Enhancing National Frameworks for Overseas Critical Exports Act (ENFORCE Act)

Background: The Bureau of Industry and Security (BIS) is responsible for approving or denying the export of dual-use items—goods and technologies that have both commercial and military uses—to the rest of the world. Right now, BIS can stop the export of the most advanced semiconductors used to create the most powerful AI systems and the tools used to create those semiconductors. However, BIS doesn't have the clear legal authority to control the transfer of the AI systems themselves. This means that a top American AI company could sell its most powerful AI system to China without having to even apply for a license.

The ENFORCE Act modernizes the Export Control Reform Act of 2018 (ECRA), which provides statutory export control authority, in narrow but powerful ways. The ENFORCE Act amends ECRA to give BIS the authority to export control-covered AI systems (without requiring BIS to do so) by:

➤ Providing clear legal authority to BIS to use "U.S. persons controls" on activities relating to covered AI systems or other national security-related emerging technologies. This would allow BIS to, for example, require top U.S. AI labs to implement security checks before collaborating with AI labs linked to the Chinese military.

➤ Allowing BIS to require licenses for the export of covered AI systems or other national security-related emerging technologies— giving BIS the authority to stop transfers to China.

➤ Updating IEEPA so that a section referencing the Export Administration Act of 1979—which has since been repealed by and replaced with ECRA—instead references ECRA.

Since this bill only expands BIS's authorities, BIS has the flexibility to craft appropriate controls on covered AI systems without unnecessarily harming U.S. innovation.

Without this bill:

➤ Top U.S. AI companies can sell AI systems that threaten national security to Chinese companies, with no way for BIS to respond.

➤ American AI researchers can work in Chinese AI labs developing AI systems capable of producing advancing bioweapons or hacking American infrastructure, with no way for BIS to respond.