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(Original Signature of Member)

119TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To authorize the Secretary of Health and Human Services to make loans, loan guarantees, and grants for purchasing, planning, constructing, or renovating pediatric or adult mental health treatment facilities and pediatric or adult substance use disorder treatment facilities, and for other purposes.

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**IN THE HOUSE OF REPRESENTATIVES**

Ms. SALINAS introduced the following bill; which was referred to the  
Committee on \_\_\_\_\_

\_\_\_\_\_  
**A BILL**

To authorize the Secretary of Health and Human Services to make loans, loan guarantees, and grants for purchasing, planning, constructing, or renovating pediatric or adult mental health treatment facilities and pediatric or adult substance use disorder treatment facilities, 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 “Building Capacity for  
3 Care Act”.

4 **SEC. 2. LOANS AND LOAN GUARANTEES.**

5 Part P of title III of the Public Health Service Act  
6 is amended by inserting after section 399V–7 of such Act  
7 (42 U.S.C. 280g–17) the following:

8 **“SEC. 399V–8. LOANS, LOAN GUARANTEES, AND GRANTS**  
9 **FOR PURCHASING, PLANNING, CON-**  
10 **STRUCTING, OR RENOVATING ELIGIBLE FA-**  
11 **CILITIES FOR PEDIATRIC OR ADULT MENTAL**  
12 **HEALTH AND SUBSTANCE USE DISORDER**  
13 **SERVICES.**

14 “(a) IN GENERAL.—The Secretary may—

15 “(1) make loans, loan guarantees, or grants to  
16 eligible entities for the purpose of—

17 “(A) purchasing, constructing, or ren-  
18 ovating, including planning the purchase, con-  
19 struction, or renovation of, a pediatric or adult  
20 mental health treatment facility or a pediatric  
21 or adult substance use disorder treatment facil-  
22 ity;

23 “(B) improving digital infrastructure, tele-  
24 health capabilities, or other patient care infra-  
25 structure at such a facility; or

1           “(C) adding, or converting beds to, adult,  
2           adolescent, or pediatric psychiatric and sub-  
3           stance use inpatient beds at such a facility; and

4           “(2) subject to subsection (f), make loans and  
5           loan guarantees for refinancing loans that were  
6           made for such purpose to an eligible entity.

7           “(b) ELIGIBLE ENTITIES.—An entity shall be eligible  
8           to receive a loan, loan guarantee, or grant under this sec-  
9           tion if—

10           “(1) such entity is a public, private for-profit,  
11           and private not-for-profit—

12           “(A) hospital, including a general acute  
13           hospital, psychiatric hospital, critical access  
14           hospital, rural emergency hospital, sole commu-  
15           nity hospital, children’s hospital, or other hos-  
16           pital as specified by the Secretary;

17           “(B) substance use disorder treatment fa-  
18           cility;

19           “(C) mental health treatment facility;

20           “(D) facility that employs licensed mental  
21           health and substance use disorder professionals,  
22           such as child and adult psychiatrists, child and  
23           adult psychologists, advanced practice nurses,  
24           social workers, licensed professional counselors,  
25           or other licensed professionals that provide

1           mental health or substance use disorder services  
2           to pediatric or adult patients;

3           “(E) alliance of hospitals or facilities listed  
4           in any of subparagraphs (A), (B), (C), or (D);  
5           and

6           “(F) health care facility, as determined by  
7           the Secretary; and

8           “(2) such entity proposes to purchase, con-  
9           struct, or renovate a pediatric or adult mental health  
10          treatment facility, or a pediatric or adult substance  
11          use disorder treatment facility, that will—

12          “(A) increase the number of pediatric, ado-  
13          lescent, or adult psychiatric beds or pediatric,  
14          adolescent, or adult substance use disorder beds  
15          in a county that has insufficient psychiatric or  
16          substance use disorder treatment bed capacity;

17          “(B) provide mental health or substance  
18          use disorder services in a high-need rural or  
19          underresourced community;

20          “(C) provide multiple services across the  
21          continuum of mental health or substance use  
22          disorder care; or

23          “(D) have the capacity to provide inte-  
24          grated or specialized mental health and sub-

1           stance use disorder care for complex cases or  
2           patients with medical co-morbidities.

