

**AMENDMENT TO**  
**RULES COMMITTEE PRINT 119-8**  
**OFFERED BY MR. MOOLENAAR OF MICHIGAN**

At the end of subtitle A of title XVII, add the following:

**1 SEC. 17\_\_\_\_. 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 any biotechnology equip-**  
**6 ment or service produced or provided by a bio-**  
**7 technology company of concern; or**

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

**10 (A) uses any biotechnology equipment or**  
**11 service produced or provided by a biotechnology**  
**12 company of concern and acquired after the ap-**  
**13 plicable effective date described in subsection**  
**14 (c) in performance of the contract with such ex-**  
**15 ecutive agency; or**

**16 (B) enters into any contract the perform-**  
**17 ance of which such entity knows or has reason**  
**18 to believe will require, in performance of the**

1 contract with such executive agency, the use of  
2 any biotechnology equipment or service pro-  
3 duced or provided by a biotechnology company  
4 of concern and acquired after the applicable ef-  
5 fective date described in subsection (c).

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

7 The head of an executive agency may not obligate or ex-  
8 pend loan or grant funds to, and a loan or grant recipient  
9 may not use loan or grant funds to—

10 (1) procure, obtain, or use any biotechnology  
11 equipment or service produced or provided by a bio-  
12 technology company of concern; or

13 (2) enter into a contract or extend or renew a  
14 contract with an entity described in subsection  
15 (a)(2).

16 (c) EFFECTIVE DATES.—

17 (1) CERTAIN ENTITIES.—With respect to a bio-  
18 technology company of concern described in sub-  
19 section (k)(2)(A), the prohibitions described in sub-  
20 sections (a) and (b) shall take effect 60 days after  
21 the date on which the Federal Acquisition Regula-  
22 tion is revised pursuant to subsection (h).

23 (2) OTHER ENTITIES.—With respect to a bio-  
24 technology company of concern described in sub-  
25 section (k)(2)(B) or (k)(2)(C), the prohibitions de-

1 scribed in subsections (a) and (b) shall take effect  
2 90 days after the date on which the Federal Acquisi-  
3 tion Regulation is revised pursuant to subsection  
4 (h).

5 (3) RULES OF CONSTRUCTION.—

6 (A) EXCLUSIONS.—Prior to the date that  
7 is 5 years after a revision to the Federal Acqui-  
8 sition Regulation pursuant to subsection (h)  
9 that pertains to a biotechnology company of  
10 concern described in subsections (k)(2)(A) and  
11 (k)(2)(B), subsections (a)(2) and (b)(2) do not  
12 apply to any biotechnology equipment or service  
13 produced or provided pursuant to a contract or  
14 agreement, including any previously negotiated  
15 contract option, entered into before the effective  
16 date described in paragraph (2).

17 (B) SAFE HARBOR.—The term “bio-  
18 technology equipment or service produced or  
19 provided by a biotechnology company of con-  
20 cern” may not be construed to refer to any bio-  
21 technology equipment or service that formerly,  
22 but no longer, was produced or provided by a  
23 biotechnology company of concern.

24 (d) WAIVER AUTHORITIES.—

1           (1) CASE-BY-CASE WAIVER.—The head of the  
2           applicable executive agency may waive the prohibi-  
3           tions described in subsections (a) and (b) on a case-  
4           by-case basis—

5                   (A) with the approval of the Director of  
6           the Office of Management and Budget, in con-  
7           sultation with the Secretary of Defense;

8                   (B) if such head submits a notification and  
9           justification to the appropriate congressional  
10          committees not later than 30 days after the  
11          date on which such head grants such waiver;  
12          and

13                  (C) if such waiver is limited to a period of  
14          not more than 365 days.

