

114TH CONGRESS  
1ST SESSION

# S. 981

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.

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## 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

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## 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.

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 “Invest In Transpor-  
5 tation Act”.

6 **SEC. 2. INCENTIVES TO REINVEST FOREIGN EARNINGS IN**  
7 **UNITED STATES.**

8 (a) **APPLICABILITY OF TEMPORARY DIVIDENDS RE-**  
9 **CEIVED DEDUCTION.—**

1           (1) IN GENERAL.—Subsection (f) of section 965  
2 of the Internal Revenue Code of 1986 is amended to  
3 read as follows:

4           “(f) ELECTION.—

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

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

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

14           “(2) TIME FOR MAKING ELECTION.—Any elec-  
15 tion made under this section shall be made on or be-  
16 fore the due date (including extensions) for filing the  
17 return of tax for the first taxable year in the 5-tax-  
18 able-year period described in paragraph (1).

19           “(3) DECLARATION OF AMOUNT REPATRI-  
20 ATED.—An election under this section shall des-  
21 ignate a limitation of the aggregate amount of divi-  
22 dends to be taken into account under subsection (a)  
23 during the 5-taxable-year period.”.

24           (2) CONFORMING AMENDMENTS.—

1 (A) DETERMINATIONS RELATING TO BASE  
2 PERIOD FOR DETERMINING EXTRAORDINARY  
3 DIVIDENDS.—Section 965 of such Code is  
4 amended by striking “June 30, 2003” each  
5 place it appears in subsections (b)(2) and (c)(2)  
6 and inserting “December 31, 2014”.

7 (B) DETERMINATIONS RELATING TO RE-  
8 LATED PARTY INDEBTEDNESS.—Section  
9 965(b)(3)(B) of such Code is amended by strik-  
10 ing “October 3, 2004” and inserting “Decem-  
11 ber 31, 2014”.

12 (b) DEDUCTION EQUIVALENT TO 6.5-PERCENT RATE  
13 OF TAX.—Paragraph (1) of section 965(a) of the Internal  
14 Revenue Code of 1986 is amended by striking “85 per-  
15 cent” and inserting “81.4 percent”.

16 (c) LIMITATIONS.—

17 (1) IN GENERAL.—

18 (A) IN GENERAL.—Paragraph (1) of sec-  
19 tion 965(b) of the Internal Revenue Code of  
20 1986 is amended to read as follows:

21 “(1) IN GENERAL.—The amount of dividends  
22 taken into account under subsection (a) shall not ex-  
23 ceed the United States shareholder’s pro rata share  
24 of the accumulated earnings and profits described in  
25 section 959(c)(3) as of the end of the last taxable

1 year ending on or before December 31, 2014, for all  
2 controlled foreign corporations of the United States  
3 shareholder.”.

4 (B) CONFORMING AMENDMENTS.—

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

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

10 “(5) CONTROLLED GROUPS.—All United States  
11 shareholders which are members of an affiliated  
12 group filing a consolidated return under section  
13 1501 shall be treated as one United States share-  
14 holder.”.

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

20 “(4) ADDITIONAL LIMITATION.—

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

1 under subsection (f)(3) reduced by the sum  
2 of—

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

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

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

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

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

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

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

24 “(A) IN GENERAL.—Subsection (a) shall  
25 not apply to any dividends received by a United

1 States shareholder unless the amount of the  
2 dividends is invested in the United States pur-  
3 suant to a domestic reinvestment plan which—

4 “(i) is approved by the taxpayer’s  
5 president, chief executive officer, or com-  
6 parable official before the payment of such  
7 dividend and subsequently approved by the  
8 taxpayer’s board of directors, management  
9 committee, executive committee, or similar  
10 body,

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

13 “(I) to increase workforce, to  
14 raise wages and benefits, or to in-  
15 crease pension contributions,

16 “(II) to provide for energy effi-  
17 ciency improvements either through  
18 investment in new property or the ret-  
19 rofitting of existing property,

20 “(III) to provide for environ-  
21 mental improvements, such as carbon  
22 offsets, water efficiency, or environ-  
23 mental remediation,

1                   “(IV) to invest in public-private  
2                   partnerships and the improvement of  
3                   public infrastructure,

