To amend the Internal Revenue Code of 1986 to provide for a repatriation holiday, to increase funding to the Highway Trust Fund, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 16, 2015

Mr. PAUL (for himself and Mrs. BOXER) 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 a repatriation holiday, to increase funding to the Highway Trust Fund, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Invest In Transportation Act”.

SEC. 2. INCENTIVES TO REINVEST FOREIGN EARNINGS IN UNITED STATES.

(a) Applicability of Temporary Dividends Received Deduction.—
(1) IN GENERAL.—Subsection (f) of section 965 of the Internal Revenue Code of 1986 is amended to read as follows:

“(f) ELECTION.—

“(1) IN GENERAL.—The taxpayer may elect to apply this section to the 5-taxable-year period beginning with—

“(A) the taxpayer’s last taxable year which begins before the date of the enactment of the Invest In Transportation Act, or

“(B) the taxpayer’s first taxable year which begins during the 1-year period beginning on such date of enactment.

“(2) TIME FOR MAKING ELECTION.—Any election made under this section shall be made on or before the due date (including extensions) for filing the return of tax for the first taxable year in the 5-taxable-year period described in paragraph (1).

“(3) DECLARATION OF AMOUNT REPATRIATED.—An election under this section shall designate a limitation of the aggregate amount of dividends to be taken into account under subsection (a) during the 5-taxable-year period.”.

(2) CONFORMING AMENDMENTS.—
(A) Determinations relating to base period for determining extraordinary dividends.—Section 965 of such Code is amended by striking “June 30, 2003” each place it appears in subsections (b)(2) and (c)(2) and inserting “December 31, 2014”.

(B) Determinations relating to related party indebtedness.—Section 965(b)(3)(B) of such Code is amended by striking “October 3, 2004” and inserting “December 31, 2014”.

(b) Deduction equivalent to 6.5-percent rate of tax.—Paragraph (1) of section 965(a) of the Internal Revenue Code of 1986 is amended by striking “85 percent” and inserting “81.4 percent”.

(e) Limitations.—

(1) In general.—

(A) In general.—Paragraph (1) of section 965(b) of the Internal Revenue Code of 1986 is amended to read as follows:

“(1) In general.—The amount of dividends taken into account under subsection (a) shall not exceed the United States shareholder’s pro rata share of the accumulated earnings and profits described in section 959(c)(3) as of the end of the last taxable
year ending on or before December 31, 2014, for all
controlled foreign corporations of the United States
shareholder.”.

(B) CONFORMING AMENDMENTS.—

(i) Subsection (c) of section 965 of
such Code is amended by striking para-
graph (1).

(ii) Paragraph (5) of section 965(c) of
such Code is amended to read as follows:

“(5) CONTROLLED GROUPS.—All United States
shareholders which are members of an affiliated
group filing a consolidated return under section
1501 shall be treated as one United States share-
holder.”.

(2) ADDITIONAL LIMITATION.—Subsection (b)
of section 965 of such Code is amended by redesig-
nating paragraph (4) as paragraph (5) and by in-
serting after paragraph (3) the following new para-
graph:

“(4) ADDITIONAL LIMITATION.—

“(A) IN GENERAL.—The amount of divi-
dends taken into account under subsection (a)
for each taxable year during the 5-taxable-year
period described in subsection (f)(1) shall not
exceed the amount designated in the election
under subsection (f)(3) reduced by the sum

of—

“(i) the aggregate amount of divi-
dends taken into account under subsection
(a) in prior taxable years in such 5-tax-
able-year period, and

“(ii) the sum of the dividend short-
falls for each such prior taxable year.

“(B) DIVIDEND SHORTFALL.—For pur-
poses of subparagraph (A), the dividend short-
fall for any taxable year is an amount equal to
the excess (if any) of—

“(i) 20 percent of the amount des-
ignated under subsection (f)(3), over

“(ii) the amount of dividends taken
into account under subsection (a) for such
taxable year.”.

