exemption from current funds requirements, as renumbered by chapter 699
of the laws of 1974, is renumbered section 6 and a new section 5 is
added to read as follows:

§ 5. The appropriation and expenditure of any funds after January 1,
2022 for any purposes related to services and expenses for any newly
constructed athletic facilities related to professional football in
Orchard Park, New York shall be subject to a contractual agreement
between the Erie County Stadium Corporation and the lessee of such
athletic facilities which provides that such lessee commit to the utili-
ization and occupation of any newly constructed athletic facilities
(prohibition on relocation) for a minimum duration of thirty years; and
provided further, in addition to any other penalties, remedies and fees
negotiated in such contract and any ancillary documents and agreements
associated therewith between the Erie County Stadium Corporation and the
lessee, such contract and any ancillary documents and agreements associ-
ated therewith shall provide that the lessee of such athletic facili-
ties reimburse the state for a portion of such funds consistent with the
terms of the prohibition on relocation provisions included in such
contract and any ancillary documents and agreements associated ther-
with.

§ 3. This act shall take effect immediately.

PART ZZ

Section 1. The social services law is amended by adding a new section
367-w to read as follows:

§ 367-w. Health care and mental hygiene worker bonuses. 1. Purpose
and intent. New York’s essential front line health care and mental
hygiene workers have seen us through a once-in-a-century public health
crisis and turned our state into a model for battling and beating
COVID-19. To attract talented people into the profession at a time of
such significant strain while also retaining those who have been working
so tirelessly these past two years, we must recognize the efforts of our
health care and mental hygiene workforce and reward them financially for
their service.

To do that, the commissioner of health is hereby directed to seek
federal approvals as applicable, and, subject to federal financial
participation, to support with federal and state funding bonuses to be
made available during the state fiscal year of 2023 to recruit, retain,
and reward health care and mental hygiene workers.

2. Definitions. As used in this section, the term:
(a) "Employee" means certain front line health care and mental hygiene
practitioners, technicians, assistants and aides that provide hands on
health or care services to individuals, without regard to whether the
person works full-time, part-time, on a salaried, hourly, or temporary
basis, or as an independent contractor, that received an annualized base
salary of one hundred twenty-five thousand dollars or less, to include:
(i) Physician assistants, dental hygienists, dental assistants,
psychiatric aides, pharmacists, pharmacy technicians, physical thera-
pists, physical therapy assistants, physical therapy aides, occupational
therapists, occupational therapy assistants, occupational therapy aides,
speech-language pathologists, respiratory therapists, exercise physiolo-
gists, recreational therapists, all other therapists, orthotists,
prosthetists, clinical laboratory technologists and technicians, diag-
nostic medical sonographers, nuclear medicine technologists, radiologic
technologists, magnetic resonance imaging technologists, ophthalmic
medical technicians, radiation therapists, dietetic technicians, cardiovascular technologists and technicians, certified first responders, emergency medical technicians, advanced emergency medical technicians, paramedics, surgical technologists, all other health technologists and technicians, orderlies, medical assistants, phlebotomists, all other health care support workers, nurse anesthetists, nurse midwives, nurse practitioners, registered nurses, nursing assistants, and licensed practical and licensed vocational nurses;

(ii) to the extent not already included in subparagraph (i) of this paragraph, staff who perform functions as described in the consolidated fiscal report (CFR) manual with respect to the following title codes:

