

116TH CONGRESS
1ST SESSION

S. 146

To amend the Internal Revenue Code of 1986 to provide for Move America bonds and Move America credits.

IN THE SENATE OF THE UNITED STATES

JANUARY 16, 2019

Mr. HOEVEN (for himself and Mr. WYDEN) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide
for Move America bonds and Move America credits.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Move America Act of
5 2019”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—Congress makes the following find-
8 ings:

9 (1) Our Nation’s infrastructure network serves
10 as a foundation of our economic competitiveness and

1 national security. It is imperative that Congress
2 maintain and revitalize the roads, bridges, ports,
3 railways, airports, transit systems, water systems,
4 and information networks of this country, enabling
5 all industries to achieve the growth and productivity
6 that make the United States strong and prosperous.

7 (2) Investing in transportation, water, and in-
8 formation infrastructure creates long-term capital
9 assets for the Nation that will improve economic
10 productivity.

11 (3) Investment in infrastructure creates jobs
12 and spurs economic activity to put people back to
13 work and grow the economy.

14 (4) The cost to maintain and improve our Na-
15 tion's highways, bridges, and other critical transpor-
16 tation infrastructure significantly exceeds what is
17 currently being provided by all levels of government.

18 (5) Investment in our Nation's infrastructure
19 must be multi-faceted, both by ensuring that there
20 is a sustainable long-term funding source for infra-
21 structure and through using innovative financing
22 mechanisms.

23 (6) Areas that are underserved by modern
24 broadband connections are disadvantaged, and en-
25 suring that those areas are connected will enable the

1 Nation to benefit from the fuller participation of
 2 previously underserved citizens in the national econ-
 3 omy.

4 (7) Investment in infrastructure is needed
 5 throughout the Nation, and it is essential that infra-
 6 structure legislation, including but not limited to
 7 this legislation, benefit urban and rural areas, and
 8 large and small States.

9 (b) PURPOSE.—The purpose of this Act is to provide
 10 tools to finance additional transportation, water, and in-
 11 formation infrastructure capital investments, through an
 12 approach that provides assistance for financing of infra-
 13 structure to all States, rural and urban, and large and
 14 small.

15 **SEC. 3. MOVE AMERICA BONDS.**

16 (a) IN GENERAL.—

17 (1) MOVE AMERICA BONDS.—Subpart A of part
 18 IV of subchapter B of chapter 1 of the Internal Rev-
 19 enue Code of 1986 is amended by inserting after
 20 section 142 the following new section:

21 **“SEC. 142A. MOVE AMERICA BONDS.**

22 **“(a) IN GENERAL.—**

23 **“(1) TREATMENT AS EXEMPT FACILITY**
 24 **BOND.—Except as otherwise provided in this section,**

1 a Move America bond shall be treated for purposes
2 of this part as an exempt facility bond.

3 “(2) EXCEPTIONS.—

4 “(A) NO GOVERNMENT OWNERSHIP RE-
5 QUIREMENT.—Paragraph (1) of section 142(b)
6 shall not apply to any Move America bond.

7 “(B) SPECIAL RULES FOR HIGH-SPEED
8 RAIL BONDS.—Paragraphs (2) and (3) of sec-
9 tion 142(i) shall not apply to any Move America
10 bond described in subsection (b)(6).

11 “(C) SPECIAL RULES FOR HIGHWAY AND
12 SURFACE TRANSPORTATION FACILITIES.—Para-
13 graphs (2), (3), and (4) of section 142(m) shall
14 not apply to any Move America bond described
15 in subsection (b)(7).

16 “(b) MOVE AMERICA BOND.—For purposes of this
17 part, the term ‘Move America bond’ means any bond
18 issued as part of an issue 95 percent or more of the net
19 proceeds of which are used to provide—

20 “(1) airports,

21 “(2) docks and wharves, including—

22 “(A) waterborne mooring infrastructure,

23 “(B) dredging in connection with a dock or
24 wharf, and

1 “(C) any associated rail and road infra-
2 structure for the purpose of integrating modes
3 of transportation,

4 “(3) mass commuting facilities,

5 “(4) facilities for the furnishing of water (with-
6 in the meaning of section 142(e)),

7 “(5) sewage facilities,

8 “(6) railroads (as defined in section 20102 of
9 title 49, United States Code) and any associated rail
10 and road infrastructure for the purpose of inte-
11 grating modes of transportation,

12 “(7) any—

13 “(A) surface transportation project which
14 is eligible for Federal assistance under title 23,
15 United States Code (as in effect on the date of
16 the enactment of this section),

