

114TH CONGRESS  
1ST SESSION

# S. 1186

To amend the Internal Revenue Code of 1986 to provide for Move America bonds and to allow such bonds to be converted into tax credits to support public-private partnerships.

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IN THE SENATE OF THE UNITED STATES

MAY 4, 2015

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

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## A BILL

To amend the Internal Revenue Code of 1986 to provide for Move America bonds and to allow such bonds to be converted into tax credits to support public-private partnerships.

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 2015”.

6 **SEC. 2. MOVE AMERICA BOND.**

7 (a) IN GENERAL.—

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

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

6           “(a) IN GENERAL.—

7               “(1) TREATMENT AS EXEMPT FACILITY  
8           BOND.—Except as otherwise provided in this section,  
9           a Move America bond shall be treated for purposes  
10          of this part as an exempt facility bond.

11          “(2) EXCEPTIONS.—

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

15               “(B) SPECIAL RULES FOR HIGH-SPEED  
16          RAIL BONDS.—Paragraphs (2) and (3) of sec-  
17          tion 142(i) shall not apply to any Move America  
18          bond described in subsection (b)(4).

19               “(C) SPECIAL RULES FOR HIGHWAY AND  
20          SURFACE TRANSPORTATION FACILITIES.—Para-  
21          graphs (2), (3), and (4) of section 142(m) shall  
22          not apply to any Move America bond described  
23          in subsection (b)(5).

24          “(b) MOVE AMERICA BOND.—For purposes of this  
25          part, the term ‘Move America bond’ means any bond

1 issued as part of an issue 95 percent or more of the net  
2 proceeds of which are used to provide—

3 “(1) airports,

4 “(2) docks and wharves, including—

5 “(A) waterborne mooring infrastructure,

6 “(B) dredging in connection with a dock or  
7 wharf, and

8 “(C) any associated rail and road infra-  
9 structure for the purpose of integrating modes  
10 of transportation,

11 “(3) mass commuting facilities,

12 “(4) railroads (as defined in section 20102 of  
13 title 49, United States Code) and any associated rail  
14 and road infrastructure for the purpose of inte-  
15 grating modes of transportation,

16 “(5) any—

17 “(A) surface transportation project which  
18 is eligible for Federal assistance under title 23,  
19 United States Code (as in effect on the date of  
20 the enactment of this section),

21 “(B) project for an international bridge or  
22 tunnel for which an international entity author-  
23 ized under Federal or State law is responsible  
24 and which is eligible Federal assistance under

1 title 23, United States Code (as so in effect),  
2 or

3 “(C) facility for the transfer of freight  
4 from truck to rail or rail to truck (including  
5 any temporary storage facilities directly related  
6 to such transfers) which is eligible for Federal  
7 assistance under either title 23 or title 49,  
8 United States Code (as so in effect),

9 “(6) flood diversions, or

10 “(7) inland waterways, including construction  
11 and rehabilitation expenditures for navigation on  
12 any inland or intracoastal waterways of the United  
13 States (within the meaning of section 4042(d)(2)).

14 “(c) FLOOD DIVERSIONS.—For purposes of this sec-  
15 tion, the term ‘flood diversion’ means any flood damage  
16 risk reduction project authorized under any Act for au-  
17 thorizing water resources development projects.

18 “(d) MOVE AMERICA VOLUME CAP.—

19 “(1) IN GENERAL.—The aggregate face amount  
20 of Move America bonds issued pursuant to an issue,  
21 when added to the aggregate face amount of Move  
22 America bonds previously issued by the issuing au-  
23 thority during the calendar year, shall not exceed  
24 such issuing authority’s Move America volume cap  
25 for such year.

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

3           “(A) IN GENERAL.—The Move America  
4           volume cap shall be 50 percent of the State ceil-  
5           ing under section 146(d) for such State for  
6           such year.

7           “(B) ALLOCATION OF VOLUME CAP.—Each  
8           State may allocate the Move America volume  
9           cap of such State among governmental units (or  
10          other authorities) in such State having author-  
11          ity to issue private activity bonds.

12          “(3) CARRYFORWARDS.—

13          “(A) IN GENERAL.—If—

14                  “(i) an issuing authority’s Move  
15                  America volume cap, exceeds

16                  “(ii) the aggregate amount of Move  
17                  America bonds issued during such calendar  
18                  year by such authority,

19          any Move America bond issued by such author-  
20          ity during the 3-calendar-year period following  
21          such calendar year shall not be taken into ac-  
22          count under paragraph (1) to the extent the  
23          amount of such bonds does not exceed the  
24          amount of such excess. Any excesses arising  
25          under this paragraph shall be used under this

1 paragraph in the order of calendar years in  
2 which the excesses arose.

