

115TH CONGRESS
1ST SESSION

S. 1229

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

MAY 25, 2017

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 2017”.

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 BOND.**

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)(4).

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)(5).

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 section
 23 142A(b) if the issuer establishes that the
 24 State’s share of the use of the facility will equal

1 or exceed the State's share of the private activ-
2 ity 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
10 projects.

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 ACQUISITION.—Subparagraph (A) of section 147(c)(1) of
 2 the Internal Revenue Code of 1986 is amended by
 3 inserting “(50 percent in the case of any issue of
 4 Move America bonds)” after “25 percent”.

6 (3) SPECIAL RULES FOR REHABILITATION EXPENDITURES.—

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

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

20 (c) TREATMENT UNDER THE ALTERNATIVE MINIMUM TAX.—Subparagraph (C) of section 57(a)(5) of the
 21 Internal Revenue Code of 1986 is amended by adding at
 22 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 relating
 12 to section 42 the following new section:

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

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

15 **“(1) IN GENERAL.—**For purposes of section 38,
 16 the Move America project 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 project.

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 project is the portion
 24 of the eligible basis of such project to
 25 which the State has allocated an amount of

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

3 “(ii) DETERMINATION.—The qualified
4 basis of a project shall be determined as of
5 the date of the allocation for purposes of
6 all taxable years in the credit period.

7 “(B) QUALIFIED PROJECT.—The term
8 ‘qualified project’ means a project which is for
9 the construction of a facility described in sec-
10 tion 142A(b), but only if such project—

11 “(i) meets the requirements applicable
12 to similar projects under any Federal law
13 which would apply if the project were fi-
14 nanced under any other Federal program
15 (including titles 23, 40, and 49, United
16 States Code),

17 “(ii) complies with the requirements
18 of chapter 53 of title 49, United States
19 Code, in the case of a capital project (as
20 defined in section 5302(3) of title 49,
21 United States Code) relating to public
22 transportation (as defined in section
23 5302(14) of such title), and

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

1 “(C) CREDIT PERIOD.—

2 “(i) IN GENERAL.—Except as pro-
3 vided in clause (ii), the credit period with
4 respect to any qualified project is the pe-
5 riod of 10 taxable years beginning with the
6 first taxable year beginning in the calendar
7 year in which the project is placed in serv-
8 ice.

9 “(ii) EARLY TERMINATION.—If at any
10 time during the 10-taxable-year period de-
11 scribed in clause (i) a project ceases to be
12 a qualified project, or ceases and then re-
13 commences to be a qualified project, the
14 credit period with respect to such project
15 shall include only the taxable years in such
16 10-year-period in which the project was a
17 qualified project for the entire taxable
18 year.

19 “(iii) DISPOSITIONS OF PROPERTY OR
20 INTEREST RELATING TO QUALIFIED
21 PROJECT.—A project shall not cease to be
22 a qualified project solely by reason of the
23 disposition of the project (or an interest
24 therein) if it is reasonably expected that

1 such project will otherwise continue to be
2 a qualified project.

3 “(iv) TREATMENT OF CREDIT IN CASE
4 OF DISPOSITION.—If at any time during
5 the 10-taxable-year period described in
6 clause (i) a qualified project (or an interest
7 therein) is disposed of—

8 “(I) the credit under paragraph
9 (1) for any year in such period begin-
10 ning after the date of the disposal
11 shall be allowed to the acquiring per-
12 son, and not to the person disposing
13 of the project (or interest), and

14 “(II) the credit under paragraph
15 (1) for the year of the disposal shall
16 be allocated between such persons on
17 the basis of the number of days dur-
18 ing such year the project (or interest)
19 was held by each.

20 “(3) REALLOCATION.—

21 “(A) IN GENERAL.—If any qualified
22 project is not placed in service within 3 years
23 of the date of the allocation under subsection
24 (c)(3), the State shall rescind the allocation
25 under subsection (c)(3)(C)(i). Any allocation so

1 rescinded may be reallocated by the State under
 2 subsection (c) (including to qualified infrastruc-
 3 ture funds for purposes of the credit under sub-
 4 section (b)) within the calendar year in which
 5 it is so rescinded.

6 “(B) REVERSION.—Any rescinded alloca-
 7 tion which is not reallocated under subpara-
 8 graph (A) by the last day of the calendar year
 9 in which it is so rescinded shall revert to inclu-
 10 sion in the State’s Move America volume cap
 11 under section 142A(d) as if it had never been
 12 exchanged under subsection (c)(1).

13 “(C) NO MULTIPLE REALLOCATIONS.—
 14 Any rescinded allocation which is reallocated
 15 under subparagraph (A) and is subsequently re-
 16 scinded shall not be further reallocated and
 17 shall immediately revert to inclusion in the
 18 Move America volume cap as provided in sub-
 19 paragraph (B).

