

**[DISCUSSION DRAFT]**

119<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R.** \_\_\_\_\_

To require the Secretary of Commerce in coordination with the Director of National Intelligence to implement a process for establishing a rolling annual standard for the sale of certain integrated circuits to certain countries.

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IN THE HOUSE OF REPRESENTATIVES

Mr. MOOLENAAR introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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**A BILL**

To require the Secretary of Commerce in coordination with the Director of National Intelligence to implement a process for establishing a rolling annual standard for the sale of certain integrated circuits to certain countries.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Semiconductor Con-  
5 trols Adjusted to Limit Exports Act” or the “SCALE  
6 Act”.

1 **SEC. 2. STATEMENT OF POLICY.**

2 It is the policy of the United States to—

3 (1) lead in global diffusion of artificial intel-  
4 ligence (AI) hardware and software;

5 (2) shape international markets so that foreign  
6 adversaries remain reliant on United States and al-  
7 lied supply chains for AI hardware and software;

8 (3) pursue export promotion and export control  
9 agendas that enable the diffusion of United States  
10 AI hardware and software and enduring United  
11 States leadership in advanced artificial intelligence;

12 (4) ensure that the United States and its allies  
13 consistently apply export restrictions to ensure na-  
14 tional security objectives and prevent backfill  
15 amongst allied and partner nations;

16 (5) limit the ability of adversaries to indigenize  
17 their own AI hardware production efforts, such limi-  
18 tation to include by crowding out their domestic  
19 markets with United States AI hardware;

20 (6) provide business stability in export controls  
21 through a systematic and repeatable process that  
22 annually assesses that indigenous capability of an  
23 entity of concern to produce AI hardware and set ex-  
24 port control thresholds to an entity of concern based  
25 on that process; and

1           (7) prevent any foreign adversary from accumu-  
2           lating, through any combination of indigenous pro-  
3           duction, import, or third-party access, a quantity of  
4           AI hardware that approaches parity with the aggre-  
5           gate AI hardware capacity of the United States.

6   **SEC. 3. EXPORT PROMOTION AND CONTROL POLICY.**

7           (a) PERFORMANCE METRICS.—

8           (1) ESTABLISHMENT.—Not later than 180 days  
9           after the date of enactment of this Act, the Sec-  
10          retary and the Director, in coordination with other  
11          departments and agencies as necessary, shall estab-  
12          lish and publicly release objective performance  
13          metrics that measure the state of AI hardware in  
14          entities of concern. The Secretary shall submit a  
15          classified annex to the appropriate congressional  
16          committees containing any information that the Sec-  
17          retary determines cannot be publicly released.

18          (2) OBJECTIVES.—The metrics shall assess—

19                 (A) the capability of individual AI hard-  
20                 ware items indigenously produced by each enti-  
21                 ty of concern;

22                 (B) the aggregate capability of all entities  
23                 of concern to indigenously produce AI hardware  
24                 items relative to the total demand for AI hard-

1           ware of all entities of concern who purchase AI  
2           hardware; and

3                   (C) the aggregate estimated amount of AI  
4           hardware located within all countries of concern  
5           or owned or controlled by an entity of concern.

6           (3) INCLUSION OF SPECIFIC METRICS.—Such  
7           metrics shall include, but are not limited to, indi-  
8           vidual chip capabilities, or where applicable aggre-  
9           gated, in the following categories:

10                   (A) Total processing power.

11                   (B) Interconnect bandwidth.

12                   (C) Memory capacity bandwidth.

13           (b) ASSESSMENT AND REPORT.—

14                   (1) IN GENERAL.—Not later than 90 days after  
15           each update to the metrics established under sub-  
16           section (a), the Secretary and the Director, in co-  
17           ordination with other departments and agencies as  
18           such Secretary and Director determine necessary,  
19           shall submit a report to the appropriate congress-  
20           sional committees assessing the quantity and quality  
21           of AI hardware produced in each country of concern  
22           using such metrics.

