

AMENDMENT TO H.R. 2419
OFFERED BY MR. GOODLATTE OF VIRGINIA

At the end of subtitle A of title II (conservation),
add the following new section:

1 **SEC. 2409. COMMON EASEMENT AUTHORITIES.**

2 (a) IN GENERAL.—The Food Security Act of 1985
3 is amended by inserting after section 1230 (16 U.S.C.
4 3801) the following new section:

5 **“SEC. 1230A. COMMON EASEMENT AUTHORITIES.**

6 “(a) IN GENERAL.—

7 “(1) PROGRAM.—In this section the term ‘pro-
8 gram’ means the applicable program described in
9 paragraph (2).

10 “(2) APPLICABILITY.—This section shall apply
11 to the terms and conditions of all easements pur-
12 chased under authorities of this subtitle:

13 “(A) The wetlands reserve program under
14 subchapter C.

15 “(B) The farmland protection program
16 under subchapter B of Chapter 2.

17 “(C) The grassland reserve program under
18 subchapter C of Chapter 2.

1 “(D) The healthy forests reserve program,
 2 sections 501–508 of the Healthy Forests Res-
 3 toration Act of 2003 (16 U.S.C. 6571-6578).

4 “(3) ENROLLMENT.—The Secretary may either
 5 directly, or through an eligible entity, obtain an in-
 6 terest in eligible land through—

7 “(A) a 30-year or permanent easement; or

8 “(B) in a State that imposes a maximum
 9 duration for easements, an easement for the
 10 maximum duration allowed under State law.

11 “(4) HOLDER OF EASEMENT TITLE.—The title
 12 holder of an easement obtained under one of the
 13 programs described in paragraph (2), in addition to
 14 the Secretary, or in lieu of the Secretary, may be an
 15 eligible entity.

16 “(5) ESTABLISHING EASEMENT.—To become
 17 eligible to enroll land in the program through an
 18 easement, the landowner or eligible entity, as appli-
 19 cable, shall—

20 “(A) create and record an appropriate
 21 deed restriction in accordance with applicable
 22 State law;

23 “(B) provide proof of unencumbered title
 24 to the underlying fee interest in the land that
 25 is subject of the easement;

1 “(C) grant the easement to either the Sec-
2 retary or an eligible entity;

3 “(D) comply with the terms of the ease-
4 ment and any restoration agreement; and

5 “(E) explicitly consent in writing to grant-
6 ing a security interest in the land to either the
7 Secretary or an eligible entity.

8 “(6) WETLANDS RESERVE PROGRAM DEEDS.—

9 A deed used to record an easement under the wet-
10 lands reserve program in subchapter C shall provide
11 for sufficient protection of the functions and values
12 of the wetland or floodplain, as determined by the
13 Secretary.

14 “(7) DEED FOR OTHER EASEMENT PRO-
15 GRAMS.—A deed used to record an easement under
16 all programs described in paragraph (2) other than
17 the wetlands reserve program shall be in the form of
18 a negative restrictive deed that—

19 “(A) is in a format prescribed by the Sec-
20 retary;

21 “(B) details the rights obtained by the
22 easement; and

23 “(C) allows for specific uses of the land, if
24 the use is consistent with the long-term protec-

1 tion of the purposes for which the easement was
2 established.

3 “(8) ACCEPTANCE OF CONTRIBUTIONS.—The
4 Secretary may accept and use contributions of non-
5 Federal funds to carry out the administration or
6 purpose the program.

7 “(9) MODIFICATION, TRANSFER, OR TERMI-
8 NATION OF EASEMENT.—

9 “(A) MODIFICATION.—The Secretary may
10 modify an easement acquired from, or a related
11 agreement with, an owner or eligible entity
12 under one of the programs described under
13 paragraph (2) if—

14 “(i) the parties involved with the ease-
15 ment on the land agree to such modifica-
16 tion; and

17 “(ii) the Secretary determines that
18 such modification is desirable—

19 “(I) to carry out the program;

20 “(II) to facilitate administration
21 of the program; or

22 “(III) to achieve such other goals
23 as the Secretary determines are ap-
24 propriate.

1 “(B) TITLE TRANSFER.—The Secretary
2 may transfer title of ownership of an easement
3 to an eligible entity to hold and enforce, in lieu
4 of the Secretary, subject to the right of the Sec-
5 retary to conduct periodic inspections and en-
6 force the easement, if—

7 “(i) the Secretary determines that
8 granting the transfer would promote the
9 protection of eligible land;

10 “(ii) the owner authorizes the eligible
11 entity to hold and enforce the easement;

12 “(iii) the eligible entity assuming the
13 title agrees to assume the costs incurred in
14 administering and enforcing the easement,
15 including the costs of restoration or reha-
16 bilitation of the land as specified by the
17 owner and the eligible entity; and

18 “(iv) the eligible entity, except for an
19 eligible entity under section 1238H(a)(1),
20 has a commitment to protect the conserva-
21 tion purpose of the easement and has the
22 resources to enforce the easement.

