

CONDEMNING THE USE OF ELEMENTARY AND SECONDARY SCHOOL FACILITIES TO PROVIDE SHELTER FOR ALIENS WHO ARE NOT ADMITTED TO THE UNITED STATES

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JUNE 14, 2023.—Referred to the House Calendar and ordered to be printed

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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. Res. 461]

The Committee on Education and the Workforce, to whom was referred the resolution (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, having considered the same, reports favorably thereon with amendments and recommends that the resolution as amended be agreed to.

The amendments are as follows:

Amend the preamble to read as follows:

Whereas sheltering aliens who are not admitted to the United States in school facilities will divert educational resources from children already suffering from historic learning loss;

Whereas, on May 16 and 17, 2023, about 300 such aliens were sheltered in current or former public school gymnasiums in New York City, and Mayor Eric Adams announced plans to use as many as 20 public school gymnasiums as overflow housing for such aliens;

Whereas turning schools into housing centers for such aliens compromises schools' duty to educate enrolled children and keep them safe;

Whereas hosting such aliens on school campuses poses a significant safety risk to school children and compromises schools' ability to secure their own campus;

Whereas using school gymnasiums as housing for such aliens may impede children's access to safe recreation and physical education, may force children to spend their entire school day with little exercise, and may disrupt the ordinary routines of the school day;

Whereas a public elementary or secondary school should be ineligible to receive Federal financial assistance if it is used to shelter, house, or otherwise serve as a sanctuary for, aliens not admitted to the United States;

Whereas the Biden administration has created these problems with a failed border security strategy that has encouraged illegal aliens to cross the border, tallying more than 10,000 a day ahead of the May 11, 2023, expiration of the public health emergency relating to COVID-19, declared under section 319 of the Pub-

lic Health Service Act (42 U.S.C. 247d), and of the concomitant power of the President, under section 362 of such Act (42 U.S.C. 265), to prohibit entries of persons into the United States from certain countries or places; and Whereas the school children in the United States should not bear the burden for the disastrous immigration policies of either the Biden administration or local leaders: Now, therefore, be it

Strike all after the resolving clause and insert the following:

That the House of Representatives condemns the use of public elementary or secondary school facilities that serve students to provide shelter for aliens who are not admitted to the United States.

#### PURPOSE

Public school facilities should be used for educating children, not housing illegal immigrants. Unfortunately, this basic principle seems to have been lost on New York City. 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.<sup>1</sup> While a community outcry ultimately put a stop to New York City's plans, these actions set a troubling precedent for the future. Housing illegal immigrants on school campuses poses a significant safety risk to school children, impedes children's access to the educational resources they need, and distracts schools from their core mission of education. Therefore, H. Res. 461 expresses the House of Representatives' condemnation of the use of public elementary and secondary school facilities to provide shelter for aliens not admitted to the United States.

#### 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 and well-being and on children’s access to education and child nutrition programs. Testifying before the Committee were Mr. Mark H. Metcalf, County Attorney, Garrard 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 the needs to add transparency and accountability,

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

to update the education system to serve the needs of students and families, and to protect and restore the rights of parents to have a say in their children’s education. 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 of 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 cosponsor. On June 6, 2023, the Committee considered H. Res. 461 in legislative session and reported it favorably, as amended, to the House of Representatives. The Committee adopted the following amendments to H. Res. 461:

1. Substitute Amendment to Whereas Clauses—This substitute amendment made one technical change to the whereas clauses. The clause that school children in America should not “pay” for disastrous immigration policies was changed to “bear the burden.”

2. Substitute Amendment to Resolved Clause—This substitute amendment made one technical change to the resolved clause. The clause that migrants should not be housed in “the facilities of a public elementary or secondary school” was changed to “public elementary or secondary school facilities.”

