be considered for
111 certification as an Advanced Teacher, Lead Teacher or a Master
112 Teacher, (b) any such teacher who has been employed as a certified
113 teacher for at least five (5) years may apply for and is eligible
114 to be considered for certification as an Advanced Teacher or a
115 Lead Teacher, and (c) any person who has been employed as a
116 certified teacher for at least three (3) years may apply for and
117 is eligible to be considered for certification as an Advanced
118 Teacher.

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

127 **SECTION 6.** Costs of administration of this act shall not be
128 a part of or paid through the Mississippi Adequate Education
129 Program.

130 **SECTION 7.** (1) Superintendents, principals, assistant
131 principals, supervisors and teachers shall not be held liable,

132 personally or officially, when performing their duties in the
133 evaluation of teachers pursuant to this act.

134 (2) Immunity shall not extend to willful acts determined to
135 be arbitrary, capricious, intended to damage the teacher's
136 reputation, or which are discriminatory or illegally motivated.

137 **SECTION 8.** (1) The State Board of Education acting through
138 the commission has jurisdiction over the issuance of all teaching
139 certificates and performance pay plan certificates as otherwise
140 provided in this act. Teachers possessing a current, valid
141 license on July 1, 2005, are eligible to apply for performance pay
142 plan certificates based on experience as set out in Section 4 of
143 this act. Teachers who are employed initially after July 1, 2005,
144 are eligible to apply for performance pay plan certificates based
145 on experience, as follows:

146 (a) Advanced Teacher -- Employment for three (3) years
147 as a certified teacher;

148 (b) Lead Teacher -- Employment for at least two (2)
149 years as an Advanced Teacher; or

150 (c) Master Teacher -- Employment for at least three (3)
151 years as a Lead Teacher.

152 (2) Teachers shall be entitled to undergo evaluation during
153 the year in which they gain eligibility for Advanced, Lead or
154 Master Teacher status, based on experience set forth in subsection
155 (1).

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

159 (2) Any teacher holding an Advanced Teacher certificate
160 whose certificate is not renewed in due course because of the
161 teacher's failure to meet the relevant certification standards
162 shall, at the expiration of the Advanced Teacher's certificate and
163 if minimum competency standards are met, be issued a certificate

164 that shall be valid for ten (10) years and shall be subject to
165 renewal in the same manner as other teacher certificates.

166 (3) Any teacher holding a Lead Teacher certificate whose
167 certificate is not renewed in due course because of the teacher's
168 failure to meet the relevant certification standards shall, at the
169 expiration of such certificate and if minimum competency standards
170 are met, be issued an Advanced Teacher certificate that shall be
171 valid for ten (10) years and shall be subject to renewal in the
172 same manner as other such certificates.

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

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

185 **SECTION 10.** (1) The minimum criteria for the evaluation of
186 performance pay plan teachers shall be established by the
187 commission and approved by the State Board of Education.

188 (2) The minimum criteria for the initial evaluation of
189 certified teachers which are to be used by the commission for
190 Advanced Teacher certification shall include the following, and
191 the criteria for the recertification of Advanced Teachers may
192 include the following:

193 (a) Review of past evaluations;

194 (b) Classroom or position observation and assessment by
195 a team of properly trained Lead or Master Teachers in grades

196 kindergarten (K) through twelve (12) from outside the applicant's
197 school system, or professionally qualified evaluators;

198 (c) Personal interview; and

199 (d) Examination of voluntary professional development
200 activities undertaken by the applicant and/or additional
201 school-related responsibilities for which the applicant has not
202 been compensated.

203 (3) The minimum criteria for the initial evaluation of
204 Advanced Teachers which are to be used by the commission for Lead
205 Teacher certification shall include the following, and the
206 criteria for the recertification of Lead Teachers may include the
207 following:

208 (a) Review of past evaluations;

209 (b) Classroom or position observation and assessment by
210 a team of properly trained Master Teachers in grades kindergarten
211 (K) through twelve (12) from outside the applicant's school
212 system, or professionally qualified evaluators;

213 (c) Personal interview;

214 (d) Examination of professional development activities
215 undertaken by the applicant; and

216 (e) Satisfactory evidence of the teacher's student
217 performance, as determined by the commission.

218 (4) In order to be certified as a Master Teacher, the
219 applicant shall meet the requirements and acquire a Master Teacher
220 certificate from the National Board of Professional Teaching
221 Standards.

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

228 (2) The procedural rules shall include the opportunity for
229 multiple evaluations of all teachers holding performance pay plan
230 certificates. The performance of all performance pay plan
231 teachers shall be evaluated at least two (2) times between the
232 time their certificate is issued or renewed and the certificate's
233 expiration date and may be evaluated at more frequent intervals by
234 the local school board using procedures and evaluation criteria
235 promulgated by the State Board of Education, on recommendation of
236 the commission. Provided, however, that teachers holding Lead
237 Teacher or Master Teacher certificates shall not be reevaluated
238 until five (5) years after receiving such career ladder
239 certification. The scheduling of such evaluations shall be
240 determined in accordance with the evaluation plan adopted by the
241 local school board and approved by the State Board of Education.

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

248 (4) Evaluations conducted pursuant to this act shall be open
249 for inspection by the teacher, principal or local school board or
250 their designated representatives.

251 (5) Upon being informed of the composition of the evaluating
252 team, the teacher being evaluated shall be entitled to request
253 that one (1) member of the team be removed and that the commission
254 name a new member.

