

**Modified Maintenance of Effort Language from P. L. 110-315,
Higher Education Opportunity Act of 2008**

SEC.116. STATE COMMITMENT TO AFFORDABLE COLLEGE EDUCATION.

Part C of title I (20 U.S.C. 1015) is further amended by adding after section 136 (as added by section 115 of this Act) the following new section:

SEC. 137. [20 USC 1015f.]STATE COMMITMENT TO AFFORDABLE COLLEGE EDUCATION.

(a) Maintenance of Effort Required.--A State shall provide--

1) for ~~public~~ institutions of higher education in such State for any academic year beginning on or after July 1, 2008, an amount which is equal to or greater than the average amount provided for non-capital and non-direct research and development expenses or costs by such State to such institutions of higher education during the five most recent preceding academic years for which satisfactory data are available; and

2) for ~~private~~ institutions of higher education in such State for any academic year beginning on or after July 1, 2008, an amount which is equal to or greater than the average amount provided for student financial aid for paying costs associated with postsecondary education by such State to such institutions during the five most recent preceding academic years for which satisfactory data are available.

(b) Adjustments for Biennial Appropriations.--The Secretary shall take into consideration any adjustments to the calculations under subsection (a) that may be required to accurately reflect funding levels for postsecondary education in States with biennial appropriation cycles.

(c) Waiver.--The Secretary shall waive the requirements of subsection (a), if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of a State or State educational agency, as appropriate.

(d) Violation of Maintenance of Effort.--Notwithstanding any other provision of law, the Secretary shall withhold from any State that violates subsection (a) and does not receive a waiver pursuant to subsection (c) any amount that would otherwise be available to the State under section 781 until such State has made significant efforts to correct such violation.