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118TH CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPORT
118–130

SCHOOLS NOT SHELTERS ACT

JUNE 30, 2023.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Ms. FOXX, from the Committee on Education and the Workforce, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 3941]

[Including cost estimate of the Congressional Budget Office]

The Committee on Education and the Workforce, to whom was referred the bill (H.R. 3941) to prohibit the use of the facilities of a public elementary school, a public secondary school, or an institution of higher education to provide shelter for aliens who have not been admitted into the United States, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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 "Schools Not Shelters Act".

SEC. 2. PROHIBITION ON USE OF SCHOOL AND INSTITUTION FACILITIES TO SHELTER CERTAIN ALIENS.

(a) IN GENERAL.—As a condition on receipt of Federal financial assistance under any applicable program by a public elementary school, a public secondary school, or an institution of higher education, the facilities of the school or institution may not be used to provide shelter or housing for specified aliens.

(b) CONSTRUCTION.—Subsection (a) shall apply notwithstanding subparagraphs (B) and (D) of section 401(b)(1) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1611(b)(1)) and paragraphs (2) and (4) of section 411(b) of such Act (8 U.S.C. 1621(b)).

(c) DEFINITIONS.—For purposes of this Act:

(1) The term "applicable program" has the meaning given such term in section 400 of the General Education Provisions Act (20 U.S.C. 1221).

(2) The terms "elementary school" and "secondary school" have the meaning given such terms in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(3) The term "Federal financial assistance" has the meaning given such term in section 7501(a)(5) of title 31, United States Code.

(4) The term "institution of higher education"—

(A) has the meaning given such term in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002); and

(B) does not include an institution that is not located in a State.

(5) The term "shelter or housing"—

(A) means emergency shelter or housing provided exclusively to specified aliens under order of the Federal Government, a State, or a unit of local government; and

(B) does not include short-term emergency shelter made necessary by a specified disaster.

(6) The term "specified alien" means an alien (as defined in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a))) who has not been admitted (as so defined).

(7) The term "specified disaster" means—

(A) a fire on public or private forest land or grassland described in section 420 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5187); and

(B) any fire, flood, explosion, hurricane, tornado, storm, high water, winddriven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought for which a disaster declaration is made by the Federal Government or a State.

(8) The term "State" means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

PURPOSE

Educational facilities should be used for educating students, not housing illegal immigrants. Unfortunately, the Biden administration and certain government officials are abusing their power to bolster the illegal immigration agenda. On May 16, 2023, New York City Mayor Eric Adams announced plans to house asylum seekers in up to 20 current and former public schools with free-standing gyms.[1] On May 23, 2023, local news sources reported that New York Governor Kathy Hochul identified three State University of New York (SUNY) campuses—the University at Buffalo, Stony Brook University, and the University at Albany—for housing up to 1,500 migrants.[2] While community backlash ultimately put a stop to the housing of migrants in public K–12 schools in New York City, SUNY Chancellor John King confirmed the state university system's commitment to supporting Governor Hochul's plans to house migrants on college campuses. Housing illegal immigrants on school campuses poses a significant safety risk to school children, impedes students' access to the educational resources they need, and distracts schools and universities from their core mission of education. Therefore, H.R. 3941 sends a clear message from Congress that schools are for educating students, not supporting the Biden Administration's bad policies. The academic success and safety of America's students must be put first.

[1] https://abcnews.go.com/US/new-york-city-moving-migrants-school-gyms-mayor/story?id=99360087.

[2] https://www.ny1.com/nyc/all-boroughs/news/2023/05/23/suny-campuses-migrant-housing.

COMMITTEE ACTION

116TH CONGRESS

Second Session—Hearings

On December 4, 2019, the Committee on Education and Labor held a hearing on "Growing Up in Fear: How the Trump Administration's Immigration Policies Are Harming Children." The purpose of this hearing was to examine the effect of the Trump administration's immigration policies on children's development, children's access to education, and child nutrition programs. Testifying before the Committee were Mr. Mark H. Metcalf, County Attorney, Gerrard County, Kentucky; Dr. Gabriela Barajas-Gonzalez, Assistant Professor, Center for Early Childhood Health and Development, New York University School of Medicine; Dr. Olanrewaju (Lanre) Falusi, Associate Medical Director of Municipal and Regional Affairs at the Child Health Advocacy Institute; and Mr. Pedro Martinez, Superintendent, San Antonio Independent School District.

118TH CONGRESS

First Session—Hearings

On February 8, 2023, the Committee on Education and the Workforce held a hearing on "American Education in Crisis." The purpose of the hearing was to examine the state of American education, including restoring the rights of parents to have a say in their children's education, examining the need for transparency and accountability in education systems, and updating the education system to serve the needs of students and families. The hearing specifically referenced the effect of growing migrant populations on schools. Testifying before the Committee were Ms. Virginia Gentles, Director, Education Freedom Center, Independent Women's Forum, Arlington, Virginia; Dr. Monty Sullivan, President, Louisiana Community and Technical College System, Baton Rouge, Louisiana; Mr. Scott Pulsipher, President, Western Governors University, Salt Lake City, Utah; and Mr. Jared Polis, Governor, State of Colorado, Denver, Colorado.