17 “(B) project for an international bridge or
18 tunnel for which an international entity author-
19 ized under Federal or State law is responsible
20 and which is eligible for Federal assistance
21 under title 23, United States Code (as so in ef-
22 fect), or

23 “(C) facility for the transfer of freight
24 from truck to rail or rail to truck (including
25 any temporary storage facilities directly related

1 to such transfers) which is eligible for Federal
 2 assistance under either title 23 or title 49,
 3 United States Code (as so in effect),

4 “(8) flood diversions,

5 “(9) inland waterways, including construction
 6 and rehabilitation expenditures for navigation on
 7 any inland or intracoastal waterways of the United
 8 States (within the meaning of section 4042(d)(2)),
 9 or

10 “(10) rural broadband service infrastructure.

11 “(c) DEFINITIONS.—For purposes of this section—

12 “(1) FLOOD DIVERSIONS.—The term ‘flood di-
 13 version’ means any flood damage risk reduction
 14 project authorized under any Act for authorizing
 15 water resources development projects.

16 “(2) RURAL BROADBAND SERVICE INFRASTRUC-
 17 TURE.—The term ‘rural broadband service infra-
 18 structure’ means the construction, improvement, or
 19 acquisition of facilities and equipment for the provi-
 20 sion of broadband services (as defined in section 601
 21 of the Rural Electrification Act of 1936) which—

22 “(A) meet the minimum requirements in
 23 effect under section 601(e) of such Act, and

24 “(B) will be provided in an area which—

1 “(i) is a rural area (as defined in sec-
 2 tion 601 of such Act), and

3 “(ii) meets the requirements of
 4 clauses (i) and (ii) of section 601(d)(2)(A)
 5 of such Act.

6 “(d) MOVE AMERICA VOLUME CAP.—

7 “(1) IN GENERAL.—The aggregate face amount
 8 of Move America bonds issued pursuant to an issue,
 9 when added to the aggregate face amount of Move
 10 America bonds previously issued by the issuing au-
 11 thority during the calendar year, shall not exceed
 12 such issuing authority’s Move America volume cap
 13 for such year.

14 “(2) MOVE AMERICA VOLUME CAP.—For pur-
 15 poses of this subsection—

16 “(A) IN GENERAL.—The Move America
 17 volume cap for any calendar year is an amount
 18 equal to 50 percent of the State ceiling under
 19 section 146(d) for such State for such calendar
 20 year.

21 “(B) ALLOCATION OF VOLUME CAP.—Each
 22 State may allocate the Move America volume
 23 cap of such State among governmental units (or
 24 other authorities) in such State having author-
 25 ity to issue private activity bonds.

1 “(3) CARRYFORWARDS.—

2 “(A) IN GENERAL.—If—

3 “(i) an issuing authority’s Move
4 America volume cap, exceeds

5 “(ii) the aggregate amount of Move
6 America bonds issued during such calendar
7 year by such authority,

8 any Move America bond issued by such author-
9 ity during the 5-calendar-year period following
10 such calendar year shall not be taken into ac-
11 count under paragraph (1) to the extent the
12 amount of such bonds does not exceed the
13 amount of such excess. Any excesses arising
14 under this paragraph shall be used under this
15 paragraph in the order of calendar years in
16 which the excesses arose.

17 “(B) REALLOCATION OF UNUSED
18 CARRYFORWARDS.—

19 “(i) IN GENERAL.—The Move Amer-
20 ica volume cap under paragraph (2)(A) for
21 any State for any calendar year shall be
22 increased by any amount allocated to such
23 State by the Secretary under clause (ii).

24 “(ii) REALLOCATION.—The Secretary
25 shall allocate to each qualified State for

any calendar year an amount which bears the same ratio to the aggregate unused carryforward amounts of all issuing authorities in all States for such calendar year as the qualified State's population for the calendar year bears to the population of all qualified States for the calendar year. For purposes of the preceding sentence, population shall be determined in accordance with section 146(j).

“(iii) QUALIFIED STATE.—For purposes of this subparagraph, the term ‘qualified State’ means, with respect to a calendar year, any State—

“(I) which allocated its entire Move America volume cap for the preceding calendar year, and

“(II) for which a request is made (not later than May 1 of the calendar year) to receive an allocation under clause (ii).

