



CLAUSE LAW P.L.L.C.

# FEDERAL LEGISLATIVE UPDATE

15th Annual Indian Law Conference

Spokane County Bar Association

March 15, 2024

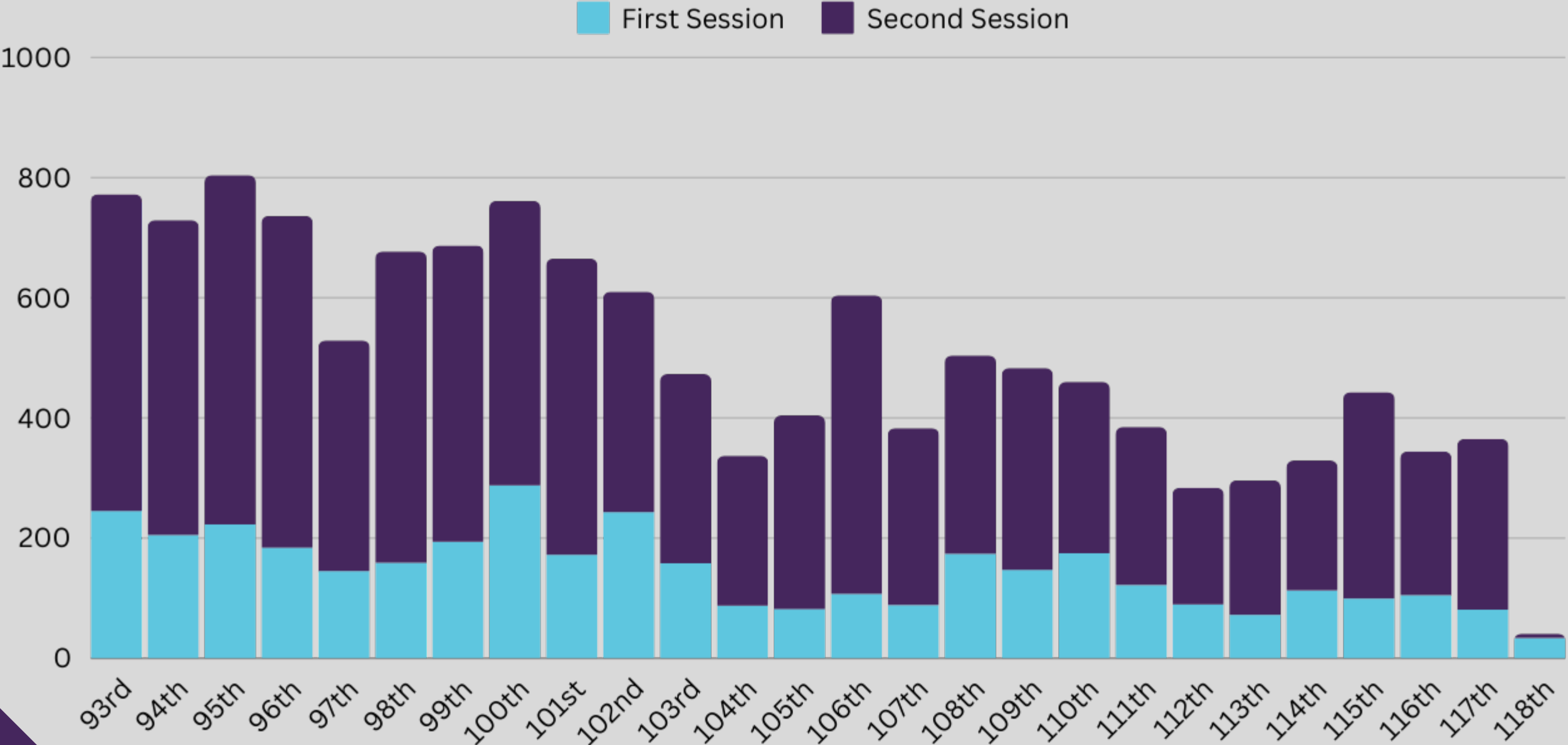


# 118t h C o n g r e s s



# Productivity in the 118th Congress

Bills Enacted by each Congress since 1973, in the first and second year of the sessions.