Mental Hygiene Worker;
Residence/Site Worker;
Counselor (OMH);
Manager (OMH);
Senior Counselor (OMH);
Supervisor (OMH);
Developmental Disabilities Specialist QIDP - Direct Care (OPWDD);
Certified Recovery Peer Advocate;
Peer Professional - Non-CRPA (OASAS Only);
Job Coach/Employment Specialist (OMH and OPWDD);
Peer Specialist (OMH);
Counselor - Alcoholism and Substance Abuse (CASAC);
Counseling Aide/Assistant - Alcoholism and Substance Abuse;
Other Direct Care Staff;
Case Manager;
Counselor - Rehabilitation;
Developmental Disabilities Specialist/Habilitation Specialist QIDP - Clinical (OPWDD);
  Emergency Medical Technician;
  Intensive Case Manager (OMH);
  Intensive Case Manager/Coordinator (OMH);
  Nurse - Licensed Practical;
  Nurse - Registered;
  Psychologist (Licensed);
  Psychologist (Master's Level)/Behavioral Specialist;
  Psychology Worker/Other Behavioral Worker;
  Social Worker - Licensed (LMSW, LCSW);
  Social Worker - Master's Level (MSW);
  Licensed Mental Health Counselor (OASAS, OMH, OCFS);
  Licensed Psychoanalyst (OMH);
  Therapist - Recreation;
  Therapist - Activity/Creative Arts;
  Therapist - Occupational;
  Dietician/Nutritionist;
  Therapy Assistant/Activity Assistant;
  Nurse's Aide/Medical Aide;
  Behavior Intervention Specialist 1 (OPWDD);
  Behavior Intervention Specialist 2 (OPWDD);
  Clinical Coordinator;
  Intake/Screening;
  Pharmacist;
  Marriage and Family Counselor/Therapist;
  Residential Treatment Facility (RTF) Transition Coordinator (OMH);
  Crisis Prevention Specialist (OMH);
  Early Recognition Specialist (OMH);
(b) "Employer" means a provider enrolled in the medical assistance program under this title that employs at least one employee and that bills for services under the state plan or a home and community based services waiver authorized pursuant to subdivision (c) of section nineteen hundred fifteen of the federal social security act, or that has a provider agreement to bill for services provided or arranged through a managed care provider under section three hundred sixty-four-j of this title or a managed long term care plan under section forty-four hundred three-f of the public health law, to include:

(i) providers and facilities licensed, certified or otherwise authorized under articles twenty-eight, thirty, thirty-six or forty of the public health law, articles sixteen, thirty-one, thirty-two or thirty-six of the mental hygiene law, article seven of this chapter, fiscal intermediaries under section three hundred sixty-five-f of this title, pharmacies registered under section six thousand eight hundred eight of the education law, or school based health centers;

(ii) programs that participate in the medical assistance program and are funded by the office of mental health, the office of addiction services and supports, or the office for people with developmental disabilities; and

(iii) other provider types determined by the commissioner and approved by the director of the budget;

(iv) provided, however, that unless the provider is subject to a certificate of need process as a condition of state licensure or approval, such provider shall not be an employer under this section unless at least twenty percent of the provider's patients or persons served are eligible for services under this title and title XIX of the federal social security act.

(c) Notwithstanding the definition of employer in paragraph (b) of this subdivision, and without regard to the availability of federal financial participation, "employer" shall also include an institution of higher education, a public or nonpublic school, a charter school, an approved preschool program for students with disabilities, a school district or boards of cooperative educational services, programs funded by the office of mental health, programs funded by the office of addiction services and supports, programs funded by the office for people with developmental disabilities, programs funded by the office for the aging, a health district as defined in section two of the public health law, or a municipal corporation, where such program or entity employs at least one employee. Such employers shall be required to enroll in the system designated by the commissioner, or relevant agency commissioners, in consultation with the director of the budget, for the purpose of claiming bonus payments under this section. Such system or process for claiming bonus payments may be different from the system and process used under subdivision three of this section.

