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No Teacher Left Behind: Reforming the Educators Expense Deduction

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No Teacher Left Behind: Reforming the Educators Expense Deduction

MARY MORRIS*

American educators are notoriously overworked and underpaid. With high performance demands and near-stagnant pay, teachers tend to burn out quickly, which in turn negatively affects the quality of education that their students receive. This effect is most evident in Title I schools, public schools with low funding allocation and high concentrations of low-income students.

One of the benefits that teachers do receive is the Educators Expense Deduction, a federal income tax deduction permitting teachers to write off up to \$250 of unreimbursed supplies purchased for the classroom. This deduction was codified in 2002 and has not been amended since, in spite of major changes to how schools are funded and operated, such as the No Child Left Behind Act and the Great Recession, and the resulting increase in out-of-pocket money that teachers must spend on their own classrooms.

In this Note, I explore the content and history of the Educators Expense Deduction, identify changes in the economy and curriculum content since the deduction's inception, and discuss how teachers have responded to (and, at times, retaliated against) these changes. Finally, I propose two major changes to the Educators Expense Deduction, raising the deduction amount for all teachers and adding a further deduction for teachers working in Title I schools.

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INTRODUCTION

America is at a reckoning point with its public school teachers. In the wake of No Child Left Behind, the Great Recession, and teacher shortages throughout the country,¹ there is a growing sense that teachers are being asked to do significantly more work with exponentially less, both in terms of school resources and salary,² a perception made all the more apparent by the fallout of the COVID-19 pandemic.

The importance of teachers in the educational system cannot be overstated. Studies have shown that students with quality teachers score significantly higher on standardized tests and have higher college attendance rates.³ The poverty rate among bachelor's degree holders is 3.5 times less than that of those who only completed a

1. See *infra* Parts II & III.

2. See *infra* Part III.

3. For one of the most well-regarded publications supporting this conclusion, see Kevin Carey, *The Real Value of Teachers: Using New Information About Teacher Effectiveness to Close the Achievement Gap*, 8 THINKING K-16 3, 5-8 (2004).

high school education, and the difference in average lifetime earnings between the two groups exceeds \$1 million.⁴ Additionally, college graduates benefit the American economy by providing higher tax revenue, increased business revenue, and lowered reliance on social services.⁵

In low-income schools, teachers are the most significant factor for student success in closing the “achievement gap,”⁶ which is the difference between test scores for students in under-resourced schools and their more affluent peers.⁷ The achievement gap has a significant economic impact, by some estimates creating “the economic equivalent of a permanent national recession.”⁸ Students from low-income schools are significantly less likely to attend college than their more affluent counterparts, and those who do attend college are massively underrepresented at the nation’s top-tier universities.⁹

Teachers’ frustrations with heightened job expectations without commensurate compensation raises have erupted in teacher strikes throughout the country, from North Carolina to California,¹⁰ the effects of which compound on teachers and students alike from year to year. Teacher frustrations have continued to rise, too, because of unclear and unsafe COVID-19 school policies, adding to that unrest. With these tensions continuing to mount, federal lawmakers must examine what can be done to keep teachers in the profession in order to establish a greater sense of stability in the public school system. However, since public school budgets are primarily decided at the state and local levels rather than the federal level,¹¹ federal legislators are limited in the ways in which they can help teachers. One of the most effective tools in the legislative arsenal is the Tax Code, and the Educators Expense Deduction is the provision of the Tax Code most directly relevant to teachers.

The Educators Expense Deduction¹² is an above-the-line tax deduction¹³ that allows qualified educators to deduct up to \$250 of classroom supplies otherwise

4. *The Rising Cost of Not Going to College*, PEW RES. CTR. (Feb. 11, 2014), <https://www.pewsocialtrends.org/2014/02/11/the-rising-cost-of-not-going-to-college/> [<https://perma.cc/42AT-NDPK>].

5. *How Do College Graduates Benefit Society at Large?*, ASS’N PUB. & LAND-GRANT U., <https://www.aplu.org/projects-and-initiatives/college-costs-tuition-and-financial-aid/publicvalues/societal-benefits.html> [<https://perma.cc/D696-K5ME>].

6. Carey, *supra* note 3, at 3.

7. *Id.* While the achievement gap is also significant in other traditionally marginalized populations, such as students of color and LGBTQ+ students, this Note focuses on the achievement gap between students of disparate wealth levels.

8. MCKINSEY & CO., *THE ECONOMIC IMPACT OF THE ACHIEVEMENT GAP IN AMERICA’S SCHOOLS* 6 (2009), http://dropoutprevention.org/wp-content/uploads/2015/07/ACHIEVEMENT_GAP_REPORT_20090512.pdf [<https://perma.cc/2UVA-JHDBJ>].

9. *Id.* at 12.

10. *See infra* Section III.C.

11. AM. ASS’N OF SCH. ADM’RS, *SCHOOL BUDGETS* 101, at 2 (2013), https://www.aasa.org/uploadedfiles/policy_and_advocacy/files/schoolbudgetbrieffinal.pdf [<https://perma.cc/R6H6-5BFW>]. *See infra* Part II for further discussion of federal governance and funding supplementation of public schools.

12. I.R.C. § 62(a)(2)(D) (2018).

13. An above-the-line tax deduction is an allowed subtraction from a taxpayer’s gross income to arrive at adjusted gross income for a given tax year. *Id.* § 62(a). Taxable income,

unreimbursed by school districts or other sources for eligible K–12 educators. The supplies teachers purchase are necessary for providing their students with a decent education, much less a great education. When a classroom has insufficient supplies, the quality of the learning taking place is significantly hampered. Students working with old and outdated books end up learning old and outdated information. Teachers who do not have a working printer cannot provide students with worksheets and printables to put curriculum into effect. Schools with obsolete or broken computers cannot adequately prepare their students for state standardized tests that require typed, multiple paragraph responses.¹⁴

In recent years, the 94% of public school teachers who spend their own money on school supplies without reimbursement¹⁵ spent \$479 per teacher on average,¹⁶ twice the amount of the Educators Expense Deduction. Teachers in schools with high concentrations of poverty spent significantly more, about twice as much.¹⁷ Looking at how schools' and teachers' budgets were affected by the 2008 recession, it is reasonable to assume that the amount teachers will need to pay out of pocket will once again skyrocket due to the lasting economic effects of the recession ensuing from the COVID-19 pandemic.¹⁸

This Note argues that the Educators Expense Deduction must be modified in order to better compensate our teachers for the time and money put into their classrooms, to begin to defuse the escalating tensions between teachers and educators, and to invest in the success of future generations of Americans.

In Part I of this Note, I will discuss the Educators Expense Deduction itself and its tax implications for teachers. I will discuss the contents of the statute and accompanying guidelines issued by the IRS regarding the deduction. I will cover the history of the deduction, including its implementation and changes over time. I will further examine other parts of the Tax Code that are relevant to teachers, with a particular view on how the 2017 Tax Cuts and Jobs Act modified what teachers may or may not deduct.

Parts II and III of this Note shift focus to examining the state of schools and the teaching profession, respectively, to provide context on the realities of the

which is adjusted gross income minus the standard deduction or itemized deductions, is the metric by which a person's tax bracket for a particular year is determined. *Id.* § 63(a). A taxpayer may claim an above-the-line deduction regardless of whether the taxpayer chooses to take itemized deductions or the standard deduction. *Id.* § 63(b), (d).

14. See Josephine Sedgwick, *25-Year-Old Textbooks and Holes in the Ceiling: Inside America's Public Schools*, N.Y. TIMES (Apr. 16, 2018), <https://www.nytimes.com/2018/04/16/reader-center/us-public-schools-conditions.html> [<https://perma.cc/5GSX-VHNR>].

15. Niraj Chokshi, *94 Percent of U.S. Teachers Spend Their Own Money on School Supplies, Survey Finds*, N.Y. TIMES (May 16, 2018), <https://www.nytimes.com/2018/05/16/us/teachers-school-supplies.html> [<https://perma.cc/RG74-F8Q4>] (citing NAT'L CTR. FOR EDUC. STATISTICS, U.S. DEPT. OF EDUCSTATS., 2015–16 NATIONAL TEACHER AND PRINCIPAL SURVEY (2018), <https://nces.ed.gov/pubsearch/pubsinfo.asp?pubid=2017156> [<https://perma.cc/HB42-SWL6>]). The survey cited in the Times article is no longer available at the hyperlink, but for a summary of much of the relevant information from that survey, see PUBLIC SCHOOL TEACHER SPENDING ON CLASSROOM SUPPLIES, DATAPOINT (May 2018) <https://files.eric.ed.gov/fulltext/ED583062.pdf> [<https://perma.cc/TKF2-DG7P>].

16. Chokshi, *supra* note 15.

17. *Id.*

18. See *infra* Section II.B.2.

education system within which these teachers operate. I will address the ways in which public schools and the teaching profession have changed since the implementation of the Educators Expense Deduction in 1992 that make this section in need of reform. I will also discuss the effects of the COVID-19 pandemic on the economy, schools, and teachers.

In Part IV of this Note, I will discuss the reasons why the Educators Expense Deduction as it is currently written is insufficient. I will support this argument by viewing the current deduction through the lens of economics, exploring how the deduction, as currently written, does not maximize future returns for the American economy. I will also evaluate how the deduction is not sufficiently fair, as understood by tax policy conceptualizations of fairness.

Finally, in Part V, I will propose suggestions to modify the Educators Expense Deduction in ways that are beneficial to teachers, students, and lawmakers. I discuss two proposals for how to modify the deduction that would create positive change: (1) increasing the deduction amount for all teachers to \$500, or (2) allowing for an additional \$500 deduction for teachers in chronically under-resourced schools. While evaluating the upsides of each of these proposals as well as the legislative history of similar proposals, I also consider potential downsides and difficulties that these proposals might face during the legislative process of passing the reforms proposed in this Note.

