

SUPPORTING EARLY-CHILDHOOD EDUCATORS’
DEDUCTIONS ACT

APRIL 9, 2026.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. SMITH of Missouri, from the Committee on Ways and Means,
submitted the following

R E P O R T

[To accompany H.R. 5334]

The Committee on Ways and Means, to whom was referred the bill (H.R. 5334) to amend the Internal Revenue Code of 1986 to allow early childhood educators to take the educator expense deduction, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

CONTENTS

	Page
I. SUMMARY AND BACKGROUND	2
A. Purpose and Summary	2
B. Background and Need for Legislation	2
C. Legislative History	3
D. Designated Hearing	3
II. EXPLANATION OF THE BILL	3
III. VOTE OF THE COMMITTEE	4
IV. BUDGET EFFECTS OF THE BILL	5
A. Committee Estimate of Budgetary Effects	5
B. Statement Regarding New Budget Authority and Tax Expenditures Budget Authority	5
C. Cost Estimate Prepared by the Congressional Budget Office	6
V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE	6
A. Committee Oversight Findings and Recommendations	6
B. Statement of General Performance Goals and Objectives	6
C. Applicability of House Rule XXI, Clause 5(b)	6
D. Information Relating to Unfunded Mandates	6
E. Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits	6
F. Duplication of Federal Programs	7
G. Tax Complexity Analysis	7
VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED	7

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Supporting Early-childhood Educators’ Deductions Act” or the “SEED Act”.

SEC. 2. EDUCATOR EXPENSE DEDUCTION TO INCLUDE EARLY CHILDHOOD EDUCATORS.

(a) **IN GENERAL.**—Section 62(d)(1) of the Internal Revenue Code of 1986 is amended—

(1) in subparagraph (A), by striking “a kindergarten through grade 12 teacher” and inserting “an early childhood or kindergarten through grade 12 teacher”, and

(2) in subparagraph (B), to read as follows:

“(B) **SCHOOL.**—The term ‘school’ means—

“(i) in the case of early childhood education, any school or childcare facility which—

“(I) provides educational or childcare services for more than 2 individuals (other than individuals who reside at the school or facility) who have not attained age 6, and

“(II) operates at the public expense or receives a fee, payment, or grant for providing such services for any of the individuals (regardless of whether such school or facility is operated for profit), and

“(ii) in the case of elementary education or secondary education (kindergarten through grade 12), any school which provides such education, as determined under State law.”.

(b) **CONFORMING AMENDMENT.**—Section 62(a)(2)(D) of such Code is amended by striking “CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS” in the heading and inserting “CERTAIN EXPENSES OF EARLY CHILDHOOD, ELEMENTARY, AND SECONDARY SCHOOL TEACHERS”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to expenses paid or incurred in taxable years beginning after December 31, 2025.

I. SUMMARY AND BACKGROUND

A. PURPOSE AND SUMMARY

The bill, H.R. 5334 as amended, the “Supporting Early-childhood Educators’ Deductions Act” or the “SEED Act,” was ordered reported by the Committee on Ways and Means on March 25, 2026.

Certain individuals referred to as “eligible educators” are allowed a limited above-the-line deduction for specified expenses paid in connection with their work. A broader group of educators is also allowed an itemized deduction, not limited to prescribed dollar amount, for a broader category of expenses paid in connection with their work. Educators who are allowed these deductions are educators of children in kindergarten through grade 12. Neither the above-the-line deduction nor the itemized deduction is allowed to early childhood educators. The bill allows the deductions to early childhood educators.

B. BACKGROUND AND NEED FOR LEGISLATION

A top priority of the Ways and Means Committee has been listening to the concerns of American workers and families and developing policy solutions to help. Pre-school educators are currently not afforded the same benefits under the tax code as their K–12 educator counterparts. Under current law, pre-school educators must cover regular classroom expenses, such as school supplies, out of their own pockets, whereas K–12 educators can deduct much of these expenses. This legislation builds on the bipartisan legislative

history of helping early childhood educators afford to carry out their essential careers in caring for the nation’s youngest students.

C. LEGISLATIVE HISTORY

Background

H.R. 5334 was introduced on September 11, 2025, and was referred to the Committee on Ways and Means.

Committee Hearings

On January 22, 2025, the Committee held a Full Committee Member Day Hearing on matters within the Committee’s jurisdiction.

Committee Action

The Committee on Ways and Means marked up H.R. 5334, on March 25, 2026, and ordered the bill, as amended, favorably reported (with a quorum being present).