3           “(c) APPLICATION.—An eligible entity seeking a loan,  
4 loan guarantee, or grant under this section shall submit  
5 to the Secretary an application at such time and in such  
6 manner as the Secretary may specify. Such application  
7 shall contain the proposal of the entity to purchase, con-  
8 struct, or renovate a pediatric or adult mental health  
9 treatment facility, or a pediatric or adult substance use  
10 disorder treatment facility (as described in subsection  
11 (b)(2)) and such other information as the Secretary may  
12 specify.

13           “(d) GEOGRAPHIC PREFERENCE FOR GRANTS.—In  
14 making grants under this section, the Secretary shall give  
15 preference to eligible entities located in—

16           “(1) a mental health professional shortage area,  
17 as designated under section 332;

18           “(2) a county (or a municipality, if not con-  
19 tained within any county) where the mean drug  
20 overdose death rate per 100,000 people over the past  
21 3 years for which official data is available from the  
22 State, is higher than the most recent available na-  
23 tional average overdose death rate per 100,000 peo-  
24 ple, as reported by the Centers for Disease Control  
25 and Prevention; or

1           “(3) a county (or a municipality, if not con-  
2           tained within any county) where the mean suicide  
3           rate per 100,000 people over the past 3 years for  
4           which official data is available from the State, is  
5           higher than the most recent available national aver-  
6           age suicide rate per 100,000 people, as reported by  
7           the Centers for Disease Control and Prevention.

8           “(e) TERMS AND CONDITIONS.—Loans and loan  
9           guarantees under this section shall be made on such terms  
10          and conditions as the Secretary may prescribe, subject to  
11          the provisions of this section including the following:

12                 “(1) The Secretary may allow credit to a pro-  
13                 spective borrower only where—

14                         “(A) it is necessary to increase the number  
15                         of psychiatric or substance use disorder treat-  
16                         ment facilities to enhance the public’s access to  
17                         a comprehensive continuum of mental health  
18                         and substance use disorder services; and

19                         “(B) a credit subsidy is the most efficient  
20                         way to achieve such increase (on a borrower-by-  
21                         borrower basis).

22                 “(2) The final maturity of loans made or guar-  
23                 anteed under this section shall not exceed a period  
24                 of 20 years, or the period of 50 percent of the useful

1 life of any physical asset to be financed by the loan,  
2 whichever is less, as determined by the Secretary.

3 “(3) The Secretary may not make a loan guar-  
4 antee under this section, with respect to any bor-  
5 rower, in excess of 80 percent of any potential loss  
6 on the loan.

7 “(4) The Secretary may not make any loan or  
8 loan guarantee under this section if the loan will be  
9 subordinated—

10 “(A) to another debt contracted by the  
11 borrower; or

12 “(B) to any other claims against the bor-  
13 rower in the case of default.

14 “(5) The Secretary may not make any loan  
15 guarantee under this section unless the Secretary  
16 determines that—

17 “(A) the lender is responsible; and

18 “(B) adequate provision is made for serv-  
19 icing the loan on reasonable terms and pro-  
20 tecting the financial interest of the United  
21 States.

22 “(6) The Secretary may not make any loan  
23 guarantee under this section if the income from the  
24 loan will be excluded from gross income for purposes  
25 of chapter 1 of the Internal Revenue Code of 1986.

1           “(7) The Secretary may not make any loan or  
2           loan guarantee under this section unless—

3                   “(A) the loan and interest supplements on  
4                   any loan guarantee will be at an interest rate  
5                   that is set by reference to a benchmark interest  
6                   rate on marketable Treasury securities with a  
7                   similar maturity to the loan being made or  
8                   guaranteed; and

9                   “(B) the minimum interest rate on the  
10                  loan—

11                           “(i) will be no less than the estimated  
12                           cost to the Government of making the loan  
13                           plus 1 percent, with the goal of keeping  
14                           the interest rate below the interest rate of  
15                           a comparable and competitive private sec-  
16                           tor benchmark financial instrument; and

17                           “(ii) will be adjusted, as determined  
18                           by the Secretary, every quarter to take ac-  
19                           count of changes in the interest rate of the  
20                           benchmark financial instrument.