4                   “(V) to make capital improve-  
5                   ments,

6                   “(VI) for the acquisition of other  
7                   businesses, or

8                   “(VII) for research and develop-  
9                   ment, and

10                  “(iii) provides that none of such divi-  
11                  dends will be used during the period cov-  
12                  ered by the domestic reinvestment plan to  
13                  compensate any employee who is the chief  
14                  executive officer (or is an individual acting  
15                  in such a capacity), or who is among the  
16                  4 highest compensated employees, in ex-  
17                  cess of the level of compensation paid to  
18                  individuals in such capacity during the tax-  
19                  able year immediately preceding the tax-  
20                  able year to which an election under this  
21                  section applies.

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

1           shareholders under the Securities Exchange Act  
2           of 1934.

3           “(B) USE OF CERTAIN FUNDS.—

4                   “(i) IN GENERAL.—Except as pro-  
5                   vided in clause (ii), dividends shall be  
6                   treated as meeting the requirements of  
7                   subclauses (I), (V), and (VII) of subpara-  
8                   graph (A)(ii) only if such amounts supple-  
9                   ment but do not supplant otherwise  
10                  planned funding for such purposes. Such  
11                  planned funding shall be certified by the  
12                  individual and entity approving the domes-  
13                  tic reinvestment plan.

14                  “(ii) EXCEPTION.—Clause (i) shall  
15                  not apply if the aggregate funding for the  
16                  purposes described in subclauses (I), (V),  
17                  and (VII) of subparagraph (A)(ii) for the  
18                  5-taxable-year period described in sub-  
19                  section (f)(1) exceeds 125 percent of the  
20                  amount spent for such purposes during the  
21                  5-year period ending with the last day of  
22                  the most recent taxable year ending before  
23                  January 1, 2015. Rules similar to the rules  
24                  of subparagraphs (B) and (C) of sub-  
25                  section (c)(2) shall apply for purposes of



1           determining the 5-year period under the  
2           preceding sentence.

3           “(C) COMPLIANCE.—Under regulations es-  
4           tablished by the Secretary, any taxpayer mak-  
5           ing an election under this section shall submit  
6           to the Secretary—

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

9                   “(ii) annually thereafter, such infor-  
10                  mation as required by the Secretary for  
11                  purposes of determining such taxpayer’s  
12                  compliance with the plan, including con-  
13                  temporaneous documentation of compliance  
14                  and retention requirements for a period of  
15                  time as determined by the Secretary as ap-  
16                  propriate.”.

17       (e) SPECIAL RULES FOR INVERTED CORPORA-  
18       TIONS.—

19           (1) IN GENERAL.—Subsection (b) of section  
20       965 is amended by adding at the end the following  
21       new paragraph:

22                   “(6) DENIAL OF DEDUCTION FOR CERTAIN  
23       COMPANIES.—No deduction shall be allowed under  
24       subsection (a) with respect to any expatriated entity  
25       (as defined in section 7874(a)(2)).”.

1           (2) RECAPTURE.—Section 965 of the Internal  
2 Revenue Code of 1986 is amended by adding at the  
3 end the following new subsection:

4           “(g) RECAPTURE.—

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

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

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

15           “(2) EXPATRIATED ENTITY.—For purposes of  
16 this subsection, the term ‘expatriated entity’ has the  
17 same meaning given such term under section  
18 7874(a)(2), except that—

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

24           “(B) ‘the first taxable year after 2013 to  
25 which section 965 applies’ shall be substituted

1 for ‘March 4, 2003’ in the matter following  
2 subparagraph (B)(iii).”.

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

6 **SEC. 3. TRANSFERS TO HIGHWAY TRUST FUND.**

7 (a) IN GENERAL.—Subsection (f) of section 9503 of  
8 the Internal Revenue Code of 1986 is amended by redesignig-  
9 nating paragraph (7) as paragraph (8) and by inserting  
10 after paragraph (6) the following new paragraph:

11 “(7) TRANSFER OF REVENUES FROM REPATRI-  
12 ATION HOLIDAY.—

13 “(A) INITIAL TRANSFER.—

14 “(i) IN GENERAL.—Not later than 60  
15 days after the date of the enactment of  
16 this Act, the Secretary shall estimate the  
17 amount of revenues to be received in the  
18 Treasury after the date of the enactment  
19 of this paragraph and before October 1,  
20 2019, from income taxes imposed on divi-  
21 dends which are taken into account under  
22 section 965.