D. DESIGNATED HEARING

Pursuant to clause 3(c)(6) of rule XIII, the following hearings were used to develop and consider H.R. 5334:

On January 22, 2025, the Committee held a Full Committee Member Day Hearing on matters within the Committee’s jurisdiction.

II. EXPLANATION OF THE BILL

PRESENT LAW

An eligible educator is allowed a deduction in determining adjusted gross income (referred to below as an “above-the-line” deduction) for ordinary and necessary expenses paid or incurred (i) by reason of the educator’s participation in professional development courses related to the curriculum in which the educator provides instruction or to the students for which the educator provides instruction, and (ii) in connection with books, supplies (other than nonathletic supplies for courses of instruction in health or physical education), computer equipment (including related software and services) and other equipment, and supplementary materials used by the eligible educator in the classroom.¹

The above-the-line deduction for education expenses is limited to \$350 in 2026.²

For purposes of the above-the-line deduction for education expenses, an eligible educator is, for any taxable year, an individual who is a kindergarten through grade 12 teacher, instructor, counselor, principal, or aide in a school for at least 900 hours during a school year. For this purpose, a school is any school that provides elementary or secondary (kindergarten through grade 12) education, as determined under State law.³

¹ Sec. 62(a)(2)(D).

² Sec. 62(a)(2)(D), (d)(3); Rev. Proc. 2025–32, 2025–45 I.R.B. 695.

³ Sec. 62(d)(1).

An itemized deduction, not limited to a prescribed dollar amount, is allowed for “educator expenses.”⁴ This itemized deduction for educator expenses is allowed to a broader class of individuals for a broader class of education expenses. This itemized deduction is allowed for interscholastic sports administrators and coaches as well as for teachers, instructors, counselors, principals, and aides. This itemized deduction is allowed both for expenses for which the above-the-line deduction is allowed and also for expenses paid or incurred (i) for nonathletic supplies for courses of instruction in health or physical education or (ii) in connection with books, supplies, equipment, and supplementary materials used as part of instructional activity, whether or not in the classroom.

An eligible educator who claims the maximum amount of the above-the-line deduction and who has additional expenses that are considered educator expenses may, if the individual elects to itemize deductions, claim an itemized deduction for these additional expenses.

REASONS FOR CHANGE

The Committee believes that it is appropriate for early childhood educators to be allowed the same expense deductions as are allowed to kindergarten through grade 12 educators.

EXPLANATION OF PROVISION

The bill broadens the present law definition of an eligible educator. Under the bill an eligible educator includes, in addition to the individuals within the present law definition, an early childhood teacher, instructor, counselor, principal, or aide in a school for at least 900 hours during a school year.

The bill broadens the present law definition of school. Under the bill, a school includes both elementary and secondary schools that are within the present law definition and also, in the case of early childhood education, a school or childcare facility that (1) provides educational or childcare services for more than two individuals (other than individuals who reside at the school or facility) who are below age six, and (2) operates at the public expense or receives a fee, payment, or grant for providing its services (regardless of whether the school or facility is operated for profit).

The bill makes a conforming amendment to the heading of Internal Revenue Code section 62(a)(2)(D) so that the heading reads, “CERTAIN EXPENSES OF EARLY CHILDHOOD, ELEMENTARY, AND SECONDARY SCHOOL TEACHERS.”

EFFECTIVE DATE

The bill is effective for expenses paid or incurred in taxable years beginning after December 31, 2025.

III. VOTE OF THE COMMITTEE

In compliance with the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means during the markup consideration of

⁴ Secs. 67(b)(13), (g), 162(a).

H.R. 5334, the “Supporting Early-childhood Educators’ Deductions Act of 2025” or the “SEED Act,” on March 25, 2026.

