

117TH CONGRESS
1ST SESSION

S. 1403

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

APRIL 28, 2021

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 2021”.

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

1 any calendar year an amount which bears
2 the same ratio to the aggregate unused
3 carryforward amounts of all issuing au-
4 thorities in all States for such calendar
5 year as the qualified State's population for
6 the calendar year bears to the population
7 of all qualified States for the calendar
8 year. For purposes of the preceding sen-
9 tence, population shall be determined in
10 accordance with section 146(j).

11 “(iii) QUALIFIED STATE.—For pur-
12 poses of this subparagraph, the term
13 ‘qualified State’ means, with respect to a
14 calendar year, any State—

15 “(I) which allocated its entire
16 Move America volume cap for the pre-
17 ceding calendar year, and

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

22 “(iv) UNUSED CARRYFORWARD
23 AMOUNT.—For purposes of this paragraph,
24 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 meets the requirements applicable to construction,
8 alteration, or repair of similar facilities under any
9 Federal law that would apply if the facility were
10 funded or financed under any other Federal program
11 (including under titles 23, 40, and 49, United States
12 Code) which would otherwise apply to similar facili-
13 ties.

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

24 “(f) SPECIAL RULE FOR ENVIRONMENTAL REMEDI-
25 ATION COSTS FOR DOCKS AND WHARVES.—For purposes

1 of this section, amounts used for working capital expendi-
 2 tures relating to environmental remediation required
 3 under State or Federal law at or near a facility described
 4 in subsection (b)(2) (including environmental remediation
 5 in the riverbed and land within or adjacent to the Federal
 6 navigation channel used to access such facility) shall be
 7 treated as an amount used to provide for such a facility.

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

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

“Sec. 142A. Move America bonds.”.

19 (b) APPLICATION OF OTHER PRIVATE ACTIVITY
 20 BOND RULES.—

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

1 serting “, and”, and by inserting after paragraph
2 (4) the following new paragraph:

3 “(5) any Move America bond.”.

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

9 (3) SPECIAL RULES FOR REHABILITATION EXPENDITURES.—
10 PENDITURES.—

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

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

23 (c) TREATMENT UNDER THE ALTERNATIVE MIN-
24 IMUM TAX.—Subparagraph (C) of section 57(a)(5) of the

1 Internal Revenue Code of 1986 is amended by adding at
2 the end the following new clause:

3 “(vii) EXCEPTION FOR MOVE AMERICA
4 BONDS.—For purposes of clause (i), the
5 term ‘private activity bond’ shall not in-
6 clude any Move America bond (as defined
7 in section 142A).”.

8 (d) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to obligations issued in calendar
10 years beginning after the date of the enactment of this
11 Act.

12 **SEC. 4. MOVE AMERICA CREDITS.**

13 (a) IN GENERAL.—Subpart D of part IV of sub-
14 chapter A of chapter 1 of the Internal Revenue Code of
15 1986 is amended by inserting after the section 42 the fol-
16 lowing new section:

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

18 “(a) MOVE AMERICA EQUITY CREDITS.—

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

23 “(2) DEFINITIONS.—For purposes of this sec-
24 tion—

25 “(A) QUALIFIED BASIS.—

1 “(i) IN GENERAL.—The qualified
2 basis of any qualified facility is the portion
3 of the eligible basis of such facility to
4 which the State has allocated an amount of
5 the State credit limitation under subsection
6 (c)(3)(C)(i).

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

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

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

24 “(i) meets the requirements applicable
25 to similar facilities under any Federal law

1 which would apply if the facility were fi-
2 nanced under any other Federal program
3 (including titles 23, 40, and 49, United
4 States Code),

5 “(ii) complies with the requirements
6 of chapter 53 of title 49, United States
7 Code, in the case of a capital project (as
8 defined in section 5302(3) of title 49,
9 United States Code) relating to public
10 transportation (as defined in section
11 5302(14) of such title), and

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

14 “(C) CREDIT PERIOD.—

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

22 “(ii) EARLY TERMINATION.—If at any
23 time during the 10-taxable-year period de-
24 scribed in clause (i) a facility ceases to be
25 a qualified facility, or ceases and then re-

1 commences to be a qualified facility, the
2 credit period with respect to such facility
3 shall include only the taxable years in such
4 10-year period in which the facility was a
5 qualified facility for the entire taxable
6 year.

