

MAINE STATE LEGISLATURE

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**MINORITY
EDUCATION AND CULTURAL AFFAIRS**

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
119TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 365, L.D. 490, Bill, "An Act to Assist Students with Disabilities"

Amend the bill by inserting after the title and before the enacting clause the following:

'Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, two thirds of all of the members elected to each House have determined it necessary to enact this measure.'

Further amend the bill by striking out all of section 1 (page 1, lines 3 to 29 in L.D.) and inserting in its place the following:

'Sec. 1. 20-A MRSA §1001, sub-§9-B, as amended by PL 1999, c. 424, Pt. A, §1, is further amended to read:

9-B. Disciplinary sanctions for exceptional students. They retain the authority to sanction an exceptional student as defined in section 7001, subsection 2 for misconduct that violates school rules. Notwithstanding the duties of school administrative units as described in section 7202, the school board may authorize the superintendent, principal or assistant principal to enforce this subsection by allowing the superintendent, principal or assistant principal to suspend an exceptional student up to a maximum of 10 days individually or cumulatively for infractions of school rules. When Except as provided in this subsection, when an exceptional student is

2 suspended for 10 days or less individually or cumulatively within
3 a school year for a deliberate violation of school rules, the
4 school board is not required to provide a tutor, transportation
5 or any other aspect of the student's special education program.
6 If an exceptional student is suspended for more than 3
7 consecutive days, a manifestation determination review, as set
8 out in 20 United States Code, Section 1415 (k) (4), must be
9 conducted. That review must take place within 3 school days of
10 the date on which the suspension goes into effect. If it is
11 determined that the misconduct in question is a manifestation of
12 the students's disability, and if the suspension imposed extends
13 beyond the date of the manifestation determination review, then
14 the student must be provided with a free appropriate public
15 education consistent with the student's individual education plan
16 for any period of suspension beyond the date of the manifestation
17 determination review. Discipline of exceptional students must be
18 consistent with the requirements of the federal Individuals with
19 Disabilities Education Act, 20 United States Code, Section
20 1415(k).'

21 Further amend the bill by inserting at the end before the
22 summary the following:

24 FISCAL NOTE

26 This bill requires that school administrative units provide
27 educational services in certain circumstances to students with
28 disabilities who have been suspended and represents a state
29 mandate pursuant to the Constitution of Maine. The additional
30 local costs can not be determined at this time but are expected
31 to be minor on a statewide basis. Pursuant to the Mandate
32 Preamble, the two-thirds vote of all members elected to each
33 House exempts the State from the constitutional requirement to
34 fund 90% of the additional local costs.

36 The additional costs associated with amending departmental
37 special education rules can be absorbed by the Department of
38 Education utilizing existing budgeted resources.'

40 SUMMARY

42 This amendment is the minority report of the Joint Standing
43 Committee on Education and Cultural Affairs. The amendment
44 requires schools to conduct a manifestation determination review
45 each time an exceptional student is suspended for infractions of
46 school rules. If the review indicates that the student's
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2 misconduct is a manifestation of the student's disability, the
student must be provided with appropriate educational services
4 until the end of the suspension. The amendment limits instances
in which suspension of an exceptional student must result in
6 conduct of a manifestation determination to those where the
suspension is for more than 3 days. The amendment also limits,
8 to instances of deliberate rule violations, the situations when
schools are not required to provide educational services to
10 special education students. This amendment adds a mandate
preamble and a fiscal note to the bill.