

112TH CONGRESS  
1ST SESSION

# S. 1020

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.

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IN THE SENATE OF THE UNITED STATES

MAY 18, 2011

Mr. KOHL (for himself and Mr. ENZI) 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 modify the rules relating to loans made from a qualified employer plan, 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 “Savings Enhancement  
5 by Alleviating Leakage in 401(k) Savings Act of 2011”  
6 or the “SEAL 401(k) Savings Act”.

1 **SEC. 2. EXTENDED ROLLOVER PERIOD FOR THE ROLLOVER**  
 2 **OF PLAN LOAN OFFSET AMOUNTS IN CER-**  
 3 **TAIN CASES.**

4 (a) IN GENERAL.—Paragraph (3) of section 402(c)  
 5 of the Internal Revenue Code of 1986 is amended by add-  
 6 ing at the end the following new subparagraph:

7 “(C) ROLLOVER OF CERTAIN PLAN LOAN  
 8 OFFSET AMOUNTS.—

9 “(i) IN GENERAL.—In the case of a  
 10 qualified plan loan offset amount, para-  
 11 graph (1) shall not apply to any transfer  
 12 of such amount made after the due date  
 13 (including extensions) for filing the return  
 14 of tax for the taxable year in which such  
 15 amount is treated as distributed from a  
 16 qualified employer plan.

17 “(ii) QUALIFIED PLAN LOAN OFFSET  
 18 AMOUNT.—For purposes of this subpara-  
 19 graph, the term ‘qualified plan loan offset  
 20 amount’ means a plan loan offset amount  
 21 which is treated as distributed from a  
 22 qualified employer plan to a participant or  
 23 beneficiary solely by reason of—

24 “(I) the termination of the quali-  
 25 fied employer plan, or

1                   “(II) the failure to meet the re-  
2                   payment terms of the loan from such  
3                   plan because of the separation from  
4                   service of the participant (whether  
5                   due to layoff, cessation of business,  
6                   termination of employment, or other-  
7                   wise).

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

14                  “(iv) LIMITATION.—This subpara-  
15                  graph shall not apply to any plan loan off-  
16                  set amount unless such plan loan offset  
17                  amount relates to a loan to which section  
18                  72(p)(1) does not apply by reason of sec-  
19                  tion 72(p)(2).

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

24                  (b) CONFORMING AMENDMENT.—Subparagraph (A)  
25 of section 402(c)(3) of the Internal Revenue Code of 1986

1 is amended by striking “subparagraph (B)” and inserting  
2 “subparagraphs (B) and (C)”.

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

6 **SEC. 3. MODIFICATION OF RULES GOVERNING HARDSHIP**  
7 **DISTRIBUTIONS.**

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

11 (1) delete the prohibition imposed by paragraph

12 (2) thereof, and

13 (2) to make any other modifications necessary  
14 to carry out the purposes of section  
15 401(k)(2)(B)(i)(IV) of the Internal Revenue Code of  
16 1986.

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

20 (a) IN GENERAL.—Paragraph (2) of section 72(p) of  
21 the Internal Revenue Code of 1986 is amended by redesignig-  
22 nating subparagraph (D) as subparagraph (E) and by in-  
23 serting after subparagraph (C) the following new subpara-  
24 graph:

1           “(D) PROHIBITION OF LOANS THROUGH  
2           CREDIT CARDS AND OTHER SIMILAR ARRANGE-  
3           MENTS.—Subparagraph (A) shall not apply to  
4           any loan which is made through the use of any  
5           credit card or any other similar arrangement.”

6           (b) EFFECTIVE DATE.—The amendments made by  
7           this section shall apply to plan years beginning after the  
8           date which is 60 days after the date of the enactment of  
9           this Act.

10 **SEC. 5. LIMITATION ON NUMBER OF LOANS FROM QUALI-**  
11 **FIED EMPLOYER PLANS WHICH MAY BE OUT-**  
12 **STANDING WITH RESPECT TO ANY PARTICI-**  
13 **PANT OR BENEFICIARY.**

14           (a) IN GENERAL.—Paragraph (2) of section 72(p) of  
15           the Internal Revenue Code of 1986, as amended by section  
16           4, is amended by redesignating subparagraph (E) as sub-  
17           paragraph (F) and by inserting after subparagraph (D)  
18           the following new subparagraph:

19           “(E) EXCEPTION ONLY TO APPLY TO 3  
20           LOANS.—Subparagraph (A) shall not apply to  
21           any loan made after the date of the enactment  
22           of this subparagraph if, immediately after such  
23           loan is made, the number of outstanding loans  
24           from the plan to the participant or beneficiary  
25           exceeds 3.”.

1       (b) **EFFECTIVE DATE.**—The amendments made by  
2 this section shall apply to loans made after the date which  
3 is 1 year after the date of the enactment of this Act.

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