3 “(B) REALLOCATION OF UNUSED  
4 CARRYFORWARDS.—

5 “(i) IN GENERAL.—The Move Amer-  
6 ica volume cap under paragraph (2)(A) for  
7 any State for any calendar year shall be  
8 increased by any amount allocated to such  
9 State by the Secretary under clause (ii).

10 “(ii) REALLOCATION.—The Secretary  
11 shall allocate to each qualified State for  
12 any calendar year an amount which bears  
13 the same ratio to the aggregate unused  
14 carryforward amounts of all issuing au-  
15 thorities in all States for such calendar  
16 year as the qualified State’s population for  
17 the calendar year bears to the population  
18 of all qualified States for the calendar  
19 year. For purposes of the preceding sen-  
20 tence, population shall be determined in  
21 accordance with section 146(j).

22 “(iii) QUALIFIED STATE.—For pur-  
23 poses of this subparagraph, the term  
24 ‘qualified State’ means, with respect to a  
25 calendar year, any State—

1                   “(I) which allocated its entire  
2                   Move America volume cap for the pre-  
3                   ceding calendar year, and

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

8                   “(iv)     UNUSED     CARRYFORWARD  
9                   AMOUNT.—For purposes of this paragraph,  
10                  the term ‘unused carryforward amount’  
11                  means, with respect to any issuing author-  
12                  ity for any calendar year, the excess of—

13                   “(I) the amount of the excess de-  
14                   scribed in subparagraph (A) for the  
15                   fourth preceding calendar year, over

16                   “(II) the amount of bonds issued  
17                   by such issuing authority to which  
18                   subparagraph (A) applied during the  
19                   3 preceding calendar years.

20                  “(e) APPLICABILITY OF CERTAIN FEDERAL LAWS.—  
21                  An issue shall not be treated as an issue under subsection  
22                  (b) unless the facility for which the proceeds of such issue  
23                  are used would be subject to the requirements of any Fed-  
24                  eral law (including titles 23, 40, and 49 of the United

1 States Code) which would otherwise apply to similar  
2 projects.

3 “(f) SPECIAL RULE FOR ENVIRONMENTAL REMEDI-  
4 ATION COSTS FOR DOCKS AND WHARVES.—For purposes  
5 of this section, amounts used for working capital expendi-  
6 tures relating to environmental remediation required  
7 under State or Federal law at or near a facility described  
8 in subsection (b)(2) (including environmental remediation  
9 in the riverbed and land within or adjacent to the Federal  
10 navigation channel used to access such facility) shall be  
11 treated as an amount used to provide for such a facility.

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

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

“Sec. 142A. Move America bonds.”.

23 (b) APPLICATION OF OTHER PRIVATE ACTIVITY  
24 BOND RULES.—

1           (1) TREATMENT UNDER PRIVATE ACTIVITY  
2 BOND VOLUME CAP.—Subsection (g) of section 146  
3 of the Internal Revenue Code of 1986 is amended by  
4 striking “and” at the end of paragraph (3), by strik-  
5 ing the period at the end of paragraph (4) and in-  
6 sserting “, and”, and by inserting after paragraph  
7 (4) the following new paragraph:

8           “(5) any Move America bond.”.

9           (2) RULE FOR FACILITIES LOCATED OUTSIDE  
10 THE STATE.—Paragraph (2) of section 146(k) of the  
11 Internal Revenue Code of 1986 is amended by in-  
12 sserting “or to any Move America bond” after “sec-  
13 tion 142(a)”.

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

19           (4) SPECIAL RULES FOR REHABILITATION EX-  
20 PENDITURES.—

21           (A) INCLUSION OF CERTAIN EXPENDI-  
22 TURES.—Subparagraph (B) of section  
23 147(d)(3) of the Internal Revenue Code of  
24 1986 is amended by inserting “, except that, in  
25 the case of any Move America bond, such term

1 shall include any expenditure described in  
2 clause (iii) or (v) thereof” before the period at  
3 the end.

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

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

13 “(vii) EXCEPTION FOR MOVE AMERICA  
14 BONDS.—For purposes of clause (i), the  
15 term ‘private activity bond’ shall not in-  
16 clude any Move America bond (as defined  
17 in section 142A).”.

18 (d) EFFECTIVE DATE.—The amendments made by  
19 this section shall apply to obligations issued in calendar  
20 years beginning after the date of the enactment of this  
21 Act.