# We Have a Speaker (s)!

## FORMER SPEAKER KEVIN MCCARTHY (R-CA)

- January 7 – October 3, 2023
- 15 votes over 4 days
- This was a historic impasse as the first time in a century that an election of a House speaker took multiple ballots to complete. but it could have been worse. The [longest vote in U.S. history](#) took place in 1855, lasting 133 rounds over two months.



## FORMER SPEAKER PRO TEMPORE PATRICK MCHENRY (R -NC)

- October 3 –25, 2023
- Speaker McCarthy was required to keep a secret list of potential successors who could act as speaker if something were to happen to him. McHenry found his name at the top of the list.
- As Speaker pro Tempore, McHenry only managed the Speaker election.



## SPEAKER MIKE JOHNSON (R -LA)

- October 25, 2023 – Present
- After unsuccessful bids for Speaker from Rep. Steve Scalise (R -LA) and Rep. Jim Jordan (R -OH), Rep. Mike Johnson received a floor vote and won 220 -209.



# Drama is nothing new to Congress

MAY 22, 1856 - SENATOR CHARLES SUMNER, AN ABOLITIONIST SENATOR FROM MASSACHUSETTS, WAS ATTACKED BY REP. PRESTON BROOKS A PRO SLAVERY CONGRESSMAN FROM SOUTH CAROLINA. SUMNER BECAME A MARTYR IN THE NORTH AND BROOKS A HERO IN THE SOUTH.

FEBRUARY 6, 1858 - BRAWL ON HOUSE FLOOR DEBATING KANSAS TERRITORY'S PRO-SLAVERY LECOMPTON CONSTITUTION. MORE THAN 30 MEMBERS ENGAGED IN BRAWL.

1859 - REP. DAN SICKLES SHOOTS AND KILLS HIS WIFE'S LOVER, PHILLIP BARTON KEY III.



# Fiscal year 2024 Appropriations





# Debt Ceiling Deal & Fiscal Year 2024

Earlier this Congress, the speaker McCarthy and President Joe Biden agreed to a deal that extended the debt ceiling and set discretionary defense and nondefense spending caps for FY 2024 and 2025. It would also set temporary caps on spending if Congress does not pass all 12 funding bills for FY 2024 by Jan. 1.







## Fiscal Year 2024

Four Continuing Resolutions later, on March 9, 2024 President Biden signed into law H.R. 4366 the “Consolidated Appropriations Act, 2024” This bill provides full-year funding through September 30, 2024 for departments and agencies of the Federal Government covered by 6 of 12 appropriations bills.

Congress will now turn its attention to funding the remaining aspects of the federal government before current funding expires on March 22, 2024



# Fiscal Year 2024 Highlights

This bill provides full-year funding through September 30, 2024, for departments and agencies of the Federal Government covered by 6 of 12 appropriations bills. highlights include:

Bureau of Indian Affairs - \$3.922 Billion (-0.8%)

- Sec. 105(I) Leases - \$64 Million (+113.3%)
- Contract Support Costs and Sec. 105(I) Leases are not mandatory.

Bureau of Indian Education - \$1.366 Billion (-2.5%)

Indian Health Service - \$12.152 Billion (+0.54%)

- FY2025 Advance Appropriations - \$5.19 Billion (+1.20%)
- Advanced appropriations are not provided for the Electronic Health Record System, Indian Health Care Improvement Fund, Contract Support Costs, Payments for Tribal Leases, Sanitation Facilities Construction, and Health Care Facilities Construction.

Other highlights:

- Native American Housing Block Grants, Formula - \$1.111 Billion (+41.17%)
- Native American Veteran Housing Loan Program - \$2.71 Million (+93.57%)
- This bill also directs the Smithsonian to correct past injustices by prioritizing repatriation activities and expeditiously implementing the policy recommendations in the January 10, 2024, Smithsonian's Human Remains Task Force Report.



# Unexpected House Departures

## GEORGE SANTOS

Members of the House of Representatives voted 311 -114 to expel Rep. George Santos (R -NY) from Congress. Santos is the sixth House member ever to be expelled from Congress.

