

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 1526
OFFERED BY M . _____**

Page 1, line 12, strike “Notwithstanding” and insert “(a)Except as provided in subsection (b), notwithstanding”.

Page 1, line 17, strike “district court.” and insert “district court and non-parties represented by such a party acting in a representative capacity pursuant to the Federal Rules of Civil Procedure.”

Page 1, insert after line 17 the following:

1 “(b) If a case is brought by two or more States lo-
2 cated in different circuits challenging an action by the ex-
3 ecutive branch, that case shall be referred to a three-judge
4 panel selected pursuant to section 2284, except that the
5 selection of judges shall be random, and not by the chief
6 judge of the circuit. The three-judge panel may issue an
7 injunction that would otherwise be prohibited under sub-
8 section (a), and shall consider the interest of justice, the
9 risk of irreparable harm to non-parties, and the preserva-
10 tion of the constitutional separation of powers in deter-
11 mining whether to issue such an order.

1 “(c) An appeal of an order granting or denying in-
2 junctive relief pursuant to subsection (b) may lie to the
3 circuit embracing the district or to the Supreme Court,
4 at the preference of the party.”.

