

(iii) another unusual occurrence or exigent circumstance.

**(e) Investment and expenditure flexibility**

The corpus associated with a Federal payment (and its non-Federal match) made to the Federal endowment fund of the University or NTID shall not be subject to the investment limitations of subsection (c)(1) after 10 fiscal years following the fiscal year in which the funds are matched, and the income generated from such corpus after the tenth fiscal year described in this subsection shall not be subject to such investment limitations or to the withdrawal and expenditure limitations of subsection (d)(3).

**(f) Recovery of payments**

After notice and an opportunity for a hearing, the Secretary is authorized to recover any Federal payments under this section if the University or NTID—

(1) makes a withdrawal or expenditure of the corpus or income of its Federal endowment fund that is not consistent with this section;

(2) fails to comply with the investment standards and limitations under this section; or

(3) fails to account properly to the Secretary concerning the investment of or expenditures from the Federal endowment fund corpus or income.

**(g) Definitions**

As used in this section:

(1) The term “corpus”, with respect to a Federal endowment fund under this section, means an amount equal to the Federal payments to such fund, amounts contributed to the fund from non-Federal sources, and appreciation from capital gains and reinvestment of income.

(2) The term “Federal endowment fund” means a fund, or a tax-exempt foundation, established and maintained pursuant to this section by the University or NTID, as the case may be, for the purpose of generating income for the support of the institution involved.

(3) The term “income”, with respect to a Federal endowment fund under this section, means an amount equal to the dividends and interest accruing from investments of the corpus of such fund.

(4) The term “institution involved” means the University or NTID, as the case may be.

**(h) Authorization of appropriations**

(1) In the case of the University, there are authorized to be appropriated for the purposes of this section such sums as may be necessary for each of the fiscal years 2009 through 2014.

(2) In the case of NTID, there are authorized to be appropriated for the purposes of this section such sums as may be necessary for each of the fiscal years 2009 through 2014.

(3) Amounts appropriated under paragraph (1) or (2) shall remain available until expended.

**(i) Effective date**

The provisions of this section shall take effect as if included in this chapter as enacted on August 4, 1986.

(Pub. L. 99-371, title II, §207, as added Pub. L. 102-421, title I, §137(2), Oct. 16, 1992, 106 Stat.

2159; amended Pub. L. 103-73, title II, §204(f), Aug. 11, 1993, 107 Stat. 735; Pub. L. 105-244, title IX, §919, Oct. 7, 1998, 112 Stat. 1831; Pub. L. 110-315, title IX, §909, Aug. 14, 2008, 122 Stat. 3453.)

PRIOR PROVISIONS

A prior section 4357, Pub. L. 99-371, title II, §207, formerly title IV, §407, Aug. 4, 1986, 100 Stat. 791; renumbered title II, §207, Pub. L. 102-421, title I, §101(b)(5), (6), Oct. 16, 1992, 106 Stat. 2151, provided for Gallaudet University Federal endowment program, prior to repeal effective Oct. 1, 1992, by Pub. L. 102-421, title I, §§137(1), 161, Oct. 16, 1992, 106 Stat. 2159, 2164.

AMENDMENTS

2008—Subsec. (h)(1), (2). Pub. L. 110-315 substituted “fiscal years 2009 through 2014” for “fiscal years 1998 through 2003”.

1998—Subsec. (b)(2). Pub. L. 105-244, §919(1)(A), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “Subject to the availability of appropriations and the non-Federal matching requirements of paragraph (3), the Secretary shall make payments to each Federal endowment fund in amounts equal to sums contributed to the fund from non-Federal sources (excluding transfers from other endowment funds of the institution involved).”

Subsec. (b)(3). Pub. L. 105-244, §919(1)(B), struck out par. (3) which read as follows: “Effective for fiscal year 1993 and each succeeding fiscal year, for any fiscal year in which the sums contributed to the Federal endowment fund of the institution involved from non-Federal sources exceed \$1,000,000, the non-Federal contribution to the Federal endowment fund shall be \$2 for each Federal dollar provided in excess of \$1,000,000 (excluding transfers from other endowment funds of the institution involved).”

Subsec. (c)(1). Pub. L. 105-244, §919(2), inserted “the Federal contribution of” after “shall invest”.

Subsec. (d)(2)(C). Pub. L. 105-244, §919(3)(A), substituted “The University” for “Beginning on October 1, 1992, the University”.

Subsec. (d)(3)(A). Pub. L. 105-244, §919(3)(B), substituted “current” for “prior”.

Subsec. (h)(1), (2). Pub. L. 105-244, §919(4), substituted “1998 through 2003” for “1993 through 1997”.

1993—Subsec. (c)(3). Pub. L. 103-73, §204(f)(1), substituted “advisory group established under section 4332 of this title” for “Advisory Board of NTID”.

Subsec. (e). Pub. L. 103-73, §204(f)(2), substituted “such investment limitations or” for “such investment limitations and”.