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

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

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

1 “(II) the credit under paragraph
2 (1) for the year of the disposal shall
3 be allocated between such persons on
4 the basis of the number of days dur-
5 ing such year the facility (or interest)
6 was held by each.

7 “(3) REALLOCATION.—

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

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

1 “(C) NO MULTIPLE REALLOCATIONS.—
2 Any rescinded allocation which is reallocated
3 under subparagraph (A) and is subsequently re-
4 scinded shall not be further reallocated and
5 shall immediately revert to inclusion in the
6 Move America volume cap as provided in sub-
7 paragraph (B).

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

19 “(b) MOVE AMERICA INFRASTRUCTURE FUND CRED-
20 ITS.—

21 “(1) ALLOWANCE OF CREDIT.—

22 “(A) IN GENERAL.—For purposes of sec-
23 tion 38, in the case of a taxpayer who holds a
24 Move America investment on a credit allowance
25 date of such investment which occurs during

1 the taxable year, the Move America infrastruc-
2 ture fund credit for such taxable year is an
3 amount equal to 5 percent of the amount paid
4 to the qualified infrastructure fund for such in-
5 vestment at its original issue.

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

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

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

15 “(2) DEFINITIONS.—For purposes of this sec-
16 tion—

17 “(A) MOVE AMERICA INVESTMENT.—

18 “(i) IN GENERAL.—The term ‘Move
19 America investment’ means any equity in-
20 vestment in a qualified infrastructure fund,
21 if—

22 “(I) such investment is acquired
23 by the taxpayer at its original issue
24 solely in exchange for cash,

1 “(II) substantially all of such
2 cash is used by the qualified infra-
3 structure fund to make qualified in-
4 vestments, and

5 “(III) such investment is des-
6 ignated for purposes of this subsection
7 by the qualified infrastructure fund,
8 including a designation of the quali-
9 fied investment which will be made
10 with such investment.

11 “(ii) LIMITATION.—

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

22 “(II) EXPIRATION.—If the limi-
23 tation determined under subclause (I)
24 with respect to an infrastructure fund
25 for a calendar year exceeds the

1 amount of equity investments des-
2 ignated under clause (i)(III) by such
3 fund in such year, the State shall re-
4 scind such excess allocation. Any allo-
5 cation so rescinded may be reallocated
6 by the State under subsection (c) (in-
7 cluding to qualified facilities for pur-
8 poses of the credit under subsection
9 (a)) within the immediately suc-
10 ceeding calendar year.

11 “(III) REVERSION.—Any re-
12 scinded allocation which is not reallo-
13 cated under subclause (II) by the last
14 day of such immediately succeeding
15 calendar year shall revert to inclusion
16 in the State’s Move America volume
17 cap under section 142A(d) as if it had
18 never been exchanged under sub-
19 section (c)(1).

20 “(IV) NO MULTIPLE REALLOCA-
21 TIONS.—Any rescinded allocation
22 which is reallocated under subclause
23 (II) and is subsequently rescinded
24 shall not be further reallocated and
25 shall immediately revert to inclusion

1 in the Move America volume cap as
2 provided in subclause (III).

3 “(iii) SAFE HARBOR FOR DETER-
4 MINING USE OF CASH.—The requirement
5 of clause (i)(II) shall be treated as met if
6 at least 95 percent of the aggregate gross
7 assets of the qualified infrastructure fund
8 (determined without regard to any cash re-
9 ceived under clause (i)(I) that has not been
10 invested in any other asset before the date
11 that is 3 years after the date such cash is
12 received) are invested in qualified invest-
13 ments.

14 “(iv) TREATMENT OF SUBSEQUENT
15 PURCHASERS.—The term ‘Move America
16 investment’ includes any equity investment
17 which would (but for clause (i)(I)) be a
18 Move America investment in the hands of
19 the taxpayer if such investment was a
20 Move America investment in the hands of
21 a prior holder.

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

1 “(i) a State infrastructure bank estab-
2 lished under section 610 of title 23, United
3 States Code,

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

8 “(iii) a drinking water treatment re-
9 volving loan fund established under section
10 1452 of the Safe Drinking Water Act (42
11 U.S.C. 300j–12), or

12 “(iv) an equivalent fund established or
13 designated by the State or any instrumen-
14 tality thereof and certified by the Secretary
15 as having a primary purpose of financing
16 qualified facilities.