23                   (2) CONTENTS.—The assessment required  
24           under paragraph (1) shall include—

1 (A) for each metric, the aggregate esti-  
2 mated amount of AI hardware, broken down by  
3 quarter, installed in each country of concern,  
4 delineated by AI hardware produced by AI  
5 hardware designers that are an entity of con-  
6 cern and AI hardware produced outside of a  
7 country of concern and imported into a country  
8 of concern;

9 (B) for each metric, the aggregate esti-  
10 mated amount of AI hardware installed outside  
11 of a country of concern and owned or controlled  
12 by any entity of concern;

13 (C) for each metric, the aggregate esti-  
14 mated amount of AI hardware—

15 (i) legally available to an entity of  
16 concern through remote access;

17 (ii) installed outside of a country of  
18 concern; and

19 (iii) not owned or controlled by an en-  
20 tity of concern;

21 (D) a breakdown of subparagraph (B) in  
22 terms of the country of origin of the AI hard-  
23 ware designer (with respect to this subpara-  
24 graph, the country of origin of a unit of AI  
25 hardware shall be considered to be the country

1 in which the designer of that unit of AI hard-  
2 ware is domiciled);

3 (E) for each metric, the combined total of  
4 the hardware identified in subparagraphs (A),  
5 (B), and (C), expressed as a percentage of the  
6 aggregate amount of AI hardware physically  
7 present in and intended for use within the  
8 United States;

9 (F) a breakdown by country of origin of  
10 the aggregate amount of AI hardware physically  
11 present in and intended for use within the  
12 United States. For this purpose, the country of  
13 origin of a unit of AI hardware shall be consid-  
14 ered to be the country in which the designer of  
15 that unit of AI hardware is domiciled; and

16 (G) a technical assessment of the capa-  
17 bility of the most advanced AI hardware de-  
18 signed by an entity of concern as compared to  
19 the state-of-the-art for that hardware.

20 (c) AI EXPORT CONTROL THRESHOLD.—The Sec-  
21 retary shall adopt an export control policy for AI hard-  
22 ware, including such a policy for remote access of such  
23 hardware, to any entity of concern in accordance with the  
24 following:

1           (1) Not later than 365 days after the date of  
2           enactment of this Act, and not less than annually  
3           thereafter, use the findings from the assessment in  
4           subsection (b), to set an upper limit for the export  
5           of AI hardware to an entity of concern expressed in  
6           terms of the metrics developed in subsection (a) as  
7           follows:

8                   (A) The upper limit shall be implemented  
9                   as a policy of denial for license applications to  
10                  export, reexport, transfer (in-country), or pro-  
11                  vide remote access to AI hardware.

12                  (B) The upper limit for any individual  
13                  item of AI hardware shall be set at a level not  
14                  to exceed 110 percent of the performance, as  
15                  measured by the metrics developed under sub-  
16                  section (a), of the most capable AI hardware  
17                  item that meets the indigenous production  
18                  threshold established under subparagraph (C).

19                  (C) An individual item of AI hardware pro-  
20                  duced by an entity of concern shall be consid-  
21                  ered in establishing the upper limit under sub-  
22                  paragraph (B) only if such item is manufac-  
23                  tured in sustained serial production at a volume  
24                  sufficient to fulfill not less than 25 percent of  
25                  the estimated annual aggregate demand for AI

1 hardware among all entities of concern, as as-  
2 sessed by the Secretary using the most recent  
3 assessment under subsection (b). AI hardware  
4 produced solely in experimental, prototype, or  
5 limited demonstration quantities shall not be  
6 considered for purposes of establishing the  
7 upper limit.

8 (D) If, at the time of any assessment  
9 under subsection (b), no individual item of AI  
10 hardware produced by an entity of concern  
11 meets the production threshold established  
12 under subparagraph (C), then applications for  
13 the export of or provision of remote access to  
14 AI hardware to any entity of concern shall be  
15 reviewed under a policy of denial.

16 (E) In no case shall the upper limit estab-  
17 lished under this paragraph be lower than the  
18 upper limit in effect during the preceding as-  
19 sessment period, unless the Secretary provides  
20 a written determination to the appropriate con-  
21 gressional committees that a reduction is nec-  
22 essary to address a specific and identified na-  
23 tional security threat.

