

AMENDMENT TO RULES COMMITTEE PRINT 118-

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OFFERED BY MR. GALLAGHER OF WISCONSIN

At the appropriate place in title VXIII, insert the following:

1 **SEC. 18___ . PROHIBITION ON CONTRACTING WITH CER-**
2 **TAIN BIOTECHNOLOGY PROVIDERS.**

3 (a) IN GENERAL.—The head of an executive agency
4 may not—

5 (1) procure or obtain or extend or renew a con-
6 tract to procure or obtain any covered biotechnology
7 equipment or service; or

8 (2) enter into a contract or extend or renew a
9 contract with any entity that—

10 (A) uses covered biotechnology equipment
11 or services acquired after the date of the enact-
12 ment of this Act; or

13 (B) that enters into any contract the per-
14 formance of which such entity knows or has
15 reason to believe will require the direct use of
16 covered biotechnology equipment or services.

1 (b) PROHIBITION ON LOAN AND GRANT FUNDS.—

2 The head of an executive agency may not obligate or ex-
3 pend loan or grant funds to—

4 (1) procure or obtain or extend or renew a con-
5 tract to procure or obtain any covered biotechnology
6 equipment or service; or

7 (2) enter into a contract or extend or renew a
8 contract with an entity described in subsection
9 (a)(2).

10 (c) EFFECTIVE DATE.—The prohibitions under sub-
11 sections (a) and (b) shall take effect 180 days after the
12 date of the enactment of this Act.

13 (d) WAIVER AUTHORITIES.—

14 (1) SPECIFIC BIOTECHNOLOGY EXCEPTION.—

15 (A) WAIVER.—The head of an executive
16 agency may waive the prohibition under sub-
17 section (a) and (b) on a case-by-case basis—

18 (i) with the approval of the Director
19 of the Office of Management and Budget,
20 in consultation with the Federal Acquisi-
21 tion Security Council and the Secretary of
22 Defense; and

23 (ii) if such head submits a notification
24 and justification to the appropriate con-

1 gressional committees not later than 30
2 days after granting such waiver.

3 (B) DURATION.—

4 (i) IN GENERAL.—Except as provided
5 in clause (ii), a waiver granted under sub-
6 paragraph (A) shall last for a period of not
7 more than 180 days.

8 (ii) EXTENSION.—The Director of the
9 Office of Management and Budget, in con-
10 sultation with the Federal Acquisition Se-
11 curity Council and the Secretary of De-
12 fense, may extend a waiver granted under
13 subparagraph (A) one time, for a period
14 up to 180 days after the date on which the
15 waiver would otherwise expire, if such an
16 extension is in the national security inter-
17 ests of the United States and the Director
18 submits to the appropriate congressional
19 committees a notification of such waiver.

20 (2) OVERSEAS HEALTH CARE SERVICES.—The
21 head of an executive agency may waive the prohibi-
22 tions under subsections (a) and (b) with respect to
23 a contract, subcontract, or transaction for the acqui-
24 sition or provision of health care services overseas on
25 a case-by-case basis—

1 (A) if the head of such executive agency
2 determines that the waiver is—

3 (i) necessary to support the mission or
4 activities of the employees of such execu-
5 tive agency described in subsection
6 (e)(2)(A); and

7 (ii) in the interest of the United
8 States;

9 (B) with the approval of the Director of
10 the Office of Management and Budget, in con-
11 sultation with the Federal Security Acquisition
12 Council and the Secretary of Defense; and

13 (C) if such head submits a notification and
14 justification to the appropriate congressional
15 committees not later than 30 days after grant-
16 ing such waiver.

17 (e) EXCEPTIONS.—The prohibitions under sub-
18 sections (a) and (b) shall not apply to—

19 (1) any activity subject to the reporting require-
20 ments under title V of the National Security Act of
21 1947 (50 U.S.C. 3091 et seq.) or any authorized in-
22 telligence activities of the United States;

23 (2) the acquisition or provision of health care
24 services overseas for—

1 (A) employees of the United States, includ-
2 ing members of the uniformed services (as de-
3 fined in section 101(a) of title 10, United
4 States Code), whose official duty stations are
5 located overseas; or

6 (B) employees of contractors or sub-
7 contractors of the United States—

8 (i) who are performing under a con-
9 tract that directly supports the missions or
10 activities of individuals described in sub-
11 paragraph (A); and

12 (ii) whose primary duty stations are
13 located overseas; or

14 (3) the acquisition, use, or distribution of ge-
15 netic sequencing data, however compiled, that is
16 commercially available.