23 “(ii) TRANSFER.—Out of money in  
24 the Treasury not otherwise appropriated,  
25 there is hereby appropriated—

1           “(I) to the Highway Account (as  
2           defined in subsection (e)(5)(B)) in the  
3           Highway Trust Fund an amount  
4           equal to 80 percent of the amount es-  
5           timated under subparagraph (A), and

6           “(II) to the Mass Transit Ac-  
7           count in the Highway Trust Fund an  
8           amount equal to 20 percent of the  
9           amount so estimated.

10           “(B) ADDITIONAL TRANSFER.—

11           “(i) IN GENERAL.—Not later than Oc-  
12           tober 1, 2023, the Secretary shall deter-  
13           mine the amount of revenues received in  
14           the Treasury from income taxes imposed  
15           on dividends which were taken into ac-  
16           count under section 965 during the period  
17           described in subparagraph (A)(i).

18           “(ii) TRANSFER.—If the amount de-  
19           termined under clause (i) exceeds the  
20           amount transferred under subparagraph  
21           (A)(ii), out of money in the Treasury not  
22           otherwise appropriated, there is hereby ap-  
23           propriated—

24           “(I) to the Highway Account (as  
25           defined in subsection (e)(5)(B)) in the

1 Highway Trust Fund an amount  
 2 equal to the applicable percentage of  
 3 such excess, and

4 “(II) to the Mass Transit Ac-  
 5 count in the Highway Trust Fund an  
 6 amount equal to 20 percent of so  
 7 much of such excess as does not ex-  
 8 ceed the applicable amount.

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

12 “(I) 80 percent with respect to so  
 13 much of excess under subparagraph  
 14 (B)(ii) as does not exceed the applica-  
 15 ble amount, and

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

19 “(iv) APPLICABLE AMOUNT.—For  
 20 purposes of this subparagraph, the applica-  
 21 ble amount is the amount (not less than  
 22 zero) equal to the excess of—

23 “(I) \$62,000,000,000, over

24 “(II) the amount transferred  
 25 under subparagraph (A)(ii).”.

1 (b) RETURN OF EXCESS TRANSFERS.—

2 (1) IN GENERAL.—Subsection (c) of section  
3 9503 of such Code is amended by adding at the end  
4 the following new paragraph:

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

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

16 “(C) AMOUNTS RELATED TO CERTAIN EX-  
17 CESS TRANSFERS.—20 percent of any transfer  
18 under paragraph (6) of subsection (c) shall be  
19 borne by the Mass Transit Account.”.

20 **SEC. 4. REPAIR, REPLACEMENT, AND REHABILITATION OF**  
21 **DEFICIENT BRIDGES.**

22 (a) DEFICIENT BRIDGE AMOUNT.—For purposes of  
23 this section, the deficient bridge amount is so much of the  
24 amount transferred to the Highway Account (as defined  
25 in section 9503(e)(5)(B) of the Internal Revenue Code of

1 1986) in the Highway Trust Fund under section  
2 9503(f)(7)(B) of such Code as exceeds the applicable  
3 amount (as defined in section 9507(f)(7)(B)(iv) of such  
4 Code).

5 (b) AUTHORIZATION OF APPROPRIATIONS.—

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

13 (2) CALCULATION OF STATE AMOUNTS.—

14 (A) STATE APPORTIONMENTS.—The Sec-  
15 retary of Transportation shall apportion the  
16 amount authorized to be appropriated under  
17 this subsection among the States in accordance  
18 with subparagraph (B).

19 (B) STATE SHARES.—The amount for each  
20 State shall be determined by multiplying the  
21 total amount available under this subsection by  
22 the share for each State, which shall be equal  
23 to the proportion that—

1 (i) the amount of apportionments that  
2 the State received under title 23, United  
3 States Code, for fiscal year 2019; bears to

4 (ii) the amount of those apportion-  
5 ments received by all States for that fiscal  
6 year.

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

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

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

○