

**AMENDMENT TO  
RULES COMMITTEE PRINT 118-36  
OFFERED BY MR. WENSTRUP OF OHIO**

At the end of subtitle A of title XVII, insert the following new section:

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 biotechnology equipment or serv-  
11 ices produced or provided by a biotechnology  
12 company of concern and acquired after the ap-  
13 plicable effective date in subsection (c) in per-  
14 formance of the contract with the executive  
15 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 the executive agency, the use of  
2 biotechnology equipment or services produced or  
3 provided by a biotechnology company of concern  
4 and acquired after the applicable effective date  
5 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 services 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 the  
18 biotechnology companies of concern covered by sub-  
19 section (f)(2)(A), the prohibitions under subsections  
20 (a) and (b) shall take effect 60 days after the  
21 issuance of the regulation in subsection (h).

22 (2) OTHER ENTITIES.—With respect to the bio-  
23 technology companies of concern covered by sub-  
24 section (f)(2)(B), the prohibitions under subsections

1 (a) and (b) shall take effect 180 days after the  
2 issuance of the regulation in subsection (h).

3 (3) RULES OF CONSTRUCTION.—

4 (A) CERTAIN ENTITIES.—Prior to January  
5 1, 2032, with respect to biotechnology compa-  
6 nies of concern covered by subsections  
7 (f)(2)(A), subsections (a)(2) and (b)(2) shall  
8 not apply to biotechnology equipment or serv-  
9 ices produced or provided under a contract or  
10 agreement, including previously negotiated con-  
11 tract options, entered into before the effective  
12 date under paragraph (1).

13 (B) OTHER ENTITIES.—Prior to the date  
14 that is five years after the issuance of the regu-  
15 lation in subsection (h) that identifies a bio-  
16 technology company of concern covered by sub-  
17 sections (f)(2)(B), subsections (a)(2) and (b)(2)  
18 shall not apply to biotechnology equipment or  
19 services produced or provided under a contract  
20 or agreement, including previously negotiated  
21 contract options, entered into before the effec-  
22 tive date under paragraph (2).

23 (C) SAFE HARBOR.—The term “bio-  
24 technology equipment or services produced or  
25 provided by a biotechnology company of con-

1           cern” shall not be construed to refer to any bio-  
2           technology equipment or services that were for-  
3           merly, but are no longer, produced or provided  
4           by biotechnology companies of concern.

5           (d) WAIVER AUTHORITIES.—

6           (1) SPECIFIC BIOTECHNOLOGY EXCEPTION.—

7           (A) WAIVER.—The head of the applicable  
8           executive agency may waive the prohibition  
9           under subsections (a) and (b) on a case-by-case  
10          basis—

11                   (i) with the approval of the Director  
12                   of the Office of Management and Budget,  
13                   in coordination with the Secretary of De-  
14                   fense; and

15                   (ii) if such head submits a notification  
16                   and justification to the appropriate con-  
17                   gressional committees not later than 30  
18                   days after granting such waiver.

19           (B) DURATION.—

20                   (i) IN GENERAL.—Except as provided  
21                   in clause (ii), a waiver granted under sub-  
22                   paragraph (A) shall last for a period of not  
23                   more than 365 days.

24                   (ii) EXTENSION.—The head of the ap-  
25                   plicable executive agency, with the ap-

1           proval of the Director of the Office of  
2           Management and Budget, and in coordina-  
3           tion with the Secretary of Defense, may  
4           extend a waiver granted under subpara-  
5           graph (A) one time, for a period up to 180  
6           days after the date on which the waiver  
7           would otherwise expire, if such an exten-  
8           sion is in the national security interests of  
9           the United States and if such head sub-  
10          mits a notification and justification to the  
11          appropriate congressional committees not  
12          later than 10 days after granting such  
13          waiver extension.