On May 16, 2023, the Committee on Education and the Workforce held a hearing on "Examining the Policies and Priorities of the U.S. Department of Education." The purpose of the hearing was to review the Fiscal Year 2024 budget priorities of the U.S. Department of Education. The hearing specifically referenced the importance of school safety and ensuring that all students have access to the educational resources they need. Testifying before the Committee was The Honorable Miguel Cardona, Secretary, U.S. Department of Education, Washington, D.C.

Legislative Action

On June 1, 2023, Rep. Mariannette Miller-Meeks (R–IA) introduced H. Res. 461, *Condemning the use of elementary and secondary school facilities to provide shelter for aliens who are not admitted to the United States*, with Rep. Brandon Williams (R–NY) as an original co-sponsor. On June 6, 2023, the Committee considered H. Res. 461 in legislative session and reported it favorably, as amended, to the House of Representatives by a vote of 22 to 16.

The Committee adopted an amendment that expresses the sense of Congress that public schools that shelter, house, or otherwise serve as sanctuaries for aliens not admitted to the United States should not receive federal financial assistance.

On June 9, 2023, Rep. Marcus Molinaro (R–NY) introduced H.R. 3941, the *Schools Not Shelters Act*, with Rep. Williams, Rep. Anthony D'Esposito (R–NY), Rep. Nicholas Langworthy (R–NY), and Rep. Michael Lawler (R–NY) as original co-sponsors. On June 13, 2023, the Committee considered H.R. 3941 in legislative session and reported it favorably, as amended, to the House of Representatives by a vote of 20 to 16. The Committee adopted the following amendments to H.R. 3941:

1. Substitute Amendment—This substitute amendment made one technical change to the section 2 heading by adding "and Institution" after "School."

COMMITTEE VIEWS

INTRODUCTION

Educational facilities should be used for educating students, not housing illegal immigrants. Unfortunately, the Biden administration and certain government officials are abusing their power to bolster the illegal immigration agenda. On May 16, 2023, New York City Mayor Eric Adams announced plans to house asylum seekers in up to 20 current and former public schools with free standing gyms.[3] On May 23, 2023, local news sources reported that New York Governor Kathy Hochul identified three SUNY campuses for housing up to 1,500 migrants.[4] While community backlash ultimately put a stop to the housing of migrants in public K–12 schools in New York City, SUNY Chancellor John King confirmed the state university system's commitment to supporting Governor Hochul's plans to house migrants on college campuses. Housing illegal immigrants on school campuses poses a significant safety risk to school children, impedes students' access to the educational resources they need, and distracts schools and universities from their core mission of education.

Cities are facing an illegal immigration crisis

The influx of migrants is not only felt by border states. Since the Biden administration relaxed immigration policies, cities like New York have seen a surge in migrants. A total of 65,000 asylum seekers came to the city last spring, in addition to as many as 4,500 during one week in May.[5] Staff for New York City Mayor Eric Adams admitted that only a small fraction of migrants have filed for asylum, which means that most of these individuals are prohibited from finding legal work to support themselves. Without the means to work, these migrants are less likely to be able to move out of government-supported housing.[6]

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[3] https://abcnews.go.com/US/new-york-city-moving-migrants-school-gyms-mayor/story?id=99360087.

[4] https://www.ny1.com/nyc/all-boroughs/news/2023/05/23/suny-campuses-migrant-housing.

[5] https://www.cnn.com/2023/05/17/us/new-york-orange-county-migrant-restraining-order/index.html.

[6] https://pix11.com/news/local-news/most-nyc-migrants-have-not-applied-for-asylum-mayor-adams-office/.

The migrant surge comes at a cost and drains other resources. Chicago has received 9,000 migrants since August, with many sleeping on the floors of a city police station.[7] In Denver, newly arrived migrants are being turned away from overfull shelters.[8] As of mid-May, New York City was housing 36,700 migrants across 120 locations, spending $5 million *per day* by one estimate.[9] Increased costs pile on as cities run out of set-aside shelter space and are forced to turn to non-traditional, scarce, or the limited affordable options to house illegal immigrants. One estimate reports that 40 percent of New York City's "mid-level hotel stock" is now being used for migrant housing.[10]

As government leaders exhaust traditional resources for migrants, public schools and universities have wrongly been seen as a default option to house migrants. Even as New York City Mayor Adams made the announcement to house illegal immigrants on the property of schools, local news reported that the first of 300 expected migrants had arrived at a former public school on Staten Island.[11] Adult illegal immigrants were being housed at Public School (P.S.) 188 in Brooklyn [12] and another group of illegal immigrants were brought to a gym at P.S. 17 in Williamsburg.[13] In Chicago, local leadership is reportedly considering housing hundreds of illegal immigrants in a shuttered high school.[14]