I. THE EDUCATORS EXPENSE DEDUCTION

A. *What is the Educators Expense Deduction?*

The Educators Expense Deduction¹⁹ allows teachers to claim up to \$250 each in unreimbursed “trade or business” classroom expenses²⁰ as an above-the-line tax deduction in a tax year.²¹ In order to qualify for this deduction, a taxpayer must work: (1) at least 900 hours in a school year; (2) as a teacher, instructor, counselor, principal, or aide; (3) in a school that provides elementary or secondary education as determined under state law.²² Qualified classroom expenses must be amounts paid

19. I.R.C. § 62(a)(2)(D).

20. *Topic No. 458 Educator Expense Deduction*, IRS, <https://www.irs.gov/taxtopics/tc458> [<https://perma.cc/LCV4-E6VQ>] (last updated Oct. 14, 2020). Generally, when referring to “trade or business expenses,” the tax code is referring to expenses incurred by employers/self-employed taxpayers in the carrying on of their business. I.R.C. § 162. By this definition, “trade or business expenses” would not generally apply to teachers, as they are employees rather than employers. However, this is the language used by the IRS in their guidelines to understanding the Educators Expense Deduction, therefore it is what I will use in this instance.

21. The term “tax year” refers to a year of accounting for tax purposes. *See* I.R.C. § 441. While tax year and calendar year do not always necessarily align, it does in the vast majority of cases. Therefore, for the purposes of this Note, when I refer to a “tax year,” I mean January 1 to December 31 of a given year.

22. IRS, *supra* note 20. It is worth noting that although homeschooling is recognized by state laws, homeschool teachers are ineligible to claim this deduction. Kelly Phillips Erb, *Back to School Myths: Federal Tax Breaks Exist for Homeschooling*, FORBES (Aug. 23, 2018), <https://www.forbes.com/sites/kellyphillipserb/2018/08/23/back-to-school-myths-federal-tax-breaks-exist-for-homeschooling/#32ba56a24ee8> [<https://perma.cc/95RL-FH9E>].

out-of-pocket by the taxpayer and unreimbursed by another²³ and must be accounted for by receipts in order to justify the use of the expenses for school purposes.²⁴ These qualified expenses include books, supplies, computer equipment, computer software, athletic supplies, and professional development course expenses.²⁵ Additionally, the amount that qualified taxpayers may deduct can be limited by the amount of interest on bonds received from paying qualified higher education expenses, distributions of qualified state tuition programs, or untaxed withdrawals from certain education savings accounts.²⁶

B. History of the Deduction

The Educators Expense Deduction was first signed into law in March 2002, courtesy of a bill written by Senator Susan Collins of Maine.²⁷ Beginning in tax year 2002, qualified educators were able to subtract up to \$250 of qualified expenses, subject to the same qualifications as mentioned in the previous section.²⁸ Prior to the implementation of this deduction, teachers could only deduct these unreimbursed expenses, including professional development expenses, as miscellaneous itemized deductions. Miscellaneous itemized deductions are generally subject to a floor of 2% of adjusted gross income (AGI).²⁹ This deduction was made permanent by the Protecting Americans from Tax Hikes (PATH) Act of 2015.³⁰ In this bill, professional development expenses, which are not deductible under most circumstances,³¹ were added to the list of qualified expenses as a reflection of the compulsory nature of professional development courses in the education field. This same bill also began indexing the \$250 deduction for inflation starting in tax year 2016.³²

In early drafts of the 2017 Tax Cuts and Jobs Act (TCJA), lawmakers in the House of Representatives removed the Educators Expense Deduction from the Tax Code.³³ However, after much outcry from teachers and education advocates nationwide, the

23. IRS, *supra* note 20.

24. *Id.*; see also, e.g., Basalyk v. Comm’r, 97 T.C.M. (CCH) 1516 (2009).

25. IRS, *supra* note 20.

26. *Id.*

27. S. 2662, 107th Cong. (2002).

28. See *supra* Section I.A.; see also *IRS Tax Tip 2003-37*, IRS, <https://www.irs.gov/pub/irs-news/at-03-37.pdf> [<https://perma.cc/2HGE-D5LJ>].

29. I.R.C. § 67(a).

30. Jason D. Schwartz, *The PATH Act – Protecting Americans from Tax Hikes Act of 2015*, NAT’L L. REV. (Dec. 31, 2015), <https://www.natlawreview.com/article/path-act-protecting-americans-tax-hikes-act-2015> [<https://perma.cc/FYZ8-E3C5>].

31. For most employees, professional development is only capitalized in unusual circumstances where training provides benefits significantly beyond those traditionally associated with training in the ordinary course of business. Rev. Rul. 96-62, 1996-53 I.R.B. 6.

32. Schwartz, *supra* note 30. Since the PATH Act’s passage, there have been no inflation adjustments, so the amount remains at \$250.

33. Jen Kirby & Emily Stewart, *What Did and Didn’t Make It into the Final GOP Tax Bill*, VOX (Dec. 19, 2017), <https://www.vox.com/policy-and-politics/2017/12/19/16783634/gop-tax-plan-provisions> [<https://perma.cc/LM6K-RN8G>].

deduction remained unchanged.³⁴ One change from TCJA that did affect some teachers, though, was the suspension of miscellaneous itemized deductions. After the implementation of the Educators Expense Deduction, teachers who still met the 2% floor of unreimbursed employee expenses after the \$250 deduction would claim those expenses as miscellaneous itemized deductions. This provision, in some cases, covered the excesses of the \$250 allowed by the deduction as well as including employee expenses outside the realm of the qualified expenses allowed in the parameters for the Educators Expense Deduction. However, the TCJA suspended miscellaneous itemized deductions from tax years 2018 to 2025.³⁵ While this provision is currently set to expire after 2025, teachers are limited to the \$250 Educators Expense Deduction for the time being.

II. HOW PUBLIC SCHOOLS ARE FUNDED

A. School Funding & Title I Schools

Schools are primarily funded through state and local taxes, with federal funds accounting for only about 10% of all education funding.³⁶ On average, nearly half of school funds come from local revenues, the majority of which derive from property taxes.³⁷ This leads to major disparities from district to district, and even school to school, in the allocation of local property tax funding because of the wide variety in property values and tax revenues collected from these local property taxes.³⁸

With the remaining funds coming primarily from state sources, state legislators must get creative to ensure that school funding is not entirely lopsided. State legislatures set a minimum funding amount per student, where the amount received from local, state, and federal sources must meet a certain threshold.³⁹ To ensure that the minimum funding amount is met, as well as to correct for disparities in school funding created by the disparities in local property tax revenues, most states use formula funding to make sure that funds are more equitably distributed. As opposed to general funding schemes, where districts receive the same amount per student

34. *Id.* It is worth noting that, while never put up to a full Senate vote, the Senate Finance Committee recommended not only keeping the deduction but increasing it to \$500. JOINT COMM. ON TAX'N, DESCRIPTION OF THE CHAIRMAN'S MODIFICATION TO THE CHAIRMAN'S MARK OF THE "TAX CUTS AND JOBS ACT" 30 (2017), <https://www.finance.senate.gov/imo/media/doc/11.14.17%20Chairman's%20Modified%20Mark.pdf> [<https://perma.cc/2YZA-SVJG>].

35. I.R.C. § 67(g).

36. REBECCA R. SKINNER, CONG. RSCH. SERV., R45827, STATE AND LOCAL FINANCING OF PUBLIC SCHOOLS 4 (2019). The relatively low proportion of federal funding in public schools may be, in part, due to the fact that the Supreme Court does not recognize education as a federally protected right under the Constitution. *See* San Antonio Indep. Sch. Dist. v. Rodriguez, 411 U.S. 1, 35 (1973) ("Education, of course, is not among the rights afforded explicit protection under our Federal Constitution. Nor do we find any basis for saying it is implicitly so protected.").

37. CONG. RSCH. SERV., *supra* note 36, at 4.

38. For further insight into these disparities, see URB. INST., SCHOOL FUNDING: DO POOR KIDS GET THEIR FAIR SHARE? (2017), <http://apps.urban.org/features/school-funding-do-poor-kids-get-fair-share/> [<https://perma.cc/F9WL-U6J3>].

39. *Id.*

regardless of local investment, formula funding ensures that state and federal funding makes up the difference.⁴⁰ However, this can be an unstable source of funding for under-resourced districts, as the minimum amount is created by the state legislature and, accordingly, can be lowered by the state legislature in times of budgetary crisis.⁴¹ Some states also use “Robin Hood” laws to redistribute local property tax revenue from more affluent areas to their poorer counterparts. However, these measures are often met with much resistance from wealthier taxpayers.⁴²

The federal government’s partial solution to these disparities is the Title I program. Title I is a program that identifies public schools with low property tax revenue allocation towards schools and high concentrations of low-income students, providing federal funding for those schools as supplementary aid.⁴³ This federal policy aims to target resources where needs are greatest in order to “provide all children significant opportunity to receive a fair, equitable, and high-quality education,” understanding that children are likely to be at an “educational disadvantage if the [child’s] family lives in an area with large concentrations of poor families.”⁴⁴ Title I requires districts to provide “comparable” services to all students, regardless of whether they are enrolled in high- or low-poverty schools,⁴⁵ and tries to achieve this aim by providing formula-based aid based on weighted poverty metrics.⁴⁶ However, the average spending per student from this program ranges from about \$500–\$600 per year (in spite of the fact that studies suggest that the amount needed to close the achievement gap is closer to \$4000 per student),⁴⁷ and studies suggest that the majority of this amount is spent on professional development rather than classroom instruction.⁴⁸

40. *Id.*

41. *Id.*

42. For an example of this, see the Eanes Independent School District’s, a well-off district in the Austin area, rebuke of the Texas Robin Hood laws. *Reference Points for the 86th Texas Legislature*, EANES ISD BD. OF TRS., <https://www.eanesisd.net/district/legislative> [<https://perma.cc/E54R-Y5LD>].

