

THE NAVAJO NATION
LEGISLATIVE BRANCH
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LEGISLATION NO: _0123-23_

SPONSOR: Shaandiin Parrish

TITLE: An Action Relating to an Emergency and the Navajo Nation Council; Opposing H.R. 3746, "Fiscal Responsibility Act Of 2023" as Written; Urging the United States Congress to Amend H.R. 3746 to Protect the Availability of COVID Related Funding and Unobligated Funds to Tribes and Tribal Programs

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LEGISLATIVE SUMMARY SHEET

Tracking No. 0123-23

DATE: May 31, 2023

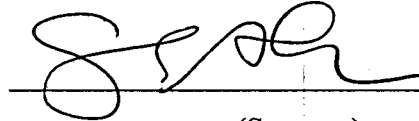
TITLE OF RESOLUTION: AN ACTION RELATING TO AN EMERGENCY AND THE NAVAJO NATION COUNCIL; OPPOSING H.R. 3746, “*FISCAL RESPONSIBILITY ACT OF 2023*” AS WRITTEN; URGING THE UNITED STATES CONGRESS TO AMEND H.R. 3746 TO PROTECT THE AVAILABILTY OF COVID RELATED FUNDING AND UNOBLIGATED FUNDS TO TRIBES AND TRIBAL PROGRAMS


PURPOSE: This resolution, if approved, will establish the Navajo Nation’s position of opposing H.R. 3746 as currently written.

This written summary does not address recommended amendments as may be provided by the standing committee. The Office of Legislative Counsel requests each committee member to review the proposed resolution in detail.

PROPOSED NAVAJO NATION COUNCIL RESOLUTION
25th NAVAJO NATION COUNCIL – First Year, 2023

INTRODUCED BY



(Sponsor) 

TRACKING NO. 0123-23

AN ACTION

RELATING TO AN EMERGENCY AND THE NAVAJO NATION COUNCIL;
OPPOSING H.R. 3746, “FISCAL RESPONSIBILITY ACT OF 2023” AS
WRITTEN; URGING THE UNITED STATES CONGRESS TO AMEND H.R.
3746 TO PROTECT THE AVAILABILTY OF COVID RELATED FUNDING
AND UNOBLIGATED FUNDS TO TRIBES AND TRIBAL PROGRAMS

WHEREAS:

- A. The Navajo Nation Council is the governing of body of the Navajo Nation, 2 N.N.C. §102(A), and has a government-to-government relationship established and memorialized through the Treaty of 1850 (9 Stat. 974) and Treaty of 1868 (15 Stat. 667).
- B. Pursuant to 2 N.N.C. §164 (A)(16) matters constituting an emergency shall be limited to cessations of direct services required as an entitlement under Navajo Nation or Federal law, or which directly threaten the sovereignty of the Navajo Nation. Such emergency matters must arise due to the pressing public need for such resolution(s) and must be a matter requiring final action by the Council.
- C. The coronavirus pandemic has caused large scale devastation to the Navajo Nation, including loss of life and devastating economic impact to residents and business. The American Rescue Plan Act (“ARPA”), along with other COVID-19 relief funding, was enacted to assist in mitigating and containing the spread of COVID-19. This

1 funding also provided relief to the Navajo People suffering from the health, social and
2 economic impacts due to the COVID-19 pandemic.

3 D. On May 26, 2023, Janet L. Yellen, Secretary of Treasury for the United States,
4 indicated that the United States Federal Government will potentially hit its debt
5 ceiling on June 5th, 2023. The Secretary of Treasury also stated that if the United
6 States does not increase the debt ceiling, then the United States will be incapable of
7 meeting its financial obligations and will default for the first time in American
8 history. **Exhibit A.**

9 E. On May 26, 2023, the Navajo Nation Council passed Legislation No. 0121-23 “An
10 Action Relating to An Emergency and the Navajo Nation Council; Opposing H.R.
11 2811, “*Limit, Save, Grow Act of 2023*”; Urging the United States Congress to Amend
12 H.R. 2811 201-202 to Protect Spending Cuts to Tribal Programs”. **Exhibit B** (without
13 attachments).

14 F. On May 27, 2023, the President of the United States, Joseph R. Biden Jr., and the
15 Speaker of the United States House of Representatives, Kevin McCarthy, concluded
16 negotiations regarding the debt ceiling of the United States.

17 G. On May 30, 2023, legislative text was introduced to the United States House of
18 Representative for H.R. 3746 “*Fiscal Responsibility Act of 2023*”. **Exhibit C.** See
19 [https://www.govinfo.gov/content/pkg/BILLS-118hr3746ih/pdf/BILLS-](https://www.govinfo.gov/content/pkg/BILLS-118hr3746ih/pdf/BILLS-18hr3746ih.pdf)
20 [18hr3746ih.pdf](https://www.govinfo.gov/content/pkg/BILLS-118hr3746ih/pdf/BILLS-18hr3746ih.pdf)

21 H. The Congressional Budget Office provided an estimate of the budgetary effects of
22 H.R. 3746 on May 30, 2023. According to this estimate, if the bill were enacted and
23 appropriations subject to caps on discretionary funding for 2024 and 2025 were
24 constrained by the limits specified in section 101(a) of the bill, the agency's
25 projections of budget deficits over the period 2023–2033 would be reduced by
26 approximately \$1.5 trillion relative to its May 2023 baseline projections. **Exhibit D.**