Since the housing of migrants became more public, communities have pushed back and have been successful at reversing plans to use public K–12 schools as a housing center for migrants.[15] However, it appears that plans are still ongoing to house illegal immigrants in universities across the country in dorms, including dorms on at least three SUNY campuses in New York.[16] In Chicago, about 400 migrants are being housed at Wilbur Wright College and another 400 migrants at Daley College from June 1 through August 1.[17]

Placing migrants in schools and on campuses brings an unnecessary problem to the steps of educational facilities that administrators simply are not equipped to handle—nor should they have to. In addition, these actions perpetuate the belief that the Biden administration's open border policies are normal—but housing the surge of migrants in educational facilities should not become the standard just because the federal government has seen fit to create an immigration crisis.

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[7] https://www.cnn.com/2023/05/17/us/new-york-orange-county-migrant-restraining-order/index.html.

[8] https://apnews.com/article/migrants-asylum-new-york-eric-adams-schools-2c61324054e55b0532c48996794cc30a.

[9] https://nypost.com/2023/03/03/bidens-migrant-mess-costing-new-york-city-5-million-a-day/.

[10] https://abcnews.go.com/US/new-york-city-moving-migrants-school-gyms-mayor/story?id=99360087; https://www.nytimes.com/2023/05/18/nyregion/migrant-housing-shelters-nyc.html.

[11] https://nypost.com/2023/05/13/ex-staten-island-school-to-house-migrants-as-locals-fume/?utm_medium=social&utm_campaign= nypost&utm_source=twitter.

[12] https://www.cbsnews.com/amp/newyork/news/sources-nyc-now-housing-asylum-seekers-at-school-gym-in-brooklyn/.

[13] https://www.cnn.com/2023/05/17/us/new-york-orange-county-migrant-restraining-order/index.html.

[14] https://nypost.com/2023/05/12/chicago-residents-shred-politicians-over-plans-to-house-illegal-immigrants-at-high-school/.

[15] https://www.thecity.nyc/2023/5/17/23727079/migrants-exit-brooklyn-school-gyms-eric-adams.

[16] https://www.ny1.com/nyc/all-boroughs/news/2023/05/23/suny-campuses-migrant-housing.

[17] https://www.cbsnews.com/chicago/news/wright-college-migrants/; https://wgntv.com/news/chicago-news/hundreds-of-migrants-moved-to-daley-college-amid-housing-crisis/.

The Biden administration's border policies cannot be sustained

As the expiration of Title 42 neared in mid-May, Americans saw unauthorized entries of migrants soar to the height of 10,000 per day,[18] and that was after Biden administration policies had already led to years of increased illegal immigration. In the first four months of the Biden administration, encounters at the Southwest boarder alone increased by 100,000.[19] The migrant demographics have also changed dramatically: in April 2023, two-thirds of total encounters at the Southwest boarder were single adults, and April had more terrorist watchlist apprehensions than in all the years of the Trump administration combined. Customs and Border Protection (CBP) has arrested 17,533 individuals with criminal convictions and apprehended 377 known gang members since the beginning of FY 2023.[20] Since President Biden has been in office, there have been over 5 million encounters at the Southwest border, in addition to nearly 1.5 million known circumstances when an illegal immigrant fled and was not captured by U.S. Border Patrol agents.[21]

The Biden administration's failure to secure the border has myriad detrimental effects. Our unsecure border is draining resources and stretching law enforcements capabilities beyond their means. The administration can no longer avoid the disastrous consequences of its failed border policies for communities across the country.

Education must be a priority, not failed Democrat policies

Housing illegal immigrants in schools distracts schools and colleges from their core mission of educating students. Additional persons on a campus automatically heighten safety risks for students, compromise a school's ability to secure its own campus, limit children's areas for recreation, and place unnecessary responsibility on administrators and educators to readjust the regular patterns of a school day. As students recover from devastating pandemic school closures, the last thing they need is to be distracted and perhaps endangered by migrants living in their schools.

At the university level, resources are equally limited, and campuses are open year-round. During the ongoing push from New York government officials, institutions like Fordham, Pace University, and New York University all said their dorms were full for the summer.[22] Even smaller institutions, including campuses within the University of Maine system, are reportedly considering housing migrants but would need to spend millions to renovate unused facilities to do so.[23] At the most basic level, housing migrants would require additional electricity, water, security services, technology services, and transportation. For public universities, the costs to house migrants on campuses would be borne by the taxpayers, but for private institutions costs must come from university reserves or be passed on to students through tuition increases. Either way, this

[18] https://www.cbsnews.com/news/immigration-title-42-border-crossings-drop-migrants/.
[19] https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters.
[20] https://homeland.house.gov/media/2023/05/Homeland-Startling-Stats-April.pdf.
[21] *Ibid*.
[22] https://www.insidehighered.com/news/government/colleges-localities/2023/05/30/housing-migrants-college-dorms.
[23] https://www.insidehighered.com/news/government/colleges-localities/2023/05/30/housing-migrants-college-dorms.

proposed solution to the Biden administration's immigration problem hurts American students and citizens.

