To amend the Internal Revenue Code of 1986 to modify the rules relating to loans made from a qualified employer plan, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 26, 2011

Mr. KOHL (for himself and Mr. ENZI) 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 modify the rules relating to loans made from a qualified employer plan, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Savings Enhancement by Alleviating Leakage in 401(k) Savings Act of 2011” or the “SEAL 401(k) Savings Act”.

SEC. 2. EXTENDED ROLLOVER PERIOD FOR THE ROLLOVER

OF PLAN LOAN OFFSET AMOUNTS IN CERTAIN CASES.

(a) In General.—Paragraph (3) of section 402(c) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

“(C) Rollover of certain plan loan offset amounts.—

“(i) In general.—In the case of a qualified plan loan offset amount, paragraph (1) shall not apply to any transfer of such amount made after the due date (including extensions) for filing the return of tax for the taxable year in which such amount is treated as distributed from a qualified employer plan.

“(ii) Qualified plan loan offset amount.—For purposes of this subparagraph, the term ‘qualified plan loan offset amount’ means a plan loan offset amount which is treated as distributed from a qualified employer plan to a participant or beneficiary solely by reason of—

“(I) the termination of the qualified employer plan, or
“(II) the failure to meet the repayment terms of the loan from such plan because of the separation from service of the participant (whether due to layoff, cessation of business, termination of employment, or otherwise).

“(iii) PLAN LOAN OFFSET AMOUNT.—For purposes of clause (ii), the term ‘plan loan offset amount’ means the amount by which the participant’s accrued benefit under the plan is reduced in order to repay a loan from the plan.

“(iv) LIMITATION.—This subparagraph shall not apply to any plan loan offset amount unless such plan loan offset amount relates to a loan to which section 72(p)(1) does not apply by reason of section 72(p)(2).

“(v) QUALIFIED EMPLOYER PLAN.—For purposes of this subsection, the term ‘qualified employer plan’ has the meaning given such term by section 72(p)(4).”.

(b) CONFORMING AMENDMENT.—Subparagraph (A) of section 402(c)(3) of the Internal Revenue Code of 1986
is amended by striking “subparagraph (B)” and inserting “subparagraphs (B) and (C)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers made after the date of the enactment of this Act.

SEC. 3. MODIFICATION OF RULES GOVERNING HARDSHIP DISTRIBUTIONS.

Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall modify Treasury Regulation section 1.401(k)–1(d)(3)(iv)(E) to—

(1) delete the prohibition imposed by paragraph (2) thereof, and

(2) to make any other modifications necessary to carry out the purposes of section 401(k)(2)(B)(i)(IV) of the Internal Revenue Code of 1986.

SEC. 4. QUALIFIED EMPLOYER PLANS PROHIBITED FROM MAKING LOANS THROUGH CREDIT CARDS AND OTHER SIMILAR ARRANGEMENTS.

(a) IN GENERAL.—Paragraph (2) of section 72(p) of the Internal Revenue Code of 1986 is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:
“(D) **Prohibition of Loans through Credit Cards and Other Similar Arrangements.**—Subparagraph (A) shall not apply to any loan which is made through the use of any credit card or any other similar arrangement.”

(b) **Effective Date.**—The amendments made by this section shall apply to plan years beginning after the date which is 60 days after the date of the enactment of this Act.