

the discretion of the Secretary where it is demonstrated that:

“(A) the period of overstay was due to extraordinary circumstances beyond the control of the applicant, and the Secretary finds the period commensurate with the circumstances; and

“(B) the alien has not otherwise violated his nonimmigrant status.

“(p) PORTABILITY.—A Y nonimmigrant worker, who was previously issued a visa or otherwise provided Y nonimmigrant status, may accept a new offer of employment with a subsequent employer, if—

“(1) the position being offered the Y nonimmigrant has been certified by the Secretary of Labor under section 218B and the employer complies with all requirements of this section and section 218B;

“(2) the alien, after lawful admission to the United States, did not work without authorization; and

“(3) the subsequent employer has notified the Secretary of Homeland Security under subsection (q) of the Y nonimmigrant's change of employment.

“(q) REPORTING OF START AND TERMINATION OF EMPLOYMENT.—

“(1) START OF Y WORKER EMPLOYMENT.—A Y nonimmigrant shall report in the manner prescribed by the Secretary of Homeland Security to the employer whose job offer was the basis for issuance of the alien's Y nonimmigrant visa within 7 days of admission into the United States.

“(2) EMPLOYER NOTIFICATION REQUIREMENT.—An employer shall within three days make notification in the manner prescribed by the Secretary of Homeland Security, of the following events:

“(A) a Y nonimmigrant worker has reported for work pursuant to paragraph (1) after admission in Y nonimmigrant status;

“(B) a Y nonimmigrant worker has changed jobs under subsection (r) and started employment with the employer;

“(C) the employment of a Y nonimmigrant worker has terminated; or

“(D) a Y nonimmigrant worker on whose behalf the employer has filed a petition under this subsection that has been approved by the Secretary of Homeland Security has failed to report for work within three days of the employment start date agreed upon between the employer and the Y nonimmigrant.

“(3) VERIFICATION.—An employer shall provide upon request of the Secretary of Homeland Security verification that an alien who has been granted admission as a Y nonimmigrant worker was or continues to be employed by the employer.

“(4) FINE.—Any employer that fails to comply with the notification requirements of this subsection shall pay to the Secretary of Homeland Security a fine, in an amount and under procedures established by the Secretary in regulation.

“(r) NO THREATENING OF EMPLOYEES.—It shall be a violation of this section for an employer who has filed a petition under this section to threaten the alien beneficiary of such petition with the withdrawal of such petition in retaliation for the beneficiary's exercise of a right protected by section 218B.

“(s) CHANGE OF STATUS.—

“(1) IN GENERAL.—

“(A) A Y nonimmigrant may apply to change status to another nonimmigrant status, subject to section 248 and if otherwise eligible.

“(B) No alien admitted to the United States under the immigration laws in a classification other than Y nonimmigrant status may change status to Y nonimmigrant status.

“(C) An alien in Y nonimmigrant status may not change status to any other Y nonimmigrant status.

“(2) CONSTRUCTION.—Nothing in this subsection shall be construed to prevent an alien who is precluded from changing status to a particular Y nonimmigrant classification under subparagraphs (1)(B), (C), or (D) from leaving the United States and applying at a U.S. consulate for the desired nonimmigrant visa, subject to all applicable eligibility requirements; in the appropriate Y classification

“(t) VISITATION OF Y NONIMMIGRANT BY SPOUSE OR CHILD OF WITHOUT A Y-3 NONIMMIGRANT VISA.—Nothing in this section shall be construed to prohibit the spouse or child of a Y nonimmigrant worker to be admitted to the United States under any other existing legal basis for which the spouse or child may qualify.

“(u) CHANGE OF ADDRESS.—A Y nonimmigrant shall comply with the change of address reporting requirements under section 265 through electronic or paper notification.”

(b) Conforming Amendment Regarding Creation of Treasury Accounts.

Section 286 of the Immigration and Nationality Act (8 U.S.C. 1356) is amended by inserting at the end the following new subsections.—

“(w) TEMPORARY WORKER PROGRAM ACCOUNT.—

“(1) IN GENERAL.—There is established in the general fund of the Treasury a separate account, which shall be known as the ‘Temporary Worker Program Account’. Notwithstanding any other section of this Act, there shall be deposited into the account all fines and civil penalties collected under sections 218A, 218B, or 218F and Title VI of [name of Act], except as specifically provided otherwise in such sections.

