

115TH CONGRESS  
2D SESSION

# H. R. 6140

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.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 19, 2018

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

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## 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, 2021, 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, 2023;

18 (3) not later than January 1, 2020, 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 (4) not later than one year after the date of en-  
23 actment of this Act, and biennially thereafter  
24 through September 30, 2025, shall conduct a survey  
25 of stakeholders to estimate the quantity of HA–LEU

1 necessary for domestic commercial use for each of  
2 the five subsequent years;

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

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

12 (A) providing information to the Secretary  
13 for purposes of surveys conducted under para-  
14 graph (4); and

15 (B) purchasing HA-LEU made available  
16 to members of the consortium by the Secretary  
17 under the program;

18 (7) shall, prior to acquiring HA-LEU under  
19 paragraph (8), in coordination with the consortium  
20 established pursuant to paragraph (6), develop a  
21 schedule for cost recovery of HA-LEU made avail-  
22 able to members of the consortium pursuant to  
23 paragraph (8);

24 (8) may, beginning not later than 3 years after  
25 the establishment of a consortium under paragraph

1 (6), acquire HA–LEU, in order, to the extent prac-  
2 ticable, to make such HA–LEU available to mem-  
3 bers of the consortium beginning not later than Jan-  
4 uary 1, 2025, in amounts that are consistent, to the  
5 extent practicable, with the quantities estimated  
6 under the surveys conducted under paragraph (4);  
7 and

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

11 (A) the licensing and regulation of cat-  
12 egory II spent nuclear material fuel fabrication  
13 and enrichment facilities under part 70 of title  
14 10, Code of Federal Regulations; and

15 (B) certification of transportation pack-  
16 ages under part 71 of title 10, Code of Federal  
17 Regulations.

18 (c) APPLICABILITY OF USEC PRIVATIZATION ACT.—  
19 Section 3112(d)(2) of the USEC Privatization Act (42  
20 U.S.C. 2297h–10(d)(2)) shall not apply to a sale or trans-  
21 fer of HA–LEU by the Secretary to a member of the con-  
22 sortium under this section.

23 (d) FUNDING FOR TRANSPORTATION PACKAGE DE-  
24 SIGN.—

1           (1) COST SHARE.—The Secretary shall ensure  
2           that not less than 20 percent of the costs of design  
3           and license activities carried out pursuant to sub-  
4           section (b)(1) are paid by a non-Federal entity.

5           (2) AUTHORIZATION OF APPROPRIATIONS.—  
6           There are authorized to be appropriated to carry out  
7           subsection (b)(1)—

8                       (A) \$1,500,000 for fiscal year 2019;

9                       (B) \$1,500,000 for fiscal year 2020; and

10                      (C) \$1,500,000 for fiscal year 2021.

11          (e) SUNSET.—The authority of the Secretary to carry  
12          out the program under this section shall expire on Sep-  
13          tember 30, 2033.

14       **SEC. 3. REPORT TO CONGRESS.**

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

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

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

1 (B) certifications relating to transportation  
2 packaging for HA–LEU; and

3 (C) licensing of enrichment, conversion,  
4 and fuel fabrication facilities for HA–LEU, and  
5 associated physical security plans for such fa-  
6 cilities;

7 (2) a description of such updates; and

8 (3) a timeline to complete such updates.

9 **SEC. 4. DEFINITIONS.**

10 In this Act:

11 (1) COMMISSION.—The term “Commission”  
12 means the Nuclear Regulatory Commission.

13 (2) DEPARTMENT.—The term “Department”  
14 means Department of Energy.

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

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

22 (5) SECRETARY.—The term “Secretary” means  
23 the Secretary of Energy.

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