15          (2) PUBLIC HEALTH EMERGENCY WAIVER.—  
16          The head of the applicable executive agency may  
17          waive the prohibitions described in subsections (a)  
18          and (b) on a case-by-case basis for the procurement  
19          of specific medical countermeasures, medical prod-  
20          ucts, and related supplies (including ancillary med-  
21          ical supplies that are not available in sufficient  
22          quantity from a source that is not a biotechnology  
23          company of concern and that are necessary for the  
24          direct response to a public health emergency de-

1       clared pursuant to section 319 of the Public Health  
2       Service Act (42 U.S.C. 247d))—

3               (A) with the approval of the Director of  
4       the Office of Management and Budget, in con-  
5       sultation with the Secretary of Defense;

6               (B) if such head submits a notification and  
7       justification to the appropriate congressional  
8       committees not later than 30 days after the  
9       date on which such head grants such waiver;  
10      and

11              (C) if such waiver is limited to the dura-  
12      tion of such public health emergency or a period  
13      of not more than 180 days (whichever is short-  
14      er).

15              (3) EXTENSION.—The head of the applicable  
16      executive agency, with the approval of the Director  
17      of the Office of Management and Budget and in  
18      consultation with the Secretary of Defense, may ex-  
19      tend a waiver granted under paragraph (1) or (2) 1  
20      time, for a period of not more than 180 days after  
21      the date on which such waiver would otherwise ex-  
22      pire, if—

23              (A) such an extension is in the national se-  
24      curity interests of the United States; and

1 (B) such head submits a notification and  
2 justification to the appropriate congressional  
3 committees not later than 10 days after the  
4 date on which such head grants such extension.

5 (4) OVERSEAS HEALTH CARE SERVICES.—The  
6 head of an executive agency may waive the prohibi-  
7 tions described in subsections (a) and (b) with re-  
8 spect to a contract, subcontract, or transaction for  
9 the acquisition or provision of health care services  
10 overseas on a case-by-case basis—

11 (A) if such head determines that such  
12 waiver is—

13 (i) necessary to support the mission or  
14 activities of the employees of such execu-  
15 tive agency described in subsection  
16 (e)(2)(A); and

17 (ii) in the interest of the United  
18 States;

19 (B) with the approval of the Director of  
20 the Office of Management and Budget and in  
21 consultation with the Secretary of Defense; and

22 (C) if such head submits a notification and  
23 justification to the appropriate congressional  
24 committees not later than 30 days after the  
25 date on which such head grants such waiver.

1 (e) EXCEPTIONS.—The prohibitions described in sub-  
2 sections (a) and (b) do not apply to—

3 (1) any activity subject to the reporting require-  
4 ments described in title V of the National Security  
5 Act of 1947 (50 U.S.C. 3091 et seq.) or any author-  
6 ized intelligence activities of the United States;

7 (2) the acquisition or provision of health care  
8 services overseas for—

9 (A) employees of the United States, includ-  
10 ing members of the uniformed services (as de-  
11 fined in section 101(a) of title 10, United  
12 States Code), with official duty stations located  
13 overseas or who are on permissive temporary  
14 duty travel overseas; or

15 (B) employees of contractors or sub-  
16 contractors of the United States—

17 (i) who are performing pursuant to a  
18 contract that directly supports the mis-  
19 sions or activities of the employees de-  
20 scribed in subparagraph (A); and

21 (ii) with primary duty stations located  
22 overseas or who are on permissive tem-  
23 porary duty travel overseas; or

1           (3) the acquisition, use, or distribution of  
2           human multiomic data that is lawfully compiled and  
3           commercially or publicly available.

4           (f) EVALUATION OF CERTAIN BIOTECHNOLOGY EN-  
5           TITIES.—

6           (1) ENTITY DETERMINATION.—Not later than  
7           365 days after the date of the enactment of this sec-  
8           tion, the Director of the Office of Management and  
9           Budget shall publish a list of entities that are a bio-  
10          technology company of concern.