Subsec. (i). Pub. L. 103-73, §204(f)(3), substituted “this chapter as enacted on August 4, 1986” for “the provisions of the Education of the Deaf Act of 1986”.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of this title.

**§ 4358. Repealed. Pub. L. 105-244, title IX, § 920, Oct. 7, 1998, 112 Stat. 1831**

Section, Pub. L. 99-371, title II, §208, as added Pub. L. 102-421, title I, §138, Oct. 16, 1992, 106 Stat. 2162, related to scholarship program for deaf education or special education careers.

A prior section 4358, Pub. L. 99-371, title II, §208, formerly title IV, §408, Aug. 4, 1986, 100 Stat. 792; renumbered title II, §208, Pub. L. 102-421, title I, §101(b)(5), (6), Oct. 16, 1992, 106 Stat. 2151, provided for a National Technical Institute for the Deaf endowment program, prior to repeal effective Oct. 1, 1992, by Pub. L. 102-421, title I, §§137(1), 161, Oct. 16, 1992, 106 Stat. 2159, 2164. See section 4357 of this title.

## EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

**§ 4359. Oversight and effect of agreements****(a) Oversight activities**

Nothing in this chapter shall be construed to diminish the oversight activities of the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate with respect to any agreement entered into between the Secretary of Education and Gallaudet University, and the institution of higher education with which the Secretary has an agreement under part B of subchapter I.

**(b) Construction of agreements**

The agreements described in subsection (a) of this section shall continue in effect, to the extent that such agreements are not inconsistent with this chapter.

(Pub. L. 99-371, title II, §208, formerly title IV, §409, Aug. 4, 1986, 100 Stat. 794; renumbered title II, §209, Pub. L. 102-421, title I, §101(b)(5), (6), Oct. 16, 1992, 106 Stat. 2151; amended Pub. L. 103-73, title II, §204(g), Aug. 11, 1993, 107 Stat. 735; renumbered §208 and amended Pub. L. 105-244, title IX, §921, Oct. 7, 1998, 112 Stat. 1831; Pub. L. 110-315, title IX, §910, Aug. 14, 2008, 122 Stat. 3453.)

## PRIOR PROVISIONS

A prior section 208 of Pub. L. 99-371 was classified to section 4358 of this title, prior to repeal by Pub. L. 105-244.

Another prior section 208 of Pub. L. 99-371 was classified to section 4358 of this title, prior to repeal by Pub. L. 102-421.

## AMENDMENTS

2008—Subsec. (a). Pub. L. 110-315 substituted “Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate” for “Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives”.

1998—Subsec. (a). Pub. L. 105-244, §921(1), substituted “Committee on Education and the Workforce” for “Committee on Education and Labor”.

1993—Subsec. (a). Pub. L. 103-73, §204(g)(1), substituted “an agreement under part B of subchapter I” for “an agreement under title II”.

Subsec. (b). Pub. L. 103-73, §204(g)(2), struck out “the provisions of” after “inconsistent with”.

## CHANGE OF NAME

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

## EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of this title.

**§ 4359a. International students****(a) Enrollment****(1) In general**

Except as provided in paragraph (2), effective with new admissions for academic year 1993-1994 and each succeeding academic year, the University (including undergraduate and graduate students) and NTID shall limit the enrollment of international students to approximately 15 percent of the total postsecondary student population enrolled respectively at the University or NTID, except that in any school year no United States citizen who is qualified to be admitted to the University or NTID and applies for admission to the University or NTID shall be denied admission because of the admission of an international student.

**(2) Distance learning**

International students who participate in distance learning courses that are at the University or the NTID, who are residing outside of the United States, and are not enrolled in a degree program at the University or the NTID shall—

(A) not be counted as international students for purposes of the cap on international students under paragraph (1), except that in any school year no United States citizen who applies to participate in distance learning courses that are at the University or NTID shall be denied participation in such courses because of the participation of an international student in such courses; and

(B) not be charged a tuition surcharge, as described in subsection (b).

**(b) Tuition surcharge**

Except as provided in subsections (a)(2)(B) and (c), the tuition for postsecondary international students enrolled in the University (including undergraduate and graduate students) or NTID shall include, for academic year 2009-2010 and any succeeding academic year, a surcharge of—

(1) 100 percent for a postsecondary international student from a non-developing country; and

(2) 50 percent for a postsecondary international student from a developing country, or a country that was a developing country for any academic year during the student's period of uninterrupted enrollment in a degree program at the University or NTID, except that such a surcharge shall not be adjusted retroactively.

**(c) Reduction of surcharge****(1) In general**

Beginning with the academic year 2009-2010, the University or NTID may reduce the surcharge—

(A) under subsection (b)(1) from 100 percent to not less than 50 percent if—

(i) a student described under subsection (b)(1) demonstrates need; and

(ii) such student has made a good-faith effort to secure aid through such student's government or other sources; and