

# China Competitiveness Legislation

## Can Congress Merge USICA and the America COMPETES Act?

*Prepared by the Greenberg Traurig's Government Law & Policy Team*

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# Status of China Competitiveness Legislation

“Today, we are pleased to announce that we have reached an agreement for the House and Senate to go to conference on the United States Innovation and Competition Act.”

-- Joint press release from Senate Majority Leader Schumer and House Speaker Pelosi, November 17, 2021

“I have been pushing for months for progress on this legislation to strengthen supply chains and boost our technological competitiveness. Senators from both sides of the aisle want to see a competition and technology bill finally enacted. After this week, we will hopefully be one step closer to achieving that goal.”

-- Senate Majority Leader Schumer on the Senate floor, February 3, 2022

“We’re proud of COMPETES. We're proud of our Members... We look forward to expeditiously going to conference and hope to hear from the Senate soon.”

-- House Speaker Pelosi, at a press event on passage of the America COMPETES Act, February 4, 2022

On February 17, the America COMPETES Act (H.R.2451) was officially received in the Senate and placed on the Senate Legislative Calendar. It is expected that the Senate will soon request a conference committee to resolve differences between this bill and the United States Competition and Innovation Act (USICA) (S.1260). The product of these negotiations may produce [the largest and most complex piece of legislation that Congress considers in 2022](#).

While press reports focus on the \$50 billion in semiconductor production and research funding that the two bills have in common, there are several dozen major policy proposals that may require lengthy, complex negotiations. Here is a quick snapshot:

Name of Legislation	Date of Passage	Vote	Number of Pages	Committees Involved	Direct Appropriations	New Program Authorizations
<b>House: America COMPETES Act</b>	Feb. 4, 2022	222 to 210	3,610	12	\$ 54.2 billion	\$ 392.4 billion
<b>Senate: USICA</b>	June 8, 2021	68 to 32	2,376	8	\$ 54.2 billion	\$ 209.8 billion



# Common Elements of USICA and America COMPETES Act

Significant common provisions in both bills:

**CHIPS Act funding (\$ 54.2 billion):** The legislation provides \$52.7 billion in direct appropriations for CHIPS Act semiconductor production and research, and an additional \$1.5 billion in direct appropriations for the Wireless Supply Chain Innovation Fund. These two initiatives were authorized under the FY21 National Defense Authorization Act.

**National Science Foundation research:** Both bills authorize (subject to future appropriations) more than \$80 billion for basic research in key technology areas, STEM education funding, scholarships and fellowships, critical minerals mining research, and precision agriculture research.

- **Key difference – New Research Directorate:** The Senate bill is structured to administer \$29 billion of research funding through a new Directorate for Technology and Innovation within the National Science Foundation, with a focus on 10 key technology focus areas (artificial intelligence, semiconductors, quantum computing, robotics, natural disaster prevention, advanced communications technology, biotechnology, cybersecurity, batteries, and advanced materials science). The House bill creates a new Directorate for Science and Engineering Solutions at NSF but provides an authorization of \$500 million.
- **Key difference – Additional Research Topics:** Beyond the 10 focus areas, the House bill also authorizes research on climate, violence, food-energy-water, sustainable chemistry, and clean water.

**Department of Energy research:** Both USICA and COMPETES authorize research at the national laboratories on key technology focus areas.

- **Key Difference – Scope of Funding:** The House bill authorizes \$150 billion for the Department of Energy (compared to \$17 billion in the Senate bill) for several categories of research, including basic energy research, high energy physics, advanced scientific computing, nuclear physics, biological and environmental, fusion, accelerator research, and isotope development. The COMPETES Act also includes funding for national laboratories restoration, solar supply chain research, ARPA-E, microelectronics, and several more research areas, as well as significant funding for developing transformative technologies and commercial deployment.

**Department of Commerce authorizations:** Both bills authorize significant funding to create a Regional Technology Hub program at the Department of Commerce and to expand the Manufacturing Extension Partnership and Manufacturing USA programs.