43. 20 U.S.C. §§ 6331–39. Though Title I as it exists today is from the No Child Left Behind Act of 2002, the program originated in 1965 with the Elementary and Secondary Education Act of 1965 (ESEA). *Id.* §§ 7881–904. While some of the minor details of the current program are different from the original Title I program, the core goal remains the same: providing funding to under-resourced school districts in order to provide all American students with a quality primary and secondary education. *About Title I*, ESEA NETWORK, <https://www.eseanetwork.org/about/titlei> [<https://perma.cc/FB47-3YKG>].

44. 20 U.S.C. §§ 6301, 6336(a)(7).

45. Goodwin Liu, *Improving Title I Funding Equity Across States, Districts, and Schools*, 93 IOWA L. REV. 973, 978 (2008).

46. *Id.* at 980–81. Professor Liu’s article also calls into question the effectiveness of Title I in its goal of supplementing, rather than supplanting, local and state funding for high-poverty schools. *Id.* at 978, 1010–11.

47. Mark Dynarski & Kirsten Kainz, *Why Federal Spending on Disadvantaged Students (Title I) Doesn’t Work*, BROOKINGS INST. (Nov. 20, 2015), <https://www.brookings.edu/research/why-federal-spending-on-disadvantaged-students-title-i-doesnt-work/> [<https://perma.cc/TU7X-AD36>].

48. *Id.*

B. Economic Changes and School Funding

Since the implementation of the Educators Expense Deduction, two major events have occurred in the American economy: the 2008 recession and the 2020 COVID-19 pandemic. The economic nosedive of 2008 caused significant cuts to public school budgets across the country, and the circumstances of COVID-related economic turbulence hint that further cuts to schools are coming down the pipeline.

1. The Great Recession

The entire country was hit hard by the Great Recession, the global economic downturn from 2007 to 2009. The real gross domestic product (GDP) of the United States fell 4.3% in this time, while unemployment rose drastically, hitting 10% at its peak.⁴⁹ Though the Great Recession officially ended in 2009, many in America felt—and continue to feel—the long-lasting effects.

Public schools are among those still reeling today from the economic downturn. As a result of the Great Recession, schools across the country found themselves on the receiving end of drastic budget cuts.⁵⁰ Across the country, the average per-student revenue declined by nearly \$900.⁵¹ By the 2017–18 school year, at least twelve states cut general or formula funding by 7% or more since the recession.⁵²

Additionally, one of the changes implemented by the TCJA was the expansion of the use of 529 savings accounts for families to write off up to \$10,000 in private school K–12 expenses, including tuition. Because 529 account holders are on average significantly wealthier than those who do not have 529 Savings Accounts, some policy experts have suggested that this change incentivizes wealthier families to send their children to private schools over public schools.⁵³ Since public schools receive federal and state funding in large part on a per-student basis, it follows that

49. Robert Rich, *The Great Recession*, FED. RSRV. HIST. (Nov. 22, 2013), https://www.federalreservehistory.org/essays/great_recession_of_200709 [<https://perma.cc/U7V2-LT36>]; see also Sarah Hansen, *Here's How the Coronavirus Compares to the Great Recession*, FORBES (May 8, 2020), <https://www.forbes.com/sites/sarahhansen/2020/05/08/heres-how-the-coronavirus-recession-compares-to-the-great-recession/#4f87d1c757a7> [<https://perma.cc/ELM7-LN97>] (providing statistics about unemployment and stock market losses in the Great Recession as a point of comparison to the financial crisis caused by the COVID-19 pandemic).

50. William N. Evans, Robert M. Schwab & Kathryn L. Wagner, *The Great Recession and Public Education*, 14 EDUC. FIN. POL'Y 298, 302 (2019).

51. Kenneth Shores & Matthew P. Steinberg, *Schooling During the Great Recession: Patterns of School Spending and Student Achievement Using Population Data*, AM. EDUC. RSCH. ASS'N (Sept. 25, 2019), <https://www.aera.net/Newsroom/Schooling-During-the-Great-Recession-Patterns-of-School-Spending-and-Student-Achievement-Using-Population-Data> [<https://perma.cc/2SFF-2HBK>].

52. Michael Leachman, Kathleen Masterson & Eric Figueroa, *A Punishing Decade for School Funding*, CTR. ON BUDGET POL'Y PRIORITIES (Nov. 29, 2017), <https://www.cbpp.org/research/state-budget-and-tax/a-punishing-decade-for-school-funding> [<https://perma.cc/YT78-84MY>].

53. Katie Lobosco, *Why the GOP Tax Bill is a Win for Betsy DeVos' Agenda*, CNN (Dec. 20, 2017, 12:11 PM), <https://money.cnn.com/2017/12/20/pf/private-school-529-tax-bill/index.html> [<https://perma.cc/BC4V-EZV7>].

this provision effectively reduces the amount of funding going towards public schools.⁵⁴

2. Pandemic-onomics

Just a short twelve years after the Great Recession, the COVID-19 pandemic has, once again, sent America into an economic tailspin. The U.S. GDP dropped by 32.9% in the second quarter of 2020, the largest drop in GDP since the 1940s.⁵⁵ Over 3.2 million people filed for unemployment in March of 2020 alone, a number four times greater than the next-highest month recorded at that time.⁵⁶ Oil prices, Treasury yields, and the stock market all rapidly plummeted at the beginning of the COVID-19 crisis.⁵⁷ As the pandemic has dragged on, economists have officially declared America to be, once again, in a recession,⁵⁸ with the economy experiencing continued contraction in some respects and snail's pace growth in others.

Though it is difficult to predict when the deleterious economic effects of COVID-19 will end,⁵⁹ there is plenty of reason to suspect that the American economy will be slow to recover. In June of 2020, the Congressional Budget Office estimated a 5.3%

54. URBAN INST., *supra* note 38. While it is true that the funding lost due to the public school exodus of these affluent families would not, on its face, immediately affect the most under-resourced public schools, it weakens the school district and, consequently, the students and teachers within that district. In addition, that money is not typically reapportioned to other schools. *See id.*

55. Julia Kollewe, *US Economy Shrinks 32.9%, Biggest Decline Since 1940s – As It Happened*, GUARDIAN (Jul. 30, 2020, 10:13 AM), <https://www.theguardian.com/business/live/2020/jul/30/lloyds-shell-report-big-losses-covid-19-as-markets-await-german-and-us-gdp-business-live> [<https://perma.cc/6JNA-2FQZ>].

56. Ben Casselman, Patricia Cohen & Tiffany Hsu, *'It's a Wreck': 3.3 Million File Unemployment Claims as Economy Comes Apart*, N.Y. TIMES (Mar. 26, 2020), <https://www.nytimes.com/2020/03/26/business/economy/coronavirus-unemployment-claims.html> [<https://perma.cc/B3VF-5UFA>].

57. Liz McCormick, David Goodman & John Ainger, *Chaos of 2020 Can't Match 2008 but the Gut Punch Feels Familiar*, BLOOMBERG (Mar. 10, 2020, 11:29 AM), <https://www.bloomberg.com/news/articles/2020-03-10/chaos-of-2020-can-t-match-2008-but-the-gut-punch-feels-familiar> [<https://perma.cc/E9SW-CZPD>].

58. Reade Pickert, Yue Qiu & Alexander McIntyre, *U.S. Recession Model at 100% Confirms Downturn is Already Here*, BLOOMBERG (Apr. 8, 2020, 5:00 AM), <https://www.bloomberg.com/graphics/us-economic-recession-tracker/> [<https://perma.cc/ERV4-47EY>].

59. Recessions have historically followed four “shapes.” David Rodeck, *Alphabet Soup: Understanding the Shape of a COVID-19 Recession*, FORBES (July 15, 2020, 2:21 PM), <https://www.forbes.com/advisor/investing/covid-19-coronavirus-recession-shape/> [<https://perma.cc/JA39-LNVV>]. These are (1) V-shaped recessions, defined by a quick downturn followed by a similarly quick, near-linear rebound; (2) U-shaped recessions, indicated by slow but linear recovery; (3) W-shaped recessions, marked by a “double-dip” trajectory of a rapid initial recovery with a second rapid decline and rebound; and (4) L-shaped recessions, characterized by a long, extended downturn. *Id.* While, as of July 2020, a slight majority of companies believed that a U-shaped recession was most likely, mirroring the rebound from the Great Recession, there is no unity of opinion among economists or high-level executives regarding the trajectory or speed of economic recovery from the pandemic. *See id.* With much uncertainty in the United States regarding the COVID-19 virus, political upheaval, and social unrest, the economic future remains uncertain.

drop in GDP from pre-COVID-19 projections over the next ten years.⁶⁰ Additionally, some scholars anticipate that the COVID-19 pandemic will create many microeconomic minipandemics that will affect people's ability to return to financial stability.⁶¹

At this point, it seems almost inevitable that public schools will take yet another fiscal hit as a result of the pandemic. State budget offices planning for 2021 are anticipating massive budgetary shortfalls compounded with massive short-term expenses, a recipe for cuts to state education budgets.⁶² The federal government's initial COVID-19 stimulus package, the Coronavirus Aid, Relief, and Economic Security (CARES) Act, included a \$30.75 billion allotment, known as the Education Stabilization Fund, for schools across the country to receive financial support in response to the COVID-19 pandemic.⁶³ While this stimulus funding undoubtedly helps address the issue, this is a one-time stimulus payment, spread among U.S. primary and secondary schools, higher education institutions, and other educational entities.⁶⁴ It is highly unlikely that this fund alone would prevent states from further slashing education budgets, especially if the pandemic's economic effects turn out to be more long-lasting than current projections suggest. As seen in the next Part, these budget cuts often fall directly onto teachers and their classrooms.