(d) "Vesting period" shall mean a series of six-month periods between the dates of October first, two thousand twenty-one and March thirty-five.
first, two thousand twenty-four for which employees that are continuous-
ly employed by an employer during such six-month periods, in accordance
with a schedule issued by the commissioner or relevant agency commis-
sioner as applicable, may become eligible for a bonus pursuant to subdi-
vision four of this section.
(e) "Base salary" shall mean, for the purposes of this section, the
employee's gross wages with the employer during the vesting period,
excluding any bonuses or overtime pay.
(f) "Municipal corporation" means a county outside the city of New
York, a city, including the city of New York, a town, a village, or a
school district.
3. Tracking and submission of claims for bonuses. (a) The commiss-
er, in consultation with the commissioner of labor and the Medicaid
inspector general, and subject to any necessary approvals by the federal
centers for Medicare and Medicaid services, shall develop such forms and
procedures as may be needed to identify the number of hours employees
worked and to provide reimbursement to employers for the purposes of
funding employee bonuses in accordance with hours worked during the
vesting period.
(b) Using the forms and processes developed by the commissioner under
this subdivision, employers shall, for a period of time specified by the
commissioner:
(i) track the number of hours that employees work during the vesting
period and, as applicable, the number of patients served by the employer
who are eligible for services under this title; and
(ii) submit claims for reimbursement of employee bonus payments. In
filling out the information required to submit such claims, employers
shall use information obtained from tracking required pursuant to para-
graph (a) of this subdivision and provide such other information as may
be prescribed by the commissioner. In determining an employee's annual-
ized base salary, the employer shall use information based on payroll
records.
(c) Employers shall be responsible for determining whether an employee
is eligible under this section and shall maintain and make available
upon request all records, data and information the employer relied upon
in making the determination that an employee was eligible, in accordance
with paragraph (d) of this subdivision.
(d) Employers shall maintain contemporaneous records for all tracking
and claims related information and documents required to substantiate
claims submitted under this section for a period of no less than six
years. Employers shall furnish such records and information, upon
request, to the commissioner, the Medicaid inspector general, the
commissioner of labor, the secretary of the United States Department of
Health and Human Services, and the deputy attorney general for Medicaid
fraud control.
4. Payment of worker bonuses. (a) Upon issuance of a vesting schedule
by the commissioner, or relevant agency commissioner as applicable,
employers shall be required to pay bonuses to employees pursuant to such
schedule based on the number of hours worked during the vesting period.
The schedule shall provide for total payments not to exceed three thou-
sand dollars per employee in accordance with the following:
(i) employees who have worked an average of at least twenty but less
than thirty hours per week over the course of a vesting period would
receive a five hundred dollar bonus for the vesting period;
(ii) employees who have worked an average of at least thirty but less than thirty-five hours per week over the course of a vesting period would receive a one thousand dollar bonus for such vesting period;

(iii) employees who have worked an average of at least thirty-five hours per week over the course of a vesting period would receive a one thousand five hundred dollar bonus for such vesting period.

(iv) full-time employees who are exempt from overtime compensation as established in the labor commissioner's minimum wage orders or otherwise provided by New York state law or regulation over the course of a vesting period would receive a one thousand five hundred dollar bonus for such vesting period.

(b) Notwithstanding paragraph (a) of this subdivision, the commissioner may through regulation specify an alternative number of vesting periods, provided that total payments do not exceed three thousand dollars per employee.

(c) Employees shall be eligible for bonuses for no more than two vesting periods per employer, in an amount equal to but not greater than three thousand dollars per employee across all employers.

(d) Upon completion of a vesting period with an employer, an employee shall be entitled to receive the bonus and the employer shall be required to pay the bonus no later than the date specified under this subdivision, provided however that prior to such date the employee does not terminate, through action or inaction, the employment relationship with the employer, in accordance with any employment agreement, including a collectively bargained agreement, if any, between the employee and employer.

(e) Any bonus due and payable to an employee under this section shall be made by the employer no later than thirty days after the bonus is paid to the employer.

(f) An employer shall be required to submit a claim for a bonus to the department no later than thirty days after an employee's eligibility for a bonus vests, in accordance with and upon issuance of the schedule issued by the commissioner or relevant agency commissioner.

(g) No portion of any dollars received from claims under subparagraph (ii) of paragraph (b) of subdivision three of this section for employee bonuses shall be returned to any person other than the employee to whom the bonus is due or used to reduce the total compensation an employer is obligated to pay to an employee under section thirty-six hundred fourteen of the public health law, section six hundred fifty-two of the labor law, or any other provisions of law or regulations, or pursuant to any collectively bargained agreement.

(h) No portion of any bonus available pursuant to this subdivision shall be payable to a person who has been suspended or excluded under the medical assistance program during the vesting period and at the time an employer submits a claim under this section.

(i) The use of any accruals or other leave, including but not limited to sick, vacation, or time used under the family medical leave act, shall be credited towards and included in the calculation of the average number of hours worked per week over the course of the vesting period.

