

111TH CONGRESS  
1ST SESSION

# H. R. 4391

To amend the Internal Revenue Code of 1986 to exclude from an employee's gross income any employer-provided supplemental instructional services assistance, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 16, 2009

Mr. PASCRELL introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to exclude from an employee's gross income any employer-provided supplemental instructional services assistance, 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 “Affordable Tutoring  
5        of Our Children Act”.

1 **SEC. 2. EXCLUSION OF EMPLOYER-PROVIDED SUPPLE-**  
2 **MENTAL INSTRUCTIONAL SERVICES ASSIST-**  
3 **ANCE.**

4 (a) IN GENERAL.—Section 129 of the Internal Rev-  
5 enue Code of 1986 (relating to dependent care assistance  
6 programs) is amended—

7 (1) by inserting “and supplemental instruc-  
8 tional services assistance” after “dependent care as-  
9 sistance” each place it appears (except in sub-  
10 sections (d)(4) and (e)(1) thereof), and

11 (2) by inserting “and supplemental instruc-  
12 tional services” after “dependent care services” both  
13 places it appears in subsection (a)(2).

14 (b) SUPPLEMENTAL INSTRUCTIONAL SERVICES AS-  
15 SISTANCE.—Section 129(e) of the Internal Revenue Code  
16 of 1986 (relating to definitions and services) is amended  
17 by redesignating paragraphs (2) through (9) as para-  
18 graphs (3) through (10), respectively, and by inserting  
19 after paragraph (1) the following new paragraph:

20 “(2) SUPPLEMENTAL INSTRUCTIONAL SERVICES  
21 ASSISTANCE.—

22 “(A) IN GENERAL.—The term ‘supple-  
23 mental instructional services assistance’ means  
24 the payment of, or provision of, supplemental  
25 instructional services to an employee’s depend-  
26 ent (as defined in subsection (a)(1) of section

1           152, determined without regard to subsection  
2           (c)(1)(C) thereof) who—

3                   “(i) has attained the age of 5 but not  
4                   the age of 19 as of the close of the cal-  
5                   endar year in which the taxable year of the  
6                   employee begins, and

7                   “(ii) has not obtained a high school  
8                   diploma or been awarded a general edu-  
9                   cation degree.

10           “(B)    SUPPLEMENTAL    INSTRUCTIONAL  
11           SERVICES.—The term ‘supplemental instruc-  
12           tional services’ means instructional or other  
13           academic enrichment services which are—

14                   “(i) in addition to instruction provided  
15                   during the school day,

16                   “(ii) specifically designed to increase  
17                   the academic achievement of such depend-  
18                   ent,

19                   “(iii) in the core academic studies of  
20                   English, reading or language arts, mathe-  
21                   matics, science, foreign languages, civics  
22                   and government, economics, arts, social  
23                   studies, and geography, and

1                   “(iv) provided by a State certified in-  
2                   structor or by a State recognized or pri-  
3                   vately accredited organization.”.

4           (c) NO EXCLUSION FOR SUPPLEMENTAL INSTRU-  
5   TIONAL SERVICES ASSISTANCE PROVIDED TO HIGHLY  
6   COMPENSATED EMPLOYEES.—Section 129(a)(2)(A) of  
7   the Internal Revenue Code of 1986 (relating to limitation  
8   of exclusion) is amended by inserting “, except that no  
9   amount may be excluded under paragraph (1) for supple-  
10   mental instructional services paid or incurred by an em-  
11   ployee who is a highly compensated employee (within the  
12   meaning of section 414(q))” after “individual”.

13           (d) CONFORMING AMENDMENTS.—

14           (1) Section 21(b)(2)(A) of the Internal Revenue  
15   Code of 1986 is amended by adding at the end the  
16   following new sentence: “Such term shall not include  
17   any amount paid for supplemental instructional serv-  
18   ices (as defined in section 129(e)(2)(B)).”.

19           (2) The second sentence of section 21(c) of  
20   such Code is amended by inserting “of dependent  
21   care assistance” after “aggregate amount”.

22           (3) Section 6051(a)(9) of such Code is amended  
23   by inserting “and supplemental instructional services  
24   assistance” after “dependent care assistance” both  
25   places it appears.

1 (e) CLERICAL AMENDMENTS.—

2 (1) The heading for section 129 of the Internal  
3 Revenue Code of 1986 is amended by inserting  
4 “**AND SUPPLEMENTAL INSTRUCTIONAL SERV-**  
5 **ICES ASSISTANCE**” after “**ASSISTANCE**”.

6 (2) The item relating to section 129 in the table  
7 of sections for part III of subchapter B of chapter  
8 1 of such Code is amended by inserting “and supple-  
9 mental instructional services assistance” after “as-  
10 sistance”.

11 (f) EFFECTIVE DATE.—The amendments made by  
12 this section shall apply to taxable years beginning after  
13 December 31, 2009.

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