To amend the Internal Revenue Code of 1986 to provide that no loan may be made from a qualified employer plan using a credit card or other intermediary and to limit the number of loans that may be made from a qualified employer plan to a participant or beneficiary.

IN THE SENATE OF THE UNITED STATES

JULY 17, 2008

Mr. SCHUMER (for himself, Mr. KOHL, and Mr. SMITH) 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 that no loan may be made from a qualified employer plan using a credit card or other intermediary and to limit the number of loans that may be made from a qualified employer plan to a participant or beneficiary.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,
SECTION 1. QUALIFIED EMPLOYER PLANS PROHIBITED FROM MAKING LOANS THROUGH CREDIT CARDS AND OTHER INTERMEDIARIES.

(a) In General.—Subsection (a) of section 401 of the Internal Revenue Code of 1986 is amended by inserting after paragraph (36) the following new paragraph:

“(37) Prohibition of loans through credit cards and other intermediaries.—A trust shall not constitute a qualified trust under this section if the plan makes any loan to any beneficiary under the plan through the use of any credit card or any other intermediary.”

(b) Application to Employee Annuities.—

(1) In General.—Section 404(a)(2) of the Internal Revenue Code of 1986 (relating to employees’ annuities) is amended by striking “and (31)” and inserting “(31), and (37)”.

(2) Section 403(b) Annuity Contracts.—Section 403(b)(1) of such Code is amended by striking “and” at the end of subparagraph (D), by inserting “and” at the end of subparagraph (E), and by inserting after subparagraph (E) the following new subparagraph:

“(F) the requirements of section 401(a)(37) are met with respect to the contract
and any plan under which the contract is purchased.

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

SEC. 2. LIMITATION ON NUMBER OF LOANS FROM QUALIFIED EMPLOYER PLANS WHICH MAY BE OUTSTANDING WITH RESPECT TO ANY PARTICIPANT OR BENEFICIARY.

(a) IN GENERAL.—Paragraph (2) of section 72(p) of the Internal Revenue Code of 1986 (relating to loans treated as distributions) is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

“(D) EXCEPTION ONLY TO APPLY TO 3 LOANS.—

“(i) IN GENERAL.—Subparagraph (A) shall not apply to any loan made after the date of the enactment of this subparagraph if, immediately after such loan is made, the number of outstanding loans from the plan to the participant or beneficiary exceeds 3.

“(ii) REFINANCINGS.—If any loan made after the date of the enactment of this subparagraph refinesces 1 or more
outstanding loans from the plan to the participant or beneficiary, the number of loans taken into account under subparagraph (A) with respect to such loan shall be equal to 1 plus the number of loans refinanced by such loan.”.

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