This influx of illegal immigrants has numerous immediate impacts on schools. Public elementary and secondary educators cannot be distracted from ensuring students receive a full education. Colleges and universities must efficiently maintain campuses strictly for the purposes of educating the workforce at low costs, and they should not be diverted from that mission by the actions of separate government officials.

CONCLUSION

Educating the next generation should be a priority. Students and education leaders should not be forced to sacrifice access to educational facilities at the whim of those who would rather prioritize illegal immigration. It is time to send a message that schools should be used for educating children, not sheltering adults who chose to enter the country illegally. This legislation would rightfully prohibit the misuse of educational facilities to shelter or house migrants.

SUMMARY

H.R. 3941 SECTION-BY-SECTION SUMMARY

• As a condition on receipt of federal financial assistance, a public elementary school, a public secondary school, or an institution of higher education may not use the school or institution's facilities to provide shelter or housing for specified aliens. The term "shelter or housing" means emergency shelter or housing provided exclusively to unadmitted aliens under order of the federal government or a state or local government and does not include short-term emergency shelter made necessary by a specified disaster, as defined.

EXPLANATION OF AMENDMENTS

The amendments, including the amendment in the nature of a substitute, are explained in the body of this report.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch. The Committee finds that H.R. 3941, as amended, does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act, P.L. 104–4) requires a statement of whether the provisions of the reported bill include unfunded mandates. Because the legislation is a House resolution merely expressing the sense of the House of Representatives, it requires no action so it does not include any unfunded mandates.

EARMARK STATEMENT

H.R. 3941 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of House Rule XXI.

ROLL CALL VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee Report to include for each record vote on a motion to report the measure or matter and on any amendments offered to the measure or matter the total number of votes for and against and the names of the Members voting for and against.

Date: 6/13/23

COMMITTEE ON EDUCATION AND THE WORKFORCE RECORD OF COMMITTEE VOTE

Roll Call: 3 Bill: H.R. 3941 Amendment Number: 2

Disposition: Defeated 16-19

Sponsor/Amendment: Takano_DAMD_012

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mrs. FOXX (NC) (Chairwoman)		X		Mr. SCOTT (VA) (Ranking)	X		
Mr. WILSON (SC)			X	Mr. GRIJALVA (AZ)	X		
Mr. THOMPSON (PA)		X		Mr. COURTNEY (CT)	X		
Mr. WALBERG (MI)		X		Mr. SABLAN (MP)	X		
Mr. GROTHMAN (WI)		X		Ms. WILSON (FL)			X
Ms. STEFANIK (NY)		X		Ms. BONAMICI (OR)	X		
Mr. ALLEN (GA)			X	Mr. TAKANO (CA)	X		
Mr. BANKS (IN)		X		Ms. ADAMS (NC)	X		
Mr. COMER (KY)		X		Mr. DESAULNIER (CA)	X		
Mr. SMUCKER (PA)			X	Mr. NORCROSS (NJ)			X
Mr. OWENS (UT)		X		Ms. JAYAPAL (WA)	X		
Mr. GOOD (VA)		X		Ms. WILD (PA)	X		
Mrs. MCCLAIN (MI)		X		Mrs. MCBATH (GA)	X		
Mrs. MILLER (IL)		X		Mrs. HAYES (CT)	X		
Mrs. STEEL (CA)			X	Ms. OMAR (MN)			X
Mr. ESTES (KS)			X	Ms. STEVENS (MI)	X		
Ms. LETLOW (LA)		X		Ms. LEGER FERNÁNDEZ (NM)	X		
Mr. KILEY (CA)		X		Ms. MANNING (NC)			X
Mr. BEAN (FL)		X		Mr. MRVAN (IN)	X		
Mr. BURLISON (MO)		X		Mr. BOWMAN (NY)	X		
Mr. MORAN (TX)			X				
Mr. JAMES (MI)		X					
Ms. CHAVEZ-DEREMER (OR)		X					
Mr. WILLIAMS (NY)		X					
Ms. HOUCHIN (IN)		X					

TOTALS: Ayes: 16 Nos: 19 Not Voting:

Total: 45 / Quorum: 35 / Report:

(25 R - 20 D)

