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 House Bill 437 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 plan, as proposed in House Bill 437. Given the evolving nature of Section 529 plans and the competition for investments as states strive to make their programs successful, Maryland should not change its tax deduction policy at this time. My concerns are outlined below.

The clear effect of expanding the State's income tax deduction is that more Marylanders will invest in out–of–state plans instead of Maryland's college savings plans. What is not known is the impact this will have on Maryland's programs since other states do not give tax incentives for their citizens to invest in Maryland plans. It is reasonable to assume that this competitive disadvantage will negatively impact the volume of investments and reduce the funds that support Maryland's plans. I am concerned that this in turn will hurt the Board and the College Savings Plan Administrator's ability to advertise and perform the outreach to encourage parents to save for college education. Maryland has a vested interest in maintaining strong and viable college savings plans and this tax change will weaken, rather than strengthen these plans.

Another concern relates to how some other state Section 529 plans use fees and earnings from their plans. Some states, such as Maine, use a portion of the fees to provide scholarships for in–state students. Other states use the funds to promote their own higher education institutions. Under House Bill 437, Maryland taxpayers would be subsidizing these activities. While this is unlikely to involve a large amount of money, it raises significant public policy issues that may not have been fully considered.

With regard to the original purpose of House Bill 437, the Maryland Higher Education Investment Board believes that the issue of the $2,500 subtraction modification can be solved administratively, without a change in the law. This would be done through a change in the investment documents clarifying the definition of an "account." With this letter, I am directing the Board to take this action to effectuate the clear intent of the General Assembly regarding this policy.

The intentions of the sponsors of House Bill 437 are commendable and I support the General Assembly's policy of encouraging Maryland families to save for college and giving them the flexibility to choose the best investment vehicle for their needs. While