11          (2) GUIDANCE.—Not later than 180 days after  
12          the publication of the list pursuant to paragraph (1)  
13          and any update to such list pursuant to paragraph  
14          (3), the Director of the Office of Management and  
15          Budget, in consultation with the Secretary of De-  
16          fense, the Attorney General, the Secretary of Health  
17          and Human Services, the Secretary of Commerce,  
18          the Director of National Intelligence, the Secretary  
19          of Homeland Security, the Secretary of State, and  
20          the National Cyber Director, shall establish guidance  
21          as necessary to implement the requirements of this  
22          section.

23          (3) UPDATES.—The Director of the Office of  
24          Management and Budget, in coordination with or  
25          based on a recommendation provided by the Sec-



1       retary of Defense, the Attorney General, the Sec-  
2       retary of Health and Human Services, the Secretary  
3       of Commerce, the Director of National Intelligence,  
4       the Secretary of Homeland Security, the Secretary  
5       of State, and the National Cyber Director, shall pe-  
6       riodically (and not later than annually) review and,  
7       as appropriate, remove entities from or add entities  
8       to the list published pursuant to paragraph (1) and  
9       notify the appropriate congressional committees of  
10      any such removals or additions.

11           (4) NOTICE OF POTENTIAL DESIGNATION AND  
12      REVIEW.—

13           (A) IN GENERAL.—The Director of the Of-  
14      fice of Management and Budget shall issue to  
15      any entity under final consideration for deter-  
16      mination as a biotechnology company of con-  
17      cern described in subsection (k)(2)(B) or  
18      (k)(2)(C) a notice—

19           (i) advising that such entity is under  
20      consideration;

21           (ii) identifying the criteria relied upon  
22      under subsection (k)(2)(B) or (k)(2)(C)  
23      and, to the extent consistent with national  
24      security and law enforcement interests, the

1 information that formed the basis for such  
2 consideration;

3 (iii) advising that, not later than 90  
4 days after the date on which such entity  
5 receives such notice, such entity may sub-  
6 mit to the Director of the Office of Man-  
7 agement and Budget information and ar-  
8 gument in opposition to being determined  
9 to be a biotechnology company of concern;

10 (iv) describing the procedures gov-  
11 erning the review and possible issuance of  
12 a determination pursuant to paragraph  
13 (1); and

14 (v) where practicable, identifying miti-  
15 gation steps such entity may take that may  
16 prevent such determination.

17 (B) CONGRESSIONAL NOTIFICATION RE-  
18 QUIREMENTS.—

19 (i) NOTICE OF POTENTIAL DETER-  
20 MINATION.—The Director of the Office of  
21 Management and Budget shall submit the  
22 notice required by subparagraph (A) to the  
23 Committee on Homeland Security and  
24 Governmental Affairs of the Senate and  
25 the Committee on Oversight and Govern-

1                   ment Reform of the House of Representa-  
2                   tives.

3                   (ii) INFORMATION AND ARGUMENT IN  
4                   OPPOSITION TO DETERMINATIONS.—Not  
5                   later than 7 days after the date on which  
6                   the Director of the Office of Management  
7                   and Budget receives any information and  
8                   argument pursuant to subparagraph  
9                   (A)(iii), the Director of the Office of Man-  
10                  agement and Budget shall submit such in-  
11                  formation and argument to the Committee  
12                  on Homeland Security and Governmental  
13                  Affairs of the Senate and the Committee  
14                  on Oversight and Government Reform of  
15                  the House of Representatives.

16               (5) NO IMMEDIATE PUBLIC RELEASE.—Any  
17               identifying information about any entity being con-  
18               sidered for determination as a biotechnology com-  
19               pany of concern pursuant to paragraph (1) or para-  
20               graph (3) may not be made publicly available until  
21               the Director of the Office of Management and Budg-  
22               et includes such entity on the list published pursuant  
23               to paragraph (1).