3. Federal Financial Assistance—This amendment 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.

#### COMMITTEE VIEWS

##### INTRODUCTION

Public school facilities should be used for educating children, not housing illegal immigrants. Unfortunately, this basic principle seems to have been lost on New York City. 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<sup>2</sup> While the city eventually reversed course after a public outcry, the mayor’s plans wrongly placed illegal immigrants over children, distracted schools from their duty to educate children, and compromised schools’ ability to secure their own campuses. Consequently, this resolution condemns the use of the facilities of a public elementary or secondary school to provide shelter for aliens not admitted to the United States.

*New York City is facing an illegal immigration crisis*

New York City’s plans to house immigrants in schools were motivated in part by the large surge of migrants the city has faced in recent months. According to city officials, about 65,000 asylum seekers have come through the city since last spring, with up to 4,500 arriving in a single week in May.<sup>3</sup>

This influx of migrants is putting a strain on the city’s resources. As of mid-May, New York Governor Kathy Hochul reported that New York City is housing 36,700 migrants across 120 locations. This housing comes at a cost. By one estimate, New York City expends \$5 million per day housing illegal immigrants.<sup>4</sup> One factor driving the cost is that the city has run out of shelter space and is turning to non-traditional—and often expensive—options to house illegal immigrants. One estimate reports that 40 percent of New York City’s “mid-level hotel stock” deemed suitable for migrants is now being used for migrant housing.<sup>5</sup>

Exacerbating the migrant crisis is New York City’s chosen status as a sanctuary city with a long history of defying federal immigration enforcement. As such, the city refuses to cooperate with Immigration and Customs Enforcement (ICE), withholding relevant information such as citizenship status, arrest data, and addresses. In the past, New York leaders have even flaunted their opposition to enforcing immigration law. For instance, during his re-election campaign in August 2018, then-Gov. Andrew Cuomo asserted, “New York state is the state that said we will not cooperate with ICE, they’re a bunch of thugs.”<sup>6</sup> These policies make it drastically harder for the federal government to address the illegal immigration problem, attract ever increasing numbers of illegal immigrants to New York City, and drain the city’s financial resources.

*The Biden administration helped cause the immigration crisis*

Locales such as New York City have received surges of migrants in large degree because the Biden administration has failed to secure the border. In May, the average number of unauthorized entries per day soared to 10,000 in advance of the expiration of Title 42, which allowed US border agents to expel migrants on public health grounds.<sup>7</sup>

More broadly, there is a long track record of immigrants attempting to enter illegally during the Biden administration. A June 2022 Senate Committee on Foreign Relations report stated, “Since Janu-

<sup>2</sup> <https://abcnews.go.com/US/new-york-city-moving-migrants-school-gyms-mayor/story?id=99360087>.

<sup>3</sup> <https://www.cnn.com/2023/05/17/us/new-york-orange-county-migrant-restraining-order/index.html>.

<sup>4</sup> <https://nypost.com/2023/03/03/bidens-migrant-mess-costing-new-york-city-5-million-a-day/>.  
<sup>5</sup> <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>.

<sup>6</sup> <https://nypost.com/2023/04/10/new-york-just-cant-afford-to-remain-a-sanctuary-city/>.

<sup>7</sup> <https://www.cbsnews.com/news/immigration-title-42-border-crossings-drop-migrants/>.

ary 2021, U.S. law enforcement has encountered over 2.6 million migrants trying to enter the United States illegally from Mexico, northern Central America, and countries beyond. On average, over 171,840 migrants have sought to enter the United States illegally per month during this period, with the highest monthly total reaching 234,088 in April 2022.”<sup>8</sup>

When the Biden administration fails to secure the border, it has myriad detrimental effects. An unsecured border means that law enforcement resources must be diverted, that cities and states must make contingency plans for humanitarian aid, and that state and local officials must contend with the security risk of unvetted personnel in the country.