5. Audits, investigations and reviews. (a) The Medicaid inspector general shall, in coordination with the commissioner, conduct audits, investigations and reviews of employers required to submit claims under this section. Such claims, inappropriately paid, under this section shall constitute overpayments as that term is defined under the regulations governing the medical assistance program. The Medicaid inspector general may recover such overpayments to employers as it would an over-
payment under the medical assistance program, impose sanctions up to and
including exclusion from the medical assistance program, impose penal-
ties, and take any other action authorized by law where:
(i) an employer claims a bonus not due to an employee or a bonus
amount in excess of the correct bonus amount due to an employee;
(ii) an employer claims, receives and fails to pay any part of the
bonus due to a designated employee;
(iii) an employer fails to claim a bonus due to an employee.
(b) Any employer identified in paragraph (a) of this subdivision who
fails to identify, claim and pay any bonus for more than ten percent of
its employees eligible for the bonus shall also be subject to additional
penalties under subdivision four of section one hundred forty-five-b of
this article.
(c) Any employer who fails to pay any part of the bonus payment to a
designated employee shall remain liable to pay such bonus to that
employee, regardless of any recovery, sanction or penalty the Medicaid
inspector general may impose.
(d) In all instances recovery of inappropriate bonus payments shall be
recovered from the employer. The employer shall not have the right to
recover any inappropriately paid bonus from the employee.
(e) Where the Medicaid inspector general sanctions an employer for
violations under this section, they may also sanction any affiliates as
defined under the regulations governing the medical assistance program.
6. Rules and regulations. The commissioner, in consultation with the
Medicaid inspector general as it relates to subdivision five of this
section, may promulgate rules, to implement this section pursuant to
emergency regulation; provided, however, that this provision shall not
be construed as requiring the commissioner to issue regulations to
implement this section.
§ 2. Subparagraphs (iv) and (v) of paragraph (a) of subdivision 4 of
section 145-b of the social services law, as amended by section 1 of
part QQ of chapter 56 of the laws of 2020, are amended to read as
follows:
(iv) such person arranges or contracts, by employment, agreement, or
otherwise, with an individual or entity that the person knows or should
know is suspended or excluded from the medical assistance program at the
time such arrangement or contract regarding activities related to the
medical assistance program is made[.]
(v) such person had an obligation to identify, claim, and pay a bonus
under subdivision three of section three hundred sixty-seven-w of this
article and such person failed to identify, claim and pay such bonus.
(vi) For purposes of this paragraph, "person" as used in subparagraph
(i) of this paragraph does not include recipients of the medical assist-
ance program; and "person" as used in subparagraphs (ii) [··], (iii) and
(iv) of this paragraph, is as defined in paragraph (e) of subdivision
[(6)] six of section three hundred sixty-three-d of this [chapter] arti-
cle; and "person" as used in subparagraph (v) of this paragraph includes
employers as defined in section three hundred sixty-seven-w of this
article.
§ 3. Paragraph (c) of subdivision 4 of section 145-b of the social
services law is amended by adding a new subparagraph (iii) to read as
follows:
(iii) For subparagraph (v) of paragraph (a) of this subdivision, a
monetary penalty shall be imposed for conduct described in subparagraphs
(i), (ii) and (iii) of paragraph (a) of subdivision five of section
three hundred sixty-seven-w of this article and shall not exceed one
thousand dollars per failure to identify, claim and pay a bonus for each employee.

§ 4. Health care and mental hygiene worker bonuses for state employees. 1. An employee who is employed by a state operated facility, an institutional or direct-care setting operated by the executive branch of the State of New York or a public hospital operated by the state university of New York and who is deemed substantially equivalent to the definition of employee pursuant to paragraph (a) of subdivision 2 of section 367-w of the social services law as determined by the commissioner of health, in consultation with the chancellor of the state university of New York, the commissioner of the department of civil service, the director of the office of employee relations, and the commissioners of other state agencies, as applicable, and approved by the director of the budget, shall be eligible for the health care and mental hygiene worker bonus. Notwithstanding the definition of base salary pursuant to paragraph (e) of subdivision 2 of section 367-w, such bonus shall only be paid to employees that receive an annualized base salary of one hundred twenty-five thousand dollars or less.