“(iv) UNUSED CARRYFORWARD AMOUNT.—For purposes of this paragraph, the term ‘unused carryforward amount’

1 means, with respect to any issuing author-
 2 ity for any calendar year, the excess of—

3 “(I) the amount of the excess de-
 4 scribed in subparagraph (A) for the
 5 sixth preceding calendar year, over

6 “(II) the amount of bonds issued
 7 by such issuing authority to which
 8 subparagraph (A) applied during the
 9 5 preceding calendar years.

10 “(4) FACILITY MUST BE LOCATED WITHIN
 11 STATE.—

12 “(A) IN GENERAL.—No portion of the
 13 Move America volume cap of an issuing author-
 14 ity for any calendar year may be used with re-
 15 spect to financing for a facility located outside
 16 of the authority’s State.

17 “(B) EXCEPTION FOR CERTAIN FACILITIES
 18 WHERE STATE WILL GET PROPORTIONATE
 19 SHARE OF BENEFIT.—Subparagraph (A) shall
 20 not apply to any Move America bond the pro-
 21 ceeds of which are used to provide a facility de-
 22 scribed in paragraph (4) or (5) of subsection
 23 (b) if the issuer establishes that the State’s
 24 share of the use of the facility will equal or ex-

1 ceed the State's share of the private activity
2 bonds issued to finance the facility.

3 “(e) APPLICABILITY OF CERTAIN FEDERAL LAWS.—

4 “(1) IN GENERAL.—An issue shall not be treat-
5 ed as an issue under subsection (b) unless the facil-
6 ity for which the proceeds of such issue are used
7 would be subject to the requirements of any Federal
8 law (including titles 23, 40, and 49, United States
9 Code) which would otherwise apply to similar facili-
10 ties.

11 “(2) PUBLIC TRANSPORTATION CAPITAL
12 PROJECTS.—In addition to the requirements of
13 paragraph (1), an issue the proceeds of which are
14 used to finance a capital project (as defined in sec-
15 tion 5302(3) of title 49, United States Code) relat-
16 ing to public transportation (as defined in section
17 5302(14) of such title) shall not be treated as an
18 issue under subsection (b) unless such project com-
19 plies with the requirements of chapter 53 of title 49,
20 United States Code.

21 “(f) SPECIAL RULE FOR ENVIRONMENTAL REMEDI-
22 ATION COSTS FOR DOCKS AND WHARVES.—For purposes
23 of this section, amounts used for working capital expendi-
24 tures relating to environmental remediation required
25 under State or Federal law at or near a facility described

1 in subsection (b)(2) (including environmental remediation
 2 in the riverbed and land within or adjacent to the Federal
 3 navigation channel used to access such facility) shall be
 4 treated as an amount used to provide for such a facility.

5 “(g) REGULATIONS.—The Secretary shall prescribe
 6 such regulations as may be necessary to carry out the pur-
 7 poses of this section, including regulations requiring
 8 States to report the amount of Move America volume cap
 9 of the State carried forward for any calendar year under
 10 subsection (d)(3).”.

11 (2) CONFORMING AMENDMENT.—The table of
 12 sections for subpart A of part IV of subchapter B
 13 of chapter 1 of such Code is amended by inserting
 14 after the item relating to section 142 the following
 15 new item:

“Sec. 142A. Move America bonds.”.

16 (b) APPLICATION OF OTHER PRIVATE ACTIVITY
 17 BOND RULES.—

18 (1) TREATMENT UNDER PRIVATE ACTIVITY
 19 BOND VOLUME CAP.—Subsection (g) of section 146
 20 of the Internal Revenue Code of 1986 is amended by
 21 striking “and” at the end of paragraph (3), by strik-
 22 ing the period at the end of paragraph (4) and in-
 23 serting “, and”, and by inserting after paragraph
 24 (4) the following new paragraph:

25 “(5) any Move America bond.”.

1 (2) SPECIAL RULE ON USE FOR LAND ACQUI-
 2 TION.—Subparagraph (A) of section 147(c)(1) of
 3 the Internal Revenue Code of 1986 is amended by
 4 inserting “(50 percent in the case of any issue of
 5 Move America bonds)” after “25 percent”.

6 (3) SPECIAL RULES FOR REHABILITATION EX-
 7 PENDITURES.—

8 (A) INCLUSION OF CERTAIN EXPENDI-
 9 TURES.—Subparagraph (B) of section
 10 147(d)(3) of the Internal Revenue Code of
 11 1986 is amended by inserting “, except that, in
 12 the case of any Move America bond, such term
 13 shall include any expenditure described in
 14 clause (v) thereof” before the period at the end.