21           “(8) The Secretary may not make any loan or  
22           loan guarantee under this section unless—

23                   “(A) fees or premiums on the loan or loan  
24                   guarantee and corresponding insurance cov-  
25                   erage will be set at levels that minimize the cost



1 to the Government (as defined in section 502(5)  
2 of the Federal Credit Reform Act of 1990) of  
3 insuring such loan or loan guarantee, while sup-  
4 porting achievement of enhancing the public's  
5 access to a comprehensive continuum of mental  
6 health and substance use disorder services, in-  
7 cluding increasing the number of inpatient psy-  
8 chiatric and substance use disorder bed counts  
9 in areas with insufficient bed capacity;

10 “(B) the minimum guarantee fee or insur-  
11 ance premium imposed by the Government will  
12 be no less than the level sufficient to cover all  
13 of the estimated costs to the Government of the  
14 expected default claims, plus one percent; and

15 “(C) loan guarantee fees imposed by the  
16 Government will be reviewed every six months  
17 to ensure that the fees imposed on new loan  
18 guarantees are at a level sufficient to satisfy  
19 subparagraph (B) based on the most recent es-  
20 timates of such costs.

21 “(9) The provisions of any loan guarantee  
22 under this section shall state that the guarantee is  
23 conclusive evidence that—

24 “(A) the guarantee has been properly ob-  
25 tained;

1           “(B) the underlying loan qualified for the  
2           guarantee; and

3           “(C) except in the case of fraud or mate-  
4           rial misrepresentation by the holder of the loan,  
5           the guarantee will be presumed to be valid,  
6           legal, and enforceable.

7           “(10) The Secretary may not make any loan or  
8           loan guarantee under this section unless—

9           “(A) the borrower finances at least 25 per-  
10          cent of the funded project from other sources;  
11          and

12          “(B) the borrower uses funds that were  
13          not derived from Federal loans or loan guaran-  
14          tees to pay the fees or premiums on the loan or  
15          loan guarantee under this section.

16          “(11) The Secretary—

17          “(A) shall prescribe explicit standards for  
18          use in periodically assessing the credit risk of  
19          new and existing direct loans and guaranteed  
20          loans; and

21          “(B) shall not make a loan or loan guar-  
22          antee under this section unless the Secretary  
23          finds that there is a reasonable assurance of re-  
24          payment.

1       “(f) LIMITATION ON REFINANCING.—The authority  
2 vested by subsection (a)(2)—

3           “(1) authorizes making loans and loan guaran-  
4 tees only for refinancing loans that are entered into  
5 on or before the date that is 24 months before the  
6 date of enactment of the Mental, Behavioral, and  
7 Substance Use Disorder Treatment Infrastructure  
8 and Capacity Act; and

9           “(2) terminates on the date that is 24 months  
10 after such date of enactment.

11       “(g) PAYMENT OF LOSSES.—

12           “(1) DEFAULT ON GUARANTEED LOANS.—If, as  
13 a result of a default by a borrower under a loan  
14 guaranteed under this section, after the holder  
15 thereof has made such further collection efforts and  
16 instituted such enforcement proceedings as the Sec-  
17 retary may require, the Secretary determines that  
18 the holder has suffered a loss—

19           “(A) the Secretary shall pay to such holder  
20 75 percent of such loss, as specified in the  
21 guarantee contract;

22           “(B) upon making any such payment, the  
23 Secretary shall be subrogated to all the rights  
24 of the recipient of the payment; and

1           “(C) the Secretary shall be entitled to re-  
2           cover from the borrower the amount of any pay-  
3           ments made pursuant to the guarantee con-  
4           tract.

5           “(2) REQUIRED ENFORCE OF FEDERAL  
6           RIGHTS.—The Attorney General of the United  
7           States shall take such action as may be appropriate  
8           to enforce any right accruing to the United States  
9           as a result of the issuance of any guarantee under  
10          this section.

11          “(3) FORBEARANCE.—Nothing in this section  
12          precludes any forbearance for the benefit of the bor-  
13          rower of a loan that is made or guaranteed under  
14          this section which is agreed upon by the parties to  
15          the loan and approved by the Secretary, provided  
16          that budget authority for any resulting cost to the  
17          Government (as defined in section 502(5) of the  
18          Federal Credit Reform Act of 1990) is available.

19          “(h) DEFINITIONS.—In this section:

20               “(1) The term ‘children’s hospital’ means a  
21               hospital that predominantly serves patients under  
22               the age of 18.

23               “(2) The term ‘critical access hospital’ has the  
24               meaning given to such term in section 1861(mm) of  
25               the Social Security Act.