24 (2) For each metric established under sub-  
25 section (a), the Secretary shall require a license for

1 any export, reexport, transfer (in-country), or pro-  
2 vide remote access to, AI hardware to any entity of  
3 concern, and shall review licenses under a presump-  
4 tion of denial if the approval of such license would  
5 cause the aggregate estimated amount of adversary  
6 AI hardware to exceed, in the aggregate, 5 percent  
7 of the aggregate estimated amount of AI hardware  
8 physically present in and intended for use within the  
9 United States.

10 (d) **AUTHORITY TO UPDATE METRICS.**—On and after  
11 the date that is 24 months after the date on which the  
12 first assessment under subsection (b) is submitted, the  
13 Secretary may add, modify, or remove the metrics estab-  
14 lished under subsection (a), subject to the following:

15 (1) The Secretary shall provide written notice  
16 to the appropriate congressional committees not less  
17 than 90 days before any such addition, modification,  
18 or removal takes effect, including a detailed jus-  
19 tification for each proposed change and an assess-  
20 ment of how such change would affect the export  
21 control thresholds established under subsection (d).

22 (2) No modification or removal of a metric  
23 under this subsection shall take effect if, within the  
24 90-day notice period under paragraph (1), either the  
25 Committee on Foreign Affairs of the House of Rep-

1 representatives or the Committee on Banking, Housing,  
2 and Urban Affairs of the Senate submits to the Sec-  
3 retary a written objection stating that the proposed  
4 change would undermine the purposes of this Act.

5 (e) CONDITIONS FOR LICENSE REVIEW ON OTHER  
6 THAN A PRESUMPTION OF DENIAL BASIS.—Any license  
7 application to export AI hardware to any entity of concern  
8 reviewed under the upper limit established under sub-  
9 section (d)(1) on other than a presumption of denial basis  
10 shall include certification by the applicant that—

11 (1) the license will not result in any delay in  
12 fulfilling existing or new orders from customers in  
13 the United States for end use in the United States  
14 for any advanced-node integrated circuits produced  
15 by the applicant, taking into account normal lead  
16 times, and that global foundry capacity that would  
17 otherwise be used to produce similar or more ad-  
18 vanced integrated circuits for end users in the  
19 United States will not be diverted to produce items  
20 authorized by the license;

21 (2) for the AI hardware described in the license  
22 application, the aggregate total processing perform-  
23 ance of such hardware exported to any entity of con-  
24 cern does not exceed 50 percent of the aggregate  
25 total processing performance of the same hardware

1 shipped to customers in the United States for end  
2 use in the United States;

3 (3) the items are not destined for military end  
4 use, military-intelligence end use, or weapons of  
5 mass destruction end use, and that the ultimate con-  
6 signee will employ know-your-customer procedures to  
7 screen and prevent unauthorized remote access by  
8 prohibited parties;

9 (4) prior to export, every shipment of AI hard-  
10 ware described in the license application will be re-  
11 viewed by a qualified independent third-party testing  
12 laboratory headquartered in the United States, not  
13 under the control of any entity of concern, and hav-  
14 ing no financial interest in any party to the trans-  
15 action, to confirm that the technical capabilities of  
16 the items are consistent with the representations in  
17 the license application; and

18 (5) if the ultimate consignee or end user pro-  
19 vides infrastructure-as-a-service, the consignee or  
20 end user will not transfer model weights trained on  
21 the exported AI hardware to any end user not dis-  
22 closed in the license application, and will not provide  
23 any prohibited party with remote access to any  
24 model trained on such hardware.

1 **SEC. 4. RULES OF CONSTRUCTION.**

2 Nothing in this Act may be construed to direct the

3 Secretary to—

4 (1) decontrol or reduce export control thresh-  
5 olds based on assessment findings; or

6 (2) approve licenses for sales of AI hardware or  
7 software.