*School children should not bear the burden of failed Democrat policies*

New York City’s plans to house illegal immigrants in schools distracts schools from their core mission of educating students. Hosting illegal immigrants on school campuses poses a significant safety risk to school children and compromises schools’ ability to secure their own campuses. Furthermore, using school gymnasiums as housing for illegal aliens may impede children’s access to safe recreation and physical education, may force children to spend their entire school day with little exercise, and may disrupt the ordinary routines of the school day.

These effects are especially pernicious in light of the devastating learning loss students suffered during the pandemic. In 2022, National Assessment of Educational Progress scores for reading and math declined significantly. Reading scores were not significantly different from when the test was first administered in 1992, wiping out two decades of progress.<sup>9</sup> Math scores declined by the largest amount since the test was begun in 1990.<sup>10</sup> Eighth-grade history and civics scores likewise fell to their lowest points since the assessments were begun in the 1990s.<sup>11</sup> At a time when students are struggling to recover from devastating pandemic school closures, the last thing they need is to be distracted by migrants living in their schools.

More broadly, New York City’s attempts to house illegal immigrants in public schools are symptomatic of a larger problem in which schools are being forced to bear the burden of unenforced immigration law. Some school districts even seem to be considering mirroring New York City’s plans. In Chicago, for instance, local leadership is reportedly considering housing hundreds of illegal immigrants in a shuttered high school.<sup>12</sup>

Numerous schools around the country are facing an influx of illegal immigrants and are facing difficult questions about how to best allocate resources. In Miami-Dade County, nearly 20,000 migrant students enrolled in public schools during the 2022–23 school

<sup>8</sup> <https://www.risch.senate.gov/public/cache/files/5/0/5082e293-b23d-4726-a581-dc428517a843/FB8D6A16D2415A013D48761339299C6.bidens-border-crisis.pdf>.

<sup>9</sup> <https://www.nationsreportcard.gov/reading/?grade=8>.

<sup>10</sup> <https://www.nationsreportcard.gov/highlights/mathematics/2022/>.

<sup>11</sup> <https://www.nationsreportcard.gov/ushistory/>; <https://www.nationsreportcard.gov/civics/>.

<sup>12</sup> <https://nypost.com/2023/05/12/chicago-residents-shred-politicians-over-plans-to-house-illegal-immigrants-at-high-school/>.

year.<sup>13</sup> District 2 in Manhattan saw 5,500 migrant students enroll in the city’s public schools in the same school year—a 20 percent increase.<sup>14</sup> In El Paso, a surge of 1,500 illegal immigrants required the district to spend \$300,000 daily, or nearly \$10 million, in September alone to care for the migrant students.<sup>15</sup> These school districts are paying a direct price for Democrat policies that ignore and exacerbate the immigration crisis.

This influx of illegal immigrants has numerous immediate impacts on schools. For instance, an unexpected surge in migrants may cause classroom overcrowding and the need for new school facilities or portable classrooms. A surge in migrants may also create a strain on student-to-teacher ratios and the amount of time that teachers can spend with each individual student. In the long term, the local community may be asked to pay higher taxes to fund the influx of students.

#### CONCLUSION

The school children of America should not pay for the disastrous immigration policies of either the Biden Administration or of local leaders. 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 resolution would send a clear message to both New York City and any other locale considering placing the needs of illegal immigrants over their own children.

#### SUMMARY H. RES. 461 SECTION-BY-SECTION SUMMARY

##### *Preamble*

- Includes multiple “Whereas” clauses highlighting troubling uses of school facilities to shelter aliens not admitted to the United States.

##### *Resolved*

- Expresses the condemnation of the U.S. House of Representatives for the use of public elementary or secondary school facilities that serve students to provide shelter for aliens who are not admitted to the United States.

#### 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. H. Res. 461 sends a clear message that children who attend public elementary and secondary schools should not bear the burden of the Biden administration’s disastrous immigration policy.

<sup>13</sup> <https://www.nbcnews.com/news/latino/miami-dade-sees-high-immigrant-student-enrollment-seeks-funding-rcna81669>.

