

To the office of U.S. Representative Pat Harrigan

Re: HR 10092 (119th Congress), GATE Act of 2026 • Latest action (2026-08-13): Referred to the House Committee on Science, Space, and Technology.

VFA SI Solution #270 • published 2026-08-16 • <https://www.valuesforamerica.com/solutions/270>

Office of record (Congress.gov): 1233 Longworth House Office Building, Washington, DC • (202) 225-2576

National Laboratory Foreign Access Risk Screening Act

The measure, as described from the official record: Restrict access of certain foreign nationals to U.S. National Laboratories to protect national security and sensitive technology.

THE PROPOSAL

This Act requires the Secretary of Energy to establish a risk-based access control system for all foreign nationals seeking to enter, work at, or receive classified or controlled unclassified information from any National Laboratory operated under the Department of Energy. The system shall replace any blanket exclusion of foreign nationals by nationality or country of origin, and instead require individualized security risk assessments for each applicant.

Each National Laboratory shall submit a letter of intent for every foreign national applicant to the Department of Energy's Office of Intelligence and Counterintelligence. Within 30 days, the Office shall conduct a threat assessment based on the applicant's field of study, institutional affiliation, funding sources, travel history, and any known links to foreign state programs. The assessment shall classify each applicant as low, medium, or high risk.

Applicants classified as low risk shall be granted access under standard laboratory rules. Medium-risk applicants may be granted access under additional supervision and with limitations on access to sensitive areas. High-risk applicants shall be denied access unless the laboratory obtains a written waiver from the Secretary of Energy, which may be issued only if the applicant demonstrates a clear scientific benefit that outweighs the security risk, and only after the applicant passes an enhanced background investigation including in-person interview and verification of credentials.

To ensure due process, any applicant denied access may file a written appeal with an independent administrative law judge within 60 days of the denial. The appeal shall consider all records relevant to the risk assessment, and the Government shall bear the burden of proving by substantial evidence that the denial is warranted. Decisions on appeal shall be issued within 90 days and are subject to judicial review in federal court under the Administrative Procedure Act.

The Secretary of Energy shall report annually to Congress on the number of applications, approvals, denials, waivers, and appeals, disaggregated by country of origin and risk level, without identifying individuals. This report shall be provided to the House Committee on Science, Space, and Technology and the Senate Committee on Energy and Natural Resources.

OPERATIVE PROVISIONS (VFA PROPOSAL)

Funding Source	Existing Department of Energy administrative funds, supplemented by a \$50 application fee for each foreign national applicant, with a cap of \$5 million annually.
Funding Amount	\$5 million per year for the first five years, drawn from the Department of Energy's Office of Science administrative account and application fees.
Sunset Years	5 years
Oversight Body	Department of Energy Office of Inspector General, with annual reporting to the House Committee on Science, Space, and Technology and the Senate Committee on Energy and Natural Resources.
Enforcement Mechanism	Civil penalties of up to \$50,000 per violation for National Laboratories that admit foreign nationals without completing required security risk assessments, and withdrawal of access for any foreign national admitted contrary to the process. The Department of Energy shall conduct random audits of laboratory compliance.
Effective Date	180 days after enactment

CONSTITUTIONAL BASIS

- Article I, Section 8, Clause 18 (Necessary and Proper Clause)
- Article IV, Section 3, Clause 2 (Property Clause for federal laboratories)
- Fifth Amendment (Due Process)

Concerns with the measure as written:

- Fifth Amendment Due Process: A blanket nationality-based ban may deny individuals a meaningful opportunity to challenge a denial of access.
- Overbreadth: The ban could exclude legitimate researchers and academics from allied or neutral nations, harming scientific cooperation without a clear security proportionality.
- Equal Protection concerns: While alienage classifications are subject to rational basis review, a nationality-based ban without individualized review may be seen as arbitrary and discriminatory.

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

Honors Republican priorities by maintaining strong national security screening and denying access to high-risk foreign nationals. Honors Democratic priorities by preserving scientific openness, ensuring due process through individualized assessments and appeals, and avoiding discriminatory blanket bans. Both parties benefit from a tailored, evidence-based system that protects critical technology while allowing legitimate scientific collaboration.

Values for America is a nonpartisan, constitution-first SI think tank. This brief is informational. It is a policy proposal, not law, and it does not support or oppose any candidate or party. Full analysis and sources: <https://www.valuesforamerica.com/solutions/270> · Methodology: <https://www.valuesforamerica.com/methodology>