H.R. 5334 was ordered favorably reported to the House of Representatives as amended by a roll call vote of 43 yeas to 0 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Smith (MO)	X	.....	.....	Mr. Neal	X	.....	.....
Mr. Buchanan	X	.....	.....	Mr. Doggett	X	.....	.....
Mr. Smith (NE)	X	.....	.....	Mr. Thompson	X	.....	.....
Mr. Kelly	X	.....	.....	Mr. Larson	X	.....	.....
Mr. Schweikert	X	.....	.....	Mr. Davis	X	.....	.....
Mr. LaHood	X	.....	.....	Ms. Sánchez	X	.....	.....
Mr. Arrington	X	.....	.....	Ms. Sewell	X	.....	.....
Mr. Estes	X	.....	.....	Ms. DelBene	X	.....	.....
Mr. Smucker	X	.....	.....	Ms. Chu	X	.....	.....
Mr. Hern	X	.....	.....	Ms. Moore (WI)	X	.....	.....
Mrs. Miller (WV)	X	.....	.....	Mr. Boyle	X	.....	.....
Dr. Murphy	X	.....	.....	Mr. Beyer .....	.....	.....	.....
Mr. Kustoff	X	.....	.....	Mr. Evans	X	.....	.....
Mr. Fitzpatrick	X	.....	.....	Mr. Schneider	X	.....	.....
Mr. Steube	X	.....	.....	Mr. Panetta	X	.....	.....
Ms. Tenney	X	.....	.....	Mr. Gomez .....	.....	.....	.....
Mrs. Fischbach	X	.....	.....	Mr. Horsford	X	.....	.....
Mr. Moore (UT)	X	.....	.....	Ms. Plaskett	X	.....	.....
Ms. Van Duyne	X	.....	.....	Mr. Suozzi	X	.....	.....
Mr. Feenstra	X	.....	.....				
Ms. Malliotakis	X	.....	.....				
Mr. Carey	X	.....	.....				
Mr. Yakym	X	.....	.....				
Mr. Miller (OH)	X	.....	.....				
Mr. Bean	X	.....	.....				
Mr. Moran	X	.....	.....				

IV. BUDGET EFFECTS OF THE BILL

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

In compliance with clause 3(d) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the bill, H.R. 5334 as reported.

The staff of the Joint Committee on Taxation estimates that the bill as amended has the following effect on Federal fiscal year budget receipts:

FISCAL YEARS													
[Millions of dollars]													
2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2026–31	2026–36	
–6	–60	–62	–63	–63	–61	–61	–63	–69	–69	–70	–315	–648	

NOTE: Details may not add to totals due to rounding. The date of enactment is assumed to be April 30, 2026.

B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX EXPENDITURES BUDGET AUTHORITY

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill involves no new or increased budget authority.

C. COST ESTIMATE PREPARED BY THE CONGRESSIONAL
BUDGET OFFICE

In The Congressional Budget Act of 1974, as amended stipulates that revenue estimates provided by the staff of the Joint Committee on Taxation ("JCT") will be the official estimates for all tax legislation considered by Congress. As such CBO incorporates these estimates into its cost estimates of the effects of the legislation. The estimates for the revenue provisions of H.R. 5334, the "Supporting Early-childhood Educators' Deductions Act of 2025" or the "SEED Act," as reported were provided by JCT (see Part IV, A).

**V. OTHER MATTERS TO BE DISCUSSED UNDER THE
RULES OF THE HOUSE**

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee made findings and recommendations that are reflected in this report.

B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill does not authorize funding, so no statement of general performance goals and objectives is required.

C. APPLICABILITY OF HOUSE RULE XXI, CLAUSE 5(b)

Rule XXI 5(b) of the Rules of the House of Representatives provides, in part, that "A bill or joint resolution, amendment, or conference report carrying a Federal income tax rate increase may not be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting, a quorum being present." The Committee has carefully reviewed the bill, and states that the bill does not provide such a Federal income tax rate increase.

D. INFORMATION RELATING TO UNFUNDED MANDATES

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104-4).

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

E. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND
LIMITED TARIFF BENEFITS

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill, and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

F. DUPLICATION OF FEDERAL PROGRAMS

In compliance with clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the bill establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program; (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139; or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Pub. L. No. 95–220, as amended by Pub. L. No. 98–169).

G. TAX COMPLEXITY ANALYSIS

Section 4022(b) of the Internal Revenue Service Reform and Restructuring Act of 1998 (the “IRS Reform Act”) requires the staff of the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Treasury Department) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the Senate Committee on Finance, the House Committee on Ways and Means, or any committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code and has widespread applicability to individuals or small businesses.

The staff of the Joint Committee on Taxation has determined that there are no provisions that are of widespread applicability to individuals or small businesses.

VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

INTERNAL REVENUE CODE OF 1986

* * * * *

Subtitle A—Income Taxes

* * * * *

CHAPTER 1—NORMAL TAXES AND SURTAXES

* * * * *

Subchapter B—COMPUTATION OF TAXABLE INCOME

* * * * *

PART I—DEFINITION OF GROSS INCOME, ADJUSTED GROSS INCOME, TAXABLE INCOME, ETC.