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

259 (2) Beginning with the 2006-2007 school year, a duly
260 certified Advanced Teacher who has met the standards for

261 certification established by the State Board of Education, on the
262 recommendation of the commission, and who is employed as such by a
263 local school board, shall receive a One Thousand Dollar
264 (\$1,000.00) salary supplement in addition to any other
265 compensation to which the teacher may be entitled.

266 (3) For school years beginning after the 2006-2007 school
267 year, the commission shall establish, with the approval of the
268 State Board of Education, the deadline by which all requirements
269 for certification shall be met.

270 **SECTION 13.** (1) Any duly certified Lead Teacher paid as
271 such may be employed for not less than ten (10) nor more than
272 eleven (11) months and shall perform those duties prescribed by
273 the local school board and such other additional duties as may be
274 provided for in Section 15. Upon receiving a Lead Teacher
275 certificate, a teacher may choose either a ten-month or
276 eleven-month contract. If the teacher chooses an eleven-month
277 contract, that teacher may receive either the full amount of the
278 eleven-month supplement, if that teacher's services are required
279 during the eleventh month, or that part of the supplement paid for
280 outstanding performance, if the services of that teacher are not
281 required during the eleventh month. The amount received by the
282 teacher shall be determined by the needs of the local school board
283 for teachers during the eleventh month.

284 (2) Beginning with the 2006-2007 school year, Lead Teachers
285 who are employed by a local school board shall receive a Three
286 Thousand Dollar (\$3,000.00) salary supplement in addition to any
287 other compensation to which the teacher may be entitled.

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

293 (2) Beginning with the 2006-2007 school year, duly certified
294 Master Teachers who are employed as such by a local school board
295 shall receive a Five Thousand Dollar (\$5,000.00) salary supplement
296 in addition to any other compensation to which the teacher may be
297 entitled.

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

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

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

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

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

343 (i) Enrichment programs for gifted and talented
344 students;

345 (ii) Programs to enhance adult literacy and
346 education;

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

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

351 (v) Extended programs for the full range of
352 handicapped students;

353 (vi) Developmental or remediation programs for
354 students according to their needs; and

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

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

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

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

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

387 **SECTION 17.** Any Lead or Master Teacher who declines the
388 duties thereof shall not receive the state salary supplement
389 authorized in this act.

390 **SECTION 18.** (1) All supplements due to teachers under the
391 provisions of this act shall be paid directly by the Department of

392 Education to the local school district and shall be in addition to
393 its minimum program entitlement and not a part thereof.

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

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

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

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

418 (6) Any teacher who applies for performance pay plan
419 certificates after January 1, 2006, shall receive his performance
420 pay plan supplement beginning the year after he completes all
421 requirements for such certification, but not before the 2006-2007
422 school year.

423 (7) Persons eligible for evaluation pursuant to the criteria
424 set out herein, who are chosen as evaluators in the first year of

425 a new evaluation system implemented by the commission, and who
426 return to the assignment previously held before evaluator service,
427 shall receive pay supplements retroactive to the beginning of the
428 academic year in which such persons are evaluated; provided, that
429 such persons must make timely application for evaluation and such
430 evaluation must be completed during the first year of their return
431 to the previous assignment following service as an evaluator.

432 **SECTION 19.** (1) Any person applying for a certificate
433 provided for herein who is not recommended for certification by
434 the commission may request the State Board of Education to review
435 the decision by filing a written request for review of the
436 decision of the commission within sixty (60) days following the
437 date of the decision. This request shall contain a detailed
438 statement of the basis of the request for review. The detailed
439 statement of the basis of the request for review may be amended
440 any time prior to the state board's staff member closing the
441 record and preparing the proposed findings of fact and recommended
442 decision that will be mailed to the parties. The person
443 requesting a review by the State Board of Education shall also
444 file a copy of the request for review with the local school
445 district employing him.

446 (2) Upon its receipt of the copy of the request for review,
447 the local school board may, at its option, intervene before the
448 State Board of Education. Upon such intervention, the local
449 school board shall have all the rights of other parties provided
450 for herein.

451 (3) The State Board of Education shall conduct this review
452 based upon the record prepared by the commission and shall have
453 the authority, by rule, to prescribe the contents and form of this
454 record. This record shall include any statements or written
455 evidence which the person applying for the certificate desires to
456 submit. The record shall be available to the parties for review
457 and, upon payment of reasonable copying costs, the record shall be

458 mailed to the party requesting it. The parties shall have sixty
459 (60) days from receipt of the record to add additional statements
460 or evidence. All parties shall be given notice that additions
461 have been made to the record, and have the opportunity to secure
462 copies of such additions to the record.

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

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

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

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

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

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

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

513 (a) He is dismissed for cause;

514 (b) He fails to maintain or renew any certificate
515 provided for in this act; or

516 (c) He elects not to or refuses to perform the extra
517 duties required in this act. Any performance pay plan teacher who
518 has a change in positions but who remains within the performance
519 pay plan certification system shall retain his state salary
520 supplement for the remaining year(s) of validity of the
521 performance pay plan certificate. However, a teacher who holds
522 more than one (1) performance pay plan certificate may receive

523 only one (1) state salary supplement, the highest of those for
524 which he is otherwise eligible.

525 **SECTION 21.** This act shall take effect and be in force from
526 and after July 1, 2005.