III. THE TEACHING PROFESSION

In this Part, I will examine many of the issues that surround teacher compensation for each of the 3.5 million American public school teachers.⁶⁵ This Part begins by providing background on how teacher pay and benefits are set. After that, I evaluate the changes in economic conditions and curriculum since the inception of the Educators Expense Deduction, particularly in terms of how those changes affect both how teachers are paid and how much time and money teachers must invest. Finally, I look at how teachers have responded to these changes through political activism as well as teacher turnover, focusing on recent trends in both of these areas. I further

60. PHILLIP L. SWAGEL, CONG. BUDGET OFF., COMPARISON OF CBO'S MAY 2020 INTERIM PROJECTIONS OF GROSS DOMESTIC PRODUCT AND ITS JANUARY 2020 BASELINE PROJECTIONS 2 (2020).

61. See, e.g., Pamela Foohey, Dalié Jiménez & Christopher K. Odinet, *The Debt Collection Pandemic*, 11 CALIF. L. REV. ONLINE 222, 224 (2020) (detailing the ways in which the pandemic could spur an onslaught of consumer bankruptcy filings due to debtors' inability to repay as a result of unemployment and insufficient government stimulus).

62. Decreases to state education appropriations do not just affect public primary and secondary schools; higher education institutions will also suffer from these cuts. See Michael T. Nietzel, *Five Economic Effects the Coronavirus is Going to Have on American Colleges*, FORBES (Mar. 13, 2020, 12:28 PM), <https://www.forbes.com/sites/michaelnietzel/2020/03/13/five-economic-impacts-from-the-coronavirus-pandemic-that-college-leaders-will-soon-confront/> [<https://perma.cc/R676-4CXD>].

63. *Education Stabilization Fund*, OFF. OF ELEMENTARY & SECONDARY EDUC. (Jan. 27, 2021), <https://oese.ed.gov/offices/education-stabilization-fund/> [<https://perma.cc/5AY2-BP7H>].

64. See *id.*

65. *CCD Quick Facts*, NAT'L CTR. EDUC. STAT., THE CONDITION OF EDUCATION 2020 AT A GLANCE xxii. (2020).

develop this point by evaluating how these challenges deter young professionals from entering the teaching profession.

A. Teacher Compensation

Teacher pay is largely determined by district funding. States typically have a minimum salary amount, but districts may pay more than that minimum salary, meaning that there are often discrepancies between high- and low-income districts. Additionally, teachers in Title I schools tend to be lower salaried⁶⁶ and also typically spend about twice as much of their own money on providing resources to their classrooms than their non-Title I counterparts.⁶⁷

Teacher pay scales are typically set by individual districts.⁶⁸ Teacher salaries increase based on the number of years in the classroom and, in most districts, whether or not a teacher holds an advanced degree.⁶⁹ While those who have an advanced degree in teaching typically make more in terms of salary, receiving an average increase of \$3205 in the first year of teaching,⁷⁰ the cost of receiving an advanced degree in education can run upwards of \$50,000 per year in tuition alone.⁷¹

As public school teachers are public employees, they are generally eligible for medical, dental, and vision benefits as well as pensions, and some states offer defined retirement contribution plans.⁷² However, as average monthly public-plan healthcare premiums have risen by over \$100 per month in recent years,⁷³ this takes an even further bite out of teacher paychecks without commensurate pay raises to compensate

66. The average base salary for teachers in low-poverty schools (schools with 0-34% of K-12 students approved for free or reduced-price lunches) is almost \$6000 higher than teachers in high-poverty schools (schools with over 50% of K-12 students approved for free or reduced-price lunches). CHARACTERISTICS OF PUBLIC ELEMENTARY AND SECONDARY SCHOOL TEACHERS IN THE UNITED STATES, U.S. DEPT. OF EDUC. 12 (2020), <https://nces.ed.gov/pubs2017/2017072rev2.pdf> [<https://perma.cc/E2YM-4GA7>].

67. NAT'L CTR. EDUC. STAT., *supra* note 15.

68. States set minimum salary schedules for public schools. *See, e.g., Minimum Salary Schedules*, TEX. EDUC. AGENCY, <https://tea.texas.gov/texas-educators/salary-and-service-record/minimum-salary-schedules> [<https://perma.cc/2FRV-47PS>]. However, districts may exceed these salary schedules.

69. Kency Nittler, *How Do School Districts Compensate Teachers for Advanced Degrees?*, NAT'L COUNCIL ON TCHR. QUALITY (July 26, 2018), <https://www.nctq.org/blog/How-do-school-districts-compensate-teachers-for-advanced-degrees> [<https://perma.cc/NBL6-4FDB>]. While there is undoubtedly a pay advantage for teachers who receive an advanced degree, there is significant question as to the *effectiveness* of an advanced degree in preparing teachers for the classroom. Graham Drake, *When More Is Less*, NAT'L COUNCIL ON TCHR. QUALITY (July 19, 2018), <https://www.nctq.org/blog/When-more-is-less> [<https://perma.cc/8KX4-D4W5>].

70. Matthew M. Chingos, *Who Profits from the Master's Degree Pay Bump for Teachers?*, BROOKINGS INST. (June 5, 2014), <https://www.brookings.edu/research/who-profits-from-the-masters-degree-pay-bump-for-teachers/> [<https://perma.cc/M8GC-W4UK>].

71. *Id.*

72. David Carrig, *How Generous Are Teacher Benefits and Do They Make Up for Lower Pay?*, USA TODAY (May 16, 2018, 6:40 PM), <https://www.usatoday.com/story/money/nation-now/2018/05/16/teachers-pay-benefits-pensions-social-security-insurance/608375002/> [<https://perma.cc/25N2-NF4Y>].

73. *Id.*

for this additional loss they are incurring. While this benefit package is similar to other professions requiring similar skills and education, these other professions generally have better salaries and benefits, making education a less appealing profession.⁷⁴

B. How Teaching Has Changed Since the Original Educators Expense Deduction

Since the 2002 implementation of the Educators Expense Deduction, a number of changes have taken place that have made teacher wages either stagnate or decrease and that have fundamentally changed the type and amount of work that teachers must do.

1. Changes in Economic Conditions

When faced with budgetary issues, schools often pass cuts off to teachers. With the significant cuts to district budgets resulting from the Great Recession,⁷⁵ teachers have seen significant wage stagnation and even decline. Statistics show that the average salary a teacher receives has decreased by an average of 4.6% in the past decade after adjusting for inflation.⁷⁶ This is largely due to teacher salary reductions and fewer opportunities for pay raises.

Even in states and districts where budgets have returned to pre-Great Recession levels, teachers often do not see those returns reflected in their salaries. Many districts have chosen to use these infusions of cash towards other district initiatives, such as professional development, adding school hours onto the day, and backfilling positions that had to be cut due to the Recession, among other things.⁷⁷

Due to this wage stagnation, many teachers have to find supplementary sources of income in order to scrape out a livable wage. Teachers often receive stipends for serving as club sponsors, coaches, event coordinators, and other support roles for their schools,⁷⁸ but those roles are limited and the stipends may not be enough to fully cover expenses. Approximately 16% of all U.S. public school teachers work second jobs in the summer.⁷⁹ That number jumps to 32% for new teachers.⁸⁰ Many

74. *Id.*; see also *infra* Section III.C.3.

75. See *supra* Section II.B.1.

76. Michael Hansen, *Teachers Aren't Getting Younger, We're Just Paying Them Less*, BROOKINGS INST. (Sept. 5, 2018), <https://www.brookings.edu/blog/brown-center-chalkboard/2018/09/05/teachers-arent-getting-younger-were-just-paying-them-less/> [<https://perma.cc/JY96-8FGQ>].

77. Daarel Burnette II, *Why Your Superintendent Doesn't Want to Give Teachers a Raise*, EDUC. WK. (Jan. 23, 2019, 3:50 PM), https://blogs.edweek.org/edweek/state_edwatch/2019/01/here_are_five_reasons_your_district_superintendent_may_be_reluctant_to_give_you_a_raise.html? [<https://perma.cc/LHU6-9QGK>].

78. *A Closer Look at Teacher Income*, NAT'L CTR. EDUC. STAT. (June 21, 2018), <https://nces.ed.gov/blogs/nces/post/a-closer-look-at-teacher-income> [<https://perma.cc/33XH-ENKC>].

79. *Id.*; see also Katherine Schaeffer, *About One-in-Six U.S. Teachers Work Second Jobs—And Not Just in the Summer*, PEW RSCH. CTR.: FACT TANK (July 1, 2019), <https://www.pewresearch.org/fact-tank/2019/07/01/about-one-in-six-u-s-teachers-work-second-jobs-and-not-just-in-the-summer/> [<https://perma.cc/GP7J-9XJM>].