20 “(4) COORDINATION WITH DEDUCTION FOR DE-
 21 PRECIATION, ETC.—

22 “(A) IN GENERAL.—In the case of any
 23 taxable year in the credit period with respect to
 24 a qualified project, the total deduction allowable
 25 to the taxpayer for depreciation for the taxable

1 year with respect to property which is part of
 2 such project shall be reduced (but not below
 3 zero) by the amount of the credit allowed under
 4 paragraph (1) for such taxable year.

5 “(B) NO ADJUSTMENT TO BASIS.—No re-
 6 duction or adjustment in basis shall be made as
 7 a result of the application of subparagraph (A).

8 “(b) MOVE AMERICA INFRASTRUCTURE FUND CRED-
 9 ITS.—

10 “(1) ALLOWANCE OF CREDIT.—

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

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

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

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

5 “(2) DEFINITIONS.—For purposes of this sec-
 6 tion—

7 “(A) MOVE AMERICA INVESTMENT.—

8 “(i) IN GENERAL.—The term ‘Move
 9 America investment’ means any equity in-
 10 vestment in a qualified infrastructure fund,
 11 if—

12 “(I) such investment is acquired
 13 by the taxpayer at its original issue
 14 solely in exchange for cash,

15 “(II) substantially all of such
 16 cash is used by the qualified infra-
 17 structure fund to make qualified in-
 18 vestments, and

19 “(III) such investment is des-
 20 ignated for purposes of this subsection
 21 by the qualified infrastructure fund,
 22 including a designation of the quali-
 23 fied investment which will be made
 24 with such investment.

1 “(ii) LIMITATION.—The maximum
2 amount of equity investments issued by a
3 qualified infrastructure fund in a calendar
4 year which may be designated under clause
5 (i)(III) by such fund shall not exceed—

6 “(I) the portion of the State
7 credit limitation allocated under sub-
8 section (c)(3)(A)(ii) to such fund in
9 such calendar year, multiplied by

10 “(II) 2.

11 “(iii) EXPIRATION.—If the limitation
12 determined under clause (ii) with respect
13 to an infrastructure fund for a calendar
14 year exceeds the amount of equity invest-
15 ments designated under clause (i)(III) by
16 such fund in such year, the State shall re-
17 scind such excess allocation. Any allocation
18 so rescinded may be reallocated by the
19 State under subsection (c) (including to
20 qualified projects for purposes of the credit
21 under subsection (a)) within the imme-
22 diately succeeding calendar year.

23 “(iv) REVERSION.—Any rescinded al-
24 location which is not reallocated under
25 clause (iii) by the last day of such imme-

diately 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).

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

“(vi) SPECIAL RULES.—Rules similar to the rules of paragraphs (3) and (4) of section 45D(b) shall apply with respect to clause (i).

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

“(i) a State infrastructure bank established under section 610 of title 23, United States Code,

“(ii) a water pollution control revolving fund established under title VI of the

1 Federal Water Pollution Control Act (33
2 U.S.C. 1381 et seq.),

3 “(iii) a drinking water treatment re-
4 volving loan fund established under section
5 1452 of the Safe Drinking Water Act (42
6 U.S.C. 300j–12), or

7 “(iv) an equivalent fund established or
8 designated by the State or any instrumen-
9 tality thereof.

10 In the case of a fund described in clause (ii) or
11 (iii), the amount of any Move America invest-
12 ment shall not be included in determining the
13 amount of State or other non-Federal contribu-
14 tions to such fund.

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

19 “(i) qualified projects, or

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

25 “(3) EARLY TERMINATION.—

1 “(A) IN GENERAL.—If at any time during
 2 the compliance period the fund which issued a
 3 Move America investment ceases to be a quali-
 4 fied infrastructure fund, or ceases and then re-
 5 commences to be a qualified infrastructure
 6 fund, any date described in paragraph (1)(B)
 7 (including the date described in clause (i) there-
 8 of) occurring in—

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

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

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

18 “(B) COMPLIANCE PERIOD.—For purposes
 19 of subparagraph (A), the term ‘compliance pe-
 20 riod’ means the 10-taxable-year period begin-
 21 ning with the taxable year that includes the
 22 date of the original issue of the Move America
 23 investment.

1 “(C) LOSS OF QUALIFICATION.—A fund
2 shall cease to be a qualified infrastructure fund
3 as of the date—

4 “(i) the fund redeems any Move
5 America investment within the compliance
6 period with respect to such investment,

7 “(ii) the proceeds of any Move Amer-
8 ica investment cease to be used for quali-
9 fied investments, or

10 “(iii) the fund makes any investment
11 which is not a qualified investment.

12 “(D) EXPIRATION OF CREDIT.—If sub-
13 stantially all of the cash paid for any Move
14 America investment is not used to make quali-
15 fied investments designated under paragraph
16 (2)(A)(i)(III) within 3 years of the date of
17 original issue of such investment, any date de-
18 scribed in paragraph (1)(B) occurring in a tax-
19 able year which ends after the date which is 3
20 years after such date of original issue shall not
21 be treated as a credit allowance date for pur-
22 poses of paragraph (1).

