

To the office of U.S. Representative Ami Bera

Re: HR 9728 (119th Congress), Protecting America’s Diplomatic Workforce Act • Latest action (2026-07-16): Referred to the Committee on Foreign Affairs, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

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Office of record (Congress.gov): 172 Cannon House Office Building, Washington, DC • (202) 225-5716

Foreign Service Workforce Flexibility and Due Process Act of 2026

The measure, as described from the official record: This bill aims to modify the rules for reducing the number of Foreign Service officers and certain other federal employees, likely to make it easier or more flexible to conduct reductions in force (RIFs) in the Foreign Service.

THE PROPOSAL

This Act amends the Foreign Service Act of 1980 to establish a balanced framework for reductions in force (RIFs) among Foreign Service officers and certain other federal employees in the Department of State and related agencies. The Secretary of State may implement a RIF only after providing 90 days' written notice to each affected employee, including a statement of the reasons for the RIF and the employee's rights under this Act. Affected employees shall have the right to an administrative hearing before an independent board within the Department of State, which shall review the RIF decision for compliance with applicable laws and regulations. The board may recommend modifications to the RIF plan, but the Secretary retains final authority to implement the RIF after considering the board's recommendations. No RIF shall be implemented without a certification from the Secretary that the RIF is necessary for reasons of national security, efficiency, or fiscal necessity, and that the RIF is the least disruptive means to achieve that goal. This Act does not apply to employees covered by collective bargaining agreements that provide greater protections. The Act shall be funded through the Department of State's existing appropriations, with a cap of \$5 million per fiscal year for administrative costs related to hearings and notices. The Act shall sunset after 5 years, and the Comptroller General shall report to Congress on its implementation within 3 years.

OPERATIVE PROVISIONS (VFA PROPOSAL)

Funding Source	Department of State existing appropriations
Funding Amount	\$5 million per fiscal year cap
Sunset Years	5 years
Oversight Body	Comptroller General (GAO)
Enforcement Mechanism	Administrative hearing before an independent board within the Department of State; judicial review under the Administrative Procedure Act
Effective Date	180 days after enactment

CONSTITUTIONAL BASIS

- Article I, Section 8, Clause 18 (Necessary and Proper Clause)
- Article II, Section 1, Clause 1 (Executive Power)
- Fifth Amendment (Due Process Clause)

Concerns with the measure as written:

- The bill may infringe on the President's Article II removal power if it restricts the executive's ability to manage the Foreign Service workforce.
- If the bill imposes new procedural requirements that burden the executive's foreign affairs power, it may exceed Congress's enumerated powers under Article I.
- Potential Fifth Amendment due process concerns if the RIF process does not provide adequate notice or hearing for affected employees.

WHY BOTH SIDES CAN BACK IT (VFA'S ASSESSMENT)

Honors Democratic priorities by protecting due process rights and providing employee notice and hearing. Honors Republican priorities by preserving executive flexibility and limiting costs with a funding cap and sunset.

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