80. Schaeffer, *supra* note 79.

more teachers supplement their incomes during the school year working odd jobs such as retail or food service jobs, driving for rideshare services, or even driving school buses.⁸¹

It is even more difficult to sustain a living on a teacher's salary for teachers working in Title I schools. These schools tend to pay teachers minimum salary, which can make it difficult for these teachers to survive, as Title I schools tend to either be in urban areas with high costs of living or rural areas with limited resources. The legal system is well aware of the particular financial challenges facing Title I teachers, as evidenced by bankruptcy cases like *In re Edwards*.⁸² In this case, a teacher at a Title I school filed for bankruptcy, seeking to have her student loans discharged. In its analysis of whether this teacher satisfied the test to have her student loan discharged due to hardship,⁸³ the court found that the teacher's decision to keep working at a Title I school factored significantly into both her inability to repay the student loan while maintaining a minimal standard of living as well as her good faith effort to repay the loan.⁸⁴

Another financial casualty of decreased school budgets is the amounts that schools provide to teachers for classroom supplies. Many schools provide their teachers with some kind of budget for discretionary spending for their classrooms, but that amount is typically nowhere near what teachers actually need to provide for their classrooms. For instance, Elizabeth Brown, an art teacher who worked with four schools in Utah and approximately 3000 students, told the National Education Association that her budget of \$350 covers "a piece of construction paper per student" and that without supplementary funding from her own pocket and outside donors, "all [they] would do is draw with pencils and old broken crayons."⁸⁵ Preparations for the 2020-21 school year have made these budgetary deficiencies for classroom supplies all the more apparent. Teachers across the country are being asked to facilitate social distancing in their classrooms, enforce mandates for personal protective equipment (PPE), and follow CDC guidelines for sanitization in their classrooms for the school year. Districts, however, are providing teachers with minimal PPE and sanitization supplies, if the districts are giving their teachers anything at all.⁸⁶

81. *E.g.*, Erum Salam & Peter Rad, *How I Survive: American Teachers and Their Second Jobs – A Photo Essay*, GUARDIAN (Sept. 5, 2018, 2:00 AM), <https://www.theguardian.com/us-news/2018/sep/05/american-teachers-second-jobs-how-i-survive> [<https://perma.cc/H CZ9-RSUU>].

82. 561 B.R. 848, 854–55 (Bankr. D. Kan. 2016).

83. *Id.* at 851; *see also* Brunner v. N.Y. State Higher Educ. Servs. Corp., 831 F.2d 395, 396 (2d Cir. 1987).

84. *Edwards*, 561 B.R. at 860.

85. Tim Walker, *#Outofmypocket: Educators Speak Out on Buying Their Own School Supplies*, NAT'L EDUC. ASS'N: NEA TODAY (Sept. 14, 2018), <http://neatoday.org/2018/09/14/teachers-paying-for-school-supplies/> [<https://perma.cc/XV7X-2V2H>]. This article has more stories from teachers that reiterate the same point: school discretionary budgets do not give teachers what they need to supply their classrooms.

86. *See* Taylor Ardrey, *Pencils or PPE: Teachers Say They're Forced to Choose Between Buying School Supplies or Protective Equipment to Keep Kids Safe*, MSN INSIDER (Aug. 19, 2020), <https://www.msn.com/en-us/news/other/pencils-or-ppe-teachers-say-theyre-forced-to-choose-between-buying-school-supplies-or-protective-equipment-to-keep-kids-safe/ar-BB189UGK> [<https://perma.cc/FPB9-LTGF>].

2. Changes in Material and the Substance of the Profession

One of the most significant changes in schools since the passage of the Educator Expense Credit is the implementation of the No Child Left Behind Act. Also passed in 2002, this reform bill was intended to help close the achievement gap for lower-income schools and to make American public schools more internationally competitive.⁸⁷ To accomplish these goals, the federal government implemented nationwide high-stakes standardized testing regimes, whose results determine whether schools and students were making “adequate yearly progress.”⁸⁸ With this change, many teachers increased the amount of classroom time “teaching to the test” in order to focus on test-taking strategies.⁸⁹ This increased the time demands on teachers on both in-classroom instruction and out-of-classroom preparation for class, a change which has frustrated and demoralized teachers and students alike.⁹⁰

Along with the increased curriculum demands on teachers due to No Child Left Behind, teachers must also handle more students on their own. Since 2008, the public school student-teacher ratio jumped from 15.3:1 to 16.0:1, a 5% increase with no commensurate pay raise.⁹¹ Comparatively, in private schools, the student-teacher ratio is 11.9:1.⁹² While much literature regarding suggests that students in smaller classes have increased achievement,⁹³ other studies show no direct correlation between class size and achievement, leading to a lack of consensus among policy experts on this matter.⁹⁴ Regardless of direct gains in achievement, research has shown that teachers with higher class sizes reported that they had significantly more stress, had higher instances of both misbehavior in class and certain undesirable teaching behaviors, and that their professions were more demanding,⁹⁵ all of which lead to teachers leaving the profession, stymieing student growth in the long run.⁹⁶

87. Alyson Klein, *No Child Left Behind: An Overview*, EDUC. WK. (Apr. 10, 2015), <https://www.edweek.org/ew/section/multimedia/no-child-left-behind-overview-definition-summary.html> [<https://perma.cc/QX69-XYDG>].

88. Thomas S. Dee & Brian A. Jacob, *The Impact of No Child Left Behind on Students, Teachers, and Schools*, 2010 BROOKINGS PAPERS ON ECON. ACTIVITY 149, 149.

89. *Id.* at 179–81.

90. See Colleen Flaherty, *Educators Share How No Child Left Behind Has Affected Their Classroom*, NAT’L EDUC. ASS’N: EDUC. VOTES (Feb. 20, 2015), <https://educationvotes.nea.org/2015/02/20/educators-share-how-no-child-left-behind-has-affected-their-classroom/> [<https://perma.cc/PLQ6-P56A>].

91. See DIANE WHITMORE SCHANZENBACH, NAT’L EDUC. POL’Y CTR., DOES CLASS SIZE MATTER? (2014).

92. *Fast Facts: Teacher Characteristics and Trends*, NAT’L CTR. EDUC. STATS., <https://nces.ed.gov/fastfacts/display.asp?id=28> [<https://perma.cc/K6VR-FRVB>].

93. See, e.g., SCHANZENBACH, *supra* note 91, at 1.

94. Darian Woods, *The Class Size Debate: What the Evidence Means for Education Policy*, U.C. BERKELEY GOLDMAN SCH. PUB. POL’Y (Sept. 23, 2015), <https://gspp.berkeley.edu/research/featured/the-class-size-debate-what-the-evidence-means-for-education-policy> [<https://perma.cc/74U6-DX2T>].

95. Christopher J. McCarthy, Richard G. Lambert, Megan O’Donnell & Lauren T. Melendres, *The Relation of Elementary Teachers’ Experience, Stress, and Coping Resources to Burnout Symptoms*, 109 ELEMENTARY SCH. J. 282, 285–87, 289 (2009).

96. See *infra* Section III.C.2.

3. Increased Necessity for Teacher Investment of Time and Money Resulting from These Changes

Due to these changes, teachers today must invest significantly more money and time in their classrooms than teachers did when the Educators Expense Deduction was first implemented. While some teachers receive discretionary reimbursable funding for classroom supplies from their schools or districts, many in lower-income schools receive little, if any, funding.⁹⁷ To supplement these deficiencies, many teachers rely on parents to help fill out classrooms with basic supplies such as pencils, dry erase markers, books, and tissue boxes. However, many parents are often unwilling to do so, and in low-income schools, many don't have the means to contribute.⁹⁸

To help cover classroom expenses, many teachers utilize crowdfunding platforms and social media campaigns. Online fundraising avenues such as DonorsChoose and AdoptAClassroom.org are specifically dedicated to funding teacher classrooms. Teachers create pages on these sites and share them within their own personal networks.⁹⁹ In recent years, these pages have been part of a nationwide campaign called Clear the List, in which teachers create social media posts using the hashtag #clearthelist in hopes that friends, family, and altruistic strangers will help fund their classroom supply needs.¹⁰⁰

However, even this movement to social media fundraising is not without limitations. Some school districts have started regulating teacher posts on crowdfunding pages, requiring detailed budgets for crowdfunding campaigns, regulating teacher biographical information, and managing the overall narrative that a teacher may use for their post.¹⁰¹ Some teachers report that their districts actively discourage them from making such posts, insinuating that they could be terminated for soliciting crowdfunding donations online.¹⁰²

97. Alessandra Malito, *These Teachers Are Spending Their Own Money to Help Improve Their Classes*, MARKETWATCH (Sept. 4, 2018, 9:03 AM), <https://www.marketwatch.com/story/teachers-spend-hundreds-sometimes-thousands-of-dollars-of-their-own-money-on-students-2018-07-24> [<https://perma.cc/844A-VVKD>].

98. See Vivian Manning-Schaffel, *Parents, This Is How You Can Help Your Kid's Teacher This Year*, NBC NEWS (Sept. 10, 2018, 8:53 AM), <https://www.nbcnews.com/better/pop-culture/parents-how-you-can-help-your-kids-teacher-year-ncna903631> [<https://perma.cc/UD9P-PLYL>].

99. Niraj Chokshi, *How to Get \$29 Million for Classroom Projects? Just Ask*, N.Y. TIMES (Mar. 30, 2018), <https://www.nytimes.com/2018/03/30/us/donors-choose-donation-ripple.html?action=click&module=RelatedCoverage&pgtype=Article®ion=Footer> [<https://perma.cc/F6VW-JCB7>].

100. Melissa Hruza, *How to Use AdoptAClassroom.org to #ClearTheList This Back to School*, ADOPTAClassroom.org (Aug. 1, 2019), <https://www.adoptaclassroom.org/2019/08/01/how-to-use-adoptaclassroom-org-to-clearthelist-this-back-to-school/> [<https://perma.cc/5649-27WS>].

101. Paulina Cachero, *Why Some School Districts Are Banning Teachers from Crowdfunding to Pay for Classroom Supplies*, YAHOO! LIFE (Oct. 2, 2019), <https://www.yahoo.com/lifestyle/school-districts-are-creating-barriers-to-deter-teachers-from-crowdfunding-now-ill-just-have-to-spend-more-of-my-own-money-213507586.html> [<https://perma.cc/Z24M-B6NJ>].

102. *Id.*

C. How Teachers Have Responded to These Changes

These increased demands on teachers with fewer resources have taken their toll, and teachers are taking steps to express their dissatisfaction with the status quo. In this Section, I explore how teachers have responded to the difficulties brought about by these changes. Many teachers have fought back against these changes by protesting at the local and state levels. More yet leave their schools for more affluent schools with more resources or leave the teaching profession altogether. Even more notably, fewer young professionals are choosing to enter the profession, putting schools with high turnover in the difficult position of trying to fill ever-increasing vacancies.