23 “(c) MOVE AMERICA CREDIT ALLOCATION.—

24 “(1) EXCHANGE OF MOVE AMERICA BOND VOL-
25 UME CAP.—

1 “(A) IN GENERAL.—If a State has in ef-
 2 fect a qualified allocation plan for a calendar
 3 year, the State may exchange (in such manner
 4 as the Secretary may prescribe) all or a portion
 5 of the State’s Move America volume cap under
 6 section 142A(d) for such year for a State credit
 7 limitation.

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

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

22 “(3) ALLOCATION.—

23 “(A) IN GENERAL.—A State may allocate
 24 the State credit limitation, according to the

qualified allocation plan, for any calendar year
among—

“(i) qualified projects in the State for
purposes of the Move America project
credit under subsection (a), and

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

“(B) QUALIFIED ALLOCATION PLAN.—

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

“(I) which sets forth selection
criteria to be used in determining in-
frastructure priorities of the State
and allocating the State credit limita-
tion among projects (in accordance
with clause (ii)) and infrastructure
funds in the State, and

“(II) which provides a procedure
that the State (or an agent or other
private contractor of the State) will
follow in monitoring for noncompli-
ance with the provisions of this sec-

tion and in notifying the Internal Revenue Service of such noncompliance.

“(ii) LIMITATION BASED ON PROJECT FEASIBILITY FOR MOVE AMERICA PROJECT CREDITS.—

“(I) IN GENERAL.—In the case of an allocation with respect to any qualified project for purposes of the Move America project credit under subsection (a), such allocation shall not exceed the minimum amount which the State transportation authority or other applicable agency determines is required for the financial feasibility of the project and its viability for completion and availability for public use throughout the credit period.

“(II) MINIMUM FEASIBILITY DETERMINATION.—In making the determination under subclause (I), such entity shall consider the sources and uses of funds and the total financing planned for the project, any proceeds or receipts expected to be generated

1 by reason of tax benefits, the reason-
 2 ableness of the developmental and
 3 operational costs of the project over
 4 the full expected operational life of the
 5 project, ancillary costs (including
 6 right-of-way and procurement costs),
 7 financing costs, and retained and
 8 transferred risk.

9 “(C) SPECIAL RULES RELATING TO MOVE
 10 AMERICA PROJECT CREDIT.—

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

15 “(ii) ELIGIBLE BASIS.—For purposes
 16 of this section, except as provided in clause
 17 (iii), the eligible basis of any qualified
 18 project is the lesser of—

19 “(I) the portion of the basis of
 20 such project which is attributable to
 21 the taxpayer’s equity investment in
 22 the costs of the project which are sub-
 23 ject to the allowance for depreciation
 24 (as estimated as of the date of the al-
 25 location), or

1 “(II) 20 percent of the costs of
 2 the project which are subject to the
 3 allowance for depreciation (as esti-
 4 mated as of the date of the alloca-
 5 tion).

6 “(iii) EXCLUSION OF GOVERNMENT
 7 ASSISTANCE.—Eligible basis shall not in-
 8 clude any portion of the basis of such
 9 project which is attributable to any assist-
 10 ance or financing provided by a Federal,
 11 State, or local government (as estimated as
 12 of the date of the allocation).

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

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

24 (1) by striking “plus” at the end of paragraph
 25 (35);

1 (2) by striking the period at the end of para-
2 graph (36) and inserting a comma; and

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

5 “(37) the Move America project credit under
6 section 42A(a)(1), plus

7 “(38) the Move America infrastructure fund
8 credit under section 42A(b)(1).”.

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

 “Sec. 42A. Move America credits.”.

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

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

20 (1) to the Secretary of the Treasury—

21 (A) the amount of the Move America vol-
22 ume cap of the State for the calendar year
23 which is exchanged under section 42A(c)(1) of
24 the Internal Revenue Code of 1986 for a State
25 credit limitation;

1 (B) the amount (if any) of the State credit
 2 limitation allocated under section
 3 42A(c)(3)(A)(i) of such Code to qualified
 4 projects, the amount so allocated to each such
 5 project, and the taxpayer with respect to such
 6 project (including the name of the taxpayer and
 7 any other identifying information as the Sec-
 8 retary of the Treasury shall require); and

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

18 (2) to the Secretary of the Treasury and any
 19 taxpayer who is the project sponsor of a qualified
 20 project receiving an allocation under section
 21 42A(c)(3)(A)(i) of such Code, the date on which the
 22 qualified project is placed in service; and

23 (3) to the Secretary of the Treasury and any
 24 taxpayer holding a Move America investment, a cer-
 25 tification that the entity which issued the investment

1 is a qualified infrastructure fund and that the in-
2 vestment will be used to make qualified investments
3 designated for purposes of section
4 42A(b)(2)(A)(i)(III) of the Internal Revenue Code of
5 1986.

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

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