- **Key Difference – Scope of Funding:** The House bill also authorizes a bigger role for Commerce, including through the National Institute of Standards and Technology (NIST) and the National Oceanic and Atmospheric Administration (NOAA). The House bill includes \$85 billion in program authorizations for Commerce (compared to \$17 billion in the Senate bill), including \$45 billion for a new supply chain resilience fund, \$8 billion for NIST scientific and technical research, and \$10 billion for a NOAA coastal restoration program.

**Department of State authorizations:** Both bills would significantly expand authorization for State Department programs, including funding for increasing Indo-Pacific personnel, foreign military financing in the Indo-Pacific, the Asia Reassurance Initiative, the Infrastructure Transaction and Assistance Network, a Global Engagement Center, the Fulbright-Hays program, global supply chain diversification, International Military Education and Training (IMET) in the Indo-Pacific and Latin America, the Taiwan Fellowship program, internet freedom funding, and support for Hong Kong democracy.

- **Key Difference – Climate Change:** As described below, the House bill adds \$18 billion in climate-related funding to the State Department title of the bill.

**MTB Extensions:** Both bills include Miscellaneous Tariff Bill provisions that are effective through Dec. 31, 2023, although the Senate bill lists are slightly broader. Both bills would provide new duty suspensions or reductions for more than 1,300 tariff lines, extend more than 500 existing duty suspensions and reductions, modify and extend more than 240 article descriptions, modify more than 175 existing duty rates, and modify both article descriptions and existing duty rates for more than 80 articles.

**International Financing:** Both bills include provisions that oppose lending to China by the Asian Development Bank and the International Bank for Reconstruction and Development. Both bills would also increase the U.S. International Development Finance Corporation maximum contingent liability from \$60 billion to \$100 billion.

- **Key Difference – Inter-American Development Bank:** USICA authorizes \$24 billion for Treasury to purchase shares of the IADB to counter Chinese lending practices in Latin America and the Caribbean.

**Uyghur Sanctions:** Both bills include similar Uyghur sanctions language that would strengthen the Uyghur Human Rights Policy Act. The House bill includes additional requirements regarding specific Chinese companies.

### Other Notable Common Provisions

- Education authorization: international and foreign language education
- DOE Foundation for Energy Security and Innovation
- Advanced Technological Manufacturing Act
- DOJ/FTC premerger filing fees; antitrust enforcement
- Annual review of Chinese companies in U.S. capital markets
- Combatting sexual harassment in science
- Confucius Institutes funding restrictions
- Bioeconomy Research and Development Act
- China Censorship Monitor and Action Group
- Special Coordinator for Tibetan Issues
- Repeal of Magnitsky Act sunset for sanctions authority
- Economic Defense Response Teams
- Chinese proliferation of ballistic missiles and nuclear technology to the Middle East
- Federal Rotational Cyber Workforce program
- American Security Drone Act
- Malign foreign talent recruitment
- Prohibition of gain-of-function research
- Truman and Madison Foundations investment authorities
- Higher education gift disclosure
- Seafood Import Monitoring program





## House Only: America COMPETES Act Provisions Not Found in the Senate Bill

Significant provisions in COMPETES but not in the Senate bill:

- **CHIPS Act funding restrictions:** The House bill places additional restrictions on CHIPS Act grant recipients. It would prevent CHIPS funding from being used on stock buybacks or dividend payments and would require semiconductor funding applicants to provide data on workforce diversity.
- **Commerce Supply Chain Resilience Fund:** The bill creates new supply chain resilience authorities at the Department of Commerce and authorizes \$45 billion for a new Critical Supply Chain Resilience Program.
- **Additional GSP Country Criteria:** As a condition of eligibility for the Generalized System of Preferences (GSP) program, the House bill requires countries to meet updated criteria relating to labor laws and new criteria on human rights and the environment.
- **Successive Investigations under Trade Remedies Laws:** The House bill creates authority for successive antidumping and countervailing duties investigations. The provisions are designed to address situations where U.S. producers have won relief from unfair trade practices involving goods (such as steel) produced in one country, only to be followed by a surge of similar imports from another country.
- **Overseas Investment Review:** The National Critical Capabilities Review Act establishes a government committee to review (and potentially disapprove) overseas investments in countries of concern, which has been described as a “reverse CFIUS” process. It is included in the House bill.
- **Trade Adjustment Assistance:** The House bill includes \$21.8 billion in new Trade Adjustment Assistance Act authority for trade-impacted workers, firms, and communities.
- **Customs De Minimis Rule:** The House bill modifies the existing \$800 de minimis rule on imported goods by making it inapplicable to goods from countries that have non-market economies and are on the watch list for intellectual property violations. As drafted the provision would apply to imported goods from China.
- **International Climate Change Funding:** The House bill authorizes \$10 billion for the State Department for international climate change mitigation, adaptation, and security.

