

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

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

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

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

6 **“SEC. 1094. SEMICONDUCTOR INCENTIVE GRANTS.**

7 “(a) **DEFINITIONS.**—In this section:

8 “(1) **APPROPRIATE COMMITTEES OF CON-**
9 **GRESS.**—The term ‘appropriate committees of Con-

10 gress’ means—

11 “(A) the Select Committee on Intelligence,
12 the Committee on Commerce, Science, and
13 Transportation, the Committee on Foreign Re-
14 lations, the Committee on Armed Services, the
15 Committee on Appropriations, the Committee
16 on Banking, Housing, and Urban Affairs, and
17 the Committee on Homeland Security and Gov-
18 ernmental Affairs of the Senate; and

1 “(B) the Permanent Select Committee on
2 Intelligence, the Committee on Energy and
3 Commerce, the Committee on Foreign Affairs,
4 the Committee on Armed Services, the Com-
5 mittee on Science, Space, and Technology, the
6 Committee on Appropriations, the Committee
7 on Financial Services, and the Committee on
8 Homeland Security of the House of Representa-
9 tives.

10 “(2) CHINESE ENTITY.—The term ‘Chinese en-
11 tity’ means—

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

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

18 “(3) COVERED ENTITY.—The term ‘covered en-
19 tity’ means a private entity, a consortium of private
20 entities, or a consortium of public and private enti-
21 ties with a demonstrated ability to construct, ex-
22 pand, or modernize a facility relating to the fabrica-
23 tion, assembly, testing, advanced packaging, or ad-
24 vanced research and development of semiconductors.

1 “(4) COVERED INCENTIVE.—The term ‘covered
2 incentive’—

3 “(A) means an incentive offered by a gov-
4 ernmental entity to a private entity for the pur-
5 poses of building within the jurisdiction of the
6 governmental entity a fabrication (or other es-
7 sential) facility relating to the manufacturing of
8 semiconductors; and

9 “(B) includes any tax incentive (such as an
10 incentive or reduction with respect to employ-
11 ment or payroll taxes or a tax abatement with
12 respect to personal or real property), a work-
13 force-related incentive (including a grant agree-
14 ment relating to workforce training or voca-
15 tional education), any concession with respect
16 to real property, and any other incentive deter-
17 mined appropriate by the Secretary, in con-
18 sultation with the Secretary of State.

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

24 “(6) FOREIGN ADVERSARY.—The term ‘foreign
25 adversary’ means any foreign government or foreign

1 nongovernment^[al?] person that is engaged in a
2 long-term pattern, or is involved in a serious in-
3 stance, of conduct that is significantly adverse to—

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

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

8 “(7) GOVERNMENTAL ENTITY.—The term ‘gov-
9 ernmental entity’ means a State or local govern-
10 ment.

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

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

16 “(b) GRANT PROGRAM.—

17 “(1) IN GENERAL.—The Secretary shall estab-
18 lish in the Department of Commerce a program
19 that, in accordance with the requirements of this
20 section, provides grants to governmental entities
21 that offer covered incentives.

22 “(2) PROCEDURE.—

23 “(A) IN GENERAL.—A governmental entity
24 that offers a covered incentive and that desires
25 to receive a grant under this subsection shall

1 submit to the Secretary an application that de-
2 scribes the covered incentive offered by the gov-
3 ernmental entity.

4 “(B) CONDITIONS FOR APPROVAL.—The
5 Secretary shall approve an application sub-
6 mitted by a governmental entity under subpara-
7 graph (A)—

8 “(i) upon confirmation by the Sec-
9 retary that the private entity to which the
10 governmental entity has offered the cov-
11 ered incentive to which the application re-
12 lates has agreed to build in the applicable
13 jurisdiction a facility described in sub-
14 section (a)(2)(A);

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

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

21 “(I) will not engage in any ex-
22 panded cooperation activity with a
23 Chinese entity after the date on which
24 any part of the grant is received; and

1 “(II) will not expand the activi-
2 ties of the covered entity in the Peo-
3 ple’s Republic of China after the date
4 on which any part of the grant is re-
5 ceived.

6 “(3) AMOUNT.—The amount of a grant pro-
7 vided by the Secretary to a governmental entity
8 under this subsection shall be in an amount that is
9 not less than the value of the applicable covered in-
10 centive offered by the governmental entity, as deter-
11 mined by the Secretary.

12 “(4) CLAWBACK.—The Secretary shall recover
13 the full amount of a grant made to a governmental
14 entity under this subsection with respect to a cov-
15 ered incentive offered by the governmental entity
16 if—

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

21 “(B) during the term of the grant, the pri-
22 vate entity to which the covered incentive was
23 offered engages in expanded cooperation activ-
24 ity with a Chinese entity after the date on
25 which any part of the grant is received; or

1 “(C) during the term of the grant, the pri-
2 vate entity to which the covered incentive was
3 offered engages in any joint research or tech-
4 nology licensing effort—

5 “(i) with the Government of the Peo-
6 ple’s Republic of China, the Government of
7 the Russian Federation, the Government of
8 Iran, or the Government of North Korea;
9 or any entity owned or controlled by or
10 agent or instrumentality of the Govern-
11 ment of the People’s Republic of China,
12 the Government of the Russian Federation,
13 the Government of Iran, or the Govern-
14 ment of North Korea, or with the Chinese
15 Communist Party (CCP) or any entity
16 owned, or controlled by or agent or instru-
17 mentality of the CCP; and

18 “(ii) that relates to a sensitive tech-
19 nology or product, as determined by the
20 Secretary.

21 “(c) CONSULTATION AND COORDINATION RE-
22 QUIRED.—In carrying out the program established under
23 subsection (b), the Secretary shall consult and coordinate
24 with the Secretary of State.

1 “(d) GAO REVIEWS.—The Comptroller General of
2 the United States shall—

3 “(1) not later than 2 years after the date of en-
4 actment of this Act, and biennially thereafter until
5 the date that is 10 years after that date of enact-
6 ment, conduct a review of the program established
7 under subsection (b), which shall include a deter-
8 mination of the number of grants made under that
9 program during the period covered by the review
10 that failed to comply with a requirement under this
11 section; and

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

15 “(e) INELIGIBILITY.—If a covered entity that has re-
16 ceived a grant engages in expanded cooperation activities
17 with any Chinese entity, or the covered entity which has
18 received a grant expands the covered entities’ activities in
19 the People’s Republic of China, that entity shall be ineli-
20 gible for any other grant under this section.

21 “(f) PUBLIC DISCLOSURE OF CERTAIN INFORMA-
22 TION.—The Secretary of Commerce shall, on an annual
23 basis, make publicly available in a searchable database the
24 following information:

1 “(1) A list of each covered entity that receives
2 a grant under this section.

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

