

## Union Calendar No. 822

115<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 6140

[Report No. 115–1056]

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

NOVEMBER 29, 2018

Additional sponsor: Mr. RUSH

NOVEMBER 29, 2018

Reported with an amendment, committed to the Committee of the Whole  
House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on June 19, 2018]

# **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 pro-*  
9 *gram to support the availability of HA–LEU for domestic*  
10 *commercial use.*

11        (b) *PROGRAM ELEMENTS.*—*In carrying out the pro-*  
12 *gram under subsection (a), the Secretary—*

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

17            (2) *shall, to the extent practicable—*

18                    (A) *by January 1, 2021, have commercial*  
19 *entities submit such transportation package de-*  
20 *signs to the Commission for certification by the*  
21 *Commission under part 71 of title 10, Code of*  
22 *Federal Regulations; and*

23                    (B) *encourage the Commission to have such*  
24 *transportation package designs so certified by the*  
25 *Commission by January 1, 2023;*

1           (3) not later than January 1, 2020, shall submit  
2           to Congress a report on the Department's uranium  
3           inventory that may be available to be processed to  
4           HA-LEU for purposes of such program, which may  
5           not include any uranium allocated by the Secretary  
6           for use in support of the atomic energy defense activi-  
7           ties of the National Nuclear Security Administration;

8           (4) not later than one year after the date of en-  
9           actment of this Act, and biennially thereafter through  
10          September 30, 2025, shall conduct a survey of stake-  
11          holders to estimate the quantity of HA-LEU nec-  
12          essary for domestic commercial use for each of the five  
13          subsequent years;

14          (5) shall assess options available for the Sec-  
15          retary to acquire HA-LEU for such program, includ-  
16          ing an assessment, for each such option, of the cost  
17          and amount of time required;

18          (6) shall establish a consortium, which may in-  
19          clude entities involved in any stage of the nuclear fuel  
20          cycle, to partner with the Department to support the  
21          availability of HA-LEU for domestic commercial use,  
22          including by—

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

1           (B) purchasing HA–LEU made available to  
2           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 available  
8           to members of the consortium pursuant to paragraph  
9           (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 members  
14          of the consortium beginning not later than January  
15          1, 2025, in amounts that are consistent, to the extent  
16          practicable, with the quantities estimated under the  
17          surveys conducted under paragraph (4); and

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

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

1                   (B) certification of transportation packages  
2                   under part 71 of title 10, Code of Federal Regu-  
3                   lations.

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 under*  
9   *this section.*

10          (d) *FUNDING FOR TRANSPORTATION PACKAGE DE-*  
11   *SIGN.*—

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

16                   (2) *AUTHORIZATION OF APPROPRIATIONS.*—  
17                   *There are authorized to be appropriated to carry out*  
18                   *subsection (b)(1)—*

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

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

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

22           (e) *SUNSET.*—*The authority of the Secretary to carry*  
23   *out the program under this section shall expire on Sep-*  
24   *tember 30, 2033.*

1 **SEC. 3. REPORT TO CONGRESS.**

2 *Not later than 12 months after the date of enactment*  
3 *of this Act, the Commission shall submit to Congress a re-*  
4 *port that includes—*

5 *(1) identification of updates to regulations, cer-*  
6 *tifications, and other regulatory policies that the*  
7 *Commission determines are necessary in order for*  
8 *HA–LEU to be commercially available, including—*

9 *(A) guidance for material control and ac-*  
10 *countability of category II special nuclear mate-*  
11 *rial;*

12 *(B) certifications relating to transportation*  
13 *packaging for HA–LEU; and*

14 *(C) licensing of enrichment, conversion, and*  
15 *fuel fabrication facilities for HA–LEU, and asso-*  
16 *ciated physical security plans for such facilities;*

17 *(2) a description of such updates; and*

18 *(3) a timeline to complete such updates.*

19 **SEC. 4. DEFINITIONS.**

20 *In this Act:*

21 *(1) COMMISSION.—The term “Commission”*  
22 *means the Nuclear Regulatory Commission.*

23 *(2) DEPARTMENT.—The term “Department”*  
24 *means Department of Energy.*

25 *(3) HA–LEU.—The term “HA–LEU” means*  
26 *high-assay low-enriched uranium.*

1           (4) *HIGH-ASSAY LOW-ENRICHED URANIUM.*—*The*  
2           *term “high-assay low-enriched uranium” means ura-*  
3           *nium having an assay greater than 5.0 percent and*  
4           *less than 20.0 percent enrichment of the uranium-235*  
5           *isotope.*

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





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