15 (B) PERIOD FOR EXPENDITURES.—Sub-
 16 paragraph (C) of section 147(d)(3) of such
 17 Code is amended by inserting “(5 years, in the
 18 case of any Move America bond)” after “2
 19 years”.

20 (c) TREATMENT UNDER THE ALTERNATIVE MIN-
 21 IMUM TAX.—Subparagraph (C) of section 57(a)(5) of the
 22 Internal Revenue Code of 1986 is amended by adding at
 23 the end the following new clause:

24 “(vii) EXCEPTION FOR MOVE AMERICA
 25 BONDS.—For purposes of clause (i), the

1 term ‘private activity bond’ shall not in-
 2 clude any Move America bond (as defined
 3 in section 142A).”.

4 (d) EFFECTIVE DATE.—The amendments made by
 5 this section shall apply to obligations issued in calendar
 6 years beginning after the date of the enactment of this
 7 Act.

8 **SEC. 4. MOVE AMERICA CREDITS.**

9 (a) IN GENERAL.—Subpart D of part IV of sub-
 10 chapter A of chapter 1 of the Internal Revenue Code of
 11 1986 is amended by inserting after the section 42 the fol-
 12 lowing new section:

13 **“SEC. 42A. MOVE AMERICA CREDITS.**

14 **“(a) MOVE AMERICA EQUITY CREDITS.—**

15 **“(1) IN GENERAL.—**For purposes of section 38,
 16 the Move America equity credit for any taxable year
 17 in the credit period is an amount equal to 10 per-
 18 cent of the qualified basis of each qualified facility.

19 **“(2) DEFINITIONS.—**For purposes of this sec-
 20 tion—

21 **“(A) QUALIFIED BASIS.—**

22 **“(i) IN GENERAL.—**The qualified
 23 basis of any qualified facility is the portion
 24 of the eligible basis of such facility to
 25 which the State has allocated an amount of

the State credit limitation under subsection
(c)(3)(C)(i).

“(ii) DETERMINATION.—The qualified
basis of a facility for purposes of all tax-
able years in the credit period shall be de-
termined as of the date of the last day of
the calendar year in which the qualified fa-
cility is placed in service.

“(iii) EXCEPTION.—Notwithstanding
any other provision of this section, the
qualified basis of any qualified facility shall
be zero unless the chief executive officer
(or the equivalent) of the local jurisdiction
in which the qualified facility is located is
provided a reasonable opportunity to com-
ment on the qualified facility.

“(B) QUALIFIED FACILITY.—The term
‘qualified facility’ means a facility described in
section 142A(b), but only if such facility—

“(i) meets the requirements applicable
to similar facilities under any Federal law
which would apply if the facility were fi-
nanced under any other Federal program
(including titles 23, 40, and 49, United
States Code),

1 “(ii) complies with the requirements
 2 of chapter 53 of title 49, United States
 3 Code, in the case of a capital project (as
 4 defined in section 5302(3) of title 49,
 5 United States Code) relating to public
 6 transportation (as defined in section
 7 5302(14) of such title), and

8 “(iii) will be generally available for
 9 public use throughout the credit period.

10 “(C) CREDIT PERIOD.—

11 “(i) IN GENERAL.—Except as pro-
 12 vided in clause (ii), the credit period with
 13 respect to any qualified facility is the pe-
 14 riod of 10 taxable years beginning with the
 15 first taxable year beginning in the calendar
 16 year in which the facility is placed in serv-
 17 ice.

18 “(ii) EARLY TERMINATION.—If at any
 19 time during the 10-taxable-year period de-
 20 scribed in clause (i) a facility ceases to be
 21 a qualified facility, or ceases and then re-
 22 commences to be a qualified facility, the
 23 credit period with respect to such facility
 24 shall include only the taxable years in such
 25 10-year-period in which the facility was a

1 qualified facility for the entire taxable
2 year.

3 “(iii) DISPOSITIONS OF PROPERTY OR
4 INTEREST RELATING TO QUALIFIED FACIL-
5 ITY.—A facility shall not cease to be a
6 qualified facility solely by reason of the
7 disposition of the facility (or an interest
8 therein) if it is reasonably expected that
9 such facility will otherwise continue to be
10 a qualified facility.

11 “(iv) TREATMENT OF CREDIT IN CASE
12 OF DISPOSITION.—If at any time during
13 the 10-taxable-year period described in
14 clause (i) a qualified facility (or an interest
15 therein) is disposed of—

16 “(I) the credit under paragraph
17 (1) for any year in such period begin-
18 ning after the date of the disposal
19 shall be allowed to the acquiring per-
20 son, and not to the person disposing
21 of the facility (or interest), and

22 “(II) the credit under paragraph
23 (1) for the year of the disposal shall
24 be allocated between such persons on
25 the basis of the number of days dur-

1 ing such year the facility (or interest)
 2 was held by each.