2. Employees shall be eligible for health care and mental hygiene worker bonuses in an amount up to but not exceeding three thousand dollars per employee. The payment of bonuses shall be paid based on the total number of hours worked during two vesting periods based on the employee's start date with the employer. No employee's first vesting period may begin later than March thirty-first, two thousand twenty-three, and in total both vesting periods may not exceed one year in duration. For each vesting period, payments shall be in accordance with the following:

(a) employees who have worked an average of at least twenty but less than thirty hours per week over the course of a vesting period shall receive a five hundred dollar bonus for the vesting period;
(b) employees who have worked an average of at least thirty but less than thirty-seven and one half hours per week over the course of a vesting period shall receive a one thousand dollar bonus for such vesting period; and
(c) employees who have worked an average of at least thirty-seven and one half hours per week over the course of a vesting period shall receive a one thousand five hundred dollar bonus for such vesting period.

§ 5. An employee under this act shall be limited to a bonus of three thousand dollars per employee without regard to which section or sections such employee may be eligible or whether the employee is eligible to receive a bonus from more than one employer.

§ 6. Notwithstanding any provision of law to the contrary, any bonus payment paid pursuant to this act, to the extent includible in gross income for federal income tax purposes, shall not be subject to state or local income tax.

§ 7. Bonuses under this act shall not be considered income for purposes of public benefits or other public assistance.

§ 8. Paragraph (a) of subdivision 8 of section 131-a of the social services law is amended by adding a new subparagraph (x) to read as follows:

(x) all of the income of a head of household or any person in the household, who is receiving such aid or for whom an application for such aid has been made, which is derived from the health care and mental hygiene worker bonuses under section three hundred sixty-seven-w of this
§ 9. The department of health shall request any necessary waiver or waivers from the centers for medicare and medicaid services to ensure that the payments required by this act shall not be included in the calculation of federal disproportionate share payments as determined by 42 CFR § 412.106, or in the calculation of the upper payment limit as determined by 42 CFR § 447.272 and 42 CFR § 447.321, for any applicable employer types that receive disproportionate share payments, upper payment limit supplemental payments, or similar supplemental payments where the centers for medicare and medicaid services has a waiver or similar process for the exclusion of the payments required by this act from such calculations.

§ 10. This act shall take effect immediately.

PART AAA

Section 1. Subparagraph 4 of paragraph (b) of subdivision 1 of section 366 of the social services law, as added by section 1 of part D of chapter 56 of the laws of 2013, is amended to read as follows:

(4) An individual who is a pregnant woman or is a member of a family that contains a dependent child living with a parent or other caretaker relative is eligible for standard coverage if [his or her] their MAGI household income does not exceed [the MAGI-equivalent of] one hundred thirty-three percent of the [highest amount that ordinarily would have been paid to a person without any income or resources under the family assistance program as it existed on the first day of November, nineteen hundred ninety-seven] federal poverty line for the applicable family size, which shall be calculated in accordance with guidance issued by the Secretary of the United States department of health and human services; for purposes of this subparagraph, the term dependent child means a person who is under eighteen years of age, or is eighteen years of age and a full-time student, who is deprived of parental support or care by reason of the death, continued absence, or physical or mental incapacity of a parent, or by reason of the unemployment of the parent, as defined by the department of health.

§ 2. Paragraph (g) of subdivision 1 of section 366 of the social services law is amended by adding a new subparagraph 4 to read as follows:

(4) (a) Applicants and recipients who are age sixty-five or older, who for their immigration status, are eligible for medical assistance according to the following:

(b) individuals eligible for medical assistance pursuant to subparagraph (a) of this paragraph shall participate in and receive covered benefits available through a managed care provider under section three hundred sixty-four-j of this article that is certified pursuant to section forty-four hundred three of the public health law; provided, however, to the extent that any covered benefits available through such managed care providers as of January first, two thousand twenty-three are transitioned to fee-for-service coverage, then such individuals shall continue to be entitled to these benefits in the fee-for-service program, rather than through a managed care provider.

§ 3. Paragraph (a) of subdivision 2 of section 366 of the social services law, as separately amended by chapter 32 and 588 of the laws of