(d) DIVIDEND REINVESTMENT PLAN REQUIRE-
MENTS.—Paragraph (5) of section 965(b) of the Internal
Revenue Code of 1986, as redesignated by subsection (c),
is amended to read as follows:

“(5) REQUIREMENT TO INVEST IN UNITED
STATES.—

“(A) IN GENERAL.—Subsection (a) shall
not apply to any dividends received by a United
States shareholder unless the amount of the dividends is invested in the United States pursuant to a domestic reinvestment plan which—

“(i) is approved by the taxpayer’s president, chief executive officer, or comparable official before the payment of such dividend and subsequently approved by the taxpayer’s board of directors, management committee, executive committee, or similar body,

“(ii) provides that not less than 25 percent of such dividends will be used—

“(I) to increase workforce, to raise wages and benefits, or to increase pension contributions,

“(II) to provide for energy efficiency improvements either through investment in new property or the retrofitting of existing property,

“(III) to provide for environmental improvements, such as carbon offsets, water efficiency, or environmental remediation,
“(IV) to invest in public-private partnerships and the improvement of public infrastructure,
“(V) to make capital improvements,
“(VI) for the acquisition of other businesses, or
“(VII) for research and development, and
“(iii) provides that none of such dividends will be used during the period covered by the domestic reinvestment plan to compensate any employee who is the chief executive officer (or is an individual acting in such a capacity), or who is among the 4 highest compensated employees, in excess of the level of compensation paid to individuals in such capacity during the taxable year immediately preceding the taxable year to which an election under this section applies.

For purposes of clause (iii), compensation shall be determined under rules similar to the rules for reporting executive officer compensation to

“(B) USE OF CERTAIN FUNDS.—

“(i) IN GENERAL.—Except as provided in clause (ii), dividends shall be treated as meeting the requirements of subclauses (I), (V), and (VII) of subparagraph (A)(ii) only if such amounts supplement but do not supplant otherwise planned funding for such purposes. Such planned funding shall be certified by the individual and entity approving the domestic reinvestment plan.

“(ii) EXCEPTION.—Clause (i) shall not apply if the aggregate funding for the purposes described in subclauses (I), (V), and (VII) of subparagraph (A)(ii) for the 5-taxable-year period described in subsection (f)(1) exceeds 125 percent of the amount spent for such purposes during the 5-year period ending with the last day of the most recent taxable year ending before January 1, 2015. Rules similar to the rules of subparagraphs (B) and (C) of subsection (e)(2) shall apply for purposes of
determining the 5-year period under the preceding sentence.

“(C) COMPLIANCE.—Under regulations established by the Secretary, any taxpayer making an election under this section shall submit to the Secretary—

“(i) the domestic reinvestment plan required under this paragraph, and

“(ii) annually thereafter, such information as required by the Secretary for purposes of determining such taxpayer’s compliance with the plan, including contemporaneous documentation of compliance and retention requirements for a period of time as determined by the Secretary as appropriate.”.

(e) SPECIAL RULES FOR INVERTED CORPORATIONS.—

(1) IN GENERAL.—Subsection (b) of section 965 is amended by adding at the end the following new paragraph:

“(6) DENIAL OF DEDUCTION FOR CERTAIN COMPANIES.—No deduction shall be allowed under subsection (a) with respect to any expatriated entity (as defined in section 7874(a)(2)).”.
(2) RECAPTURE.—Section 965 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(g) RECAPTURE.—

“(1) IN GENERAL.—In the case of a taxpayer who makes an election under subsection (f) and who is an expatriated entity—

“(A) the tax imposed by this chapter shall be increased for the first taxable year in which such taxpayer becomes an expatriated entity by an amount equal to 20 percent of the amount designated under subsection (f)(3), and

“(B) no credits shall be allowed against the increase in tax under subparagraph (A).

“(2) EXPATRIATED ENTITY.—For purposes of this subsection, the term ‘expatriated entity’ has the same meaning given such term under section 7874(a)(2), except that—

“(A) ‘during the 10-year period beginning with the first taxable year after 2013 to which section 965 applies’ shall be substituted for ‘after March 4, 2003’ in subparagraph (B)(i), and

“(B) ‘the first taxable year after 2013 to which section 965 applies’ shall be substituted
for ‘March 4, 2003’ in the matter following subparagraph (B)(iii).”.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

6 SEC. 3. TRANSFERS TO HIGHWAY TRUST FUND.

(a) In General.—Subsection (f) of section 9503 of the Internal Revenue Code of 1986 is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

“(7) Transfer of revenues from repatriation holiday.—

“(A) Initial transfer.—

“(i) In general.—Not later than 60 days after the date of the enactment of this Act, the Secretary shall estimate the amount of revenues to be received in the Treasury after the date of the enactment of this paragraph and before October 1, 2019, from income taxes imposed on dividends which are taken into account under section 965.