## KEVIN MCCARTHY

After a tumultuous tenure, the U.S. House of Representatives voted to remove its speaker, Kevin McCarthy (R -CA), through a Motion to Vacate filed by Rep. Matt Gaetz (R -FL).

## CURRENT MAKEUP OF CONGRESS:

- U.S. House of Representatives: 219 Republicans, 213 Democrats, and 3 vacancies which will increase to 4 with the departure of Rep. Ken Buck (R-CO) next week. This will leave a razor -thin 2 seat majority for Speaker Johnson.
- U.S. Senate: 48 Democrats, 49 Republicans, 3 Independents





# Investigations Into the Biden Administration





# Key House Committee Action

## HOUSE NATURAL RESOURCES COMMITTEE - SUBCOMMITTEE ON INDIAN & INSULAR AFFAIRS

- 45 BILLS REFERRED TO HOUSE SUBCOMMITTEE ON INDIAN & INSULAR AFFAIRS
- 5 have passed the chamber:
  - H.R. 3371, The Wounded Knee Massacre Act
  - H.R. 663, The Native American Child Protection Act
  - H.R. 2882, Udall Foundation Reauthorization Act of 2023
  - H.R. 1240, Winnebago Land Transfer Act of 2023
- 2 became Law:
  - H.R. 1722, Grand Ronde Reservation Act Amendment of 2023
  - H.R. 2839, To amend the Siletz Reservation Act to address the hunting, fishing, trapping, and animal gathering rights of the Confederated Tribes of Siletz Indians





# Key Senate Committee Action

## SENATE COMMITTEE ON INDIAN AFFAIRS

- 54 bills referred to the Senate Committee on Indian Affairs
- 6 have passed the chamber:
  - S. 70, The Tribal Trust Land Homeownership Act
  - S. 195, Keweenaw Bay Indian Community Land Claim Settlement Act of 2023
  - S. 382, Puyallup Tribe of Indians Land Into Trust Confirmation Act of 2023
  - S. 460, The Urban Indian Health Confer Act
  - S. 950, Technical Correction to the Shoshone-Paiute Tribes of the Duck Valley Reservation Water Rights Settlement Act of 2023
  - S. 1308, a Bill to amend the Indian Self-Determination and Education Assistance Act to extend the deadline for the Secretary of the Interior to promulgate regulations implementing title IV of that Act, and for other purposes.



# Native American Housing Assistance and Self-Determination Reauthorization Act of 2023

The Native American Housing Assistance and Self-Determination Reauthorization Act of 2023 (“NAHASDA”) reauthorizes and expands Native American housing programs at the Department of Housing and Urban Development.

S. 2285 - Senator Schatz (D-HI) & Senator Murkowski (R-AK) . This bill was voted favorably out of the Senate Committee on Indian Affairs July 19, 2023.

S. Amdt. 1078 - Introduced by Senator Schatz (D-HI) and Senator Murkowski (R-AK), NAHASDA cleared the Senate chamber as an amendment in the NDAA (S. 2226) by a vote of 86-11. Key changes in S. Amdt. 1078 from the 2013 NAHASDA reauthorization include:

- Sec. 11003- Authorizes appropriations from 2024-2030.
- Sec. 11004- Includes college housing assistance as an eligible affordable housing activity.
- Sec. 11020- Permanently authorizes the Tribal HUD-VASH program for all tribes.

H.R. 2670 - President Biden signed into law the Fiscal Year 2024 NDAA. Unfortunatley, S. Amdt. 1078 did not make it out conference and was left out of the NDAA.



# Indian Programs Advanced Appropriations Act

This legislation amends the Indian Self-Determination Act and the Indian Health Care Improvement Act to provide advance appropriations authority for certain accounts of the Bureau of Indian Affairs and Bureau of Indian Education and the Indian Health Service.