1 (g) EVALUATION OF NATIONAL SECURITY RISKS  
2 POSED BY FOREIGN ADVERSARY ACQUISITION OF AMER-  
3 ICAN MULTIOMIC DATA.—

4 (1) ASSESSMENT.—Not later than 270 days  
5 after the date of the enactment of this section, the  
6 Director of National Intelligence, in consultation  
7 with the Secretary of Defense, the Attorney General  
8 of the United States, the Secretary of Health and  
9 Human Services, the Secretary of Commerce, the  
10 Secretary of Homeland Security, the Secretary of  
11 State, and the National Cyber Director, shall com-  
12 plete an assessment of risks to national security  
13 posed by human multiomic data from United States  
14 citizens that is collected or stored by a foreign ad-  
15 versary from the provision of any biotechnology  
16 equipment or service.

17 (2) REPORT REQUIREMENT.—Not later than 30  
18 days after the date on which the assessment is com-  
19 pleted pursuant to paragraph (1), the Director of  
20 National Intelligence shall submit to the appropriate  
21 congressional committees a report that details the  
22 results of such assessment.

23 (3) FORM.—The report required by paragraph  
24 (2) shall be in unclassified form, but may include a  
25 classified annex.

1 (h) REGULATIONS.—Not later than 1 year after the  
2 date on which the guidance is established pursuant to sub-  
3 section (f)(2), and as necessary for subsequent updates,  
4 the Federal Acquisition Regulatory Council shall revise  
5 the Federal Acquisition Regulation as necessary to imple-  
6 ment the requirements of this section.

7 (i) REPORTING ON INTELLIGENCE ON NEFARIOUS  
8 ACTIVITIES OF BIOTECHNOLOGY COMPANIES WITH  
9 HUMAN MULTIOMIC DATA.—

10 (1) IN GENERAL.—Not later than 180 days  
11 after the date of the enactment of this section, and  
12 annually thereafter, the Director of National Intel-  
13 ligence, in consultation with the heads of executive  
14 agencies, shall submit to the appropriate congres-  
15 sional committees a report that details any intel-  
16 ligence in possession of such executive agencies that  
17 relates to nefarious activities conducted by bio-  
18 technology companies with human multiomic data.

19 (2) CONTENTS.—The report required by para-  
20 graph (1) shall include information relating to po-  
21 tential threats to national security or public safety  
22 from the selling, reselling, licensing, trading, trans-  
23 ferring, sharing, or otherwise providing or making  
24 available to any foreign country of any forms of  
25 multiomic data of a United States citizen.

1 (j) NO ADDITIONAL FUNDS.—No additional funds  
2 are authorized to be appropriated for the purpose of car-  
3 rying out this section.

4 (k) DEFINITIONS.—In this section:

5 (1) The term “appropriate congressional com-  
6 mittees” means—

7 (A) the Committee on Armed Services, the  
8 Select Committee on Intelligence, and the Com-  
9 mittee on Homeland Security and Govern-  
10 mental Affairs of the Senate; and

11 (B) the Committee on Armed Services, the  
12 Permanent Select Committee on Intelligence,  
13 the Committee on Foreign Affairs, the Com-  
14 mittee on Oversight and Government Reform,  
15 the Committee on Energy and Commerce, and  
16 the Select Committee on the Strategic Competi-  
17 tion between the United States and the Chinese  
18 Communist Party of the House of Representa-  
19 tives.

20 (2) The term “biotechnology company of con-  
21 cern” means any of the following:

22 (A) An entity that is to any extent involved  
23 in the manufacturing, distribution, provision, or  
24 procurement of any biotechnology equipment or  
25 service and is identified in the annual list pub-

1           lished in the Federal Register by the Depart-  
2           ment of Defense of Chinese military companies  
3           operating in the United States pursuant to sec-  
4           tion 1260H(b)(2) of the William M. (Mac)  
5           Thornberry National Defense Authorization Act  
6           for Fiscal Year 2021 (Public Law 116–283; 10  
7           U.S.C. 113 note).