14               (2) OVERSEAS HEALTH CARE SERVICES.—The  
15          head of an executive agency may waive the prohibi-  
16          tions under subsections (a) and (b) with respect to  
17          a contract, subcontract, or transaction for the acqui-  
18          sition or provision of health care services overseas on  
19          a case-by-case basis—

20                   (A) if the head of such executive agency  
21                  determines that the waiver is—

22                           (i) necessary to support the mission or  
23                           activities of the employees of such execu-  
24                           tive agency described in subsection  
25                           (e)(2)(A); and

1 (ii) in the interest of the United  
2 States;

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

6 (C) if such head submits a notification and  
7 justification to the appropriate congressional  
8 committees not later than 30 days after grant-  
9 ing such waiver.

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

12 (1) any activity subject to the reporting require-  
13 ments under title V of the National Security Act of  
14 1947 (50 U.S.C. 3091 et seq.) or any authorized in-  
15 telligence activities of the United States;

16 (2) the acquisition or provision of health care  
17 services overseas for—

18 (A) employees of the United States, includ-  
19 ing members of the uniformed services (as de-  
20 fined in section 101(a) of title 10, United  
21 States Code), whose official duty stations are  
22 located overseas or are on permissive temporary  
23 duty travel overseas; or

24 (B) employees of contractors or sub-  
25 contractors of the United States—

1 (i) who are performing under a con-  
2 tract that directly supports the missions or  
3 activities of individuals described in sub-  
4 paragraph (A); and

5 (ii) whose primary duty stations are  
6 located overseas or are on permissive tem-  
7 porary duty travel overseas; or

8 (3) the acquisition, use, or distribution of  
9 human multiomic data, lawfully compiled, that is  
10 commercially or publicly available.

11 (f) EVALUATION OF CERTAIN BIOTECHNOLOGY EN-  
12 TITIES.—

13 (1) ENTITY CONSIDERATION.—Not later than  
14 365 days after the date of the enactment of this sec-  
15 tion, the Director of the Office of Management and  
16 Budget shall publish a list of the entities that con-  
17 stitute biotechnology companies of concern based on  
18 a list of suggested entities that shall be provided by  
19 the Secretary of Defense in coordination with the  
20 Attorney General, the Secretary of Health and  
21 Human Services, the Secretary of Commerce, the  
22 Director of National Intelligence, the Secretary of  
23 Homeland Security, the Secretary of State, and the  
24 National Cyber Director.

1           (2) BIOTECHNOLOGY COMPANIES OF CONCERN  
2           DEFINED.—In this section, the term “biotechnology  
3           company of concern” means—

4                   (A) BGI, MGI, Complete Genomics, WuXi  
5                   AppTec, and WuXi Biologics;

6                   (B) any entity that is determined by the  
7                   process established in paragraph (1) to meet  
8                   the following criteria—

9                           (i) is subject to the administrative  
10                           governance structure, direction, control, or  
11                           operates on behalf of the government of a  
12                           foreign adversary;

13                           (ii) is to any extent involved in the  
14                           manufacturing, distribution, provision, or  
15                           procurement of a biotechnology equipment  
16                           or service; and

17                           (iii) poses a risk to the national secu-  
18                           rity of the United States based on—

19                                   (I) engaging in joint research  
20                                   with, being supported by, or being af-  
21                                   filiated with a foreign adversary’s  
22                                   military, internal security forces, or  
23                                   intelligence agencies;

24                                   (II) providing multiomic data ob-  
25                                   tained via biotechnology equipment or



1 services to the government of a for-  
2 eign adversary; or

3 (III) obtaining human multiomic  
4 data via the biotechnology equipment  
5 or services without express and in-  
6 formed consent; and

7 (C) any subsidiary, parent, affiliate, or  
8 successor of entities listed in subparagraphs (A)  
9 and (B), provided they meet the criteria in sub-  
10 paragraph (B)(i).

11 (3) GUIDANCE.—Not later than 120 days after  
12 the date of the enactment of this section for the bio-  
13 technology companies of concern named in para-  
14 graph (2)(A), and not later than 180 days after the  
15 development of the list pursuant to paragraph (1)  
16 and any update to the list pursuant to paragraph  
17 (4), the Director of the Office of Management and  
18 Budget, in coordination with the Secretary of De-  
19 fense, the Attorney General, the Secretary of Health  
20 and Human Services, the Secretary of Commerce,  
21 the Director of National Intelligence, the Secretary  
22 of Homeland Security, the Secretary of State, and  
23 the National Cyber Director, shall establish guidance  
24 as necessary to implement the requirements of this  
25 section.