## Covered accounts include:

- Bureau of Indian Affairs- Operation of Indian Programs, Contract Support Costs, Indian Guaranteed Loan Program, Construction, and Payments for Tribal Leases.
- Bureau of Indian Education- Operation of Indian Education Programs, and Education Construction.
- Indian Health Service- Indian Health Services, Contract Support Costs, Payments for Tribal Leases, and Indian Health Facilities.

S. 2424 -Senator Lujan (D-NM) & Senator Mullin (R-OK)

H.R. 4832 - Rep. McCollum (D-MN) & Rep. Cole (R-OK) plus 28 cosponsors

President Biden's Fiscal Year 2025 Budget - Proposes to fully fund and reclassify the Tribal Contract Support Costs and Tribal 105(I) lease accounts from discretionary to mandatory. The budget also proposes advance appropriations for IHS in FY 2025 and exempts all IHS funding from sequestration. Beginning in FY 2026, the budget provides mandatory funding for all IHS activities.

# Parity for Tribal Law Enforcement Act

The Parity for Tribal Law Enforcement Act will:

- Authorize tribal officers acting under a 638 contract or compact to be considered federal law enforcement officers and enforce federal law, provided they meet certain qualifications that are comparable to BIA law enforcement officers. This action would eliminate the need for Indian tribes to enter into Special Law Enforcement Commission (SLEC) agreements.
- Treat tribal law enforcement officers acting under a 638 contract or compact as federal law enforcement officers, which permits access to federal benefits such as injury and death, retirement, and pension benefits.
- Provide for the Secretary of the Interior to implement procedures for credentialing tribal officers and for the Attorney General to coordinate training and reporting activities.

H.R. 4524 - Rep. Newhouse (R-WA) & Rep. Kilmer (D-WA) plus 16 other cosponsors - On Tuesday, March 12, 2024, the House Natural Resources Committee held a markup and voted unanimously to pass out of Committee.

S. 2695 - Senator Cantwell (D-WA) & Senator Mullin (R-OK) plus 4 other cosponsors



# Truth and Healing Commission on Indian Boarding School Policies Act

This legislation would establish a formal commission to investigate, document, and acknowledge past injustices of the federal government's Indian Boarding School Policies. Additionally, the Commission would also develop policy recommendations to heal the intergenerational trauma and impacts of this shameful history.

S. 1723 - Senator Warren (D-MA) plus 30 other cosponsors - This bill passed favorably out of the Senate Committee on Indian Affairs and ordered to be reported with an amendment in the nature of a substitute on June 7, 2023.

H.R. 7227 - Representative Sharice Davids (D-KS) plus 9 other cosponsors

# Native American Entrepreneurial Opportunity Act

This legislation enhances the Small Business Administration's ("SBA") Office of Native American Affairs ("ONAA") by:

- Codifying ONAA into federal law and establishing an Assistant Administrator role to oversee its operations.
- Strengthening the government-to-government relationship by providing ONAA with the authority to expand its grant-making ability, conduct tribal consultation, utilize SBA's entrepreneurial and contracting and provide training, counseling, and technical assistance.

H.R. 7102 - Representative Sharice Davids (D-KS) & Representative Eli Crane (R-AZ) plus 1 cosponsor - This legislation passed on the House Floor with a vote of 402-16.



# SAFER Banking Act

The Secure and Fair Enforcement Regulation Banking Act ("SAFER Banking Act") is the current compromise Senate bill that evolved from the SAFE Banking Act.

The legislation would allow cannabis-related businesses to access the banking system when the business is being operated in a state where cannabis has been decriminalized. There are provisions protecting tribal nations operating cannabis businesses as well. The SAFER Banking Act passed the Senate Banking Committee for the first time ever last month by a vote of 14-9. The SAFE Banking Act has passed the House of Representatives on numerous occasions.