22 **SEC. 3. MOVE AMERICA TAX CREDITS.**

23 (a) IN GENERAL.—Subpart B of part IV of sub-  
24 chapter A of chapter 1 of the Internal Revenue Code of

1 1986 is amended by adding at the end the following new  
2 section:

3 **“SEC. 30E. MOVE AMERICA CREDIT.**

4       “(a) ALLOWANCE OF CREDIT.—In the case of a Move  
5 America credit certificate purchased by the taxpayer, there  
6 shall be allowed as a credit against the tax imposed by  
7 this chapter for any taxable year in the credit period an  
8 amount equal to 10 percent of the value of such certificate.

9       “(b) CREDIT PERIOD.—For purposes of this section,  
10 the term ‘credit period’ means, with respect to any Move  
11 America credit certificate, the period of 10 taxable years  
12 beginning with the first taxable year that begins in the  
13 calendar year in which the qualified project to which such  
14 certificate relates is placed in service.

15       “(c) MOVE AMERICA CREDIT CERTIFICATE.—For  
16 purposes of this section—

17               “(1) MOVE AMERICA CREDIT CERTIFICATE.—

18       The term ‘Move America credit certificate’ means  
19 any certificate that—

20               “(A) is sold to the taxpayer under a quali-  
21 fied Move America credit program by a State or  
22 by a project sponsor to whom the State has al-  
23 located such certificate for sale under para-  
24 graph (2)(B)(ii)(I),

1           “(B) is designated by the State as relating  
2 to a qualified project,

3           “(C) the proceeds of the sale of which are  
4 used to finance the qualified project designated  
5 under subparagraph (B),

6           “(D) specifies—

7                 “(i) the value of the certificate and  
8 the purchase price, and

9                 “(ii) the qualified project to which it  
10 relates,

11           “(E) is sold no later than the end of the  
12 calendar year in which the project is placed in  
13 service, and

14           “(F) is in such form as the Secretary may  
15 prescribe.

16           “(2) QUALIFIED MOVE AMERICA CREDIT PRO-  
17 GRAM.—

18           “(A) IN GENERAL.—The term ‘qualified  
19 Move America credit program’ means any pro-  
20 gram—

21                 “(i) which is established by a State  
22 for any calendar year for which it is au-  
23 thorized to issue Move America bonds (as  
24 defined in section 145A),

1           “(ii) under which the State exchanges  
 2           (in such manner as the Secretary may pre-  
 3           scribe) an amount of the Move America  
 4           bonds (as so defined) which it may other-  
 5           wise issue during such calendar year for  
 6           the ability to sell Move America credit cer-  
 7           tificates, and

8           “(iii) under which the State is obli-  
 9           gated to repay to the Secretary an amount  
 10          equal to the recapture amount, if applica-  
 11          ble, with respect to any Move America  
 12          credit certificate.

13           “(B) ALLOCATION OF CERTIFICATES TO  
 14          PROJECT SPONSORS.—

15           “(i) IN GENERAL.—A State that has  
 16           established a qualified Move America credit  
 17           program under subparagraph (A) may allo-  
 18           cate any Move America credit certificate  
 19           that is eligible to be sold by such State to  
 20           the project sponsor of the qualified project  
 21           to which such certificate relates.

22           “(ii) SALE OR USE.—A project spon-  
 23           sor to whom any Move America certificate  
 24           is allocated under clause (i) may—

25                   “(I) sell such certificate, or

1                   “(II) claim the credit under this  
2                   section with respect to such certificate  
3                   as if the project sponsor had pur-  
4                   chased the certificate from the State.

5                   “(3) VALUE.—

6                   “(A) IN GENERAL.—The aggregate value  
7                   of the Move America credit certificates sold or  
8                   allocated by a State in a calendar year shall  
9                   equal 25 percent of the value of Move America  
10                  bonds exchanged by the State under paragraph  
11                  (2)(A)(ii).

12                  “(B) LIMITATION RELATING TO QUALIFIED  
13                  PROJECT COST.—The aggregate value of the  
14                  Move America credit certificates sold or allo-  
15                  cated by a State and designated by the State as  
16                  relating to any qualified project shall not exceed  
17                  the lesser of—

18                         “(i) 20 percent of the estimated cost  
19                         of the project, or

20                         “(ii) 50 percent of the total amount of  
21                         private equity invested in the project.

22                  “(4) CERTIFICATE NONTRANSFERABLE.—A  
23                  Move America credit certificate, once purchased  
24                  from a State or a project sponsor to whom the State  
25                  has allocated such certificate for sale under para-

1 graph (2)(B)(ii)(I), may not be sold or transferred  
2 to any other person.

3 “(d) DEFINITIONS AND SPECIAL RULES.—For pur-  
4 poses of this section—

5 “(1) QUALIFIED PROJECT.—The term ‘qualified  
6 project’ means a project which—

7 “(A) would be subject to the same require-  
8 ments of any Federal law (including titles 23,  
9 40, and 49 of the United States Code) which  
10 would otherwise apply to similar projects, and

11 “(B) is for the construction of a facility  
12 described in section 142A(b), but only if such  
13 project, upon completion, will be generally avail-  
14 able for public use.