* * * * *

SEC. 62. ADJUSTED GROSS INCOME DEFINED.

(a) GENERAL RULE.—For purposes of this subtitle, the term “adjusted gross income” means, in the case of an individual, gross income minus the following deductions:

(1) TRADE AND BUSINESS DEDUCTIONS.—The deductions allowed by this chapter (other than by part VII of this subchapter) which are attributable to a trade or business carried on by the taxpayer, if such trade or business does not consist of the performance of services by the taxpayer as an employee.

(2) CERTAIN TRADE AND BUSINESS DEDUCTIONS OF EMPLOYEES.—

(A) REIMBURSED EXPENSES OF EMPLOYEES.—The deductions allowed by part VI (section 161 and following) which consist of expenses paid or incurred by the taxpayer, in connection with the performance by him of services as an employee, under a reimbursement or other expense allowance arrangement with his employer. The fact that the reimbursement may be provided by a third party shall not be determinative of whether or not the preceding sentence applies.

(B) CERTAIN EXPENSES OF PERFORMING ARTISTS.—The deductions allowed by section 162 which consist of expenses paid or incurred by a qualified performing artist in connection with the performances by him of services in the performing arts as an employee.

(C) CERTAIN EXPENSES OF OFFICIALS.—The deductions allowed by section 162 which consist of expenses paid or incurred with respect to services performed by an official as an employee of a State or a political subdivision thereof in a position compensated in whole or in part on a fee basis.

(D) ~~CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS~~ *CERTAIN EXPENSES OF EARLY CHILDHOOD, ELEMENTARY, AND SECONDARY SCHOOL TEACHERS.*—The deductions allowed by section 162 which consist of expenses, not in excess of \$250, paid or incurred by an eligible educator—

(i) by reason of the participation of the educator in professional development courses related to the curriculum in which the educator provides instruction or to the students for which the educator provides instruction, and

(ii) in connection with books, supplies (other than nonathletic supplies for courses of instruction in health or physical education), computer equipment (including related software and services) and other equip-

ment, and supplementary materials used by the eligible educator in the classroom.

(E) CERTAIN EXPENSES OF MEMBERS OF RESERVE COMPONENTS OF THE ARMED FORCES OF THE UNITED STATES.—The deductions allowed by section 162 which consist of expenses, determined at a rate not in excess of the rates for travel expenses (including per diem in lieu of subsistence) authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, paid or incurred by the taxpayer in connection with the performance of services by such taxpayer as a member of a reserve component of the Armed Forces of the United States for any period during which such individual is more than 100 miles away from home in connection with such services.

(3) LOSSES FROM SALE OR EXCHANGE OF PROPERTY.—The deductions allowed by part VI (sec. 161 and following) as losses from the sale or exchange of property.

(4) DEDUCTIONS ATTRIBUTABLE TO RENTS AND ROYALTIES.—The deductions allowed by part VI (sec. 161 and following), by section 212 (relating to expenses for production of income), and by section 611 (relating to depletion) which are attributable to property held for the production of rents or royalties.

(5) CERTAIN DEDUCTIONS OF LIFE TENANTS AND INCOME BENEFICIARIES OF PROPERTY.—In the case of a life tenant of property, or an income beneficiary of property held in trust, or an heir, legatee, or devisee of an estate, the deduction for depreciation allowed by section 167 and the deduction allowed by section 611.

(6) PENSION, PROFIT-SHARING, AND ANNUITY PLANS OF SELF-EMPLOYED INDIVIDUALS.—In the case of an individual who is an employee within the meaning of section 401(c)(1), the deduction allowed by section 404.

(7) RETIREMENT SAVINGS.—The deduction allowed by section 219 (relating to deduction of certain retirement savings).

(9) PENALTIES FORFEITED BECAUSE OF PREMATURE WITHDRAWAL OF FUNDS FROM TIME SAVINGS ACCOUNTS OR DEPOSITS.—The deductions allowed by section 165 for losses incurred in any transaction entered into for profit, though not connected with a trade or business, to the extent that such losses include amounts forfeited to a bank, mutual savings bank, savings and loan association, building and loan association, cooperative bank or homestead association as a penalty for premature withdrawal of funds from a time savings account, certificate of deposit, or similar class of deposit.

(11) REFORESTATION EXPENSES.—The deduction allowed by section 194.