1. Teacher Retaliation: Protests and Politics

In response to stagnant pay and declining benefits, numerous teacher groups protested and even went on strike throughout America in 2018 and 2019 as part of the nationwide “Red for Ed” movement.¹⁰³ Schools across the country shut down as teachers protested stagnant pay and declining benefits. Some of the most notable Red for Ed protests occurred in Oklahoma,¹⁰⁴ both North and South Carolina,¹⁰⁵ Arizona,¹⁰⁶ Indiana,¹⁰⁷ and Kentucky,¹⁰⁸ among others.

Kentucky is a particularly interesting case, as teacher mobilization led to a shake-up at the state government level. Kentucky teachers were organizing walkouts over teacher pay and benefits in 2017. In response, Governor Matt Bevin commented on the walkouts during a Facebook Live question and answer event in August of 2017, stating that “[any] teacher who would walk out on [their] classroom in order to serve

103. Educators striking around the country wear red as they protest for increasing teacher pay, preventing the cut of teacher benefits, and increasing resources for schools in general. For more information, see *#RedForEd Is About Funding for Students and Schools*, NAT’L EDUC. ASS’N, <http://neatoday.org/redford/> [<https://perma.cc/L5AS-LX88>].

104. See Dana Goldstein, *Teachers in Oklahoma and Kentucky Walk Out*, N.Y. TIMES (Apr. 2, 2018), <https://www.nytimes.com/2018/04/02/us/teacher-strikes-oklahoma-kentucky.html> [<https://perma.cc/M5YA-QSCN>].

105. See Paul Bowers, *South Carolina Teachers Calling Out of Work March on Statehouse*, CHARLESTON POST & COURIER (Sept. 14, 2020), https://www.postandcourier.com/news/south-carolina-teachers-calling-out-of-work-may-to-march/article_18f83660-6503-11e9-9cda-4fd12c50837d.html [<https://perma.cc/3FRC-T83Y>]. For more information on the Red for Ed movement in the South in particular, see Jon N. Hale, *On Race, Teacher Activism, and the Right to Work: Historicizing the “Red for Ed” Movement in the American South*, 121 W. VA. L. REV. 851 (2019).

106. See Gabriel Sandler & Chris McCrory, *Tens of Thousands Hit Street to Protest Education Funding in Red for Ed March to Capitol*, ARIZ. PBS: CRONKITE NEWS (Apr. 26, 2018), <https://cronkitenews.azpbs.org/2018/04/26/red-for-ed/> [<https://perma.cc/LZ6X-PDC5>].

107. See Catherine Thorbecke, *Thousands of Indiana Teachers Convene for Massive ‘Red for Ed’ Rally*, ABC NEWS (Nov. 19, 2019, 10:33 AM), <https://abcnews.go.com/US/thousands-indiana-teachers-convene-massive-red-ed-rally/story?id=67130700> [<https://perma.cc/6AXQ-K2UE>].

108. See Katie Reilly, *Other Teachers Are Striking for Raises. In Kentucky They’re Walking Out to Protect Their Pensions*, TIME (Mar. 30, 2018, 2:25 PM), <https://time.com/5222483/kentucky-teachers-pension-strike-matt-bevin/> [<https://perma.cc/CB54-S9PD>].

what's in [their] own personal best interest . . . probably should retire.”¹⁰⁹ He later doubled down on his attacks towards protesting teachers by accusing those teachers of leaving children vulnerable to sexual assault, drugs, and school shootings.¹¹⁰ Shortly after these comments, Governor Bevin's statewide disapproval rating shot from 40% to 57%.¹¹¹ In November of 2019, Bevin was voted out of office, in large part due to his ongoing war with Kentucky teachers.¹¹²

Both the Red for Ed protests and former Governor Bevin's loss point to a clear conclusion: teachers are paying attention to laws and lawmakers that affect the education system and they are willing to mobilize in response. That kind of mass mobilization is a political force that lawmakers would do well to heed.

2. Teacher Turnover

Turnover in the teaching profession has steadily increased in recent years,¹¹³ manifesting in both teacher attrition and shifting away from schools with fewer resources, where quality teachers are needed the most. These trends signify strong dissatisfaction within the teaching profession and pose significant issues to the students they leave behind.

One of the most significant issues in the teaching profession is teacher attrition, or the number of teachers who leave the education profession entirely.¹¹⁴ In recent years, about 8%—or 250,000—of all public school teachers pack up their desks for good each year.¹¹⁵ Comparatively, in 1992, that attrition rate was 5%, a difference of approximately 90,000 more teaching positions needing to be filled each year.¹¹⁶ Teachers from high-poverty public schools, such as Title I schools, are twice as likely to leave the profession entirely as their middle-poverty and low-poverty public

109. Ryland Barton, *Teacher Says Governor's Public Scolding 'Felt Like a Threat'*, 89.3 WFPL (Aug. 29, 2017), <https://wfpl.org/teacher-says-bevins-public-scolding-felt-like-a-threat/> [<https://perma.cc/BQ6G-USEX>].

110. Katie Reilly, *How Republican Governor Matt Bevin Lost Teachers and Lost Kentucky*, TIME (Nov. 7, 2019, 10:32 AM), <https://time.com/5719885/matt-bevin-republican-kentucky-teacher-protests/> [<https://perma.cc/TLB2-HMDN>].

111. *Governor Rankings*, MORNING CONSULT, <https://morningconsult.com/governor-rankings-q2-19/> [<https://perma.cc/CR3M-H9SR>].

112. Governor Bevin lost to Andy Beshear, who made teacher pay a centerpiece of his gubernatorial campaign, promising to raise teacher pay by \$2000, promising to increase starting teacher salaries to \$40,000 per year, and promising to implement student loan forgiveness for teachers. Reilly, *supra* note 110.

113. DESIREE CARVER-THOMAS & LINDA DARLING-HAMMOND, LEARNING POL'Y INST., TEACHER TURNOVER: WHY IT MATTERS AND WHAT WE CAN DO ABOUT IT 3 (2017), https://learningpolicyinstitute.org/sites/default/files/product-files/Teacher_Turnover_REPORT.pdf [<https://perma.cc/T8UW-KL59>].

114. *Id.*

115. *Id.*

116. *Id.* The authors of this article further illustrate how troubling this number is by comparing it to high-achieving national public school systems in countries such as Finland and Singapore. These countries have a teacher attrition rate that is less than half of that in America. *Id.*

school counterparts.¹¹⁷ While some of this number is due to teacher retirement, an ever-increasing number of teachers leaving the profession have five or less years of experience.¹¹⁸

While teacher *attrition* looks at teachers who leave the profession entirely, teacher *shifting* focuses on those who stay in the teaching profession but either move to a different school or switch to a different role in schools, typically roles outside the classroom.¹¹⁹ Many quality teachers from lower-income schools choose to transfer out, often to schools with higher established achievement metrics and higher median income.¹²⁰ This is because higher-income schools typically have higher teacher salaries and better working conditions.¹²¹

Teacher turnover has tremendous deleterious effects on student achievement, school working environment, and district budgets. High rates of teacher turnover have been linked to lower student success in both the short and long term. The disruptive impact of teacher turnover on students manifests in decreased standardized test scores, compared to students in schools with less turnover, and stunted academic growth for the students in the disrupted schools.¹²² Additionally, research suggests that schools with lower turnover have higher staff cohesion, creating a more positive working environment for teachers.¹²³ Filling a single teacher vacancy costs \$21,000 on average,¹²⁴ costing up to \$2.2 billion annually.¹²⁵

3. The Replacements (Or Lack Thereof)

While teacher turnover continues to mount, fewer and fewer people are choosing to enter the profession. In 2017, only 4.6% of college freshmen entered into university planning to major in education, down from 10% prior to the Great Recession.¹²⁶

Student debt for the newest generation of professionals likely plays a major role in this downturn. Of the \$1.447 trillion of outstanding total student debt in

117. NAT'L CTR. EDUC. STAT., *TEACHER TURNOVER: STAYERS, MOVERS, AND LEAVERS 3* (2016), https://nces.ed.gov/programs/coe/pdf/coe_slc.pdf [<https://perma.cc/38TG-BTF3>].

118. *Id.* at 4.

119. *Id.* at 1.

120. Steven G. Rivkin, Eric A. Hanushek & John F. Kain, *Teachers, Schools, and Academic Achievement*, 73 *ECONOMETRICA* 417, 430 (2005).

121. *Id.*

122. See Matthew Ronfeldt, Susanna Loeb & James Wyckoff, *How Teacher Turnover Harms Student Achievement*, 50 *AM. EDUC. RES. J.* 4, 18–22 (2012).

123. *Id.* at 7.

124. EMMA GARCÍA & ELAINE WEISS, *THE TEACHER SHORTAGE IS REAL, LARGE AND GROWING, AND WORSE THAN WE THOUGHT*, *ECON. POL'Y INST.* (2019), <https://www.epi.org/publication/the-teacher-shortage-is-real-large-and-growing-and-worse-than-we-thought-the-first-report-in-the-perfect-storm-in-the-teacher-labor-market-series/> [<https://perma.cc/N7M3-R5W8>].

125. Press Release, Alliance for Excellent Education, *Teacher Attrition Costs United States up to \$2.2 Billion Annually* (July 17, 2014).

126. Brian O'Leary, *Backgrounds and Beliefs of College Freshmen*, *CHRON. HIGHER ED.* (Aug. 12, 2020), <https://www.chronicle.com/interactives/freshmen-survey> [<https://perma.cc/6Q3P-5GDC>].