15 “(2) RECAPTURE AMOUNT.—

16 “(A) IN GENERAL.—In the case of any  
17 Move America credit certificate, if the project to  
18 which the certificate is designated under sub-  
19 section (c)(1)(B) as relating—

20 “(i) is never placed in service, or

21 “(ii) ceases to be a qualified project at  
22 any time during the credit period,  
23 the recapture amount is the amount determined  
24 under subparagraph (B).

1           “(B) AMOUNT DETERMINED.—The  
2 amount determined under this subparagraph  
3 is—

4           “(i) in the case of a project to which  
5 subparagraph (A)(i) applies, the value of  
6 the Move America credit certificate, and

7           “(ii) in the case of a project to which  
8 subparagraph (A)(ii) applies, the product  
9 of—

10           “(I) an amount equal to 10 per-  
11 cent of the value of the Move America  
12 credit certificate, and

13           “(II) the number of calendar  
14 years in the credit period beginning  
15 with the calendar year in which the  
16 project ceases to be a qualified  
17 project.

18           “(3) SPECIAL RULE FOR PROJECTS NOT  
19 PLACED IN SERVICE.—For purposes of subsection  
20 (a), if the project to which a Move America credit  
21 certificate is designated under subsection (c)(1)(B)  
22 as relating is never placed in service, the first tax-  
23 able year that begins in the calendar year in which  
24 the State certifies (at such time and in such manner  
25 as may be prescribed by the Secretary) that the

1 project will not be placed in service shall be treated  
2 as the year in which the project was placed in serv-  
3 ice.

4 “(e) APPLICATION WITH OTHER CREDITS.—

5 “(1) BUSINESS CREDIT TREATED AS PART OF  
6 GENERAL BUSINESS CREDIT.—Except as provided in  
7 paragraph (2), the credit which would be allowed  
8 under subsection (a) for any taxable year (deter-  
9 mined without regard to this subsection) shall be  
10 treated as a credit listed in section 38(b) for such  
11 taxable year (and not allowed under subsection (a)).

12 “(2) PERSONAL CREDIT.—For purposes of this  
13 title, in the case of an individual, the credit allowed  
14 under subsection (a) for any taxable year shall be  
15 treated as a credit allowable under subpart A for  
16 such taxable year.”.

17 (b) CREDIT MADE PART OF GENERAL BUSINESS  
18 CREDIT.—Subsection (b) of section 38 of the Internal  
19 Revenue Code of 1986 is amended—

20 (1) by striking “plus” at the end of paragraph  
21 (35),

22 (2) by striking the period at the end of para-  
23 graph (36) and inserting “, plus”, and

24 (3) by adding at the end the following new  
25 paragraph:

1           “(37) the portion of the Move America credit to  
2           which section 30E(e)(1) applies.”.

3           (c) CLERICAL AMENDMENT.—The table of sections  
4 for subpart B of part IV of subchapter A of chapter 1  
5 of the Internal Revenue Code of 1986 is amended by add-  
6 ing at the end the following new item:

“Sec. 30E. Move America credit.”.

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

10          (e) REPORTING.—A State that sells any Move Amer-  
11 ica credit certificate shall report, at such time and in such  
12 manner as the Secretary of the Treasury shall require—

13           (1) to the Secretary of the Treasury—

14           (A) the value of the Move America bonds  
15 otherwise allowed to be issued by the State  
16 which are exchanged under section  
17 30E(c)(2)(A)(ii) of the Internal Revenue Code  
18 of 1986 for the ability to sell such Move Amer-  
19 ica credit certificates, and

20           (B) the number of Move America credit  
21 certificates sold by the State or allocated to  
22 project sponsors, the value of each such certifi-  
23 cate, and to whom it was sold (including the  
24 name of the purchaser and any other identi-

1           fying information as the Secretary of the Treas-  
2           ury shall require), and

3           (2) to the Secretary of the Treasury and the  
4           purchaser of any Move America credit certificate—

5                   (A) the placed in service date of the quali-  
6                   fied project to which the certificate is des-  
7                   ignated under section 30E(c)(1)(B) of the In-  
8                   ternal Revenue Code of 1986 as relating, or

9                   (B) that the State has made a certification  
10                  under section 30E(d)(3) of such Code that such  
11                  project will not be placed in service.

12 For purposes of this subsection, any term used in this sub-  
13 section that is also used in section 30E or 142A of the  
14 Internal Revenue Code of 1986 has the same meaning as  
15 when used in such section.

○