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AMENDMENT OFFERED BY MR. TALENT, MR. MCINTOSH, AND MR. TANCREDO TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. GOODLING

Page II-52, after line 2, insert the following:

1 **"SEC. 4148. DISCIPLINE OF CHILDREN WITH DISABILITIES**
2 **WHO ENGAGE IN CERTAIN DANGEROUS BE-**
3 **HAVIOR.**

4 **"(a) AUTHORITY OF SCHOOL PERSONNEL.—**Each
5 State receiving funds under this Act shall require each
6 local educational agency to have in effect a policy under
7 which school personnel of such agency may discipline (in-
8 eluding expel or suspend) a child with a disability who—
9 **"(1) knowingly possesses or uses illegal drugs**
10 **or sells or solicits the sale of a controlled substance**
11 **at a school, on school premises, or to or at a school**
12 **function, under the jurisdiction of a State or a local**
13 **educational agency, or**
14 **"(2) commits an aggravated assault or battery**
15 **(as defined under State or local law) at a school, on**
16 **school premises, or at a school function, under the**
17 **jurisdiction of a State or a local educational agency,**
18 **in the same manner in which such personnel may dis-**
19 **cipline a child without a disability, consistent with State**

1 and local law. Such personnel may modify the disciplinary
2 action on a case-by-case basis.

3 “(b) **RULE OF CONSTRUCTION.**—Nothing in sub-
4 section (a) shall be construed to prevent a child with a
5 disability who is disciplined pursuant to the authority pro-
6 vided under subsection (a)(1) from asserting a defense
7 that the possession or use of the illegal drugs (or sale or
8 solicitation of the controlled substance) was unintentional
9 or innocent.

10 “(c) **FREE APPROPRIATE PUBLIC EDUCATION.**—

11 “(1) **CEASING TO PROVIDE EDUCATION.**—Not-
12 withstanding any other provision of Federal law, a
13 child expelled or suspended under subsection (a)
14 shall not be entitled to continue educational services,
15 including a free appropriate public education, re-
16 quired under Federal law during the term of such
17 expulsion or suspension, if the State in which the
18 local educational agency responsible for providing
19 educational services to such child does not require a
20 child without a disability to receive educational serv-
21 ices after being expelled or suspended.

22 “(2) **PROVIDING EDUCATION.**—Notwithstanding
23 paragraph (I), the local educational agency respon-
24 sible for providing educational services to a child
25 with a disability who is expelled or suspended under

1 paragraph (1) may choose to continue to provide
2 educational services or mental health services to
3 such child. If the local educational agency so chooses
4 to continue to provide the services-

5 “(X) nothing in any other provision of
6 Federal law shall require the local educational
7 agency to provide such child with any particular
8 level of service; and

9 “(B) the location where the local edu-
10 cational agency provides the services shall be
11 left to the discretion of the local educational
12 agency.

13 “(d) DEFINITIONS.—For purposes of this section:

14 “(1) CONTROLLED SUBSTANCE.—The term
15 ‘controlled substance’ shall have the same meaning
16 as the term is defined in section 4141.

17 “(2) ILLEGAL DRUG.--The term ‘illegal drug’
18 means a controlled substance, but does not include
19 such a substance that is legally possessed or used
20 under the supervision of a licensed health-care pro-
21 fessional or that is legally possessed or used under
22 any other authority under the Controlled Substances
23 Act or under any other provision of Federal law.”.