17 In the case of a fund described in clause (ii) or
18 (iii), the amount of any Move America invest-
19 ment shall not be included in determining the
20 amount of State or other non-Federal contribu-
21 tions to such fund.

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

1 “(i) qualified facilities, or

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

7 “(3) EARLY TERMINATION.—

8 “(A) IN GENERAL.—If at any time during
9 the compliance period the fund which issued a
10 Move America investment ceases to be a quali-
11 fied infrastructure fund, or ceases and then re-
12 commences to be a qualified infrastructure
13 fund, any date described in paragraph (1)(B)
14 (including the date described in clause (i) there-
15 of) occurring in—

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

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

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

1 “(B) COMPLIANCE PERIOD.—For purposes
2 of subparagraph (A), the term ‘compliance pe-
3 riod’ means the 10-taxable-year period begin-
4 ning with the taxable year that includes the
5 date of the original issue of the Move America
6 investment.

7 “(C) LOSS OF QUALIFICATION.—A fund
8 shall cease to be a qualified infrastructure fund
9 as of the date more than 5 percent of the in-
10 vestments made by the fund are not qualified
11 investments. For purposes of the preceding sen-
12 tence, the amount of any cash received under
13 subparagraph (A)(i)(I) that has not been in-
14 vested in any other asset before the date that
15 is 3 years after the date such cash is received
16 shall not be taken into account in determining
17 investments made by the fund.

18 “(D) EXPIRATION OF CREDIT.—If sub-
19 stantially all of the cash paid for any Move
20 America investment is not used to make quali-
21 fied investments designated under paragraph
22 (2)(A)(i)(III) within 3 years of the date of
23 original issue of such investment, any date de-
24 scribed in paragraph (1)(B) occurring in a tax-
25 able year which ends after the date which is 3

1 years after such date of original issue shall not
2 be treated as a credit allowance date for pur-
3 poses of paragraph (1).

4 “(c) MOVE AMERICA CREDIT ALLOCATION.—

5 “(1) EXCHANGE OF MOVE AMERICA BOND VOL-
6 UME CAP.—

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

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

22 “(2) STATE CREDIT LIMITATION.—For pur-
23 poses of this section, the State credit limitation with
24 respect to any State for a calendar year is a dollar
25 amount equal to 25 percent of the Move America

1 volume cap exchanged under paragraph (1) for such
2 calendar year.

3 “(3) ALLOCATION.—

4 “(A) IN GENERAL.—A State may allocate
5 the State credit limitation, according to the
6 qualified allocation plan, for any calendar year
7 among—

8 “(i) qualified facilities in the State for
9 purposes of the Move America equity cred-
10 it under subsection (a), and

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

15 “(B) QUALIFIED ALLOCATION PLAN.—

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

19 “(I) which sets forth selection
20 criteria to be used in determining in-
21 frastructure priorities of the State
22 and allocating the State credit limita-
23 tion among facilities (in accordance
24 with clause (ii)) and infrastructure
25 funds in the State, and

1 “(II) which provides a procedure
2 that the State (or an agent or other
3 private contractor of the State) will
4 follow in monitoring for noncompli-
5 ance with the provisions of this sec-
6 tion and in notifying the Internal Rev-
7 enue Service of such noncompliance.

8 “(ii) LIMITATION BASED ON FACILITY
9 FEASIBILITY FOR MOVE AMERICA EQUITY
10 CREDITS.—

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

24 “(II) MINIMUM FEASIBILITY DE-
25 TERMINATION.—In making the deter-

1 mination under subclause (I), such
2 entity shall consider the sources and
3 uses of funds and the total financing
4 planned for the facility, any proceeds
5 or receipts expected to be generated
6 by reason of tax benefits, the reason-
7 ableness of the developmental and
8 operational costs of the facility over
9 the full expected operational life of the
10 facility, ancillary costs (including
11 right-of-way and procurement costs),
12 financing costs, and retained and
13 transferred risk.

14 “(C) SPECIAL RULES RELATING TO MOVE
15 AMERICA EQUITY CREDIT.—

16 “(i) LIMITATION.—The amount allo-
17 cated to a qualified facility under subpara-
18 graph (A)(i) shall not exceed the eligible
19 basis of such facility.