America,¹²⁷ \$497.6 billion of that belongs to borrowers ages twenty-five to thirty-four,¹²⁸ and \$124.6 billion belongs to borrowers twenty-four and below.¹²⁹ Those with student loan debt are more likely to pursue professions with higher salaries as opposed to lower-paying ones.¹³⁰ Debt aversion is so strong a pull that students will forego careers about which they may be more passionate in order to be financially solvent.¹³¹ As teachers earn 19% less than other professionals with similar skills and education,¹³² students coming out of college now are less likely to pursue a career in teaching, and are even less likely to pursue long-term careers in schools with high concentrations of poverty. While an advanced degree in education can provide an initial increase in annual salary,¹³³ those who pursue these degrees will likely accrue significant additional student debt, which may make the return on investment not worth the cost.¹³⁴ Though some programs exist for students to teach in low-income public schools as a means for loan forgiveness, such programs do not necessarily encourage participants to stay at those schools once the two-year commitment is complete.¹³⁵

127. Federal Student Aid Portfolio, U.S. DEP'T OF EDUC., <https://studentaid.gov/data-center/student/portfolio> [<https://perma.cc/4ZD6-4PV5>].

128. *Id.*

129. *Id.* Part of the reason that this number is lower than the twenty-five to thirty-four demographic is that these borrowers are still in school and have not begun making payments on their debt. Wesley Whistle, *A Look at Millennial Student Debt*, FORBES (Oct. 3, 2019, 1:21 PM), <https://www.forbes.com/sites/wesleywhistle/2019/10/03/a-look-at-millennial-student-debt/#46d627fa2437> [<https://perma.cc/LNX2-YPTK>].

130. See Jesse Rothstein & Cecilia Elena Rouse, *Constrained After College: Student Loans and Early-Career Occupational Choices*, 95 J. PUB. ECON. 149, 149–51 (2011).

131. *See id.*

132. *Teacher Compensation: Fact vs. Fiction*, NAT'L EDUC. ASS'N (Sept. 1, 2018), <http://www.nea.org/home/12661.htm> [<https://perma.cc/7ZXB-YDV9>]. Some studies place this amount even higher, at around 21.4%. Sylvia Allegretto & Lawrence Mishel, *The Teacher Weekly Wage Penalty Hit 21.4 Percent in 2018, a Record High*, ECON. POL'Y INST. (Apr. 24, 2019), <https://www.epi.org/publication/the-teacher-weekly-wage-penalty-hit-21-4-percent-in-2018-a-record-high-trends-in-the-teacher-wage-and-compensation-penalties-through-2018/> [<https://perma.cc/FCW8-HS9G>].

133. See Nittler, *supra* note 69 and accompanying text.

134. *Id.*

135. Teach for America (TFA), a program in which students right out of college commit to teach in high-poverty schools for two years, is one of the best-known examples for student debt loan forgiveness through education. See *Financial Aid*, TEACH FOR AM. (2019), <https://www.teachforamerica.org/life-in-the-corps/salary-and-benefits/financial-aid> [<https://perma.cc/2L5Q-QAHL>]. However, more than half of TFA teachers leave their original placements after their two-year commitments are over. Michael Hansen, *Should Teach For America Aim to Increase Its Post-Commitment Retention?*, BROOKINGS INST. (Mar. 2, 2016), <https://www.brookings.edu/blog/brown-center-chalkboard/2016/03/02/should-teach-for-america-aim-to-increase-its-post-commitment-retention/> [<https://perma.cc/F8US-3Y7U>]. This raises sincere questions about TFA and similar programs' effectiveness in bringing people into the profession long term and not exacerbating the issues for low-income schools that come with teacher turnover. Furthermore, school districts will often pay significant "headhunter fees" in order to acquire TFA teachers, reducing budgets of schools that are already often struggling financially. Rachel M. Cohen, *The True Cost of Teach for America's Impact on Urban Schools*, THE AM. PROSPECT (Jan. 5, 2015), <https://prospect.org/civil-rights/true-cost-teach-america-s-impact-urban-schools/> [<https://perma.cc/C7AC-WVTN>].

Beyond the financial aspect, many young professionals who are interested in public service have little interest in teaching, driven by a pessimism about the current state and future trajectory of the profession. Many are turned off by the relative stress and thanklessness of being a teacher, particularly with regards to how the government views teachers, as well as the required investments in personal money and time.¹³⁶ Potential teachers also are significantly less likely than their parents to see teaching as a viable way to become agents of social change, have significant qualms about the proliferation of standardized testing and other curricular effects of No Child Left Behind, and are skeptical of the trend towards performance bonus accountability measures.¹³⁷

Since there is both high turnover and a downturn in college graduates choosing to enter the teaching profession, schools must be creative in how they fill teacher vacancies. In order to fill vacancies, some schools and districts that do not pay salaries competitive with other schools and districts have begun recruiting in different countries, relying on an influx of teachers from countries such as the Philippines.¹³⁸

To turn around the increasing problem of teacher turnover, lawmakers need to find ways to incentivize people to both enter and stay in the teaching profession. Additionally, lawmakers need to find ways to keep teachers in Title I schools, specifically, to minimize the adverse effects of turnover on students who need that educational stability the most.

IV. EVALUATING THE CURRENT DEDUCTION

The Educators Expense Deduction, as it is structured now, is not an effective tax policy. As currently written, this deduction does not effectively maximize future economic returns because it does not effectively promote teacher and student success in the classroom, both in the short and long term and for low-income students in particular. Furthermore, because the amount has not increased since 2002, failing to keep up with the demands of the teaching profession, and does not account for the fact that teachers working in low-income schools pay more out of pocket, the amount is unfair to the teachers who need to claim the deduction each year.

A. Promotion of Future Economic Returns

Allowing teachers to invest more in their students is an investment in the future economic health of America, creating a better-educated generation and leading to more economic opportunity for all and a more robust economy.

136. See Valerie Strauss, *Why Today's College Students Don't Want To Be Teachers*, WASH. POST (Nov. 20, 2015, 6:00 AM), <https://www.washingtonpost.com/news/answer-sheet/wp/2015/11/20/why-todays-college-students-dont-want-to-be-teachers/> [<https://perma.cc/E7GL-KZTR>].

137. *Id.*

138. Dana Goldstein, *Teacher Pay Is So Low in Some U.S. School Districts That They're Recruiting Overseas*, N.Y. TIMES (May 2, 2018), <https://www.nytimes.com/2018/05/02/us/arizona-teachers-philippines.html> [<https://perma.cc/E8V8-8M8R>].

Despite comments to the contrary by public figures such as then-Secretary of Education Betsy DeVos,¹³⁹ the vast majority of research shows that students benefit from greater resources in the classroom.¹⁴⁰ For instance, recent research has shown that a 10% increase in per-student spending leads to about 7% higher wages and a 3.2% reduction in annual incidences of adult poverty.¹⁴¹ Correspondingly, districts hit hardest by Recession-era budget cuts saw the most significant decreases in student achievement.¹⁴²

The limited amount that teachers can realistically invest in their own classrooms because of the \$250 cap on the Educators Expense Deduction limits student success and gains in short- and long-term achievement. By failing to provide students with the resources necessary to close the achievement gap, especially in low-income schools, we are essentially depriving the American economy of thousands, if not millions, of people's worth of additional tax revenue, increased business revenue, and reduced reliance on social services. The effect of that loss is, frankly, incalculable. These limitations on student achievement limit future gains for the American economy, necessitating reform.

139. Secretary DeVos stated at a Senate Committee meeting that “[t]he notion that spending more money [on students] is going to bring about different results [on school outcomes] is ill-placed and ill-advised.” *DeVos on School Spending*, C-SPAN (June 6, 2017), <https://www.c-span.org/video/?c4672383/user-clip-devos-school-spending> [<https://perma.cc/LFP9-8F4U>].

140. Some who do not believe that increased spending does not improve achievement point to the American Legislative Exchange Council (ALEC) Report Card on American Education, a study that found that states that spent more on education had worse test scores than those who spent less. AM. LEGIS. EXCH. COUNCIL, REPORT CARD ON AMERICAN EDUCATION: A STATE-BY-STATE ANALYSIS (15th ed. 2015), https://www.alec.org/app/uploads/2015/12/15th_Report_Card.pdf [<https://perma.cc/K7E8-4TGM>]. However, the methodology of this study ranked achievement based on an eighth-grade standardized math test as well as SAT and ACT scores. *Id.* This methodology is severely flawed, as it does not accurately account for students who took neither the SAT nor the ACT, as these are college entrance exams rather than compulsory standardized tests. The inclusion of only one compulsory standardized test also produces an incomplete picture, leading to misleading results. Another article that questions the efficacy of spending more on Title I students is an article by Mark Dynarski & Kirsten Kainz, *supra* note 47. However, this article shows that in many schools, additional funding is ineffective because it is being spent on things, such as professional development courses, that are both not directly in the classroom and are of questionable efficacy, *id.*, rather than direct classroom-level investment.

141. C. Kirabo Jackson, Rucker C. Johnson & Claudia Persico, *The Effects of School Spending on Educational and Economic Outcomes: Evidence from School Finance Reforms*, 131 Q.J. ECON. 157, 157 (2015).

142. Kenneth Shores & Matthew P. Steinberg, *Schooling During the Great Recession: Patterns of School Spending and Student Achievement Using Population Data*, AM. EDUC. RES. ASSN. (Sept. 25, 2019), <https://www.aera.net/Newsroom/Schooling-During-the-Great-Recession-Patterns-of-School-Spending-and-Student-Achievement-Using-Population-Data> [<https://perma.cc/XDR6-TR3U>].