3 “(3) REALLOCATION.—

4 “(A) IN GENERAL.—If any qualified facil-
 5 ity is not placed in service within 3 years of the
 6 date of the allocation under subsection (c)(3),
 7 the State shall rescind the allocation under sub-
 8 section (c)(3)(C)(i). Any allocation so rescinded
 9 may be reallocated by the State under sub-
 10 section (c) (including to qualified infrastructure
 11 funds for purposes of the credit under sub-
 12 section (b)) within the calendar year in which
 13 it is so rescinded.

14 “(B) REVERSION.—Any rescinded alloca-
 15 tion which is not reallocated under subpara-
 16 graph (A) by the last day of the calendar year
 17 in which it is so rescinded shall revert to inclu-
 18 sion in the State’s Move America volume cap
 19 under section 142A(d) as if it had never been
 20 exchanged under subsection (c)(1).

21 “(C) NO MULTIPLE REALLOCATIONS.—
 22 Any rescinded allocation which is reallocated
 23 under subparagraph (A) and is subsequently re-
 24 scinded shall not be further reallocated and
 25 shall immediately revert to inclusion in the

1 Move America volume cap as provided in sub-
 2 paragraph (B).

3 “(4) COORDINATION WITH DEDUCTION FOR DE-
 4 PRECIATION, ETC.—The basis of any property taken
 5 into account in determining the qualified basis of a
 6 qualified facility with respect to which a credit is al-
 7 lowed under this section shall be reduced by the ag-
 8 gregate amount of the credit allowable under this
 9 section during all taxable years in the credit period
 10 which is properly allocable to the cost basis of such
 11 property. The Secretary shall provide for adjust-
 12 ments to basis in cases where the taxpayer is not al-
 13 lowed a full credit for all years in the credit period.

14 “(b) MOVE AMERICA INFRASTRUCTURE FUND CRED-
 15 ITS.—

16 “(1) ALLOWANCE OF CREDIT.—

17 “(A) IN GENERAL.—For purposes of sec-
 18 tion 38, in the case of a taxpayer who holds a
 19 Move America investment on a credit allowance
 20 date of such investment which occurs during
 21 the taxable year, the Move America infrastruc-
 22 ture fund credit for such taxable year is an
 23 amount equal to 5 percent of the amount paid
 24 to the qualified infrastructure fund for such in-
 25 vestment at its original issue.

1 “(B) CREDIT ALLOWANCE DATE.—For
 2 purposes of subparagraph (A), except as pro-
 3 vided in paragraph (3), the term ‘credit allow-
 4 ance date’ means with respect to any Move
 5 America investment—

6 “(i) the date on which such invest-
 7 ment is initially made, and

8 “(ii) each of the 9 anniversary dates
 9 of such date thereafter.

10 “(2) DEFINITIONS.—For purposes of this sec-
 11 tion—

12 “(A) MOVE AMERICA INVESTMENT.—

13 “(i) IN GENERAL.—The term ‘Move
 14 America investment’ means any equity in-
 15 vestment in a qualified infrastructure fund,
 16 if—

17 “(I) such investment is acquired
 18 by the taxpayer at its original issue
 19 solely in exchange for cash,

20 “(II) substantially all of such
 21 cash is used by the qualified infra-
 22 structure fund to make qualified in-
 23 vestments, and

24 “(III) such investment is des-
 25 ignated for purposes of this subsection

1 by the qualified infrastructure fund,
2 including a designation of the quali-
3 fied investment which will be made
4 with such investment.

5 “(ii) LIMITATION.—

6 “(I) IN GENERAL.—The max-
7 imum amount of equity investments
8 issued by a qualified infrastructure
9 fund in a calendar year which may be
10 designated under clause (i)(III) by
11 such fund shall not exceed 200 per-
12 cent of the portion of the State credit
13 limitation allocated under subsection
14 (c)(3)(A)(ii) to such fund in such cal-
15 endar year.

16 “(II) EXPIRATION.—If the limi-
17 tation determined under subclause (I)
18 with respect to an infrastructure fund
19 for a calendar year exceeds the
20 amount of equity investments des-
21 ignated under clause (i)(III) by such
22 fund in such year, the State shall re-
23 scind such excess allocation. Any allo-
24 cation so rescinded may be reallocated
25 by the State under subsection (c) (in-

cluding to qualified facilities for purposes of the credit under subsection (a)) within the immediately succeeding calendar year.

