

**Suspend the Rules and Pass the Bill, H. R. 6140, With an
Amendment**

**(The amendment strikes all after the enacting clause and inserts a
new text)**

115TH CONGRESS
2^D 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.

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

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”.

1 **SEC. 2. PROGRAM.**

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

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

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

12 (2) shall, to the extent practicable—

13 (A) by January 1, 2021, have commercial
14 entities submit such transportation package de-
15 signs to the Commission for certification by the
16 Commission under part 71 of title 10, Code of
17 Federal Regulations; and

18 (B) encourage the Commission to have
19 such transportation package designs so certified
20 by the Commission by January 1, 2023;

21 (3) not later than January 1, 2020, shall sub-
22 mit to Congress a report on the Department’s ura-
23 nium inventory that may be available to be proc-
24 essed to HA–LEU for purposes of such program,
25 which may not include any uranium allocated by the
26 Secretary for use in support of the atomic energy

1 defense activities of the National Nuclear Security
2 Administration;

3 (4) not later than one year after the date of en-
4 actment of this Act, and biennially thereafter
5 through September 30, 2025, shall conduct a survey
6 of stakeholders to estimate the quantity of HA-LEU
7 necessary for domestic commercial use for each of
8 the five subsequent years;

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

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

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

21 (B) purchasing HA-LEU made available
22 to members of the consortium by the Secretary
23 under the program;

24 (7) shall, prior to acquiring HA-LEU under
25 paragraph (8), in coordination with the consortium

1 established pursuant to paragraph (6), develop a
2 schedule for cost recovery of HA–LEU made avail-
3 able to members of the consortium pursuant to
4 paragraph (8);

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

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

17 (A) the licensing and regulation of cat-
18 egory II spent nuclear material fuel fabrication
19 and enrichment facilities under part 70 of title
20 10, Code of Federal Regulations; and

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

24 (c) APPLICABILITY OF USEC PRIVATIZATION ACT.—

25 The requirements of subparagraphs (A) and (C) of section

1 3112(d)(2) of the USEC Privatization Act (42 U.S.C.
2 2297h-10(d)(2)) shall apply to a sale or transfer of HA-
3 LEU by the Secretary to a member of the consortium
4 under this section.

5 (d) FUNDING.—

6 (1) TRANSPORTATION PACKAGE DESIGN.—

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

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

15 (i) \$1,500,000 for fiscal year 2019;

16 (ii) \$1,500,000 for fiscal year 2020;

17 and

18 (iii) \$1,500,000 for fiscal year 2021.

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

1 unless funds are specifically provided for such pur-
2 poses in advance in subsequent appropriations Acts,
3 and only to the extent that the full extent of antici-
4 pated costs stemming from such commitments is re-
5 corded as an obligation up front and in full at the
6 time it is made.

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

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.