

Calendar No. 562117TH CONGRESS
2^D SESSION**S. 4629****[Report No. 117-210]**

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

JULY 27, 2022

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

NOVEMBER 17, 2022

Reported by Mr. PETERS, with amendments

[Omit the part struck through and insert the part printed in *italic*]

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 2022”.

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 a—

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 2022, *a data center*
20 *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 2022, 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) USE OF EXISTING STANDARDS.—The Ad-
14 ministrator may incorporate the minimum require-
15 ments established under paragraph (1) into the ap-
16 propriate requirements of any agency data center ex-
17 isting as of the date of enactment of the Federal
18 Data Center Enhancement Act of 2022.

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

1 “(5) REPORT ON NEW DATA CENTERS.—During
2 the development and planning lifecycle of a new data
3 center, if the head of a covered agency determines
4 that the covered agency is likely to make a manage-
5 ment or financial decision relating to the new data
6 center, the head of the covered agency shall—

7 “(A) notify—

8 “(i) the Administrator;

9 “(ii) Committee on Homeland Secu-
10 rity and Governmental Affairs of the Sen-
11 ate; and

12 “(iii) Committee on Oversight and Re-
13 form of the House of Representatives; and

14 “(B) describe in the notification with suffi-
15 cient detail how the covered agency intends to
16 comply with the minimum requirements estab-
17 lished under paragraph (1).

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

21 “(A) regularly assess the application port-
22 folio of the covered agency and ensure that each
23 legacy application is updated, replaced, or mod-
24 ernized, as appropriate, to take advantage of
25 modern technologies; and

1 “(B) prioritize and, to the greatest extent
2 possible, leverage commercial cloud environ-
3 ments rather than acquiring, overseeing, or
4 managing custom data center infrastructure.”;
5 and

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

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

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

17 “(B) applicable provisions found within the
18 Federal Risk and Authorization Management
19 Program; and

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

23 (c) EXTENSION OF SUNSET.—Section 834(e) of the
24 Carl Levin and Howard P. “Buck” McKeon National De-
25 fense Authorization Act for Fiscal Year 2015 (44 U.S.C.

- 1 3601 note; Public Law 113–291) is amended by striking
- 2 “2022” and inserting “2025”.

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