AMENDMENT TO
RULES COMMITTEE PRINT 117–31
OFFERED BY MR. GIMENEZ OF FLORIDA

At the end of division A, add the following new section:

SEC. 10003. RESTRICTION ON FEDERAL GRANTS UNDER THE CHIPS FOR AMERICA ACT.

Section 9902 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283) is amended to read as follows:

“SEC. 1094. SEMICONDUCTOR INCENTIVE GRANTS.

“(a) DEFINITIONS.—In this section:

“(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term ‘appropriate committees of Congress’ means—

“(A) the Select Committee on Intelligence, the Committee on Commerce, Science, and Transportation, the Committee on Foreign Relations, the Committee on Armed Services, the Committee on Appropriations, the Committee on Banking, Housing, and Urban Affairs, and the Committee on Homeland Security and Governmental Affairs of the Senate; and
“(B) the Permanent Select Committee on Intelligence, the Committee on Energy and Commerce, the Committee on Foreign Affairs, the Committee on Armed Services, the Committee on Science, Space, and Technology, the Committee on Appropriations, the Committee on Financial Services, and the Committee on Homeland Security of the House of Representatives.

“(2) CHINESE ENTITY.—The term ‘Chinese entity’ means—

“(A) any entity organized under the laws of the People’s Republic of China or otherwise subject to the jurisdiction of the Government of the People’s Republic of China; and

“(B) any entity owned or controlled by the Government of the People’s Republic of China.

“(3) COVERED ENTITY.—The term ‘covered entity’ means a private entity, a consortium of private entities, or a consortium of public and private entities with a demonstrated ability to construct, expand, or modernize a facility relating to the fabrication, assembly, testing, advanced packaging, or advanced research and development of semiconductors.
“(4) COVERED INCENTIVE.—The term ‘covered incentive’—

“(A) means an incentive offered by a governmental entity to a private entity for the purposes of building within the jurisdiction of the governmental entity a fabrication (or other essential) facility relating to the manufacturing of semiconductors; and

“(B) includes any tax incentive (such as an incentive or reduction with respect to employment or payroll taxes or a tax abatement with respect to personal or real property), a workforce-related incentive (including a grant agreement relating to workforce training or vocational education), any concession with respect to real property, and any other incentive determined appropriate by the Secretary, in consultation with the Secretary of State.

“(5) EXPANDED COOPERATION ACTIVITY.—The term ‘expanded cooperation activity’ means an investment in, export of technology to, any activity that provides capital, technology, or expertise to, or any other form of cooperation with, a Chinese entity.

“(6) FOREIGN ADVERSARY.—The term ‘foreign adversary’ means any foreign government or foreign
nongovernment[al?] person that is engaged in a long-term pattern, or is involved in a serious instance, of conduct that is significantly adverse to—

“(A) the national security of the United States or an ally of the United States; or

“(B) the security and safety of United States persons.

“(7) GOVERNMENTAL ENTITY.—The term ‘governmental entity’ means a State or local government.

“(8) PEOPLE’S REPUBLIC OF CHINA.—The term ‘People’s Republic of China’ includes Hong Kong and Macau.

“(9) SECRETARY.—The term ‘Secretary’ means the Secretary of Commerce.

“(b) GRANT PROGRAM.—

“(1) IN GENERAL.—The Secretary shall establish in the Department of Commerce a program that, in accordance with the requirements of this section, provides grants to governmental entities that offer covered incentives.

“(2) PROCEDURE.—

“(A) IN GENERAL.—A governmental entity that offers a covered incentive and that desires to receive a grant under this subsection shall
submit to the Secretary an application that describes the covered incentive offered by the governmental entity.

“(B) CONDITIONS FOR APPROVAL.—The Secretary shall approve an application submitted by a governmental entity under subparagraph (A)—

“(i) upon confirmation by the Secretary that the private entity to which the governmental entity has offered the covered incentive to which the application relates has agreed to build in the applicable jurisdiction a facility described in subsection (a)(2)(A);

“(ii) if the Secretary determines that building the facility described in clause (i) is in the interest of the United States; and

“(iii) the covered entity commits in writing to the Secretary that the covered entity—

“(I) will not engage in any expanded cooperation activity with a Chinese entity after the date on which any part of the grant is received; and
“(II) will not expand the activities of the covered entity in the People’s Republic of China after the date on which any part of the grant is received.

“(3) AMOUNT.—The amount of a grant provided by the Secretary to a governmental entity under this subsection shall be in an amount that is not less than the value of the applicable covered incentive offered by the governmental entity, as determined by the Secretary.

“(4) CLAWBACK.—The Secretary shall recover the full amount of a grant made to a governmental entity under this subsection with respect to a covered incentive offered by the governmental entity if—

“(A) as of the date that is 5 years after the date on which the Secretary makes the grant, the facility to which the covered incentive relates has not been completed;

“(B) during the term of the grant, the private entity to which the covered incentive was offered engages in expanded cooperation activity with a Chinese entity after the date on which any part of the grant is received; or
“(C) during the term of the grant, the private entity to which the covered incentive was offered engages in any joint research or technology licensing effort—

“(i) with the Government of the People’s Republic of China, the Government of the Russian Federation, the Government of Iran, or the Government of North Korea; or any entity owned or controlled by or agent or instrumentality of the Government of the People’s Republic of China, the Government of the Russian Federation, the Government of Iran, or the Government of North Korea, or with the Chinese Communist Party (CCP) or any entity owned, or controlled by or agent or instrumentality of the CCP; and

“(ii) that relates to a sensitive technology or product, as determined by the Secretary.

“(c) Consultation and Coordination Required.—In carrying out the program established under subsection (b), the Secretary shall consult and coordinate with the Secretary of State.
“(d) GAO Reviews.—The Comptroller General of the United States shall—

“(1) not later than 2 years after the date of enactment of this Act, and biennially thereafter until the date that is 10 years after that date of enactment, conduct a review of the program established under subsection (b), which shall include a determination of the number of grants made under that program during the period covered by the review that failed to comply with a requirement under this section; and

“(2) submit to the appropriate committees of Congress the results of each review conducted under paragraph (1).

“(e) Ineligibility.—If a covered entity that has received a grant engages in expanded cooperation activities with any Chinese entity, or the covered entity which has received a grant expands the covered entities’ activities in the People’s Republic of China, that entity shall be ineligible for any other grant under this section.

“(f) Public Disclosure of Certain Information.—The Secretary of Commerce shall, on an annual basis, make publicly available in a searchable database the following information:
“(1) A list of each covered entity that receives a grant under this section.

“(2) A list of each covered entity from which the Secretary recovered funds under subsection (b)(4), including the amount that was recovered from the covered entity.”.