B. A Matter of Fairness

Fairness is one of the most important considerations in tax policy.¹⁴³ When referring to whether a policy is fair or not, experts look at whether that policy satisfies horizontal equity, or whether taxpayers who are otherwise similarly situated bear the same tax burden,¹⁴⁴ and vertical equity, when taxpayers at different levels of income are treated the same, making a policy regressive.¹⁴⁵

The current Educators Expense Deduction violates the principle of vertical equity. The deduction applies equally to all teachers, regardless of the affluence of the districts in which they work and how much the teachers are paid. Teachers working in Title I schools are paid significantly less and spend significantly more on students on average as opposed to their counterparts in more affluent school districts.¹⁴⁶ Since this treats taxpayers with different levels of income the same, the deduction is regressive and violates the principle of vertical equity.

Another fundamental principle of tax policy fairness is that income tax ought to allow for deductions that remove the costs of earning income.¹⁴⁷ While not covering all of these expenses broadens the tax base, a concept that most tax policy scholars agree is a good thing, this is the type of base broadening that should be avoided: the kind that disincentivizes work complements.¹⁴⁸

With this in mind, the Educators Expense Deduction is clearly unfair. The \$250 deduction does not match the reality of how much teachers actually spend on their classrooms, currently only covering about half of what the average teacher spends.

V. PROPOSALS TO IMPROVE THE EDUCATORS EXPENSE DEDUCTION

In this Part, I propose two solutions to reforming the Educators Expense Deduction to better reflect the realities of teaching and advance the furtherance of good education policy and good tax policy. First, I propose increasing the amount of the Educators Expense Deduction to \$500 for all teachers, indexed for inflation. Second, I propose that teachers in Title I schools receive an extra \$500 above-the-line deduction.

143. For a more thorough introduction into the concept of fairness in tax policy, see JOEL SLEMROD & JON BAKIJA, *TAXING OURSELVES: A CITIZEN'S GUIDE TO THE DEBATE OVER TAXES* 85–144 (5th ed. 2017).

144. STAFF OF J. COMM. ON TAXATION, 114TH CONG., *FAIRNESS AND TAX POLICY* 4 (2015), <https://www.jct.gov/publications.html?func=startdown&id=4737> [<https://perma.cc/52ME-MRD9>].

145. SLEMROD, *supra* note 143, at 88–90.

146. *See supra* notes 66–67 and accompanying text.

147. Alan D. Viard, *Base Broadening Gone Wrong: Work-Related Costs and the TCJA*, TAX NOTES (Aug. 8, 2019), <https://www.taxnotes.com/tax-notes-today-federal/exemptions-and-deductions/base-broadening-gone-wrong-work-related-costs-and-tcja/2019/08/08/29psw?highlight=base%20broadening%20gone%20wrong> [<https://perma.cc/29YB-Z7S9>]. In this article, Viard also evaluates the unfairness of the TCJA's suspension of unreimbursed employee expenses, a complementary issue to the issues with the Educator Expense Deduction. *See supra* Part I.

148. Viard, *supra* note 147.

A. Raising the Deduction to \$500

My first proposal to reform the Educators Expense Deduction is to increase the deduction amount to \$500 for all eligible educators. Before 2020, the current nationwide average of unreimbursed classroom spending was \$497,¹⁴⁹ and matching this amount with the Educators Expense Deduction was already long overdue. Given the economic effects of the COVID-19 pandemic,¹⁵⁰ it is more than reasonable to assume that public school funding will once again be slashed to Recession-era levels, if not to a greater degree. It is also not unreasonable to assume that school districts will, once again, cut into the line item for classroom supplies to balance district budgets. This means that teachers will need to take on even more financial burden than they already do. Increasing the amount of the deduction would better reflect the amount that teachers pay out of pocket to adequately stock a classroom. Furthermore, this increased federal deduction would also help teachers keep pace with the growing personal costs of running classrooms, given the decreased budgetary support of teachers at the district level and the wage stagnation for many teachers at the state level.

Additionally, this increased deduction could help ameliorate America's teacher shortage issue. Knowing that the majority of classroom supply expenses would be eligible for a tax deduction would likely allay some financial worries of those considering entering the teaching profession. This could also potentially encourage teachers to stay in the profession for a longer period due to the lessened financial burden. This increased deduction would also help students. Not only would there be more consistency in the teachers in their schools, but also students may gain access to better resources, thus creating a richer learning environment and strengthening the quality of their education. An expansion of the deduction would also signify that lawmakers are willing to listen and help with the issues that teachers are facing, which could ease some of the unrest that has led to mass teacher protests across the country. These outcomes would likely lead to greater success in the classroom in the short term and, consequently, greater economic successes in the future, effectively making this a sound future investment.

Proposals to increase this deduction are not without precedent. After the original expense was adopted, Sen. Susan Collins proposed another bill proposing the expansion of the deduction to \$500.¹⁵¹ In 2018, thirty-six congresspeople introduced the Educators Expense Deduction Modernization Act, which would have increased this deduction from \$250 to \$500.¹⁵² This bill was supported by groups including the American Federation of Teachers, the Association of American Educators, the National Association of Elementary School Principals, National Association of Secondary School Principals, the National Education Association, and other notable education advocacy groups.¹⁵³ Rep. Richard Neal (D-MA), current chair of the Ways

149. See NAT'L CTR. EDUC. STAT., *supra* note 117.

150. See *supra* Section II.C.

151. S. 2662, 107th Cong. (2002). This bill died in committee. *Id.*

152. Press Release, Congressman Anthony Brown, Brown Introduces Bill to Double Teacher Tax Deduction (May 11, 2018), <https://anthonybrown.house.gov/news/documentsingle.aspx?DocumentID=263> [<https://perma.cc/5MC4-YK7D>].

153. *Id.*

and Means Committee in the House of Representatives, advocated for a raise in the Educators Expense Deduction by tacking the change on as an amendment to a House bill repealing the TCJA cap on state and local taxes.¹⁵⁴

B. Creating an Additional Deduction for Title I Teachers

My second proposal is to further increase the amount allowed for teachers in Title I schools by an additional \$500, indexed for inflation. Given that teachers from high-poverty schools like Title I schools spend significantly more than the average teacher,¹⁵⁵ creating an additional deduction for Title I teachers to reflect the amounts spent on their students is fairer than the current deduction as written. This would also benefit Title I students, helping to whittle down the amount of additional investment needed from the Title I spending program to narrow the achievement gap.¹⁵⁶ Moreover, this additional tax benefit would serve as an incentive for teachers to stay in Title I schools, stymieing some of the turnover issues that Title I schools face and providing more stable, quality education for students in Title I schools.¹⁵⁷ With decreased turnover in Title I schools, students would experience greater stability in the school environment, which suggests that these students would also be able to focus more on learning, leading to higher achievement in both the short and long term.¹⁵⁸

C. Possible Challenges and Drawbacks

These potential reforms are not without their challenges and potential drawbacks, though. States and districts might see these changes as justification to provide teachers with even less money for classroom expense reimbursement. Though this would not affect teachers in districts in which teachers are not reimbursed at all, it would be a challenge that some teachers may face. One solution to combat this counteraction would be to lobby state legislatures to implement a minimum required amount for districts and schools to earmark for each teacher as reimbursable classroom expense funds.

As with the extension of any tax deduction, there is likely to be some political pushback. Even though the short- and long-term benefits of these changes are clear, along with the fact that the amount that the government would no longer receive would be negligible in terms of the overall federal budget,¹⁵⁹ the polarization of the current Congress makes it difficult to get bills regarding tax policy passed. Given

154. H.R. Res. 5377, 116th Cong. § 4 (2019). This bill addressed multiple tax issues, including the limitation deductions of state and local taxes, marriage penalties, and adjustments to the top marginal tax rate. *Id.* The bill passed in the House by a narrow margin of 218-206 and was subsequently sent to the Senate, where the Senate Committee on Finance did not hold hearings on this bill after almost a year of inactivity and ultimately died in committee with the cessation of the previous congressional term. *Id.*

155. NAT'L CTR. EDUC. STAT., *supra* note 117 and accompanying text.

156. *See supra* Section II.A.

157. *See supra* Section III.B.

158. *Id.*

159. *See supra* note 26 and accompanying text.

that the proposal to increase the deduction has been introduced by congresspeople on both sides of the aisle in the past, there is likely bipartisan support for the idea of the provision. However, recent attempts to pass the general increase have failed because these proposals have been attached to larger bills regarding tax policy in the context of a split control of Congress. The substance of these bills proposed policies that solely favored the party in control of one house of Congress, but then was promptly shut down by the opposing party in the other house. Even though the Democratic Party now controls both houses of Congress, these margins of control are slim, and whether Democrats have a sufficient mandate to push through significant tax reforms—to which this deduction might be added—is questionable at best.¹⁶⁰

In order to overcome this legislative roadblock, these proposals ought to be introduced as a standalone bill with prominent cosponsors on both sides of the aisle. Doing this would likely garner significant support from across the aisle in both houses, especially in light of the massive political upside of voting for the bill (as well as the political blowback that could occur from teacher constituencies opposing the bill). Leaning into the bipartisan appeal of these deduction reforms significantly increases the possibility of their passage.

CONCLUSION

While reforming the Educators Expense Deduction is by no means a panacea to the numerous challenges facing public school teachers, it is a good first step towards making meaningful reforms that will encourage people to join and remain in the teaching profession and improve educational outcomes for public school students. Moreover, it would create long-term benefits to the American economy by creating a better-educated workforce in the future. Because of this, Congress should both increase the amount of the Educators Expense Deduction to \$500 and create an additional deduction of another \$500 for teachers in Title I schools.

160. See Spencer Bokst-Lindell, *Democrats Are About to Control Congress. What Will They Do?*, N.Y. TIMES (Jan. 19, 2021), <https://www.nytimes.com/2021/01/19/opinion/biden-stimulus-inauguration-senate.html> [<https://perma.cc/3GKG-LBP6>].