1           (4) UPDATES.—The Director of the Office of  
2           Management and Budget, in coordination with or  
3           based on a recommendation provided by the Sec-  
4           retary of Defense, the Attorney General, the Sec-  
5           retary of Health and Human Services, the Secretary  
6           of Commerce, the Director of National Intelligence,  
7           the Secretary of Homeland Security, the Secretary  
8           of State, and the National Cyber Director, shall pe-  
9           riodically, though not less than annually, review and,  
10          as appropriate, modify the list of biotechnology com-  
11          panies of concern, and notify the appropriate con-  
12          gressional committees of any such modifications.

13           (5) NOTICE OF A DESIGNATION AND REVIEW.—

14           (A) IN GENERAL.—A notice of a designa-  
15          tion as a biotechnology company of concern  
16          under paragraph (2)(B) shall be issued to any  
17          biotechnology company of concern named in the  
18          designation—

19                   (i) advising that a designation has  
20                  been made;

21                   (ii) identifying the criteria relied upon  
22                  under such subparagraph and, to the ex-  
23                  tent consistent with national security and  
24                  law enforcement interests, the information  
25                  that formed the basis for the designation;

1 (iii) advising that, within 90 days  
2 after receipt of notice, the biotechnology  
3 company of concern may submit informa-  
4 tion and argument in opposition to the  
5 designation;

6 (iv) describing the procedures gov-  
7 erning the review and possible issuance of  
8 a designation pursuant to paragraph (1);  
9 and

10 (v) where practicable, identifying miti-  
11 gation steps that could be taken by the  
12 biotechnology company of concern that  
13 may result in the rescission of the designa-  
14 tion.

15 (B) CONGRESSIONAL NOTIFICATION RE-  
16 QUIREMENTS.—

17 (i) NOTICE OF DESIGNATION.—The  
18 Director of the Office of Management and  
19 Budget shall submit the notice required  
20 under subparagraph (A) to the Committee  
21 on Homeland Security and Governmental  
22 Affairs of the Senate and the Committee  
23 on Oversight and Accountability of the  
24 House of Representatives.

1 (ii) INFORMATION AND ARGUMENT IN  
2 OPPOSITION TO DESIGNATIONS.—Not later  
3 than 7 days after receiving any informa-  
4 tion and argument in opposition to a des-  
5 igation pursuant to subparagraph (A)(iii),  
6 the Director of the Office of Management  
7 and Budget shall submit such information  
8 to the Committee on Homeland Security  
9 and Governmental Affairs of the Senate  
10 and the Committee on Oversight and Ac-  
11 countability of the House of Representa-  
12 tives.

13 (C) EXCEPTIONS.—The provisions under  
14 subparagraphs (A) and (B) shall not apply to  
15 an entity listed under paragraph (2)(A).

16 (6) NO IMMEDIATE PUBLIC RELEASE.—Any  
17 designation made under paragraph (1) or paragraph  
18 (4) shall not be made publicly available until the Di-  
19 rector of the Office of Management and Budget, in  
20 coordination with appropriate agencies, reviews all  
21 information submitted under paragraph (5)(A)(iii)  
22 and issues a final determination that a company  
23 shall remain listed as a biotechnology company of  
24 concern.

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 enactment of this section, the Director of  
6 National Intelligence, in consultation with the Sec-  
7 retary of Defense, the Attorney General of the  
8 United States, the Secretary of Health and Human  
9 Services, the Secretary of Commerce, the Secretary  
10 of Homeland Security, the Secretary of State, and  
11 the National Cyber Director, shall complete an as-  
12 sessment of risks to national security posed by  
13 human multiomic data from United States citizens  
14 that is collected or stored by a foreign adversary  
15 from the provision of biotechnology equipment or  
16 services.