8 **SEC. 5. DEFINITIONS.**

9 In this Act:

10 (1) AI HARDWARE.—The term “AI hardware”  
11 means—

12 (A) any integrated circuit, computer, elec-  
13 tronic assembly, or other item classified under  
14 Export Control Classification Numbers 3A090,  
15 4A090, or any related Export Control Classi-  
16 fication Number designated with a “.z” suffix  
17 under the Commerce Control List (supplement  
18 number 1 to part 774 of title 15, Code of Fed-  
19 eral Regulations (or a successor regulation));  
20 and

21 (B) any other item designated by the Sec-  
22 retary, by regulation, as AI hardware for the  
23 purposes of this Act.

24 (2) AGGREGATE ESTIMATED AMOUNT OF AI  
25 HARDWARE.—The term “aggregate estimated  
26 amount of AI hardware” means the total quantity of

1 AI hardware, as measured using the metrics estab-  
2 lished by the Secretary under section 3(a).

3 (3) AGGREGATE ESTIMATED AMOUNT OF AD-  
4 VERSARY AI HARDWARE.—The term “aggregate esti-  
5 mated amount of adversary AI hardware” means the  
6 aggregate estimated amount of AI hardware—

7 (A) installed across all countries of con-  
8 cern; or

9 (B) accessible to any entity of concern, in-  
10 cluding through remote access to AI hardware  
11 installed outside of any country of concern.

12 (4) APPROPRIATE CONGRESSIONAL COMMIT-  
13 TEES.—The term “appropriate congressional com-  
14 mittees” means—

15 (A) the Committee on Foreign Affairs of  
16 the House of Representatives;

17 (B) the Permanent Select Committee on  
18 Intelligence of the House of Representatives;

19 (C) the Committee on Banking, Housing,  
20 and Urban Affairs of the Senate; and

21 (D) the Select Committee on Intelligence  
22 of the Senate.

23 (5) COUNTRY OF CONCERN.—The term “coun-  
24 try of concern” means—

1 (A) the People’s Republic of China, includ-  
2 ing the Hong Kong and Macau Special Admin-  
3 istrative Regions;

4 (B) the Republic of Cuba;

5 (C) the Islamic Republic of Iran;

6 (D) the Democratic People’s Republic of  
7 Korea;

8 (E) the Russian Federation; and

9 (F) any other foreign country—

10 (i) listed in the Country Group D:5  
11 under Supplement No. 1 to part 740 of the  
12 Export Administration Regulations, as  
13 published on January 1, 2026;

14 (ii) designated by the Secretary of  
15 State as a country of concern for purposes  
16 of this section; and

17 (iii) notice of such designation has  
18 been published in the Federal Register.

19 (6) DIRECTOR.—The term “Director” means  
20 the Director of National Intelligence.

21 (7) ENTITY OF CONCERN.—The term “entity of  
22 concern” means any entity—

23 (A) organized under the laws of any coun-  
24 try of concern;

1 (B) having its principal place of business  
2 in any country of concern;

3 (C) of which more than 10 percent of the  
4 ultimate beneficial ownership is held, directly or  
5 indirectly, by one or more persons or entities  
6 that are organized under the laws of, have their  
7 principal place of business in, or are nationals  
8 of any country of concern; or

9 (D) that is owned or controlled by, or acts  
10 on behalf of, the government of any country of  
11 concern.

12 (8) INDIGENOUS PRODUCTION.—The term “in-  
13 digenous production”, with respect to AI hard-  
14 ware—

15 (A) means AI hardware that is—

16 (i) physically fabricated within the  
17 territory of the People’s Republic of China;  
18 and

19 (ii) designed by any entity of concern;  
20 and

21 (B) excludes AI hardware that is designed  
22 by any entity of concern but fabricated outside  
23 of any country of concern for purposes of this  
24 Act.

1           (9) REMOTE ACCESS.—The term “remote ac-  
2           cess” means access on a purposeful, knowing, reck-  
3           less, or negligent basis to an item subject to the ju-  
4           isdiction of the United States under this Act by a  
5           foreign person through a network connection, includ-  
6           ing the internet or a cloud computing service, from  
7           a location other than where the item is physically lo-  
8           cated if the Secretary determines that the use of the  
9           item could pose a serious risk to the national secu-  
10          rity or foreign policy of the United States.

11          (10) SECRETARY.—The term “Secretary”  
12          means the Secretary of Commerce.