“(III) REVERSION.—Any rescinded allocation which is not reallocated under subclause (II) by the last day of such immediately succeeding calendar year shall revert to inclusion in the State’s Move America volume cap under section 142A(d) as if it had never been exchanged under subsection (c)(1).

“(IV) NO MULTIPLE REALLOCATIONS.—Any rescinded allocation which is reallocated under subclause (II) and is subsequently rescinded shall not be further reallocated and shall immediately revert to inclusion in the Move America volume cap as provided in subclause (III).

“(iii) SAFE HARBOR FOR DETERMINING USE OF CASH.—The requirement of clause (i)(II) shall be treated as met if at least 95 percent of the aggregate gross

1 assets of the qualified infrastructure fund
 2 (determined without regard to any cash re-
 3 ceived under clause (i)(I) that has not been
 4 invested in any other asset before the date
 5 that is 3 years after the date such cash is
 6 received) are invested in qualified invest-
 7 ments.

8 “(iv) TREATMENT OF SUBSEQUENT
 9 PURCHASERS.—The term ‘Move America
 10 investment’ includes any equity investment
 11 which would (but for clause (i)(I)) be a
 12 Move America investment in the hands of
 13 the taxpayer if such investment was a
 14 Move America investment in the hands of
 15 a prior holder.

16 “(B) QUALIFIED INFRASTRUCTURE
 17 FUND.—The term ‘qualified infrastructure
 18 fund’ means—

19 “(i) a State infrastructure bank estab-
 20 lished under section 610 of title 23, United
 21 States Code,

22 “(ii) a water pollution control revolv-
 23 ing fund established under title VI of the
 24 Federal Water Pollution Control Act (33
 25 U.S.C. 1381 et seq.),

“(iii) a drinking water treatment revolving loan fund established under section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j–12), or

“(iv) an equivalent fund established or designated by the State or any instrumentality thereof and certified by the Secretary as having a primary purpose of financing qualified facilities.

In the case of a fund described in clause (ii) or (iii), the amount of any Move America investment shall not be included in determining the amount of State or other non-Federal contributions to such fund.

“(C) QUALIFIED INVESTMENT.—The term ‘qualified investment’ means an investment (whether by loan, loan guarantee, or equity investment) in—

“(i) qualified facilities, or

“(ii) in the case of a fund described in clause (i), (ii), or (iii) of subparagraph (B), projects and activities for which such funds are authorized to be used under any other provision of law.

“(3) EARLY TERMINATION.—

“(A) IN GENERAL.—If at any time during the compliance period the fund which issued a Move America investment ceases to be a qualified infrastructure fund, or ceases and then recommences to be a qualified infrastructure fund, any date described in paragraph (1)(B) (including the date described in clause (i) thereof) occurring in—

“(i) the taxable year in which the fund ceased to be a qualified infrastructure fund, or

“(ii) any other taxable year in such period in which the fund is not a qualified infrastructure fund for the entire taxable year,

shall not be treated as a credit allowance date for purposes of paragraph (1).

“(B) COMPLIANCE PERIOD.—For purposes of subparagraph (A), the term ‘compliance period’ means the 10-taxable-year period beginning with the taxable year that includes the date of the original issue of the Move America investment.

“(C) LOSS OF QUALIFICATION.—A fund shall cease to be a qualified infrastructure fund

as of the date more than 5 percent of the investments made by the fund are not qualified investments. For purposes of the preceding sentence, the amount of any cash received under subparagraph (A)(i)(I) that has not been invested in any other asset before the date that is 3 years after the date such cash is received shall not be taken into account in determining investments made by the fund.

“(D) EXPIRATION OF CREDIT.—If substantially all of the cash paid for any Move America investment is not used to make qualified investments designated under paragraph (2)(A)(i)(III) within 3 years of the date of original issue of such investment, any date described in paragraph (1)(B) occurring in a taxable year which ends after the date which is 3 years after such date of original issue shall not be treated as a credit allowance date for purposes of paragraph (1).

“(c) MOVE AMERICA CREDIT ALLOCATION.—

“(1) EXCHANGE OF MOVE AMERICA BOND VOLUME CAP.—

“(A) IN GENERAL.—If a State has in effect a qualified allocation plan for a calendar

1 year, the State may exchange (in such manner
 2 as the Secretary may prescribe) all or a portion
 3 of the State’s Move America volume cap under
 4 section 142A(d) for such year for a State credit
 5 limitation.