<sup>14</sup> <https://nypost.com/2022/10/11/nyc-schools-struggle-to-cope-with-influx-of-5500-migrant-kids/>.

<sup>15</sup> <https://patch.com/texas/across-tx/border-surge-inundates-school-districts>.

## 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. Res. 461 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: 06/06/2023

## COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call: 1

Bill: H.Res.461

Amendment Number: 3

Disposition: Agreed to by a Full Committee Roll Call Vote 20-16

Sponsor/Amendment: Good / GOOD\_040

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mrs. FOXX (NC) (CKDLrZRPDQ)	X			Mr. SCOTT (VA) (RDQNLQJ)		X	
Mr. WILSON (SC)			X	Mr. GRIJALVA (AZ)		X	
Mr. THOMPSON (PA)	X			Mr. COURNTEY (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	Ms. 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 FERNANDEZ (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: 20

Nos: 16

Not Voting: 9

Total: 45 / Quorum: / Report:

(25 R - 20 D)

\*Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

\*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.



Date: 06/06/2023

**COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE**

Roll Call: 2 Bill: H.Res.461 Amendment Number:

Disposition: Agreed to by a Full Committee Roll Call Vote 22-16

Sponsor/Amendment: Williams Motion to Report H.Res.461 to the House with amendments with recommendation that the resolution be agreed to, and the resolution as amended, do pass

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mrs. FOXX (NC) (CKDLfZRPDQ)	X			Mr. SCOTT (VA) (RDQNLQJ)		X	
Mr. WILSON (SC)			X	Mr. GRIJALVA (AZ)		X	
Mr. THOMPSON (PA)	X			Mr. COURNTEY (CT)		X	
Mr. WALBERG (MI)	X			Mr. SABLAN (MP)			X
Mr. GROTHMAN (WI)	X			Ms. WILSON (FL)			X
Ms. STEFANK (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	Ms. 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 FERNANDEZ (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: 22

Nos: 16

Not Voting: 7

Total: 45 / Quorum: / Report:

(25 R - 20 D)

\*Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

\*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

## STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause (3)(c) of House rule XIII, the goal of H. Res. 461 is to express the sense of the House of Representatives that public elementary and secondary school students should not bear the burden of the Biden administration's failed immigration policy.

## DUPLICATION OF FEDERAL PROGRAMS

No provision of H. Res. 461 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. Res. 461: 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, the committee has requested, but not received, a cost estimate for H. Res. 461 from the Director of the 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. Res. 461. The Committee requested, but was not provided, a cost estimate for the resolution from the Director of the Congressional Budget Office (CBO) because the CBO determined the resolution has no associated cost. In addition, because the legislation is a House resolution merely expressing the sense of the House of Representatives and it does not require any action, the Committee concludes that it will have no effect on the federal budget and does not affect revenues or direct spending.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

Clause 3(e) of rule XIII of the Rules of the House of Representatives does not apply to committee reports on simple resolutions. In any event, the Committee finds that this legislation, if agreed to by the House, would make no changes to existing law.

## MINORITY VIEWS

### INTRODUCTION

H. Res. 461 is 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.”<sup>1</sup> The resolution specifically references events in New York City, which temporarily used public school gymnasiums to shelter migrant families at a time when numbers were on the rise in May 2023.<sup>2</sup>

#### THE EQUAL PROTECTION CLAUSE APPLIES TO UNDOCUMENTED IMMIGRANTS IN THE EDUCATION SETTING

In 1982, the U.S. Supreme Court held in *Plyler vs. Doe* that children who are not legally admitted to the country have the right to a free public education under the Equal Protection Clause of the Fourteenth Amendment.<sup>3</sup> *Plyler* is still the law of the land.

While the language of H. Res. 461 does not question or challenge this law, much of the Committee Republicans’ rhetoric surrounding this issue is based on the fact that the undocumented immigrants at issue in the resolution are not taxpayers, and therefore they should not be eligible to receive public resources and support. Yet when it comes to receiving an education in public schools, a subject actually under the jurisdiction of this Committee, the *Plyler* decision makes clear that a student’s taxpayer status is not relevant.

