

SUSAN M. COLLINS, MAINE, CHAIR

MITCH McCONNELL, KENTUCKY  
LISA MURKOWSKI, ALASKA  
LINDSEY GRAHAM, SOUTH CAROLINA  
JERRY MORAN, KANSAS  
JOHN HOEVEN, NORTH DAKOTA  
JOHN BOOZMAN, ARKANSAS  
SHELLEY MOORE CAPITO, WEST VIRGINIA  
JOHN KENNEDY, LOUISIANA  
CINDY HYDE-SMITH, MISSISSIPPI  
BILL HAGERTY, TENNESSEE  
KATIE BOYD BRITT, ALABAMA  
MARKWAYNE MULLIN, OKLAHOMA  
DEB FISCHER, NEBRASKA  
MIKE ROUNDS, SOUTH DAKOTA

PATTY MURRAY, WASHINGTON, VICE CHAIR  
RICHARD J. DURBIN, ILLINOIS  
JACK REED, RHODE ISLAND  
JEANNE SHAHEEN, NEW HAMPSHIRE  
JEFF MERKLEY, OREGON  
CHRISTOPHER A. COONS, DELAWARE  
BRIAN SCHATZ, HAWAII  
TAMMY BALDWIN, WISCONSIN  
CHRISTOPHER MURPHY, CONNECTICUT  
CHRIS VAN HOLLEN, MARYLAND  
MARTIN HEINRICH, NEW MEXICO  
GARY C. PETERS, MICHIGAN  
KIRSTEN E. GILLIBRAND, NEW YORK  
JON OSSOFF, GEORGIA

# United States Senate

COMMITTEE ON APPROPRIATIONS  
WASHINGTON, DC 20510-6025  
<http://appropriations.senate.gov>

ELIZABETH McDONNELL, STAFF DIRECTOR  
EVAN T. SCHATZ, DEMOCRATIC STAFF DIRECTOR

February 26, 2025

The Honorable Howard Lutnick  
Secretary  
U.S. Department of Commerce  
1401 Constitution Ave NW  
Washington, DC 20230

Dear Secretary Lutnick:

I am deeply concerned by reports that the Department of Commerce (Department) intends to terminate thousands of employees, including so-called “probationary employees.” Doing so would be flatly illegal, as firmly established through law and further reinforced by yesterday’s Merit Systems Protection Board (MSPB) decision. That decision granted the Office of Special Counsel’s request to stay the terminations of six former probationary Federal Employees. Moving forward with any firings in light of that day-old decision would be brazenly unlawful and carry significant consequences. Moreover, these proposed terminations would do massive harm to the operations of the Department’s agencies, which I oversee as Ranking Member of the Senate Commerce, Justice, Science, and Related Agencies (CJS) Appropriations Committee, and for the health, safety, and prosperity of all Americans, whose wellbeing these agencies help protect.

I take this opportunity to remind the Department of its legal obligation to notify the Senate and House Committees on Appropriations regarding the large-scale termination of employees. Specifically, Section 505 of Title V, Division C of Public Law 118-42—a provision that remains law under the American Relief Act, 2025 (Public Law 118-158)—states, in part:

*None of the funds provided under this Act, or provided under previous appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 2024 . . . shall be available for obligation or expenditure through a reprogramming of funds that . . . reduces by 10 percent funding for any program, project, or activity, or numbers of personnel by 10 percent; or . . . results from any general savings, including savings from a reduction in personnel, which would result in a change in existing programs, projects, or activities as approved by Congress; unless the House and Senate Committees on Appropriations are notified 15 days in advance of such reprogramming of funds.*

Further, the Joint Explanatory Statement relating to Title V, Division C of Public Law 118-42, which was approved and indicates congressional intent, carries this longstanding directive: “Any program, project, or activity cited in this explanatory statement . . . shall be construed as the position of the Congress and shall not be subject to reductions or reprogramming without prior approval of the Committees. Further, any department or agency funded in this act that plans a reduction-in-force shall notify the Committees by letter no later than 30 days in advance of the date of any such planned personnel action.”

As Ranking Member of the Senate CJS Appropriations Subcommittee, I remind you that any decision of this magnitude would trigger Section 505 as legally binding. As of today, no notification has been sent by the Department to the Committees on Appropriations for approval or objection. This is a bipartisan legacy provision in the CJS Appropriations Act. Further, this provision is critical to our system of checks and balances to ensure oversight and accountability in the appropriations process. Finally, other agencies in my Subcommittee’s jurisdiction have cited “poor performance” to move forward with drastic layoffs. This has been exposed as a lie. Many terminated probationary employees have already come forward with evidence of recent glowing performance reviews, laying bare the flimsy pretext of these firings as gross misrepresentations of fact. The Department must not become a purveyor of such lies and must comply with its legal obligations.

I would welcome the opportunity to meet with you to discuss these matters at your earliest convenience.

As always, please contact me or my staff with any follow-up questions or if you need clarification.

Sincerely,

A handwritten signature in blue ink that reads "Chris Van Hollen". The signature is fluid and cursive, with the first name "Chris" being the most prominent part.

Chris Van Hollen  
Ranking Member  
Subcommittee on Commerce, Justice, Science, and Related Agencies