6 “(B) LIMITATION.—The amount of a
 7 State’s Move America volume cap for a cal-
 8 endar year which may be exchanged under sub-
 9 paragraph (A) shall not include any portion of
 10 such cap which is attributable to an amount of
 11 State credit limitation which has reverted under
 12 paragraph (3)(D) or subsection (a)(3)(B) or
 13 (b)(2)(A)(iv).

14 “(2) STATE CREDIT LIMITATION.—For pur-
 15 poses of this section, the State credit limitation with
 16 respect to any State for a calendar year is a dollar
 17 amount equal to 25 percent of the Move America
 18 volume cap exchanged under paragraph (1) for such
 19 calendar year.

20 “(3) ALLOCATION.—

21 “(A) IN GENERAL.—A State may allocate
 22 the State credit limitation, according to the
 23 qualified allocation plan, for any calendar year
 24 among—

1 “(i) qualified facilities in the State for
 2 purposes of the Move America equity cred-
 3 it under subsection (a), and

4 “(ii) qualified infrastructure funds in
 5 the State for purposes of the Move Amer-
 6 ica infrastructure fund credit under sub-
 7 section (b).

8 “(B) QUALIFIED ALLOCATION PLAN.—

9 “(i) IN GENERAL.—For purposes of
 10 this subsection, the term ‘qualified alloca-
 11 tion plan’ means any plan—

12 “(I) which sets forth selection
 13 criteria to be used in determining in-
 14 frastructure priorities of the State
 15 and allocating the State credit limita-
 16 tion among facilities (in accordance
 17 with clause (ii)) and infrastructure
 18 funds in the State, and

19 “(II) which provides a procedure
 20 that the State (or an agent or other
 21 private contractor of the State) will
 22 follow in monitoring for noncompli-
 23 ance with the provisions of this sec-
 24 tion and in notifying the Internal Rev-
 25 enue Service of such noncompliance.

1 “(ii) LIMITATION BASED ON FACILITY
2 FEASIBILITY FOR MOVE AMERICA EQUITY
3 CREDITS.—

4 “(I) IN GENERAL.—In the case
5 of an allocation with respect to any
6 qualified facility for purposes of the
7 Move America equity credit under
8 subsection (a), such allocation shall
9 not exceed the minimum amount
10 which the State transportation au-
11 thority or other applicable agency de-
12 termines is required for the financial
13 feasibility of the facility and its viabil-
14 ity for completion and availability for
15 public use throughout the credit pe-
16 riod.

17 “(II) MINIMUM FEASIBILITY DE-
18 TERMINATION.—In making the deter-
19 mination under subclause (I), such
20 entity shall consider the sources and
21 uses of funds and the total financing
22 planned for the facility, any proceeds
23 or receipts expected to be generated
24 by reason of tax benefits, the reason-
25 ableness of the developmental and

1 operational costs of the facility over
 2 the full expected operational life of the
 3 facility, ancillary costs (including
 4 right-of-way and procurement costs),
 5 financing costs, and retained and
 6 transferred risk.

7 “(C) SPECIAL RULES RELATING TO MOVE
 8 AMERICA EQUITY CREDIT.—

9 “(i) LIMITATION.—The amount allo-
 10 cated to a qualified facility under subpara-
 11 graph (A)(i) shall not exceed the eligible
 12 basis of such facility.

13 “(ii) ELIGIBLE BASIS.—For purposes
 14 of this section, except as provided in clause
 15 (iii), the eligible basis of any qualified fa-
 16 cility is the lesser of—

17 “(I) the portion of the basis of
 18 such facility which is attributable to
 19 the aggregate amount of equity in-
 20 vestment of all taxpayers in the costs
 21 of the facility which are subject to the
 22 allowance for depreciation (determined
 23 as of the last day of the calendar year
 24 in which the facility is placed in serv-
 25 ice), or

1 “(II) 20 percent of the costs of
 2 the facility which are subject to the
 3 allowance for depreciation (determined
 4 as of the last day of the calendar year
 5 in which the facility is placed in serv-
 6 ice).

7 “(iii) EXCLUSION OF GOVERNMENT
 8 ASSISTANCE.—Eligible basis shall not in-
 9 clude any portion of the basis of such facil-
 10 ity which is attributable to any assistance
 11 or financing provided by a Federal, State,
 12 or local government (determined as of the
 13 last day of the calendar year in which the
 14 facility is placed in service).

