

118TH CONGRESS  
1ST SESSION

# S. 933

To amend the Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act for Fiscal Year 2015 to modify requirements relating to data centers of certain Federal agencies, and for other purposes.

---

## IN THE SENATE OF THE UNITED STATES

MARCH 22, 2023

Ms. ROSEN (for herself, Mr. CORNYN, and Mr. PETERS) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

---

## A BILL

To amend the Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act for Fiscal Year 2015 to modify requirements relating to data centers of certain Federal agencies, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

### 3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Data Center  
5 Enhancement Act of 2023”.

### 6 **SEC. 2. FEDERAL DATA CENTER CONSOLIDATION INITIA-** 7 **TIVE AMENDMENTS.**

8 (a) FINDINGS.—Congress finds the following:

1           (1) The statutory authorization for the Federal  
 2       Data Center Optimization Initiative under section  
 3       834 of the Carl Levin and Howard P. “Buck”  
 4       McKeon National Defense Authorization Act for  
 5       Fiscal Year 2015 (44 U.S.C. 3601 note; Public Law  
 6       113–291) expires at the end of fiscal year 2022.

7           (2) The expiration of the authorization de-  
 8       scribed in paragraph (1) presents Congress with an  
 9       opportunity to review the objectives of the Federal  
 10      Data Center Optimization Initiative to ensure that  
 11      the initiative is meeting the current needs of the  
 12      Federal Government.

13          (3) The initial focus of the Federal Data Center  
 14      Optimization Initiative, which was to consolidate  
 15      data centers and create new efficiencies, has resulted  
 16      in, since 2010—

17                (A) the consolidation of more than 6,000  
 18      Federal data centers; and

19                (B) cost savings and avoidance of  
 20      \$5,800,000,000.

21          (4) The need of the Federal Government for ac-  
 22      cess to data and data processing systems has evolved  
 23      since the date of enactment in 2014 of subtitle D of  
 24      title VIII of the Carl Levin and Howard P. “Buck”

1       McKeon National Defense Authorization Act for  
2       Fiscal Year 2015.

3           (5) Federal agencies and employees involved in  
4       mission critical functions increasingly need reliable  
5       access to secure, reliable, sustainable, and protected  
6       facilities to house mission critical data and data op-  
7       erations to meet the immediate needs of the people  
8       of the United States.

9           (6) As of the date of enactment of this Act,  
10       there is a growing need for Federal agencies to use  
11       data centers and cloud applications that meet high  
12       standards for cybersecurity, resiliency, availability,  
13       and sustainability.

14       (b) MINIMUM REQUIREMENTS FOR NEW DATA CEN-  
15       TERS.—Section 834 of the Carl Levin and Howard P.  
16       “Buck” McKeon National Defense Authorization Act for  
17       Fiscal Year 2015 (44 U.S.C. 3601 note; Public Law 113–  
18       291) is amended—

19           (1) in subsection (a), by striking paragraphs  
20       (3) and (4) and inserting the following:

21           “(3) NEW DATA CENTER.—The term ‘new data  
22       center’ means—

23           “(A)(i) a data center or a portion thereof  
24           that is owned, operated, or maintained by a  
25           covered agency; or

1 “(ii) to the extent practicable, a data cen-  
 2 ter or portion thereof—

3 “(I) that is owned, operated, or main-  
 4 tained by a contractor on behalf of a cov-  
 5 ered agency on the date on which the con-  
 6 tract between the covered agency and the  
 7 contractor expires; and

8 “(II) with respect to which the cov-  
 9 ered agency extends the contract, or enters  
 10 into a new contract, with the contractor;  
 11 and

12 “(B) on or after the date that is 180 days  
 13 after the date of enactment of the Federal Data  
 14 Center Enhancement Act of 2023, a data cen-  
 15 ter or portion thereof that is—

16 “(i) established; or

17 “(ii) substantially upgraded or ex-  
 18 panded.”;

19 (2) by striking subsection (b) and inserting the  
 20 following:

21 “(b) MINIMUM REQUIREMENTS FOR NEW DATA  
 22 CENTERS.—

23 “(1) IN GENERAL.—Not later than 180 days  
 24 after the date of enactment of the Federal Data  
 25 Center Enhancement Act of 2023, the Administrator

1 shall establish minimum requirements for new data  
2 centers in consultation with the Administrator of  
3 General Services and the Federal Chief Information  
4 Officers Council.

5 “(2) CONTENTS.—

6 “(A) IN GENERAL.—The minimum re-  
7 quirements established under paragraph (1)  
8 shall include requirements relating to—

9 “(i) the availability of new data cen-  
10 ters;

11 “(ii) the use of new data centers;

12 “(iii) the use of sustainable energy  
13 sources;

14 “(iv) uptime percentage;

15 “(v) protections against power fail-  
16 ures, including on-site energy generation  
17 and access to multiple transmission paths;

18 “(vi) protections against physical in-  
19 trusions and natural disasters;

20 “(vii) information security protections  
21 required by subchapter II of chapter 35 of  
22 title 44, United States Code, and other ap-  
23 plicable law and policy; and

24 “(viii) any other requirements the Ad-  
25 ministrator determines appropriate.