Date: 6/13/23

COMMITTEE ON EDUCATION AND THE WORKFORCE RECORD OF COMMITTEE VOTE

Roll Call: 4 Bill: H.R. 3941 Amendment Number: N/A

Disposition: Adopted 20-16

Sponsor/Amendment: Motion to Report

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mrs. FOXX (NC) (Chairwoman)	X			Mr. SCOTT (VA) (Ranking)		X	
Mr. WILSON (SC)			X	Mr. GRIJALVA (AZ)		X	
Mr. THOMPSON (PA)	X			Mr. COURTNEY (CT)		X	
Mr. WALBERG (MI)	X			Mr. SABLAN (MP)		X	
Mr. GROTHMAN (WI)	X			Ms. WILSON (FL)			X
Ms. STEFANIK (NY)	X			Ms. BONAMICI (OR)		X	
Mr. ALLEN (GA)	X			Mr. TAKANO (CA)		X	
Mr. BANKS (IN)	X			Ms. ADAMS (NC)		X	
Mr. COMER (KY)	X			Mr. DESAULNIER (CA)		X	
Mr. SMUCKER (PA)			X	Mr. NORCROSS (NJ)			X
Mr. OWENS (UT)	X			Ms. JAYAPAL (WA)		X	
Mr. GOOD (VA)	X			Ms. WILD (PA)		X	
Mrs. MCCLAIN (MI)	X			Mrs. MCBATH (GA)		X	
Mrs. MILLER (IL)	X			Mrs. HAYES (CT)		X	
Mrs. STEEL (CA)			X	Ms. OMAR (MN)			X
Mr. ESTES (KS)			X	Ms. STEVENS (MI)		X	
Ms. LETLOW (LA)	X			Ms. LEGER FERNÁNDEZ (NM)		X	
Mr. KILEY (CA)	X			Ms. MANNING (NC)			X
Mr. BEAN (FL)	X			Mr. MRVAN (IN)		X	
Mr. BURLISON (MO)	X			Mr. BOWMAN (NY)		X	
Mr. MORAN (TX)			X				
Mr. JAMES (MI)	X						
Ms. CHAVEZ-DEREMER (OR)	X						
Mr. WILLIAMS (NY)	X						
Ms. HOUCHIN (IN)	X						

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause (3)(c) of House Rule XIII, the goal of H.R. 3941 is to send a clear message from Congress that schools are for educating students, not supporting the Biden Administration's bad policies, and the academic success and safety of America's students must be put first.

DUPLICATION OF FEDERAL PROGRAMS

No provision of H.R. 3941 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the committee's oversight findings and recommendations are reflected in the body of this report.

REQUIRED COMMITTEE HEARING AND RELATED HEARINGS

In compliance with clause 3(c)(6) of rule XIII the following hearings held during the 118th Congress were used to develop or consider H.R. 3941: On February 8, 2023, the Committee held a hearing on "American Education in Crisis" and on May 16, 2023, the Committee held a hearing on "Examining the Policies and Priorities of the U.S. Department of Education."

NEW BUDGET AUTHORITY AND CBO COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, a cost estimate is included.

H.R. 3941, Schools Not Shelters Act

As ordered reported by the House Committee on Education and the Workforce on June 13, 2023

By Fiscal Year, Millions of Dollars	2023	2023-2028	2023-2033
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	0	0	not estimated

Increases *net direct spending* in any of the four consecutive 10-year periods beginning in 2034?	No	Statutory pay-as-you-go procedures apply?	No
		Mandate Effects	
Increases *on-budget deficits* in any of the four consecutive 10-year periods beginning in 2034?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

H.R. 3941 would prohibit public elementary and secondary schools and institutions of higher education that receive federal funding from the Department of Education from using their facilities to shelter or house aliens (foreign nationals) who have not been admitted into the United States. (Aliens who are paroled into the country, or who enter after being issued a Notice to Appear, have not been admitted.)

The bill would primarily affect title I programs under the Elementary and Secondary Education Act of 1965, which provide funds for school districts with a high percentage of students from low-income households; programs under the Individuals with Disabilities Education Act, which provide funding for special education; federal student loans; and Pell Grants.

CBO expects that those schools and institutions would comply with the requirements of the bill to remain eligible for federal aid. As a result, CBO estimates the bill would have no effect on federal spending. If schools or institutions choose not to comply with the requirement in the bill, spending on the affected programs would decline, but CBO has no basis to estimate the magnitude of that reduction.

The CBO staff contact for this estimate is Garrett Quenneville. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

COMMITTEE COST ESTIMATE

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison of the costs that would be incurred in carrying out H.R. 3941. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when, as with the present report, the committee adopts as its own the cost estimate of the bill being prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

As reported by the Committee, H.R. 3941 makes no changes in existing law.

MINORITY VIEWS

INTRODUCTION

H.R. 3941, the *Schools Not Shelters Act*, would require the forfeiture of federal funds, if a public elementary school, public secondary school, or institution of higher education is used for emergency shelter for "aliens not admitted to the United States", except in weather or fire related emergencies.[1] The Majority claims that this bill is needed because "[s]choolchildren are at risk of losing precious resources, or worse, at risk of physically being put in harm's way if we do not pass this bill."[2] However, this bill does nothing to protect resources for students and schools or address physical safety.

