

**Calendar No. 39**118TH CONGRESS  
1ST SESSION**S. 933****[Report No. 118–15]**

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.

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**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

APRIL 27, 2023

Reported by Mr. PETERS, without amendment

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**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,*

1 **SECTION 1. SHORT TITLE.**

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

4 **SEC. 2. FEDERAL DATA CENTER CONSOLIDATION INITIA-**  
5 **TIVE AMENDMENTS.**

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

7 (1) The statutory authorization for the Federal  
8 Data Center Optimization Initiative under section  
9 834 of the Carl Levin and Howard P. “Buck”  
10 McKeon National Defense Authorization Act for  
11 Fiscal Year 2015 (44 U.S.C. 3601 note; Public Law  
12 113–291) expires at the end of fiscal year 2022.

13 (2) The expiration of the authorization de-  
14 scribed in paragraph (1) presents Congress with an  
15 opportunity to review the objectives of the Federal  
16 Data Center Optimization Initiative to ensure that  
17 the initiative is meeting the current needs of the  
18 Federal Government.

19 (3) The initial focus of the Federal Data Center  
20 Optimization Initiative, which was to consolidate  
21 data centers and create new efficiencies, has resulted  
22 in, since 2010—

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

25 (B) cost savings and avoidance of  
26 \$5,800,000,000.

1           (4) The need of the Federal Government for ac-  
2           cess to data and data processing systems has evolved  
3           since the date of enactment in 2014 of subtitle D of  
4           title VIII of the Carl Levin and Howard P. “Buck”  
5           McKeon National Defense Authorization Act for  
6           Fiscal Year 2015.

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

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

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

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

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

3           “(A)(i) a data center or a portion thereof  
4 that is owned, operated, or maintained by a  
5 covered agency; or

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

8           “(I) that is owned, operated, or main-  
9 tained by a contractor on behalf of a cov-  
10 ered agency on the date on which the con-  
11 tract between the covered agency and the  
12 contractor expires; and

13           “(II) with respect to which the cov-  
14 ered agency extends the contract, or enters  
15 into a new contract, with the contractor;  
16 and

17           “(B) on or after the date that is 180 days  
18 after the date of enactment of the Federal Data  
19 Center Enhancement Act of 2023, a data cen-  
20 ter or portion thereof that is—

21           “(i) established; or

22           “(ii) substantially upgraded or ex-  
23 panded.”;

24           (2) by striking subsection (b) and inserting the  
25 following:

1       “(b) MINIMUM REQUIREMENTS FOR NEW DATA  
2 CENTERS.—

3           “(1) IN GENERAL.—Not later than 180 days  
4 after the date of enactment of the Federal Data  
5 Center Enhancement Act of 2023, the Administrator  
6 shall establish minimum requirements for new data  
7 centers in consultation with the Administrator of  
8 General Services and the Federal Chief Information  
9 Officers Council.

10       “(2) CONTENTS.—

11           “(A) IN GENERAL.—The minimum re-  
12 quirements established under paragraph (1)  
13 shall include requirements relating to—

14           “(i) the availability of new data cen-  
15 ters;

16           “(ii) the use of new data centers;

17           “(iii) the use of sustainable energy  
18 sources;

19           “(iv) uptime percentage;

20           “(v) protections against power fail-  
21 ures, including on-site energy generation  
22 and access to multiple transmission paths;

23           “(vi) protections against physical in-  
24 trusions and natural disasters;

1           “(vii) information security protections  
2           required by subchapter II of chapter 35 of  
3           title 44, United States Code, and other ap-  
4           plicable law and policy; and

5           “(viii) any other requirements the Ad-  
6           ministrator determines appropriate.

7           “(B) CONSULTATION.—In establishing the  
8           requirements described in subparagraph  
9           (A)(vii), the Administrator shall consult with  
10          the Director of the Cybersecurity and Infra-  
11          structure Security Agency and the National  
12          Cyber Director.

