May 15, 2002

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
State House
Annapolis MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have today vetoed Senate Bill 383 – Qualified Tuition Programs – Income Tax Treatment.

Senate Bill 383 makes two significant changes to the Maryland Prepaid College Trust and the Maryland College Investment Plan. The legislation provides for an income tax subtraction modification of up to $2,500 per contributor per beneficiary for contributions to a qualified prepaid tuition program or higher education investment program. Secondly, the bill expands the types of programs that qualify for the subtraction modification to include college savings programs sponsored by other states. Under current law, this subtraction modification is limited to contributions made to Maryland programs only.

The Maryland Prepaid College Trust was created in 1997 to assist Maryland families saving for college. Taxpayers who make a contribution to the program were allowed to take a subtraction modification for a certain amount for each child's account. The College Investment Plan was created in 2001, and similar subtraction modification provisions were made applicable to contributions to these accounts. Unfortunately, the Maryland Higher Education Investment Board interpreted this provision as allowing a $2,500 subtraction for each investment option offered by the Plan, rather than each account holder. In other words, an individual could invest $2,500 in each of the 10 investment options offered by the Board for one child, and take a $25,000 deduction. This was clearly not my intent nor the intent of the General Assembly.

During the 2002 Session, Senate Bill 383 was introduced to clarify the limit of the State income tax deduction. I agreed with the General Assembly's intentions and supported this measure. However, the bill was amended in committee to expand the subtraction modification to any state sponsored Section 529 college savings plan. This substantial change in the tax treatment of college savings contributions may have an unintended but profoundly adverse impact on Maryland's college savings plans to the ultimate detriment of our citizens. For this reason, I cannot sign Senate Bill 383 into law.

Due to favorable changes in federal and state tax laws, Maryland like most states has experienced a rapid increase in the use of Section 529 college savings plans as a vehicle for parents to save for their children's college education. In its first month of operation, December 2001, the Maryland College Investment Plan opened 27,499 accounts. Nationally, an estimated $7.2 billion was invested in Section 529 plans, a figure that will increase to $51 billion in the next five years. The structure of state sponsored plans and the tax treatment of contributions are rapidly changing and evolving. Maryland is now one of 22 states that provide an income tax incentive to encourage citizens to save in its own state sponsored Section 529 plans. No state in the nation, however, provides an incentive for citizens to invest in another state's