“(ii) Transfer.—Out of money in the Treasury not otherwise appropriated, there is hereby appropriated—
“(I) to the Highway Account (as defined in subsection (e)(5)(B)) in the Highway Trust Fund an amount equal to 80 percent of the amount estimated under subparagraph (A), and

“(II) to the Mass Transit Account in the Highway Trust Fund an amount equal to 20 percent of the amount so estimated.

“(B) ADDITIONAL TRANSFER.—

“(i) IN GENERAL.—Not later than October 1, 2023, the Secretary shall determine the amount of revenues received in the Treasury from income taxes imposed on dividends which were taken into account under section 965 during the period described in subparagraph (A)(i).

“(ii) TRANSFER.—If the amount determined under clause (i) exceeds the amount transferred under subparagraph (A)(ii), out of money in the Treasury not otherwise appropriated, there is hereby appropriated—

“(I) to the Highway Account (as defined in subsection (e)(5)(B)) in the
Highway Trust Fund an amount equal to the applicable percentage of such excess, and

“(II) to the Mass Transit Account in the Highway Trust Fund an amount equal to 20 percent of so much of such excess as does not exceed the applicable amount.

“(iii) APPLICABLE PERCENTAGES.—For purposes of clause (ii), the applicable percentage is—

“(I) 80 percent with respect to so much of excess under subparagraph (B)(ii) as does not exceed the applicable amount, and

“(II) 100 percent with respect the amount of such excess to which subclause (I) does not apply.

“(iv) APPLICABLE AMOUNT.—For purposes of this subparagraph, the applicable amount is the amount (not less than zero) equal to the excess of—

“(I) $62,000,000,000, over

“(II) the amount transferred under subparagraph (A)(ii).”.
(b) RETURN OF EXCESS TRANSFERS.—

(1) IN GENERAL.—Subsection (c) of section 9503 of such Code is amended by adding at the end the following new paragraph:

“(6) RETURN OF EXCESS TRANSFERS.—If the amount of transfers under subparagraph (A)(ii) of subsection (f)(7) exceeds the amount determined under subparagraph (B)(i) of such subsection, the Secretary shall pay to the general fund of the Treasury from the Highway Trust Fund not later than October 1, 2023, an amount equal to such excess.”.

(2) PORTION FROM MASS TRANSIT ACCOUNT.—Paragraph (5) of section 9503 of such Code is amended by adding at the end the following new subparagraph:

“(C) AMOUNTS RELATED TO CERTAIN EXCESS TRANSFERS.—20 percent of any transfer under paragraph (6) of subsection (c) shall be borne by the Mass Transit Account.”.

SEC. 4. REPAIR, REPLACEMENT, AND REHABILITATION OF DEFICIENT BRIDGES.

(a) DEFICIENT BRIDGE AMOUNT.—For purposes of this section, the deficient bridge amount is so much of the amount transferred to the Highway Account (as defined in section 9503(e)(5)(B) of the Internal Revenue Code of
1986) in the Highway Trust Fund under section 9503(f)(7)(B) of such Code as exceeds the applicable amount (as defined in section 9507(f)(7)(B)(iv) of such Code).

(b) Authorization of Appropriations.—

(1) IN GENERAL.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) an amount equal to the deficient bridge amount to be used for the repair, replacement, or rehabilitation of deficient bridges eligible for assistance under chapter 1 of title 23, United States Code.

(2) Calculation of State Amounts.—

(A) State Apportionments.—The Secretary of Transportation shall apportion the amount authorized to be appropriated under this subsection among the States in accordance with subparagraph (B).

(B) State Shares.—The amount for each State shall be determined by multiplying the total amount available under this subsection by the share for each State, which shall be equal to the proportion that—
(i) the amount of apportionments that the State received under title 23, United States Code, for fiscal year 2019; bears to
(ii) the amount of those apportionments received by all States for that fiscal year.

(3) CONTRACT AUTHORITY.—Funds authorized to be appropriated by this subsection shall—

(A) be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; and

(B) remain available until expended and not be transferrable.