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

24          “(4) REVIEW OF REQUIREMENTS.—The Admin-  
25          istrator, in consultation with the Administrator of

1 General Services and the Federal Chief Information  
2 Officers Council, shall review, update, and modify  
3 the minimum requirements established under para-  
4 graph (1), as necessary.

5 “(5) REPORT ON NEW DATA CENTERS.—During  
6 the development and planning lifecycle of a new data  
7 center, if the head of a covered agency determines  
8 that the covered agency is likely to make a manage-  
9 ment or financial decision relating to any data cen-  
10 ter, the head of the covered agency shall—

11 “(A) notify—

12 “(i) the Administrator;

13 “(ii) Committee on Homeland Secu-  
14 rity and Governmental Affairs of the Sen-  
15 ate; and

16 “(iii) Committee on Oversight and Ac-  
17 countability of the House of Representa-  
18 tives; and

19 “(B) describe in the notification with suffi-  
20 cient detail how the covered agency intends to  
21 comply with the minimum requirements estab-  
22 lished under paragraph (1).

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

1           “(A) regularly assess the application port-  
2 folio of the covered agency and ensure that each  
3 at-risk legacy application is updated, replaced,  
4 or modernized, as appropriate, to take advan-  
5 tage of modern technologies; and

6           “(B) prioritize and, to the greatest extent  
7 possible, leverage commercial cloud environ-  
8 ments rather than acquiring, overseeing, or  
9 managing custom data center infrastructure.

10       “(7) PUBLIC WEBSITE.—

11           “(A) IN GENERAL.—The Administrator  
12 shall maintain a public-facing website that in-  
13 cludes information, data, and explanatory state-  
14 ments relating to the compliance of covered  
15 agencies with the requirements of this section.

16           “(B) PROCESSES AND PROCEDURES.—In  
17 maintaining the website described in subpara-  
18 graph (A), the Administrator shall—

19           “(i) ensure covered agencies regularly,  
20 and not less frequently than biannually,  
21 update the information, data, and explana-  
22 tory statements posed on the website, pur-  
23 suant to guidance issued by the Adminis-  
24 trator, relating to any new data centers



1 and, as appropriate, each existing data  
2 center of the covered agency; and

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

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

9 “(1) IN GENERAL.—The head of a covered  
10 agency shall oversee and manage the data center  
11 portfolio and the information technology strategy of  
12 the covered agency in accordance with Federal cy-  
13 bersecurity guidelines and directives, including—

14 “(A) information security standards and  
15 guidelines promulgated by the Director of the  
16 National Institute of Standards and Tech-  
17 nology;

18 “(B) applicable requirements and guidance  
19 issued by the Director of the Office of Manage-  
20 ment and Budget pursuant to section 3614 of  
21 title 44, United States Code; and

22 “(C) directives issued by the Secretary of  
23 Homeland Security under section 3553 of title  
24 44, United States Code.”.

1           (c) EXTENSION OF SUNSET.—Section 834(e) of the  
2 Carl Levin and Howard P. “Buck” McKeon National De-  
3 fense Authorization Act for Fiscal Year 2015 (44 U.S.C.  
4 3601 note; Public Law 113–291) is amended by striking  
5 “2022” and inserting “2026”.

6           (d) GAO REVIEW.—Not later than 1 year after the  
7 date of the enactment of this Act, and annually thereafter,  
8 the Comptroller General of the United States shall review,  
9 verify, and audit the compliance of covered agencies with  
10 the minimum requirements established pursuant to section  
11 834(b)(1) of the Carl Levin and Howard P. “Buck”  
12 McKeon National Defense Authorization Act for Fiscal  
13 Year 2015 (44 U.S.C. 3601 note; Public Law 113–291)  
14 for new data centers and subsection (b)(3) of that Act for  
15 existing data centers, as appropriate.



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1<sup>ST</sup> Session

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