1           “(3) The term ‘mental health treatment facil-  
2       ity’—

3           “(A) includes—

4               “(i) a child or adult outpatient facility  
5       that provides—

6                   “(I) intensive outpatient services;

7                   “(II) partial hospitalization serv-  
8       ices;

9                   “(III) crisis intervention and sta-  
10      bilization; or

11                  “(IV) other mental, behavioral,  
12      or emotional health services deemed  
13      appropriate by the Secretary;

14                  “(ii) a hospital (including a general  
15      acute hospital, a psychiatric hospital, a  
16      critical access hospital, a rural emergency  
17      hospital, a sole community hospital, a chil-  
18      dren’s hospital, or other type of hospital as  
19      specified by the Secretary) that—

20                   “(I) provides acute, short-term  
21      inpatient psychiatric treatment serv-  
22      ices or outpatient services; and

23                   “(II) may include a military serv-  
24      ices program to meet the needs of ac-

1                   tive       and       retired       military  
2                   servicemembers; and

3                   “(iii) a facility within or near an  
4                   emergency department for providing dis-  
5                   charge planning and instructions to emer-  
6                   gency department patients in need of men-  
7                   tal health or substance use disorder treat-  
8                   ment and transfer to an appropriate men-  
9                   tal health or substance use disorder treat-  
10                  ment care setting; and

11                  “(B) excludes a facility that provide long-  
12                  term inpatient care.

13                  “(4) The term ‘substance use disorder treat-  
14                  ment facility’—

15                  “(A) includes—

16                       “(i) a child or adult outpatient facility  
17                       that provides outpatient substance use dis-  
18                       order services; and

19                       “(ii) a hospital (including a general  
20                       acute hospital, a psychiatric hospital, a  
21                       critical access hospital, a rural emergency  
22                       hospital, a sole community hospital, a chil-  
23                       dren’s hospital, or other type of hospital as  
24                       specified by the Secretary) that—

1 “(I) provides acute, short-term  
2 inpatient substance use disorder treat-  
3 ment services or outpatient services;  
4 and

5 “(II) may include a military serv-  
6 ices program to meet the needs of ac-  
7 tive and retired military  
8 servicemembers; and

9 “(B) excludes any facility described in  
10 paragraph (1)(B).

11 “(5) The term ‘psychiatric hospital’ has the  
12 meaning given to such term in section 1861(f) of the  
13 Social Security Act.

14 “(6) The term ‘rural emergency hospital’ has  
15 the meaning given to such term in section  
16 1861(kkk) of the Social Security Act.

17 “(7) The term ‘sole community hospital’ has  
18 the meaning given to such term in section  
19 1886(d)(5)(D)(iii) of the Social Security Act.

20 “(i) FUNDING.—

21 “(1) LIMITATIONS FOR LOANS AND LOAN GUAR-  
22 ANTEES.—The Secretary may provide loans and loan  
23 guarantees under this section—

24 “(A) only to the extent or in the amounts  
25 provided in advance in appropriation Acts; and

1                   “(B) totaling not more than \$200,000,000  
2                   for each of fiscal years 2024 through 2028.

3                   “(2) AUTHORIZATION OF APPROPRIATIONS FOR  
4                   GRANTS.—There is authorized to be appropriated to  
5                   the Secretary to make grants under this section  
6                   \$200,000,000 for each of fiscal years 2024 through  
7                   2028.”.

8   **SEC. 3. MENTAL HEALTH AND SUBSTANCE USE TREAT-**  
9                   **MENT TRUST FUND.**

10           (a) ESTABLISHMENT.—There is established in the  
11   Treasury of the United States a trust fund to be known  
12   as the Mental Health and Substance Use Treatment Trust  
13   Fund (in this section referred to as the “Trust Fund”).

14           (b) DEPOSITS.—There are hereby authorized to be  
15   appropriated to the Trust Fund, to remain available until  
16   expended, amounts equivalent to any revenues from the  
17   program of loans and loan guarantees under section  
18   399V–8 of the Public Health Service Act, as added by sec-  
19   tion 2, that exceed the costs of carrying out such program.

20           (c) USE OF FUND.—Amounts in the Trust Fund  
21   shall be available, as provided by appropriation Acts, for  
22   block grants for community mental health services under  
23   subpart I of part B of title XIX of the Public Health Serv-  
24   ice Act (42 U.S.C. 300x et seq.).