17 (2) REPORT REQUIREMENT.—Not later than 30  
18 days after the completion of the assessment devel-  
19 oped under paragraph (1), the Director of National  
20 Intelligence shall submit a report with such assess-  
21 ment to the appropriate congressional committees.

22 (3) FORM.—The report required under para-  
23 graph (2) shall be in unclassified form accompanied  
24 by a classified annex.

1 (h) REGULATIONS.—Not later than one year after  
2 the date of establishment of guidance required under sub-  
3 section (f)(3), 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.—Not later than 180 days  
10 after the date of the enactment of this section, and annu-  
11 ally thereafter, the Director of National Intelligence, in  
12 consultation with the heads of executive agencies, shall  
13 submit to the appropriate congressional committees a re-  
14 port on any intelligence in possession of such agencies re-  
15 lated to nefarious activities conducted by biotechnology  
16 companies with human multiomic data. The report shall  
17 include information pertaining to potential threats to na-  
18 tional security or public safety from the selling, reselling,  
19 licensing, trading, transferring, sharing, or otherwise pro-  
20 viding or making available to any foreign country of any  
21 forms of multiomic data of a United States citizen.

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

25 (k) DEFINITIONS.—In this section:

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

3           (A) the Committee on Armed Services, the  
4       Select Committee on Intelligence, and the Com-  
5       mittee on Homeland Security and Govern-  
6       mental Affairs of the Senate; and

7           (B) the Committee on Armed Services, the  
8       Permanent Select Committee on Intelligence,  
9       the Committee on Foreign Affairs, the Com-  
10      mittee on Oversight and Accountability, the  
11      Committee on Energy and Commerce, and the  
12      Select Committee on Strategic Competition be-  
13      tween the United States and the Chinese Com-  
14      munist Party of the House of Representatives.

15          (2) The term “biotechnology equipment or serv-  
16      ice” means—

17          (A) equipment, including genetic sequenc-  
18      ers, combined mass spectrometry technologies,  
19      polymerase chain reaction machines, or any  
20      other instrument, apparatus, machine, or de-  
21      vice, including components and accessories  
22      thereof, that is designed for use in the research,  
23      development, production, or analysis of biologi-  
24      cal materials as well as any software, firmware,  
25      or other digital components that are specifically

1 designed for use in, and necessary for the oper-  
2 ation of, such equipment;

3 (B) any service for the research, develop-  
4 ment, production, analysis, detection, or provi-  
5 sion of information, including data storage and  
6 transmission related to biological materials, in-  
7 cluding—

8 (i) advising, consulting, or support  
9 services with respect to the use or imple-  
10 mentation of a instrument, apparatus, ma-  
11 chine, or device described in subparagraph  
12 (A); and

13 (ii) disease detection, genealogical in-  
14 formation, and related services; and

15 (C) any other service, instrument, appa-  
16 ratus, machine, component, accessory, device,  
17 software, or firmware that is designed for use  
18 in the research, development, production, or  
19 analysis of biological materials that the Direc-  
20 tor of the Office of Management and Budget, in  
21 consultation with the heads of Executive agen-  
22 cies, as determined appropriate by the Director  
23 of the Office of Management and Budget, de-  
24 termines appropriate in the interest of national  
25 security.



1           (3) Except as the term is used under subsection  
2           (b)(2) and subsection (c)(3), the term “contract”  
3           means any contract subject to the Federal Acquisi-  
4           tion Regulation issued under section 1303(a)(1) of  
5           title 41, United States Code.

6           (4) The term “control” has the meaning given  
7           to that term in section 800.208 of title 31, Code of  
8           Federal Regulations, or any successor regulations.

9           (5) The term “executive agency” has the mean-  
10          ing given the term “Executive agency” in section  
11          105 of title 5, United States Code.

12          (6) The term “foreign adversary” has the  
13          meaning given the term “covered nation” in section  
14          4872(d) of title 10, United States Code.

15          (7) The term “multiomic” means data types  
16          that include genomics, epigenomics, transcriptomics,  
17          proteomics, and metabolomics.

18          (8) The term “overseas” means any area out-  
19          side of the United States, the Commonwealth of  
20          Puerto Rico, or a territory or possession of the  
21          United States.