8           (B) Any entity that is determined by the  
9           Director of the Office of Management and  
10          Budget, based on recommendations provided by  
11          the Secretary of Defense in coordination with  
12          the Attorney General, the Secretary of Health  
13          and Human Services, the Secretary of Com-  
14          merce, the Director of National Intelligence, the  
15          Secretary of Homeland Security, the Secretary  
16          of State, and the National Cyber Director, to  
17          meet the following criteria:

18               (i) Is subject to the administrative  
19               governance structure, direction, or control,  
20               or operates on the behalf, of the govern-  
21               ment of a foreign adversary.

22               (ii) Is to any extent involved in the  
23               manufacturing, distribution, provision, or  
24               procurement of any biotechnology equip-  
25               ment or service.

1 (iii) Poses a risk to the national secu-  
2 rity of the United States based on—

3 (I) engaging in joint research  
4 with, being supported by, or being af-  
5 filiated with the military, internal se-  
6 curity forces, or intelligence agencies  
7 of a foreign adversary;

8 (II) providing to the government  
9 of a foreign adversary multiomic data  
10 obtained via any biotechnology equip-  
11 ment or service; or

12 (III) obtaining human multiomic  
13 data via any biotechnology equipment  
14 or service without express and in-  
15 formed consent.

16 (C) An entity determined by the Director  
17 of the Office of Management, in consultation  
18 with the Secretary of Commerce, Secretary of  
19 Defense, and Director of National Intelligence,  
20 to be a subsidiary, parent, affiliate, or successor  
21 of a listed biotechnology company of concern (if  
22 the entity meets the criteria described in  
23 clauses (i) through (iii) of subparagraph (B)).

24 (3) The term “biotechnology equipment or serv-  
25 ice” means—



1 (A) equipment, including genetic sequenc-  
2 ers or any other instrument, apparatus, ma-  
3 chine, or device (including components and ac-  
4 cessories thereof), that is designed for use in  
5 the research, development, production, or anal-  
6 ysis of biological materials, as well as any soft-  
7 ware, firmware, or other digital components  
8 that are specifically designed for use in, and  
9 necessary for the operation of, such equipment;

10 (B) any service for the research, develop-  
11 ment, production, analysis, detection, or provi-  
12 sion of information, including data storage and  
13 transmission related to biological materials, in-  
14 cluding—

15 (i) advising, consulting, or support  
16 services with respect to the use or imple-  
17 mentation of an instrument, apparatus,  
18 machine, or device described in subpara-  
19 graph (A); and

20 (ii) disease detection, genealogical in-  
21 formation, and related services; and

22 (C) any other service, instrument, appa-  
23 ratus, machine, component, accessory, device,  
24 software, or firmware that is designed for use  
25 in the research, development, production, or

1 analysis of biological materials that the Direc-  
2 tor of the Office of Management and Budget, in  
3 consultation with the heads of executive agen-  
4 cies (as determined appropriate by the Director  
5 of the Office of Management and Budget), de-  
6 termines appropriate in the interest of national  
7 security.

8 (4) The term “contract” (except as that term  
9 is used in subsection (b)(2) and subsection (c)(3))  
10 means any contract subject to the Federal Acquisi-  
11 tion Regulation issued under section 1303(a)(1) of  
12 title 41, United States Code, any transaction (other  
13 than a contract, a grant, or a cooperative agree-  
14 ment) entered into under section 4021 of title 10,  
15 United States Code, or any similar authority.

16 (5) The term “control” has the meaning given  
17 that term in section 800.208 of title 31, Code of  
18 Federal Regulations (or any successor regulation).

19 (6) The term “executive agency” has the mean-  
20 ing given the term “Executive agency” in section  
21 105 of title 5, United States Code.

22 (7) The term “foreign adversary” has the  
23 meaning given the term “covered nation” in section  
24 4872(f) of title 10, United States Code.

1           (8) The term “multiomic” means data types  
2           that include genomics, epigenomics, transcriptomics,  
3           proteomics, and metabolomics.

4           (9) The term “overseas” means any area out-  
5           side of the United States, the Commonwealth of  
6           Puerto Rico, or any territory or possession of the  
7           United States.

