

116TH CONGRESS
1ST SESSION

H. R. 1760

To require the Secretary of Energy to establish and carry out a program to support the availability of HA-LEU for domestic commercial use, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 14, 2019

Mr. FLORES (for himself and Mr. MCNERNEY) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To require the Secretary of Energy to establish and carry out a program to support the availability of HA-LEU for domestic commercial use, 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 “Advanced Nuclear Fuel
5 Availability Act”.

6 **SEC. 2. PROGRAM.**

7 (a) ESTABLISHMENT.—The Secretary shall establish
8 and carry out, through the Office of Nuclear Energy, a

1 program to support the availability of HA–LEU for do-
2 mestic commercial use.

3 (b) PROGRAM ELEMENTS.—In carrying out the pro-
4 gram under subsection (a), the Secretary—

5 (1) may provide financial assistance to assist
6 commercial entities to design and license transpor-
7 tation packages for HA–LEU, including canisters
8 for metal, gas, and other HA–LEU compositions;

9 (2) shall, to the extent practicable—

10 (A) by January 1, 2022, have commercial
11 entities submit such transportation package de-
12 signs to the Commission for certification by the
13 Commission under part 71 of title 10, Code of
14 Federal Regulations; and

15 (B) encourage the Commission to have
16 such transportation package designs so certified
17 by the Commission by January 1, 2024;

18 (3) not later than January 1, 2021, shall sub-
19 mit to Congress a report on the Department’s ura-
20 nium inventory that may be available to be proc-
21 essed to HA–LEU for purposes of such program,
22 which may not include any uranium allocated by the
23 Secretary for use in support of the atomic energy
24 defense activities of the National Nuclear Security
25 Administration;

1 (4) not later than 1 year after the date of en-
2 actment of this Act, and biennially thereafter
3 through September 30, 2026, shall conduct a survey
4 of stakeholders to estimate the quantity of HA–LEU
5 necessary for domestic commercial use for each of
6 the 5 subsequent years;

7 (5) shall assess options available for the Sec-
8 retary to acquire HA–LEU for such program, in-
9 cluding an assessment, for each such option, of the
10 cost and amount of time required;

11 (6) shall establish a consortium, which may in-
12 clude entities involved in any stage of the nuclear
13 fuel cycle, to partner with the Department to sup-
14 port the availability of HA–LEU for domestic com-
15 mercial use, including by—

16 (A) providing information to the Secretary
17 for purposes of surveys conducted under para-
18 graph (4); and

19 (B) purchasing HA–LEU made available
20 to members of the consortium by the Secretary
21 under the program;

22 (7) shall, prior to acquiring HA–LEU under
23 paragraph (8), in coordination with the consortium
24 established pursuant to paragraph (6), develop a
25 schedule for cost recovery of HA–LEU made avail-

1 able to members of the consortium pursuant to
2 paragraph (8);

3 (8) may, beginning not later than 3 years after
4 the establishment of a consortium under paragraph
5 (6), acquire HA–LEU, in order, to the extent prac-
6 ticable, to make such HA–LEU available to mem-
7 bers of the consortium beginning not later than Jan-
8 uary 1, 2026, in amounts that are consistent, to the
9 extent practicable, with the quantities estimated
10 under the surveys conducted under paragraph (4);
11 and

12 (9) shall develop, in consultation with the Com-
13 mission, criticality benchmark data to assist the
14 Commission in—

15 (A) the licensing and regulation of cat-
16 egory II spent nuclear material fuel fabrication
17 and enrichment facilities under part 70 of title
18 10, Code of Federal Regulations; and

19 (B) certification of transportation pack-
20 ages under part 71 of title 10, Code of Federal
21 Regulations.

22 (c) APPLICABILITY OF USEC PRIVATIZATION ACT.—
23 The requirements of subparagraphs (A) and (C) of section
24 3112(d)(2) of the USEC Privatization Act (42 U.S.C.
25 2297h–10(d)(2)) shall apply to a sale or transfer of HA–

1 LEU by the Secretary to a member of the consortium
2 under this section.

3 (d) FUNDING.—

4 (1) TRANSPORTATION PACKAGE DESIGN.—

5 (A) COST SHARE.—The Secretary shall en-
6 sure that not less than 20 percent of the costs
7 of design and license activities carried out pur-
8 suant to subsection (b)(1) are paid by a non-
9 Federal entity.

10 (B) AUTHORIZATION OF APPROPRIA-
11 TIONS.—There are authorized to be appro-
12 priated to carry out subsection (b)(1)—

13 (i) \$1,500,000 for fiscal year 2020;

14 (ii) \$1,500,000 for fiscal year 2021;

15 and

16 (iii) \$1,500,000 for fiscal year 2022.

17 (2) DOE ACQUISITION OF HA-LEU.—The Sec-
18 retary may not make commitments under this sec-
19 tion (including cooperative agreements (used in ac-
20 cordance with section 6305 of title 31, United States
21 Code), purchase agreements, guarantees, leases,
22 service contracts, or any other type of commitment)
23 for the purchase or other acquisition of HA-LEU
24 unless funds are specifically provided for such pur-
25 poses in advance in subsequent appropriations Acts,

1 and only to the extent that the full extent of antici-
2 pated costs stemming from such commitments is re-
3 corded as an obligation up front and in full at the
4 time it is made.

5 (3) OTHER COSTS.—Except as otherwise pro-
6 vided in this subsection, in carrying out this section,
7 the Secretary shall use amounts otherwise author-
8 ized to be appropriated to the Secretary.

9 (e) SUNSET.—The authority of the Secretary to carry
10 out the program under this section shall expire on Sep-
11 tember 30, 2034.

12 **SEC. 3. REPORT TO CONGRESS.**

13 Not later than 12 months after the date of enactment
14 of this Act, the Commission shall submit to Congress a
15 report that includes—

16 (1) identification of updates to regulations, cer-
17 tifications, and other regulatory policies that the
18 Commission determines are necessary in order for
19 HA–LEU to be commercially available, including—

20 (A) guidance for material control and ac-
21 countability of category II special nuclear mate-
22 rial;

23 (B) certifications relating to transportation
24 packaging for HA–LEU; and

- 1 (C) licensing of enrichment, conversion,
2 and fuel fabrication facilities for HA–LEU, and
3 associated physical security plans for such fa-
4 cilities;
5 (2) a description of such updates; and
6 (3) a timeline to complete such updates.

7 **SEC. 4. DEFINITIONS.**

8 In this Act:

9 (1) COMMISSION.—The term “Commission”
10 means the Nuclear Regulatory Commission.

11 (2) DEPARTMENT.—The term “Department”
12 means Department of Energy.

13 (3) HA–LEU.—The term “HA–LEU” means
14 high-assay low-enriched uranium.

15 (4) HIGH-ASSAY LOW-ENRICHED URANIUM.—
16 The term “high-assay low-enriched uranium” means
17 uranium having an assay greater than 5.0 percent
18 and less than 20.0 percent enrichment of the ura-
19 nium-235 isotope.

20 (5) SECRETARY.—The term “Secretary” means
21 the Secretary of Energy.

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