27 I. If enacted, H.R. 3746 will increase the federal debt limit, establish new discretionary
28 spending limits, rescind unobligated COVID relief funds, and expand work
29 requirements for federal programs. Specifically, the bill suspends the federal debt
30 limit through January 1, 2025, and increases the limit on January 2, 2025, to

1 accommodate the obligations issued during the suspension period. In addition, the bill
2 establishes new discretionary spending limits for FY2024 and FY2025 that are
3 enforced with sequestration (i.e., automatic spending cuts). It also changes the limits
4 to 1% below the FY2023 base funding levels if a continuing resolution is in effect on
5 or after January 1, 2024, or on or after January 1, 2025, because all 12 regular
6 appropriations bills were not enacted by the end of the prior year.

7 J. The bill also includes provisions that rescind certain unobligated funds that were
8 provided to address COVID-19 and to the Internal Revenue Service; provide funding
9 for the Department of Veterans Affairs Cost of War Toxic Exposure Fund; provide
10 funding for the Department of Commerce Nonrecurring Expenses Fund; provide
11 statutory authority through 2024 for the requirement for agencies that propose certain
12 administrative actions that will increase direct spending to also propose at least one
13 administrative action that will decrease direct spending by at least the same amount
14 (commonly known as administrative pay-as-you-go rules); terminate the suspension
15 of federal student loan payments; expand the work requirements for the Supplemental
16 Nutrition Assistance Program (SNAP) and the Temporary Assistance for Needy
17 Families (TANF) program; and expedite the permitting process for certain energy
18 projects.

19 K. H.R. 3746 seeks to permanently rescind unobligated funds of American Rescue Plan
20 Act of 2021 (Public Law 117-2), Coronavirus Aid, Relief, and Economic Security
21 Act (CARES Act) (Public Law 116-136), Families First Coronavirus Response Act
22 (Public Law 116-127), Paycheck Protection Program and Health Care Enhancement
23 Act (Public 116-139), Coronavirus Response and Relief Supplemental Appropriations
24 Act, 2021 (division M) and Division N - Additional Coronavirus Response and Relief
25 of Public Law 116-260, and the Coronavirus Preparedness and Response
26 Supplemental Appropriations Act, 2020 (Public Law 116-123).

27 L. There are at least 138 U.S. Treasury accounts tracked by the Office of Management
28 and Budget (“OMB”) with unobligated balances provided by COVID relief laws,
29 “over half of which have less than fifty million (\$50,000,000) in unobligated balances
30 (the subset of which total only about \$700 million).”

- 1 M. The Navajo Nation (Nation) received over two billion dollars (\$2,000,000,000) in
2 federal COVID relief funding from the U.S. Treasury (Treasury). This disbursement
3 by the Treasury to the Nation are defined as federally obligated funding by Treasury.
4 The language of H.R. 3746 – *Fiscal Responsibility Act of 2023*, only rescinds
5 federally unobligated funds and does not rescind the Nation’s tribally unobligated
6 funds.
- 7 N. The *Fiscal Responsibility Act of 2023*, H.R. 3746, does threaten Treasury application-
8 based programs which are at risk of rescission of their balances if the Treasury is
9 unable to approve pending applications before June 5, 2023.
- 10 O. Through the United States Department of Treasury, State Small Business Credit
11 Initiative (SSBCI) would fund state, territory, and tribal government small business
12 credit support programs, including capital access programs, loan participation
13 programs, loan guarantee programs, collateral support programs, and venture capital
14 program (other credit support programs).
- 15 P. The Nation applied for SSBCI funding, in efforts to encourage and enhance economic
16 development within the Navajo Nation. This pending application has an estimated
17 award amount of eighty-nine million dollars (\$89,000,000) and is currently under
18 review with the U.S. Treasury. This vital award would be used to provide needed loan
19 programs to small businesses on the Navajo Nation, which is essential to short-term
20 and long-term survival and economic stability for the Navajo Nation.
- 21 Q. It is imperative that H.R. 3746 – *Fiscal Responsibility Act of 2023* being considered
22 before Congress be amended to reflect language favorable to the Navajo Nation and
23 other Tribal governments still seeking approvals of available COVID related funding
24 and unobligated funds, so that they may receive these vital and necessary resources.
- 25 R. For the reasons stated above, it is in the best interest of the Navajo Nation to oppose
26 the rescind language of the *Fiscal Responsibility Act*, H.R. 3746 as currently written,
27 and respectfully request Congress amend the language to be more favorable to tribal
28 governments still seeking approval for applications submitted under the various
29 COVID relief appropriation packages.
30

1 **THEREFORE, BE IT RESOLVED:**

- 2 A. The Navajo Nation opposes the current language of H.R. 3746 – *Fiscal Responsibility*
3 *Act of 2023* being considered before Congress and respectfully request that the U.S.
4 Congress amend the language to be favorable to the Navajo Nation and other Tribal
5 governments still seeking approvals of available COVID related funding and
6 unobligated funds, and to protect the funding applicants awaiting final approval.
- 7 B. The Navajo Nation Council hereby authorizes the Navajo Nation President, and the
8 Navajo Nation Speaker to take all steps necessary to affirm the Navajo Nation’s
9 position of protecting and preserving the health, welfare, and economic interests of
10 the Navajo People.