1           “(B) CONSULTATION.—In establishing the  
2           requirements described in subparagraph  
3           (A)(vii), the Administrator shall consult with  
4           the Director of the Cybersecurity and Infra-  
5           structure Security Agency and the National  
6           Cyber Director.

7           “(3) INCORPORATION OF MINIMUM REQUIRE-  
8           MENTS INTO CURRENT DATA CENTERS.—As soon as  
9           practicable, and in any case not later than 90 days  
10          after the Administrator establishes the minimum re-  
11          quirements pursuant to paragraph (1), the Adminis-  
12          trator shall issue guidance to ensure, as appropriate,  
13          that covered agencies incorporate the minimum re-  
14          quirements established under that paragraph into  
15          the operations of any data center of a covered agen-  
16          cy existing as of the date of enactment of the Fed-  
17          eral Data Center Enhancement Act of 2023.

18          “(4) REVIEW OF REQUIREMENTS.—The Admin-  
19          istrator, in consultation with the Administrator of  
20          General Services and the Federal Chief Information  
21          Officers Council, shall review, update, and modify  
22          the minimum requirements established under para-  
23          graph (1), as necessary.

24          “(5) REPORT ON NEW DATA CENTERS.—During  
25          the development and planning lifecycle of a new data

center, if the head of a covered agency determines that the covered agency is likely to make a management or financial decision relating to any data center, the head of the covered agency shall—

“(A) notify—

“(i) the Administrator;

“(ii) Committee on Homeland Security and Governmental Affairs of the Senate; and

“(iii) Committee on Oversight and Accountability of the House of Representatives; and

“(B) describe in the notification with sufficient detail how the covered agency intends to comply with the minimum requirements established under paragraph (1).

“(6) USE OF TECHNOLOGY.—In determining whether to establish or continue to operate an existing data center, the head of a covered agency shall—

“(A) regularly assess the application portfolio of the covered agency and ensure that each at-risk legacy application is updated, replaced, or modernized, as appropriate, to take advantage of modern technologies; and

“(B) prioritize and, to the greatest extent possible, leverage commercial cloud environments rather than acquiring, overseeing, or managing custom data center infrastructure.

“(7) PUBLIC WEBSITE.—

“(A) IN GENERAL.—The Administrator shall maintain a public-facing website that includes information, data, and explanatory statements relating to the compliance of covered agencies with the requirements of this section.

“(B) PROCESSES AND PROCEDURES.—In maintaining the website described in subparagraph (A), the Administrator shall—

“(i) ensure covered agencies regularly, and not less frequently than biannually, update the information, data, and explanatory statements posed on the website, pursuant to guidance issued by the Administrator, relating to any new data centers and, as appropriate, each existing data center of the covered agency; and

“(ii) ensure that all information, data, and explanatory statements on the website are maintained as open Government data assets.”; and



1           (3) in subsection (c), by striking paragraph (1)  
2           and inserting the following:

3           “(1) IN GENERAL.—The head of a covered  
4           agency shall oversee and manage the data center  
5           portfolio and the information technology strategy of  
6           the covered agency in accordance with Federal cy-  
7           bersecurity guidelines and directives, including—

8                   “(A) information security standards and  
9                   guidelines promulgated by the Director of the  
10                  National Institute of Standards and Tech-  
11                  nology;

12                   “(B) applicable requirements and guidance  
13                   issued by the Director of the Office of Manage-  
14                   ment and Budget pursuant to section 3614 of  
15                   title 44, United States Code; and

16                   “(C) directives issued by the Secretary of  
17                   Homeland Security under section 3553 of title  
18                   44, United States Code.”.

19           (c) EXTENSION OF SUNSET.—Section 834(e) of the  
20           Carl Levin and Howard P. “Buck” McKeon National De-  
21           fense Authorization Act for Fiscal Year 2015 (44 U.S.C.  
22           3601 note; Public Law 113–291) is amended by striking  
23           “2022” and inserting “2026”.

24           (d) GAO REVIEW.—Not later than 1 year after the  
25           date of the enactment of this Act, and annually thereafter,

1 the Comptroller General of the United States shall review,  
2 verify, and audit the compliance of covered agencies with  
3 the minimum requirements established pursuant to section  
4 834(b)(1) of the Carl Levin and Howard P. “Buck”  
5 McKeon National Defense Authorization Act for Fiscal  
6 Year 2015 (44 U.S.C. 3601 note; Public Law 113–291)  
7 for new data centers and subsection (b)(3) of that Act for  
8 existing data centers, as appropriate.

○