“(2) USE OF FUNDS.—Amounts deposited into the Temporary Worker Program Account shall remain available until expended as follows:

“(A) for the administration of the Standing Commission on Immigration and Labor Markets, established under section 409 of the [Insert title of Act]; and

“(B) after amounts needed by the Standing Commission on Immigration and Labor Markets have been expended, for the Secretaries of Labor and Homeland Security, as follows:

“(i) one-third to the Secretary of Labor to carry out the Secretary of Labor's functions and responsibilities, including enforcement of labor standards under sections 218A, 218B, and 218F, and under applicable labor laws including the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) and the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.). Such activities shall include random audits of employers that participate in the Y visa program; and

“(ii) two-thirds to the Secretary of Homeland Security to improve immigration services and enforcement.

“(x) STATE IMPACT ASSISTANCE ACCOUNT.—

“(1) IN GENERAL.—There is established in the general fund of the Treasury a separate account, which shall be known as the ‘State Impact Assistance Account’.

“(2) SOURCE OF FUNDS.—Notwithstanding any other provision under this Act, there shall be deposited as offsetting receipts into the State Impact Assistance Account all State Impact Assistance fees collected under sections 218A(e)(3)(B) and section 601(e)(6)(C) of the [Insert title of Act].

“(3) USE OF FUNDS.—Amounts deposited into the State Impact Assistance Account may only be used to carry out the State Impact Assistance Grant Program established under paragraph (4).

“(4) STATE IMPACT ASSISTANCE GRANT PROGRAM.—

“(A) ESTABLISHMENT.—The Secretary of Health and Human Services, in consultation

with the Secretary of Education, shall establish the State Impact Assistance Grant Program (referred to in this subsection as the ‘Program’), under which the Secretary may award grants to States to provide health and education services to noncitizens in accordance with this paragraph.

“(B) STATE ALLOCATIONS.—The Secretary of Health and Human Services shall annually allocate the amounts available in the State Impact Assistance Account among the States as follows:

“(i) NONCITIZEN POPULATION.—Eighty percent of such amounts shall be allocated so that each State receives the greater of—

“(I) \$5,000,000; or

“(II) after adjusting for allocations under subclause (I), the percentage of the amount to be distributed under this clause that is equal to the noncitizen resident population of the State divided by the noncitizen resident population of all States, based on the most recent data available from the Bureau of the Census.

“(ii) HIGH GROWTH RATES.—Twenty percent of such amounts shall be allocated among the 20 States with the largest growth rates in noncitizen resident population, as determined by the Secretary of Health and Human Services, so that each such State receives the percentage of the amount distributed under this clause that is equal to—

“(I) the growth rate in the noncitizen resident population of the State during the most recent 3-year period for which data is available from the Bureau of the Census; divided by

“(II) the average growth rate in noncitizen resident population for the 20 States during such 3-year period.

“(iii) LEGISLATIVE APPROPRIATIONS.—The use of grant funds allocated to States under this paragraph shall be subject to appropriation by the legislature of each State in accordance with the terms and conditions under this paragraph.

“(C) FUNDING FOR LOCAL GOVERNMENT.—

“(i) DISTRIBUTION CRITERIA.—Grant funds received by States under this paragraph shall be distributed to units of local government based on need and function.

“(ii) MINIMUM DISTRIBUTION.—Except as provided in clause (iii), State shall distribute not less than 30 percent of the grant funds received under this paragraph to units of local government not later than 180 days after receiving such funds.

“(iii) EXCEPTION.—If an eligible unit of local government that is available to carry out the activities described in subparagraph (D) cannot be found in a State, the State does not need to comply with clause (ii).

“(iv) UNEXPENDED FUNDS.—Any grant funds distributed by a State to a unit of local government that remain unexpended as of the end of the grant period shall revert to the State for redistribution to another unit of local government.

“(D) USE OF FUNDS.—States and units of local government shall use grant funds received under this paragraph to provide health services, educational services, and related services to noncitizens within their jurisdiction directly, or through contracts with eligible services providers, including—

“(i) health care providers;

“(ii) local educational agencies; and

“(iii) charitable and religious organizations.

“(E) STATE DEFINED.—In this paragraph, the term ‘State’ means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

“(F) CERTIFICATION.—In order to receive a payment under this section, the State shall