20 “(ii) ELIGIBLE BASIS.—For purposes
21 of this section, except as provided in clause
22 (iii), the eligible basis of any qualified fa-
23 cility is the lesser of—

24 “(I) the portion of the basis of
25 such facility which is attributable to

1 the aggregate amount of equity in-
2 vestment of all taxpayers in the costs
3 of the facility which are subject to the
4 allowance for depreciation (determined
5 as of the last day of the calendar year
6 in which the facility is placed in serv-
7 ice), or

8 “(II) 20 percent of the costs of
9 the facility which are subject to the
10 allowance for depreciation (determined
11 as of the last day of the calendar year
12 in which the facility is placed in serv-
13 ice).

14 “(iii) EXCLUSION OF GOVERNMENT
15 ASSISTANCE.—Eligible basis shall not in-
16 clude any portion of the basis of such facil-
17 ity which is attributable to any assistance
18 or financing provided by a Federal, State,
19 or local government (determined as of the
20 last day of the calendar year in which the
21 facility is placed in service).

22 “(D) REVERSION OF UNALLOCATED LIM-
23 TATION.—Any portion of the State credit limi-
24 tation for any calendar year which remains
25 unallocated as of the last day of such calendar

1 year shall revert to inclusion in the State's
2 Move America volume cap under section
3 142A(d) as if it had never been exchanged
4 under paragraph (1).”.

5 (b) CREDITS MADE PART OF GENERAL BUSINESS
6 CREDIT.—Subsection (b) of section 38 of the Internal
7 Revenue Code of 1986 is amended—

8 (1) by striking “plus” at the end of paragraph
9 (32);

10 (2) by striking the period at the end of para-
11 graph (33) and inserting a comma; and

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

14 “(34) the Move America equity credit under
15 section 42A(a)(1), plus

16 “(35) the Move America infrastructure fund
17 credit under section 42A(b)(1).”.

18 (c) TREATMENT UNDER ALTERNATIVE MINIMUM
19 TAX AND BASE EROSION TAX.—

20 (1) ALTERNATIVE MINIMUM TAX.—Section
21 38(c)(4)(B) of the Internal Revenue Code of 1986 is
22 amended by redesignating clauses (iv) through (xii)
23 as clauses (vi) through (xiv), respectively, and by in-
24 serting after clause (ii) the following new clauses:

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

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

5 (2) BASE EROSION TAX.—Section
6 59A(b)(1)(B)(ii) of such Code is amended by strik-
7 ing “plus” at the end of subclause (I), by redesign-
8 ating subclause (II) as subclause (III), and by in-
9 serting after subclause (I) the following new sub-
10 clause:

11 “(II) the credit allowed under
12 section 38 for the taxable year which
13 is properly allocable to the sum of the
14 Move America equity credit under sec-
15 tion 42A(a)(1) and the Move America
16 infrastructure fund credit under sec-
17 tion 42A(b)(1), plus”.

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

“Sec. 42A. Move America credits.”.

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

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

4 (1) to the Secretary of the Treasury—

5 (A) the amount of the Move America vol-
6 ume cap of the State for the calendar year
7 which is exchanged under section 42A(c)(1) of
8 the Internal Revenue Code of 1986 for a State
9 credit limitation;

10 (B) the amount (if any) of the State credit
11 limitation allocated under section
12 42A(c)(3)(A)(i) of such Code to qualified facili-
13 ties, the amount so allocated to each such facil-
14 ity, and the taxpayer with respect to such facil-
15 ity (including the name of the taxpayer and any
16 other identifying information as the Secretary
17 of the Treasury shall require); and

18 (C) the amount (if any) of the State credit
19 limitation allocated under section
20 42A(c)(3)(A)(ii) of such Code to qualified infra-
21 structure funds, the amount so allocated to
22 each such fund, and each taxpayer holding any
23 Move America investment with respect to any
24 such fund (including the name of the taxpayer

1 and any other identifying information as the
2 Secretary of the Treasury shall require);

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

8 (3) to the Secretary of the Treasury and any
9 taxpayer holding a Move America investment, a cer-
10 tification that the entity which issued the investment
11 is a qualified infrastructure fund and that the in-
12 vestment will be used to make qualified investments
13 designated for purposes of section
14 42A(b)(2)(A)(i)(III) of the Internal Revenue Code of
15 1986.

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

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