S. 2860 - Senator Merkley (D-OR) & Senator Daines plus 34 other cosponsors

H.R. 2891 - Rep. Joyce (R-OH) & Rep. & Rep. Blumenauer (D-OR) plus 102 cosponsors



# Administration Staff Turnover





# Cabinet in the Spotlight

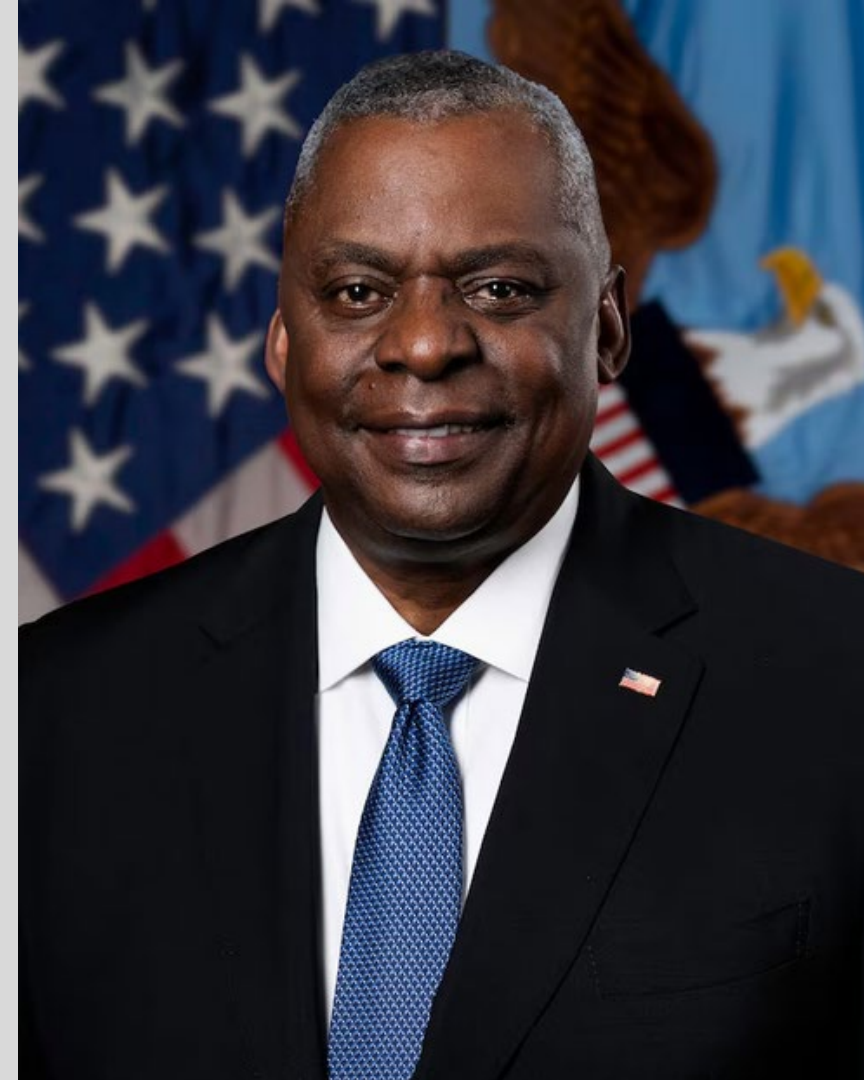
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT SECRETARY MARCIA FUDGE  
SECRETARY MARCIA FUDGE ANNOUNCED THIS WEEK THAT SHE WILL RESIGN EFFECTIVE MARCH 22, 2024. FOR NOW, DEPUTY SECRETARY ADRIANNE TODMAN WILL SERVE AS ACTING HUD SECRETARY WHEN FUDGE DEPARTS.

U.S. Department of defense  
secretary lloyd austin

SECRETARY AUSTIN WAS CALLED TO CONGRESS TO TESTIFY ON HIS THREE -DAY DELAY TO INFORM THE PRESIDENT OR CONGRESS ABOUT A MEDICAL EMERGENCY THAT PLACED HIM IN THE WALTER REED NATIONAL MILITARY MEDICAL CENTER'S CRITICAL CARE UNIT ON NEW YEAR'S DAY.

U.S. DEPARTMENT OF LABOR  
SECRETARY MARTY WALSH

Marty Walsh resigned his post on March 11, 2023. His successor, Julie Su, awaits a confirmation vote in the U.S. Senate.





2024 ELECTION SEASON HAS ARRIVED









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