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

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.<sup>4</sup> For example, as the National Education Association highlighted, “Public schools and public school staff are the hub of a community, and in hurricane-prone parts of the country, they can be relied upon to open and staff shelters and transport evacuees during the storm. They did it in Texas, and a few weeks later, they did it in Florida, too.”<sup>5</sup> Florida even cancelled classes in order

<sup>1</sup> 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).

<sup>2</sup> 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>.

<sup>3</sup> 457 U.S. 202 (1982).

<sup>4</sup> 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>.

<sup>5</sup> Cindy Long, Public Schools Offer Shelter from the Storm, *Nat’l Educ. Ass’n* (Sept. 15, 2017), <https://www.nea.org/advocating-for-change/new-from-nea/public-schools-offer-shelter-storm>.

to prepare schools for use as shelters in advance of Hurricane Ian.<sup>6</sup> North Carolina used schools as shelters after Hurricane Florence.<sup>7</sup> Schools constituted 22% of shelters after Hurricane Katrina.<sup>8</sup> New York City, the only locality called out in H. Res. 461, used schools to shelter people after Hurricane Sandy; in that instance, “[t]he residents shared entrances with the students unlike the city’s current plan where there are separate entrances for the shelter.”<sup>9</sup>

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,<sup>10</sup> and El Paso, Texas, prepared vacant schools to shelter migrants.<sup>11</sup> Yet, Committee Republicans chose to vilify only New York City for its humanitarian efforts. Moreover, Committee Republicans failed to acknowledge that New York City has such a large influx of migrants due to the migrants being bused there from other states such as Texas.<sup>12</sup> H. Res. 461 does not mention or condemn these types of actions.

#### H. RES. 461 POLITICIZES PUBLIC SCHOOLS WHILE DOING NOTHING TO IMPROVE EDUCATION

The resolution claims that the use of elementary and secondary school facilities to shelter “aliens” will: “divert educational resources from children already suffering from historic learning loss”; “compromises schools’ duty to educate enrolled children and keep them safe”; “impede children’s access to safe recreation and physical education, may force children to spend their entire school day with little exercise, and may disrupt the ordinary routines of the school day”; and blames the Biden Administration for “a failed border security strategy.”<sup>13</sup>

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 LGBTQ+ students in sports. Likewise, Committee Republicans claim that the use of schools as shelters will divert edu-

<sup>6</sup>Marlene Sokol and Jeffrey S. Solocheck, Do you plan to stay in a shelter for Hurricane Ian? Here’s what to expect, Tampa Bay Times (Sept. 26, 2022), <https://www.tampabay.com/hurricane/2022/09/26/do-you-plan-stay-shelter-hurricane-ian-heres-what-expect/>.

<sup>7</sup>Dedrick Russell, CMS Schools used as shelters for people fleeing Hurricane Florence, WBTW (updated: Sept. 12, 2018, 8:10 pm EDT), <https://www.wbtv.com/2018/09/13/cms-schools-used-shelters-people-fleeing-hurricane-florence/>.

<sup>8</sup>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](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).

<sup>9</sup>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>.

<sup>10</sup>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/>.

<sup>11</sup>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>.

<sup>12</sup>Meko, *supra* note 2.

<sup>13</sup>H. Res. 461, *supra* note 1, at 1.

cational resources away from students, but they have not offered any credible evidence of that.

Committee Republicans have also pointed out that students have already been affected by learning loss and should not, therefore, have to tolerate the distraction of migrants' presence in schools. Again, Committee Republicans made these statements without presenting any evidence demonstrating that temporarily sheltering undocumented immigrants in public school facilities compounds learning loss. Congress has 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, a bill that all House Republicans opposed. And there is much more we could do if Committee Republicans would choose to focus on meaningful relief instead of this resolution. It is also worth noting that the resolution suggests Congress should penalize schools and students by taking away federal funds for temporary actions taken by a locality in an emergency. Yet it does not acknowledge that denying federal funding to public schools in such circumstances would in fact significantly impede their ability to address learning loss.