15 “(D) REVERSION OF UNALLOCATED LIM-
 16 ITATION.—Any portion of the State credit limi-
 17 tation for any calendar year which remains
 18 unallocated as of the last day of such calendar
 19 year shall revert to inclusion in the State’s
 20 Move America volume cap under section
 21 142A(d) as if it had never been exchanged
 22 under paragraph (1).”.

23 (b) CREDITS MADE PART OF GENERAL BUSINESS
 24 CREDIT.—Subsection (b) of section 38 of the Internal
 25 Revenue Code of 1986 is amended—

1 (1) by striking “plus” at the end of paragraph
 2 (31);

3 (2) by striking the period at the end of para-
 4 graph (32) and inserting a comma; and

5 (3) by adding at the end the following new
 6 paragraphs:

7 “(33) the Move America equity credit under
 8 section 42A(a)(1), plus

9 “(34) the Move America infrastructure fund
 10 credit under section 42A(b)(1).”.

11 (c) TREATMENT UNDER ALTERNATIVE MINIMUM
 12 TAX AND BASE EROSION TAX.—

13 (1) ALTERNATIVE MINIMUM TAX.—Section
 14 38(c)(4)(B) of the Internal Revenue Code of 1986 is
 15 amended by redesignating clauses (iv) through (xii)
 16 as clauses (vi) through (xiv), respectively, and by in-
 17 serting after clause (ii) the following new clauses:

18 “(iii) the credit determined under sec-
 19 tion 42A(a)(1),

20 “(iv) the credit determined under sec-
 21 tion 42A(b)(1),”.

22 (2) BASE EROSION TAX.—Section
 23 59A(b)(1)(B)(ii) of such Code is amended by strik-
 24 ing “plus” at the end of subclause (I), by redesign-
 25 ating subclause (II) as subclause (III), and by in-

1 serting after subclause (I) the following new sub-
 2 clause:

3 “(II) the credit allowed under
 4 section 38 for the taxable year which
 5 is properly allocable to the sum of the
 6 Move America equity credit under sec-
 7 tion 42A(a)(1) and the Move America
 8 infrastructure fund credit under sec-
 9 tion 42A(b)(1), plus”.

10 (d) CLERICAL AMENDMENT.—The table of sections
 11 for subpart D of part IV of subchapter A of chapter 1
 12 of the Internal Revenue Code of 1986 is amended by in-
 13 serting after the item relating to section 42 the following
 14 new item:

“Sec. 42A. Move America credits.”.

15 (e) EFFECTIVE DATE.—The amendments made by
 16 this section shall apply to taxable years beginning after
 17 the date of the enactment of this Act.

18 (f) REPORTING.—A State shall, at such time and in
 19 such manner as the Secretary of the Treasury shall re-
 20 quire, report—

21 (1) to the Secretary of the Treasury—

22 (A) the amount of the Move America vol-
 23 ume cap of the State for the calendar year
 24 which is exchanged under section 42A(c)(1) of

1 the Internal Revenue Code of 1986 for a State
2 credit limitation;

3 (B) the amount (if any) of the State credit
4 limitation allocated under section
5 42A(c)(3)(A)(i) of such Code to qualified facili-
6 ties, the amount so allocated to each such facil-
7 ity, and the taxpayer with respect to such facil-
8 ity (including the name of the taxpayer and any
9 other identifying information as the Secretary
10 of the Treasury shall require); and

11 (C) the amount (if any) of the State credit
12 limitation allocated under section
13 42A(c)(3)(A)(ii) of such Code to qualified infra-
14 structure funds, the amount so allocated to
15 each such fund, and each taxpayer holding any
16 Move America investment with respect to any
17 such fund (including the name of the taxpayer
18 and any other identifying information as the
19 Secretary of the Treasury shall require);

20 (2) to the Secretary of the Treasury and any
21 taxpayer who is the sponsor of a qualified facility re-
22 ceiving an allocation under section 42A(c)(3)(A)(i)
23 of such Code, the date on which the qualified facility
24 is placed in service; and

1 (3) to the Secretary of the Treasury and any
2 taxpayer holding a Move America investment, a cer-
3 tification that the entity which issued the investment
4 is a qualified infrastructure fund and that the in-
5 vestment will be used to make qualified investments
6 designated for purposes of section
7 42A(b)(2)(A)(i)(III) of the Internal Revenue Code of
8 1986.

9 For purposes of this subsection, any term used in this sub-
10 section that is also used in section 42A or 142A of such
11 Code has the same meaning as when used in such section.

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