(12) CERTAIN REQUIRED REPAYMENTS OF SUPPLEMENTAL UNEMPLOYMENT COMPENSATION BENEFITS.—The deduction allowed by section 165 for the repayment to a trust described in paragraph (9) or (17) of section 501(c) of supplemental unemployment compensation benefits received from such trust if such repayment is required because of the receipt of trade readjustment allowances under section 231 or 232 of the Trade Act of 1974 (19 U.S.C. 2291 and 2292).

(13) JURY DUTY PAY REMITTED TO EMPLOYER.—Any deduction allowable under this chapter by reason of an individual remitting any portion of any jury pay to such individual's employer in exchange for payment by the employer of compensation for the period such individual was performing jury duty. For purposes of the preceding sentence, the term "jury pay" means any payment received by the individual for the discharge of jury duty.

(15) MOVING EXPENSES.—The deduction allowed by section 217.

(16) ARCHER MSAS.—The deduction allowed by section 220.

(17) INTEREST ON EDUCATION LOANS.—The deduction allowed by section 221.

(19) HEALTH SAVINGS ACCOUNTS.—The deduction allowed by section 223.

(20) COSTS INVOLVING DISCRIMINATION SUITS, ETC.—Any deduction allowable under this chapter for attorney fees and court costs paid by, or on behalf of, the taxpayer in connection with any action involving a claim of unlawful discrimination (as defined in subsection (e)) or a claim of a violation of subchapter III of chapter 37 of title 31, United States Code, or a claim made under section 1862(b)(3)(A) of the Social Security Act (42 U.S.C. 1395y(b)(3)(A)). The preceding sentence shall not apply to any deduction in excess of the amount includible in the taxpayer's gross income for the taxable year on account of a judgment or settlement (whether by suit or agreement and whether as lump sum or periodic payments) resulting from such claim.

(21) ATTORNEYS' FEES RELATING TO AWARDS TO WHISTLE-BLOWERS.—

(A) IN GENERAL.—Any deduction allowable under this chapter for attorney fees and court costs paid by, or on behalf of, the taxpayer in connection with any award under—

(i) section 7623(b), or

(ii) in the case of taxable years beginning after December 31, 2017, any action brought under—

(I) section 21F of the Securities Exchange Act of 1934 (15 U.S.C. 78u-6),

(II) a State false claims act, including a State false claims act with qui tam provisions, or

(III) section 23 of the Commodity Exchange Act (7 U.S.C. 26).

(B) MAY NOT EXCEED AWARD.—Subparagraph (A) shall not apply to any deduction in excess of the amount includible in the taxpayer's gross income for the taxable year on account of such award.

Nothing in this section shall permit the same item to be deducted more than once. Any deduction allowed by section 199A shall not be treated as a deduction described in any of the preceding paragraphs of this subsection.

(b) QUALIFIED PERFORMING ARTIST.—

(1) IN GENERAL.—For purposes of subsection (a)(2)(B), the term "qualified performing artist" means, with respect to any taxable year, any individual if—

(A) such individual performed services in the performing arts as an employee during the taxable year for at least 2 employers,

(B) the aggregate amount allowable as a deduction under section 162 in connection with the performance of such services exceeds 10 percent of such individual's gross income attributable to the performance of such services, and

(C) the adjusted gross income of such individual for the taxable year (determined without regard to subsection (a)(2)(B)) does not exceed \$16,000.

(2) **NOMINAL EMPLOYER NOT TAKEN INTO ACCOUNT.**—An individual shall not be treated as performing services in the performing arts as an employee for any employer during any taxable year unless the amount received by such individual from such employer for the performance of such services during the taxable year equals or exceeds \$200.

(3) **SPECIAL RULES FOR MARRIED COUPLES.**—

(A) **IN GENERAL.**—Except in the case of a husband and wife who lived apart at all times during the taxable year, if the taxpayer is married at the close of the taxable year, subsection (a)(2)(B) shall apply only if the taxpayer and his spouse file a joint return for the taxable year.

(B) **APPLICATION OF PARAGRAPH (1).**—In the case of a joint return—

(i) paragraph (1) (other than subparagraph (C) thereof) shall be applied separately with respect to each spouse, but

(ii) paragraph (1)(C) shall be applied with respect to their combined adjusted gross income.

(C) **DETERMINATION OF MARITAL STATUS.**—For purposes of this subsection, marital status shall be determined under section 7703(a).

(D) **JOINT RETURN.**—For purposes of this subsection, the term “joint return” means the joint return of a husband and wife made under section 6013.