- **UN Green Climate Fund:** In addition to the State Department fund, the bill also authorizes an additional \$8 billion for the United Nations Green Climate Fund.
- **Health and Human Services Strategic Stockpile:** The House bill authorizes \$10.5 billion for HHS to make grants to states to expand or maintain a strategic stockpile of drugs, medical equipment, and personal protective equipment; the House bill also includes \$895 million to increase the federal Strategic National Stockpile.
- **SAFE Banking Act:** The House bill includes provisions to allow “state-legal cannabis businesses” to access the banking system.
- **Immigration provisions:** The House bill includes provisions to create a new “W” visa for nonimmigrant entrepreneurs. It also includes provisions relating to Uyghur and Afghan refugees.

#### Other Notable Provisions in the House Bill

- |   |  |   |
|---|--|---|
| • Defense Production Act amendments to secure medical materials | • Foreign Business Registration Act            | • Freight Rail Innovation Institute               |
| • National Apprenticeship Act funding                           | • ARPA-E extension                             | • Public Land Renewable Energy Development Act    |
| • Wildlife law enforcement attaché program                      | • DHS procurement reform for frontline workers | • Preventing Future Pandemics Act                 |
| • Inform Consumers Act  | • DHS Critical Technology Security Centers     | • DOE Natural Gas Distribution Improvement grants |
| • Shop Safe Act   | • Ocean Shipping Reform Act                    | • DOE State Flex-Tech Energy program              |
| • Holding Foreign Companies Accountable Act amendment           | • Rural Export Center                          |   |





## Senate Only: USICA Provisions Not Found in the House Bill

Significant provisions in USICA but not in the House bill:

- **Space Program Funding:** The Senate bill contains \$23.5 billion for the NASA Authorization Act and an additional \$10 billion for the human landing system program.
- **Geographic Diversity:** While both bills encourage geographic diversity in distributing funds, the Senate bill requires that 20% of NSF funds for innovation centers, scholarships and fellowships, test beds, and academic technology transfer programs be distributed to states that historically have received relatively little research and development (R&D) funding, and that 20% of DOE funds provided for research, development, and supply chain activities under the bill be distributed to states that historically have received relatively little R&D funding. The Senate bill also requires Commerce to locate regional technology hubs so that at least one-third of them benefit a small, rural community.
- **Buy America:** USICA includes provisions requiring domestic content in infrastructure project procurement and personal protective equipment purchases, including the use of federal financial assistance distributed through states. Identical provisions have been enacted separately as part of the Infrastructure Investment and Jobs Act (Pub.L. 117-58).
- **Cybersecurity Sanctions:** The Senate bill requires mandatory sanctions on any foreign person that (a) undermines cybersecurity on behalf of China, (b) is owned or controlled by such a foreign person, or (c) “knowingly materially assists, sponsors, or provides financial, material, or technological support for, or goods or services in support of” undermining cybersecurity.
- **Trade Secret Sanctions:** USICA also requires mandatory sanctions on any foreign person that has (a) knowingly engaged in, or benefitted from, significant theft of trade secrets from U.S. persons, (b) has “provided significant financial, material, or technological support for, or goods or services in support of, or to benefit significantly from” such theft, (c) is owned or controlled by such foreign person or entity, or (d) is a CEO or board member of such foreign entity.
- **Trade Act Section 301 Exclusion Process:** The Senate bill includes a statutory framework to establish a general exclusion process for goods impacted by tariffs under section 301 of the Trade Act. Many exclusions from duties on imported Chinese goods expired at the end of 2020 and have not been renewed.
- **DARPA R&D Authorization:** The Senate bill authorizes \$17.5 billion for the Defense Advanced Research Projects Agency to conduct research within the 10 key technology focus areas in the bill.