23 “(C) TERMINATION.—The Secretary may
24 terminate an easement if—

1 “(i) the parties involved with such
2 easement agree to such termination; and

3 “(ii) the Secretary determines that
4 such termination would be in the public in-
5 terest.

6 “(10) VIOLATION.—Upon the violation of the
7 terms or conditions of an easement or other agree-
8 ment entered into under this section—

9 “(A) the easement shall remain in force;
10 and

11 “(B) the Secretary may require the owner
12 to refund all or part of any payments received
13 by the owner under the program, with interest
14 on the payments as determined appropriate by
15 the Secretary.

16 “(b) EASEMENTS HELD BY SECRETARY.—

17 “(1) PERMANENT EASEMENT VALUATION.—In
18 return for the granting of a permanent easement or
19 an easement for the maximum duration allowed
20 under applicable State law by a landowner under one
21 of the programs described in subsection (a)(2), the
22 Secretary shall make payments to the landowner as
23 authorized under subparagraphs (A) and (B).

1 “(A) VALUATION METHODS.—The method
2 of valuation shall be determined under the spe-
3 cific program involved.

4 “(B) COST OF RESTORATION.—The Sec-
5 retary shall tender a monetary amount to the
6 landowner that is not greater than an amount
7 corresponding to 100 percent of the eligible
8 costs of restoration.

9 “(2) 30 YEAR EASEMENT VALUATION.—In re-
10 turn for granting a 30 year easement by a land-
11 owner, the Secretary shall make payments to the
12 landowner in an amount equal to—

13 “(A) not more than 75 percent of the
14 amount that would apply in paragraph (1)(A);
15 and

16 “(B) not more than 75 percent of the eligi-
17 ble costs of restoration.

18 “(3) MONETARY DONATION.—A private land-
19 owner may make a monetary donation equivalent to
20 any amount of the actual value of the easement.

21 “(c) EASEMENTS ACQUIRED THROUGH ELIGIBLE
22 ENTITIES.—

23 “(1) EASEMENT HELD BY ELIGIBLE ENTITY.—
24 The Secretary shall offer the opportunity to eligible
25 entities to enter into agreements for the purposes of

1 purchasing and holding easements for eligible lands
2 in the program.

3 “(2) EASEMENT VALUATION.—When enrolling
4 eligible land through an eligible entity, the share of
5 the cost of the Secretary to purchase a conservation
6 easement or other interest in eligible land shall not
7 exceed 50 percent of the fair market value based on
8 an appraisal of the conservation easement, using an
9 industry approved methodology determined by the
10 entity.

11 “(3) PAYMENTS; DONATIONS.—

12 “(A) LANDOWNER.—A private landowner
13 may make a monetary donation of up to 25
14 percent of the appraised fair market value of
15 the conservation easement or other interest in
16 eligible land.

17 “(B) ELIGIBLE ENTITY.—An eligible entity
18 shall make a monetary payment of at least 25
19 percent of the appraised fair market value of
20 the conservation easement or other interest in
21 eligible land.

22 “(4) TYPE OF DEED.—An eligible entity obtain-
23 ing an easement under this subtitle shall use a nega-
24 tive restrictive deed that provides for—

1 “(A) rights of all parties subject to the
2 easement;

3 “(B) permissible uses of the land, if the
4 use is consistent with the purposes for which
5 the easement was established; and

6 “(C) terms and conditions of the eligible
7 entity such as purposes and administration of
8 the easement, if the Secretary finds that the
9 terms and conditions are—

10 “(i) consistent with the purposes of
11 the program; and

12 “(ii) provide for effective enforcement
13 of the conservation purposes of the con-
14 servation easement.

15 “(d) FEDERAL CONTINGENT RIGHT OF ENFORCE-
16 MENT.—The Secretary may require the inclusion of a Fed-
17 eral contingent right of enforcement or executory limita-
18 tion in a conservation easement or other interest in land
19 for conservation purposes purchased with Federal funds
20 provided under the program, in order to preserve the ease-
21 ment as a party of last resort. The inclusion of such a
22 right or interest shall not be considered to be the Federal
23 acquisition of real property and the Federal standards and
24 procedures for land acquisition shall not apply to the in-
25 clusion of the right or interest.”.

1 (b) CONFORMING AMENDMENTS.—The following pro-
2 visions of subtitle D of title XII of the Food Security Act
3 of 1985 (16 U.S.C. 3801 et seq.) are repealed:

4 (1) Subsections (c) through (g) of section
5 1237A.

6 (2) Section 1237C(b)(2).

7 (3) Section 1237E.

8 (4) Subsections (a)(1), (d), and (e) of section
9 1238O.

10 (5) Subsections (a)(2), (b)(1), and (c) of section
11 1238P.

12 (6) Section 1238Q.