17 (f) EVALUATION OF CERTAIN BIOTECHNOLOGY EN-
18 TITIES.—Not later than 90 days after the date of the en-
19 actment of this Act, the Secretary of Defense shall deter-
20 mine whether Wuxi AppTec, AxBio, and any subsidiary,
21 affiliate, or successor of such entities, or any other entity
22 headquartered in or organized under the laws of the Peo-
23 ple's Republic of China are a biotechnology company of
24 concern.

25 (g) REGULATIONS.—

1 (1) Not later than 180 days after the date of
2 the enactment of this Act, the Director of the Office
3 of Management and Budget, in coordination with
4 the Federal Acquisition Security Council, the Fed-
5 eral Acquisition Regulatory Council, the Secretary of
6 Defense, and other heads of Executive agencies as
7 determined appropriate by the Director of the Office
8 of Management and Budget, shall establish guid-
9 ance, as necessary, to implement the requirements of
10 this section.

11 (2) Not later than 270 days after the date of
12 the enactment of this Act, the Federal Acquisition
13 Regulatory Council shall revise the Federal Acquisi-
14 tion Regulation as necessary to implement the re-
15 quirements of this section.

16 (h) DEFINITIONS.—In this section:

17 (1) APPROPRIATE CONGRESSIONAL COMMIT-
18 TEES.—The term “appropriate congressional com-
19 mittees” means—

20 (A) the Committees on Armed Services
21 and on Homeland Security and Governmental
22 Affairs of the Senate; and

23 (B) the Committee on Armed Services, the
24 Committee on Foreign Affairs, the Committee
25 on Oversight and Accountability, the Committee

1 on Energy and Commerce, and the Select Com-
2 mittee on Strategic Competition between the
3 United States and the Chinese Communist
4 Party of the House of Representatives.

5 (2) BIOTECHNOLOGY COMPANY OF CONCERN.—

6 The term “biotechnology company of concern”
7 means—

8 (A) the BGI Group, MGI Group, or Com-
9 plete Genomics, or any subsidiary, parent, affil-
10 iate, or successor of such entities; and

11 (B) any entity that—

12 (i) is subject to the jurisdiction, direc-
13 tion, or control of a foreign adversary;

14 (ii) operates primarily in the bio-
15 technology industry; and

16 (iii) the Secretary of Defense deems
17 to pose a risk to the national security of
18 the United States.

19 (3) BIOTECHNOLOGY EQUIPMENT OR SERV-
20 ICE.—The term “biotechnology equipment or serv-
21 ice” means—

22 (A) any instrument, apparatus, machine,
23 or device, including components and accessories
24 thereof, that is designed for use in the research,
25 development, production, or analysis of biologi-

1 cal materials as well as any software, firmware,
2 or other digital components that are specifically
3 designed for use in, and necessary for the oper-
4 ation of, such an instrument, apparatus, ma-
5 chine, or device;

6 (B) any service for the research, develop-
7 ment, production, analysis, detection, or provi-
8 sion of information related to biological mate-
9 rials, including—

10 (i) advising, consulting, or support
11 services provided by a biotechnology com-
12 pany of concern with respect to the use or
13 implementation of a instrument, appa-
14 ratus, machine, or device described in sub-
15 paragraph (A); and

16 (ii) disease detection, genealogical in-
17 formation, and related services; and

18 (C) any other service, instrument, appa-
19 ratus, machine, component, accessory, device,
20 software, or firmware that the Federal Acquisi-
21 tion Security Council, in coordination with the
22 Secretary of Defense and such other heads of
23 Executive agencies (as determined by the Fed-
24 eral Acquisition Security Council), determines
25 appropriate.

1 (4) CONTROL.—The term “control” has the
2 meaning given to that term in section 800.208, Title
3 31, Code of Federal Regulations, or any successor
4 regulations

5 (5) COVERED BIOTECHNOLOGY EQUIPMENT OR
6 SERVICE.—The term “covered biotechnology equip-
7 ment or service” means a biotechnology equipment
8 or service produced or provided by a biotechnology
9 company of concern.

10 (6) EXECUTIVE AGENCY.—The term “Executive
11 agency” has the meaning given such term in section
12 105 of title 5, United States Code.

13 (7) FOREIGN ADVERSARY.—The term “foreign
14 adversary” has the meaning given the term “covered
15 nation” in section 4872(d) of title 10, United States
16 Code.

17 (8) OVERSEAS.—The term “overseas” means
18 any area outside of the United States, the Common-
19 wealth of Puerto Rico, or a territory or possession
20 of the United States.

