

**AMENDMENT TO THE AMENDMENT IN THE NATURE  
OF A SUBSTITUTE TO H.R. 6084  
OFFERED BY MR. SCOTT OF VIRGINIA**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. STANDING FOR CERTAIN ERISA CLAIMS.**

2 Section 502 of the Employee Retirement Income Se-  
3 curity Act of 1974 (29 U.S.C. 1132) is amended—

4 (1) in subsection (a)(2), by inserting “plan,”  
5 after “or by a”; and

6 (2) in subsection (d), by adding at the end the  
7 following:

8 “(3)(A) A participant or beneficiary of a plan may  
9 bring an action as an assignee for such plan pursuant to  
10 section 502(a)(2) for appropriate relief pursuant to sec-  
11 tion 409. Such an action shall be brought on behalf of  
12 the plan, and the participant or beneficiary must serve a  
13 copy of the complaint on such plan.

14 “(B) Any amount recovered in an action under this  
15 paragraph in which the plan prevails or substantially pre-  
16 vails, or in which a settlement is reached, shall be treated  
17 as a plan asset.

1           “(C) Subject to subparagraph (D), a participant or  
2 beneficiary who brings an action on behalf of a plan as  
3 described in subparagraph (A) in which the plan prevails  
4 or substantially prevails, or in which a settlement is  
5 reached, shall—

6           “(i) be treated as having an equitable interest  
7 in the disposition of plan assets; and

8           “(ii) receive—

9           “(I) not less than 0.5 percent, but not  
10 more than 1 percent, of the amount recovered  
11 through the action or the settlement of the ac-  
12 tion; and

13           “(II) such other relief as the court may  
14 award, such as costs and expenses incurred in  
15 connection with such action.

16           “(D) If more than one participant or beneficiary  
17 bring an action as described in subparagraph (A) in which  
18 the plan prevails or substantially prevails, or in which a  
19 settlement is reached, then the court shall distribute the  
20 amount described in subparagraph (C)(ii) equitably such  
21 that a portion of such amount is awarded to—

22           “(i) in the case of such an action that is not  
23 brought as a class action, each plaintiff; and

24           “(ii) in the case of such an action that is  
25 brought as a class action, each named plaintiff.

1           “(E) A participant or beneficiary of a plan bringing  
2 an action in relation to such plan as described in subpara-  
3 graph (A) shall, if an action is already pending involving  
4 substantially the same allegations, promptly move to con-  
5 solidate such actions, including, if appropriate, by moving  
6 for a transfer of venue pursuant to section 1404 of title  
7 28, United States Code.”.

