

116TH CONGRESS
1ST SESSION

H. R. 1760

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 10, 2019

Received; read twice and referred to the Committee on Energy and Natural
Resources

AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Advanced Nuclear Fuel
3 Availability Act”.

4 **SEC. 2. PROGRAM.**

5 (a) ESTABLISHMENT.—The Secretary shall establish
6 and carry out, through the Office of Nuclear Energy, a
7 program to support the availability of HA–LEU for do-
8 mestic commercial use.

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

11 (1) may provide financial assistance to assist
12 commercial entities to design and license transpor-
13 tation packages for HA–LEU, including canisters
14 for metal, gas, and other HA–LEU compositions;

15 (2) shall, to the extent practicable—

16 (A) by January 1, 2022, have commercial
17 entities submit such transportation package de-
18 signs to the Commission for certification by the
19 Commission under part 71 of title 10, Code of
20 Federal Regulations; and

21 (B) encourage the Commission to have
22 such transportation package designs so certified
23 by the Commission by January 1, 2024;

24 (3) not later than January 1, 2021, shall sub-
25 mit to Congress a report on the Department’s ura-
26 nium inventory that may be available to be proc-

1 essed to HA–LEU for purposes of such program,
2 which may not include any uranium allocated by the
3 Secretary for use in support of the atomic energy
4 defense activities of the National Nuclear Security
5 Administration;

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

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

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

21 (A) providing information to the Secretary
22 for purposes of surveys conducted under para-
23 graph (4); and

1 (B) purchasing HA–LEU made available
2 to members of the consortium by the Secretary
3 under the program;

4 (7) shall, prior to acquiring HA–LEU under
5 paragraph (8), in coordination with the consortium
6 established pursuant to paragraph (6), develop a
7 schedule for cost recovery of HA–LEU made avail-
8 able to members of the consortium pursuant to
9 paragraph (8);

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

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

22 (A) the licensing and regulation of cat-
23 egory II spent nuclear material fuel fabrication
24 and enrichment facilities under part 70 of title
25 10, Code of Federal Regulations; and

1 (B) certification of transportation pack-
2 ages under part 71 of title 10, Code of Federal
3 Regulations.

4 (c) APPLICABILITY OF USEC PRIVATIZATION ACT.—
5 The requirements of subparagraphs (A) and (C) of section
6 3112(d)(2) of the USEC Privatization Act (42 U.S.C.
7 2297h–10(d)(2)) shall apply to a sale or transfer of HA–
8 LEU by the Secretary to a member of the consortium
9 under this section.

10 (d) FUNDING.—

11 (1) TRANSPORTATION PACKAGE DESIGN.—

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

17 (B) AUTHORIZATION OF APPROPRIA-
18 TIONS.—There are authorized to be appro-
19 priated to carry out subsection (b)(1)—

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

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

22 and

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

24 (2) DOE ACQUISITION OF HA–LEU.—The Sec-
25 retary may not make commitments under this sec-

1 tion (including cooperative agreements (used in ac-
2 cordance with section 6305 of title 31, United States
3 Code), purchase agreements, guarantees, leases,
4 service contracts, or any other type of commitment)
5 for the purchase or other acquisition of HA–LEU
6 unless funds are specifically provided for such pur-
7 poses in advance in subsequent appropriations Acts,
8 and only to the extent that the full extent of antici-
9 pated costs stemming from such commitments is re-
10 corded as an obligation up front and in full at the
11 time it is made.

12 (3) OTHER COSTS.—Except as otherwise pro-
13 vided in this subsection, in carrying out this section,
14 the Secretary shall use amounts otherwise author-
15 ized to be appropriated to the Secretary.

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

19 **SEC. 3. REPORT TO CONGRESS.**

20 Not later than 12 months after the date of enactment
21 of this Act, the Commission shall submit to Congress a
22 report that includes—

23 (1) identification of updates to regulations, cer-
24 tifications, and other regulatory policies that the

1 Commission determines are necessary in order for
2 HA–LEU to be commercially available, including—

3 (A) guidance for material control and ac-
4 countability of category II special nuclear mate-
5 rial;

6 (B) certifications relating to transportation
7 packaging for HA–LEU; and

8 (C) licensing of enrichment, conversion,
9 and fuel fabrication facilities for HA–LEU, and
10 associated physical security plans for such fa-
11 cilities;

12 (2) a description of such updates; and

13 (3) a timeline to complete such updates.

14 **SEC. 4. DEFINITIONS.**

15 In this Act:

16 (1) COMMISSION.—The term “Commission”
17 means the Nuclear Regulatory Commission.

18 (2) DEPARTMENT.—The term “Department”
19 means Department of Energy.

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

22 (4) HIGH-ASSAY LOW-ENRICHED URANIUM.—
23 The term “high-assay low-enriched uranium” means
24 uranium having an assay greater than 5.0 percent

1 and less than 20.0 percent enrichment of the ura-
2 nium-235 isotope.

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

Passed the House of Representatives September 9,
2019.

Attest: **CHERYL L. JOHNSON,**
Clerk.