(c) **CERTAIN ARRANGEMENTS NOT TREATED AS REIMBURSEMENT ARRANGEMENTS.**—For purposes of subsection (a)(2)(A), an arrangement shall in no event be treated as a reimbursement or other expense allowance arrangement if—

(1) such arrangement does not require the employee to substantiate the expenses covered by the arrangement to the person providing the reimbursement, or

(2) such arrangement provides the employee the right to retain any amount in excess of the substantiated expenses covered under the arrangement.

The substantiation requirements of the preceding sentence shall not apply to any expense to the extent that substantiation is not required under section 274(d) for such expense by reason of the regulations prescribed under the 2nd sentence thereof.

(d) **DEFINITION; SPECIAL RULES.**—

(1) **ELIGIBLE EDUCATOR.**—

(A) **IN GENERAL.**—For purposes of subsection (a)(2)(D), the term “eligible educator” means, with respect to any taxable year, an individual who is [a kindergarten through

grade 12 teacher] *an early childhood or kindergarten through grade 12 teacher*, instructor, counselor, principal, or aide in a school for at least 900 hours during a school year.

[(B) SCHOOL.—The term “school” means any school which provides elementary education or secondary education (kindergarten through grade 12), as determined under State law.]

(B) SCHOOL.—*The term “school” means—*

(i) in the case of early childhood education, any school or childcare facility which—

(I) provides educational or childcare services for more than 2 individuals (other than individuals who reside at the school or facility) who have not attained age 6, and

(II) operates at the public expense or receives a fee, payment, or grant for providing such services for any of the individuals (regardless of whether such school or facility is operated for profit), and

(ii) in the case of elementary education or secondary education (kindergarten through grade 12), any school which provides such education, as determined under State law.

(2) COORDINATION WITH EXCLUSIONS.—A deduction shall be allowed under subsection (a)(2)(D) for expenses only to the extent the amount of such expenses exceeds the amount excludable under section 135, 529(c)(1), or 530(d)(2) for the taxable year.

(3) INFLATION ADJUSTMENT.—In the case of any taxable year beginning after 2015, the \$250 amount in subsection (a)(2)(D) shall be increased by an amount equal to—

(A) such dollar amount, multiplied by

(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting “calendar year 2014” for “calendar year 2016” in subparagraph (A)(ii) thereof.

Any increase determined under the preceding sentence shall be rounded to the nearest multiple of \$50.

(e) UNLAWFUL DISCRIMINATION DEFINED.—For purposes of subsection (a)(20), the term “unlawful discrimination” means an act that is unlawful under any of the following:

(1) Section 302 of the Civil Rights Act of 1991 (42 U.S.C. 2000e–16b).

(2) Section 201, 202, 203, 204, 205, 206, 207, or 208 of the Congressional Accountability Act of 1995 (2 U.S.C. 1311, 1312, 1313, 1314, 1315, 1316, or 1317).

(3) The National Labor Relations Act (29 U.S.C. 151 et seq.).

(4) The Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

(5) Section 4 or 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623 or 633a).

(6) Section 501 or 504 of the Rehabilitation Act of 1973 (29 U.S.C. 791 or 794).

(7) Section 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1140).

(8) Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.).

(9) The Employee Polygraph Protection Act of 1988 (29 U.S.C. 2001 et seq.).

(10) The Worker Adjustment and Retraining Notification Act (29 U.S.C. 2102 et seq.).

(11) Section 105 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2615).

(12) Chapter 43 of title 38, United States Code (relating to employment and reemployment rights of members of the uniformed services).

(13) Section 1977, 1979, or 1980 of the Revised Statutes (42 U.S.C. 1981, 1983, or 1985).

(14) Section 703, 704, or 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2, 2000e-3, or 2000e-16).

(15) Section 804, 805, 806, 808, or 818 of the Fair Housing Act (42 U.S.C. 3604, 3605, 3606, 3608, or 3617).

(16) Section 102, 202, 302, or 503 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12112, 12132, 12182, or 12203).

(17) Any provision of Federal law (popularly known as whistleblower protection provisions) prohibiting the discharge of an employee, the discrimination against an employee, or any other form of retaliation or reprisal against an employee for asserting rights or taking other actions permitted under Federal law.

(18) Any provision of Federal, State, or local law, or common law claims permitted under Federal, State, or local law—

(i) providing for the enforcement of civil rights, or

(ii) regulating any aspect of the employment relationship, including claims for wages, compensation, or benefits, or prohibiting the discharge of an employee, the discrimination against an employee, or any other form of retaliation or reprisal against an employee for asserting rights or taking other actions permitted by law.

* * * * *