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.<sup>14</sup> 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.

The lack of evidence presented to support the claims made in H. Res. 461 suggests this resolution was marked up prematurely. While Committee Republicans point to two hearings held this year that "informed the development" of H. Res. 461, this is not an issue that the Committee has considered in any meaningful way this Congress. The hearings referenced in this report are mere fig leaves covering a complete lack of consideration of these issues raised in this resolution. To make matters worse, at the time of development of these views, the Committee has announced plans to mark up H.R. 3941, the *Schools Not Shelters Act*, a bill that would deny federal financial assistance to any school district using their facilities in the manner described in H. Res. 461. To take these actions with no real record of the Committee investigating this issue is a dereliction of our duty as policymakers.

Committee Republicans trumpet the Biden Administration's 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 and the resulting possibility of diversion of funds and student safety, then the resolution would not need to single out undocumented immigrants. People are sheltered in schools in other

<sup>14</sup>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/>.

situations, such as during hurricanes and storms, that are not mentioned in the resolution. If the concern is sheltering in schools, then it should not matter if the shelter is for undocumented immigrants or not.

DEMOCRATIC AMENDMENTS OFFERED DURING MARKUP OF H. RES. 461

As Committee Democrats recognized this was a resolution that could not be improved in any meaningful way, we did not offer any amendments to H. Res. 461.

CONCLUSION

H. Res. 461 is inflammatory, provocative, uninformed, and at the end of the day, pointless. Instead of spending the Committee’s time on meaningful legislation within our jurisdiction to deal with learning loss and school safety, we frittered away our time on a vitriolic proposal. It provides 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 issues we know are causing students to feel unsafe in school.

It is worth noting that significant debate occurred during the Committee markup of the resolution over the use of the word “alien.” While this is a legal term defined in the Immigration and Nationality Act,<sup>15</sup> many people find the use of the word offensive, and Committee Democrats requested that Committee Republicans be considerate of that fact.<sup>16</sup> Debate over the Good amendment included reference to an “alien invasion,” and such inflammatory rhetoric has no place in this Committee. Committee Democrats commend Rep. Pramila Jayapal (D–WA–7) for dutifully explaining how “alien invasion” has been used as early as the 1800s to decry the immigration of Chinese workers to the U.S. and has been employed to stoke racial fear and resentment since then against different nationalities of immigrants to this day.<sup>17</sup> Rep. Jamaal Bowman (D–NY–16), who represents New York City, correctly observed that anti-immigrant sentiment has been part and parcel of white supremacist rhetoric throughout American history.<sup>18</sup>

There was no response in the markup to suggest any of these concerns around H. Res. 461’s text or the rhetoric used to advocate for it were recognized by the Majority. The fact that the Committee has subsequently announced a markup of H.R. 3941, the *Schools Not Shelters Act*, further suggests they were not.

For the reasons stated above, Committee Democrats unanimously opposed H. Res. 461 when the Committee on Education and the Workforce considered it on June 6, 2023. We urge the House of Representatives to do the same.

ROBERT C. “BOBBY” SCOTT,  
*Ranking Member.*  
 RAÚL M. GRIJALVA.

<sup>15</sup> 8 U.S.C. § 1101(a).

<sup>16</sup> Condemning the use of elementary and secondary school facilities to provide shelter for aliens who are not admitted to the United States, Markup on H. Res. 461, Markup before the H. Comm. on Educ. & the Workforce, 118th Cong. (2023).

<sup>17</sup> *Id.* (statement of Rep. Pramila Jayapal).

<sup>18</sup> *Id.* (statement of Rep. Jamaal Bowman).

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