THE U.S. HAS A LONG HISTORY OF USING SCHOOLS AS SHELTERS

K–12 schools have long been used to shelter people. The Federal Emergency Management Agency (FEMA) of the U.S. Department of Homeland Security includes schools among other locations, such as houses of worship and community centers, as an option for a congregate shelter.[3] For example, schools constituted 22% of shelters after Hurricane Katrina.[4]

Weather related emergencies are not the only reason localities use schools as shelters. Just six months ago, Chicago, Illinois, planned to use a school as a temporary shelter for about 100 migrants,[5] and El Paso, Texas, prepared vacant schools to shelter migrants.[6] Last month, New York City began "considering gymnasiums that are physically separated from the rest of the building"[7] as emergency shelters for migrants due to lack of other

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[1] Schools Not Shelters Act, H.R. 3941, 118th Cong. (2023).

[2] Press Release, H. Comm. on Educ. & the Workforce, @EdWorkforceCmte Pass Bills to Bolster Telehealth and Preserve Education (June 13, 2023), https://edworkforce.house.gov/news/documentsingle.aspx?DocumentID=409269.

[3] U.S. Dep't of Homeland Sec., Planning Considerations: Disaster Housing—Guidance for State, Local, Tribal and Territorial Partners at 8 (May 2020), https://www.fema.gov/sites/default/files/2020-07/planning-considerations-disaster-housing.pdf.

[4] Stacey R. Brown, Jonathan C. Comer, and Thomas A. Wikle, The Locations of Temporary Shelters After Hurricane Katrina, ResearchGate (Apr. 2007), https://www.researchgate.net/profile/Thomas-Wikle/publication/340610775_THE_LOCATIONS_OF_TEMPORARY_SHELTERS_AFTER_HURRICANE_KATRINA/_links/5e95012392851c2f529f364e/THE-LOCATIONS-OF-TEMPORARY-SHELTERS-AFTER-HURRICANE-KATRINA.pdf.

[5] Chicago school to be used as temporary shelter for migrants, mayor's office confirms, *ABC7 Chicago* (Dec. 29, 2022), https://abc7chicago.com/migrants-chicago-public-schools-mayor-lori-lightfoot-wadsworth-elementary-school/12629140/.

[6] Fallon Fischer and Nasya Mancini, El Paso Convention Center, 2 vacant schools will be used as migrant shelters, city says, *KFOX14* (Dec. 20, 2022, 9:58 pm EST), https://kfoxtv.com/news/local/el-paso-convention-center-2-vacant-schools-will-be-used-as-migrant-shelters-city-says-bassett-middle-school-morehead-middle-school-immigration-december-20-2022-title-42.

[7] Alex Zimmerman and Amy Zimmer, Housing migrants in school gyms: What we know (and don't) about NYC's shelter plans, *Chalkbeat N.Y.* (May 16, 2023, 4:56 pm EDT), https://ny.chalkbeat.org/2023/5/16/23726093/nyc-school-gyms-emergency-shelter-asylum-migrants.

space.[8] According to the Council of the Great City Schools, "[i]n recent years, the nation's urban public schools have opened their doors to families from Afghanistan, Ukraine, Cuba, Haiti, Guatemala, Vietnam, Sudan, and many other countries as they were seeking refuge, freedom, and a better tomorrow."[9]

H.R. 3941 only prohibits the emergency sheltering provided exclusively to one targeted group—undocumented immigrants. The bill's prohibition does not include using school facilities for a short-term emergency resulting from a disaster when a disaster declaration has been made by a state or the federal government; rather, the bill makes an exception for sheltering individuals from natural disasters, such as hurricanes. The bill targets only emergency shelter for undocumented immigrants, and not other groups, and incredibly not even non-emergency shelter or potentially long-term shelter of undocumented immigrants.

Committee Republicans trumpet the Biden Administration's so-called failed border security policy for the challenges facing our students and schools. Immigration policy is not within this Committee's jurisdiction. If the issue is truly about people being sheltered in schools, then the bill would not need to single out undocumented immigrants and would prohibit the use of schools as shelters in all instances.

H.R. 3941 Politicizes Public Schools While Doing Nothing to Improve Education

In the few hearings that Committee Republicans chose to address education this Congress, they did not receive any testimony on the issue of the use of schools as emergency shelters. Instead, Committee Republicans have squandered their time targeting social and culture war topics, such as attacking the teaching of accurate and factual history, the banning of books, and the participation of LBGTQ+ students in sports. Similarly, Committee Republicans are now targeting immigrants and the use of schools as emergency shelters rather than focusing on legislation that will actually help students and schools.

