The Honorable John Thune
Senate Majority Leader
511 Dirksen Senate Office Building
Washington, DC 20515

The Honorable Chuck Schumer
Senate Minority Leader
322 Hart Senate Office Building
Washington, D.C. 20510

September 9, 2025

Dear Majority Leader Thune, Minority Leader Schumer, and Members of the U.S. Senate,

We write today to urge you to support inclusion of the Guaranteeing Access and Innovation for National Artificial Intelligence (GAIN AI) Act in the FY2026 National Defense Authorization Act (NDAA) as the NDAA heads to the Senate floor. The GAIN AI Act is a pragmatic, pro-innovation measure that requires advanced AI chip sellers to prioritize American customers, before selling to geopolitical competitor nations like China – helping to ensure American leadership in the development of AI systems.

The GAIN AI Act is critical for U.S. innovation

America's edge in AI depends on sustained access to cutting-edge compute - the "jet fuel" that lets startups, universities, and AI labs train, fine-tune, and deploy new models. Yet at the top end of the market, chip supply remains tight with limited capacity for advanced packaging, which some analysts predict will remain a bottleneck through 2028.[1, 2]

The end result is regular backlogs that push smaller U.S. buyers to the back of the queue. In late 2024, Nvidia's Blackwell line was booked out roughly 12 months ahead.[3] Even when vendors downplay shortages, prior supply-chain snags and packaging and hardware issues have repeatedly pushed deliveries to later quarters.[4]

Against that backdrop, the Administration has reopened sales of Nvidia's H20 chip to China, and is considering exports of newer, China-specific Blackwell variants. Chinese platform companies remain eager buyers. Because these products draw on the same scarce inputs, including HBM stacks, advanced substrates, and packaging lines, expanding China-bound shipments will make advanced AI chips harder to come by for U.S. firms during peak-demand periods.

[1] TSMC fully booked on advanced packaging until 2025, The Register, May 7, 2024.
[2] Too important to ignore: Unpacking advanced packaging, Futurum, August 27, 2025.
[3] Nvidia's Blackwell GPUs sold out for 12 months, Data Center Dynamics, October 11, 2024.
[4] Nvidia's supply snags limit deliveries even as demand booms, Reuters, November 21, 2024.

That's exactly the problem the GAIN AI Act works to solve: it sequences supply so American orders are filled first, and exports proceed only when they don't create domestic backlogs or degrade access for U.S. customers.

If America falls behind on compute, we risk falling behind on innovation. The GAIN AI Act keeps American innovators at the front of the line during ongoing capacity constraints, protecting our lead in AI while the supply chain catches up.

The GAIN AI Act is an America First pro-innovation, market-based approach intended to simultaneously address serious national security concerns.

False claims that "chips aren't supply-constrained"
Nvidia has argued there is no meaningful scarcity – recent corporate statements responding to the GAIN AI Act have suggested that advanced chip access is not constrained, and cloud availability is ample.[5]

However, these arguments run counter to Nvidia's own statements to shareholders. In a Q2 earnings call last month, Nvidia CEO Jensen Huang claimed that "Everything's sold out. H100s sold out. H200s are sold out."[6]

Notably, if advanced chips were not supply-constrained then chip sellers including Nvidia shouldn't face any difficulty in selling chips to China even under the GAIN AI Act. In a non-supply-constrained environment, Nvidia would have the capacity to easily meet U.S. demand and then would be allowed to proceed with overseas sales.

Why selling advanced chips to China can mean fewer available for U.S. users
In a world of finite near-term capacity, exporting advanced AI chips to China (or entities closely tied to Chinese supply chains) competes with American demand on the same production lines, packaging capacity, and memory allocations. The GAIN AI Act's certification regime recognizes this by requiring exporters to attest that shipments will not create backlogs for U.S. buyers or reduce U.S. production capacity for those parts.

Additionally, permissive exports (or leaky channels) don't occur in a vacuum. Investigations over the summer reported that at least $1 billion of high-end Nvidia chips were smuggled into China within three months after tightened controls—clear evidence that Chinese demand actively competes for the same scarce hardware, whether via direct sales or gray markets. That

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[5] Nvidia criticizes proposed US bill that would force it to give American buyers 'first option' in AI GPU purchases, Tom's Hardware, November 4.
[6] Nvidia corporation FY2026 Q2 earnings call transcript, Yahoo Finance, August 27, 2025.

undermines U.S. capacity to field these systems at home and blunts the strategic effect of our export policy.

These realities are why a growing chorus of voices has pushed back on the notion that China-directed sales have no domestic opportunity cost. The right policy response is not to "throw up our hands," but to sequence supply: serve U.S. needs first, then consider exports that don't impair U.S. access or undercut U.S. competitors. That is exactly the GAIN AI Act's design.

The GAIN AI Act only targets countries of concern
The GAIN AI takes a targeted approach to which nations would be restricted from chip purchases before U.S. demand for chips is fulfilled. Importantly, the GAIN AI Act places no restrictions on the export of advanced AI chips to U.S. partners and allies.

The legislation only requires that chip sellers satisfy demand among American companies before selling to "countries of concern." The legislation describes countries of concern as those facing a comprehensive U.S. arms embargo, including nations like China, North Korea, Iran, and Russia, as well as countries that the Director of National Intelligence determines are hosting a military or intelligence facility associated with an embargoed-country.

The bottom line
Advanced AI chips are the jet engines of the modern economy and the backbone of dual-use capabilities with direct relevance to national security. In moments when supply is tight and the stakes are high, Congress should not leave U.S. firms, universities, and start-ups waiting at the back of the line while competitors pull ahead. The GAIN AI Act offers a measured, technical, and time-sensitive solution: serve American buyers first; verify no domestic backlog or capacity harm; and keep our innovation base competitive.

We respectfully urge you to vote to keep the GAIN AI Act in the NDAA.

Sincerely,

Brad Carson, Americans for Responsible Innovation
Oren Cass, American Compass