### Other Notable Provisions in the Senate Bill

- Aeronautics Innovation Act
- Intellectual Property Violators List
- PRC Subsidies List
- Creation of CBP Forced Labor Division
- USTR Inspector General
- Customs user fees
- Creation of White House Chief Manufacturing Officer
- Country of Origin Online Act
- FCC transfer of station licenses
- National Science Corps
- Countering Chinese Influence Fund
- Facilitating Federal Employee Reskilling Act
- Safeguarding American Innovation Act
- National Risk Management Act
- Prohibition on funding for Wuhan Institute of Virology
- Committee on Trade in Essential Supplies
- Cyber Response and Recovery Fund
- Authorization of excess defense article transfers to Thailand, Vietnam, Indonesia, Malaysia
- Prohibition of Millennium Challenge Act funding to countries that host Chinese military facilities
- Deputy Assistant Secretary of State for Arctic Affairs
- Reskilling Federal Employees
- Artificial Intelligence standards



## Follow the Real Money: Semiconductors and Wireless Supply Chain

The bills are identical with regard to the amount of direct appropriations provided to the Commerce Department for semiconductor production and research, as well as amounts provided for a wireless supply chain innovation fund. Unlike the other authorized amounts in each bill (which must be followed by future appropriations from Congress), this funding is not subject to any subsequent action.

Each bill appropriates \$54.2 billion as shown below.

DIRECT APPROPRIATIONS		
CATEGORY	HOUSE	SENATE
<b>Semiconductor incentives</b>	(\$39.0 B)	(\$39.0 B)
<b>Advanced microelectronic research and development</b>	(\$11.2 B)	(\$11.2 B)
<b>Defense Fund</b>	(\$2.0 B)	(\$2.0 B)
<b>International Technology Security and Innovation Fund</b>	(\$0.5 B)	(\$0.5 B)
<b>SUBTOTAL – CHIPS for America semiconductor funding</b>	\$52.7 B	\$52.7 B
<b>Wireless supply chain innovation fund</b>	\$1.5 B	\$1.5 B
<b>TOTAL</b>	\$54.2 B	\$54.2 B



## Follow the Proposed Money by Agency

The table below shows the new program authorizations in each bill by agency. The House legislation provides almost twice the level of new spending authority compared to the Senate bill.

<b>AUTHORIZATIONS (Subject to Future Appropriations)</b>		
<b>AGENCY</b>	<b>HOUSE</b>	<b>SENATE</b>
<b>National Science Foundation</b>	\$82.8 B	\$81.5 B
<b>Department of Energy</b>	\$150.9 B	\$17.0 B
<b>Department of Commerce</b>	\$85.0 B	\$16.8 B
<b>Department of State</b>	\$31.4 B	\$14.1 B
<b>NASA</b>	---	\$ 33.6 B
<b>DARPA</b>	---	\$ 17.5 B
<b>Department of Health and Human Services</b>	\$13.2 B	---
<b>Department of Labor</b>	\$25.7 B	---
<b>Department of Treasury</b>	---	\$24.0 B
<b>Other</b>	\$3.4 B	\$2.3 B
<b>TOTAL</b>	<b>\$392.4 B</b>	<b>\$209.8 B</b>



## For More Information

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**Rob Mangas**

**GT Government Law and Policy Group**

Greenberg Traurig, LLP  
2101 L Street, N.W.  
Washington, D.C. 20037

(202) 530-8507 | [mangasr@gtlaw.com](mailto:mangasr@gtlaw.com)



## GT D.C. Government Law & Policy Team

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