

118TH CONGRESS
1ST SESSION

H. R. 5218

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 HOUSE OF REPRESENTATIVES

AUGUST 15, 2023

Mr. NEGUSE (for himself and Mr. LALOTA) introduced the following bill;
which was referred to the Committee on Oversight and Accountability

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

1 center, if the head of a covered agency determines
2 that the covered agency is likely to make a manage-
3 ment or financial decision relating to any data cen-
4 ter, the head of the covered agency shall—

5 “(A) notify—

6 “(i) the Administrator;

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

10 “(iii) Committee on Oversight and Ac-
11 countability of the House of Representa-
12 tives; and

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

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

20 “(A) regularly assess the application port-
21 folio of the covered agency and ensure that each
22 at-risk legacy application is updated, replaced,
23 or modernized, as appropriate, to take advan-
24 tage of 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 “(7) PUBLIC WEBSITE.—

6 “(A) IN GENERAL.—The Administrator
7 shall maintain a public-facing website that in-
8 cludes information, data, and explanatory state-
9 ments relating to the compliance of covered
10 agencies with the requirements of this section.

11 “(B) PROCESSES AND PROCEDURES.—In
12 maintaining the website described in subpara-
13 graph (A), the Administrator shall—

14 “(i) ensure covered agencies regularly,
15 and not less frequently than biannually,
16 update the information, data, and explana-
17 tory statements posed on the website, pur-
18 suant to guidance issued by the Adminis-
19 trator, relating to any new data centers
20 and, as appropriate, each existing data
21 center of the covered agency; and

22 “(ii) ensure that all information, data,
23 and explanatory statements on the website
24 are maintained as open Government data
25 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.

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