H.R. 3941 penalizes schools and students for temporary actions taken by a locality in an emergency by denying federal funding to schools that are used as emergency shelters for undocumented immigrants. For example, this prohibition would prevent public schools—and thus students at those schools—from receiving any federal funding under the *Elementary and Secondary Education Act of 1965* (ESEA), as amended by the *Every Student Succeeds Act* (ESSA).[10] This includes critical Title I, Part A support to LEAs, which provides funding for low-achieving and other students attending schools with a relatively high concentration of children from low-income families; this funding "serves an estimated 25 million students in nearly 90 percent of school districts and nearly 60

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[8] Hurubie Meko, New York City Plans to House Migrant Families in Public School Gymnasium, *N.Y. Times* (May 12, 2023, updated May 16, 2023), https://www.nytimes.com/2023/05/12/nyregion/ny-migrants-public-school-gym.html.

[9] Letter from Raymond Hart, Executive Director, Council of the Great City Schools, to Chair Virginia Foxx and Ranking Member Bobby Scott, H. Comm. on Educ. & the Workforce (June 12, 2023), https://www.cgcs.org/cms/lib/DC00001581/Centricity/domain/35/publication%20docs/CGCS%20Schools%20 Not%20Shelters%20Act.pdf.

[10] 20 U.S.C. § 6301 *et seq.* (2015).

percent of all public schools."[11] The bill would also withhold funding for migratory students; neglected, delinquent, and at-risk children and youth; teacher training and professional development; family engagement; school safety activities; rural education; Impact Aid; and many more vital programs under ESEA. The bill would also withhold funding for migratory students; neglected, delinquent, and at-risk children and youth; teacher training and professional development; family engagement; school safety activities; rural education; Impact Aid; and many more vital programs under ESEA. The bill would also deny schools much needed funds under the Bipartisan Safer Communities Act (BSCA),[12] which provides funding to help schools create safe and healthy school environments and increase the number of school-based mental health professionals.

Committee Republicans allege that students have already been affected by learning loss and should not, therefore, have to tolerate the distraction of migrants' presence in schools. But withholding education funding, which this bill threatens to do, is detrimental to students and schools. Denying federal funding would cause more learning loss, more disruption, and jeopardize multiple school needs including access to mental health supports. In contrast, congressional Democrats have provided significant assistance to schools in addressing learning loss, including providing resources through the Elementary and Secondary School Emergency Relief (ESSER) Fund, including $122 billion from the *American Rescue Plan Act of 2021*,[13] a bill that all House Republicans opposed.

Committee Republicans claim that the use of schools as shelters will compromise the safety of enrolled students, but they are ignoring what is truly endangering our students. According to the Kaiser Family Foundation, guns are the leading cause of death among children and teens.[14] Any conversation about school safety that does not address gun violence is not a serious one. Moreover, there is no evidence that migrants are more dangerous than citizens or nationals of the United States. Furthermore, the Republicans chose not to include other groups of people who might be more problematic than "aliens not admitted to the United States", such as those on bail awaiting trial or convicted individuals on work release.[15] Apparently there would be no penalty for providing emergency shelter to those individuals.

H.R. 3941 Threatens to Remove Vital Funding From Institutions of Higher Education

Recently, some local, state, and federal policymakers have suggested the use of institutions of higher education to provide shelter

[11] U.S. Dep't of Educ., Education for the Disadvantaged—Fiscal Year 2024 Budget Request at 13 (2023), https://www2.ed.gov/about/overview/budget/budget24/justifications/a-ed.pdf.
[12] Bipartisan Safer Communities Act, Pub. L. No. 117–159 (2022).
[13] American Rescue Plan Act of 2021, Pub. L. No. 117–2 (2021).
[14] Matt McGough, Krutika Amin, Nirmita Panchal, and Cynthia Cox, Child and Teen Firearm Mortality in the U.S. and Peer Countries, *Kaiser Fam. Found.* (July 8, 2022), https://www.kff.org/global-health-policy/issue-brief/child-and-teen-firearm-mortality-in-the-u-s-and-peer-countries/.
[15] *See* Fola Akinnibi, GOP Seizes on Bail Reform as Weapon to Base Democrats on Crime, *Bloomberg* (Nov. 4, 2022), https://www.bloomberg.com/news/articles/2022-11-04/gop-seizes-on-bail-reform-as-weapon-to-bash-democrats-on-crime.

for undocumented immigrants and asylum seekers.[16] Specifically, residence halls, which are sometimes utilized at a lower rate during the summer, have been proposed as an ideal place to shelter migrants with relative ease. While there may be some local debate about using college campuses,[17] sheltering migrants in residence halls does not currently appear to be a common practice. It is likely not an option when students are on campus for fall and spring semesters and utilizing the on-campus housing. Additionally, institutions may use their residence halls in the summer to house participants of external programs.

There is, however, a history of at least one university system doing so. The State University of New York system temporarily housed refugees from Afghanistan in 2021 and 2022, providing significant and urgent support to those refugees.[18] Additionally, there is some interest by colleges across the country to explore the use of their campuses for shelter as a low-cost, convenient option for localities. For example, the City College of Chicago recently announced one of their campuses would provide transitional housing to migrants.[19] Institutional and local leaders, not the federal government, are well-equipped to determine whether the use of residence halls supports local needs regarding support for migrants, while balancing the needs of students.

