

116TH CONGRESS  
1ST SESSION

# H. R. 1760

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## 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.

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

Passed the House of Representatives September 9,  
2019.

Attest:

*Clerk.*



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