H.R. 3941 would take these decisions away from institutional and local leaders and prohibit institutions who shelter migrants from receiving federal funding. Most alarmingly, this means students attending these institutions would not receive any federal student aid under Title IV of the *Higher Education Act* (HEA), which includes Pell Grants, Federal Work-Study, Federal Supplemental Educational Opportunities Grants, and Direct Loans.[20] These aid programs are essential to college access for low- and middle-income students. According to the College Board, federal student aid accounted for 40 percent of total financial aid for undergraduate students and 65 percent for graduate students in the 2021–2022 academic year.[21] As a result, this bill would eliminate educational opportunities for many students. In addition to Title IV aid, institutions would be prohibited from receiving aid that supports Historically Black Colleges and Universities, Tribal Colleges

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[16] Letter from Reps. Bowman and Goldman to John King, Felix Matos Rodriguez, Andrew Hamilton, and the National Association of Independent Colleges and Universities (May 22, 2023), https://goldman.house.gov/sites/evo-subsites/goldman.house.gov/files/evo-media-document/ny-delegation-letter-to-universities-supporting-migrant-families.pdf; Johanna Alonso, Housing Migrants in College Dorms? *Inside Higher Ed* (May 30, 2023), https://www.insidehighered.com/news/government/colleges-localities/2023/05/30/housing-migrants-college-dorms.

[17] Chris Tye, Tensions flare over plan to house migrants at Chicago's Wilbur Wright College, *CBS News Chicago* (May 23, 2023), https://www.cbsnews.com/chicago/news/wright-college-migrants-meeting/.

[18] Ryan Whalen, WNY has experience placing migrants on SUNY campuses, *Spectrum Local News* (May 18, 2023), https://spectrumlocalnews.com/nys/buffalo/politics/2023/05/18/wny-has-experience-placing-migrants-on-suny-campuses.

[19] Sarah Schulte, Chicago migrants out of police stations, into transitional housing at local colleges, *ABC News Chicago* (June 5, 2023), https://abc7chicago.com/chicago-migrants-daley-college-wright-how-to-help/13348386/.

[20] 20 U.S.C. §§ 1070a, 1070b–1070b–4, 1087–51–1087j.

[21] College Board, Trends in Student Aid, 34–35 (2022), https://research.collegeboard.org/media/pdf/trends-in-college-pricing-student-aid-2022.pdf.

and Universities, and Minority Serving Institutions[22] as well as aid that supports teacher preparation, training, and recruitment.[23]

DEMOCRATIC AMENDMENTS OFFERED DURING MARKUP OF H.R. 3941

Committee Democrats put forward one amendment to H.R. 3941. Offered by Rep. Mark Takano (D–CA–39), the amendment would have added language to the bill to affirm the U.S. Supreme Court's decision in *Plyler v. Doe*, which ruled that the Equal Protection Clause prohibits states from denying free public education to children based on their immigration status. Committee Republicans rejected the amendment.

Amendment	Offered By	Description	Action Taken
#2	Mr. Takano	To add language to the bill to affirm the decision in *Plyler v. Doe*, which ruled that the Equal Protection Clause prohibits states from denying free public education to children based on their immigration status.	Defeated

CONCLUSION

H.R. 3941 is inflammatory, provocative, and uninformed, and at the end of the day, pointless. Consideration of this bill followed the Committee's markup of H. Res. 461, a resolution that "condemns the use of the facilities of a public elementary or secondary school that serves students to provide shelter for aliens (sic) who are not admitted to the United States."[24] Both H.R. 3941 and H. Res. 461 provided the Majority the opportunity to discuss immigration policy, which is outside the jurisdiction of this Committee, and try to demonstrate they care about school safety despite their unwillingness to address the issue we know is causing school violence (guns).

In short, H.R. 3941 politicizes public elementary and secondary schools and institutions of higher education, while doing nothing to improve education and actively harming schools and students by withholding critical federal education funding. Instead of spending the Committee's time on meaningful legislation within our jurisdiction to supports student and schools, we frittered away our time on a vitriolic proposal.

For the reasons stated above, Committee Democrats unanimously opposed H.R. 3941 when the Committee on Education and the Workforce considered it on June 13, 2023. We urge the House of Representatives to do the same.

ROBERT C. "BOBBY" SCOTT,
Ranking Member.
JOE COURTNEY.
GREGORIO KILILI CAMACHO SABLAN.
SUZANNE BONAMICI.
MARK TAKANO.
MARK DESAULNIER.

[22] 20 U.S.C. §§ 1051–1068h, 1101–1103g.
[23] 20 U.S.C. §§ 1021–1041.
[24] Condemning the use of elementary and secondary school facilities to provide shelter for aliens who are not admitted to the United States, H. Res. 461, 118th Cong. (2023).

JAHANA HAYES.
HALEY M. STEVENS.

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