

May 26, 2006

The Honorable Thomas V. Mike Miller, Jr.  
President of the Senate  
State House  
Annapolis, MD 20414

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed Senate Bill 998 – *Maryland Higher Education Commission – Review of Duplicative Academic Programs*.

Senate Bill 998 authorizes judicial review in the circuit court of a decision by the Maryland Higher Education Commission (MHEC) regarding the duplication of academic programs. Decisions are only subject to judicial review when an institution of higher education has specifically requested a determination about program duplication or has filed an objection to the implementation of a new program based on unreasonable program duplication. Senate Bill 998 clarifies that MHEC must make a determination about the duplication of academic programs that are approved or implemented after July 1, 2006, after receiving a request from a public institution directly affected by the duplication.

The General Assembly, along with my vote as a Delegate, created the Maryland Higher Education Commission as an independent agency in 1988 charged with responsibility for the planning, supervision, and coordination of Maryland's postsecondary education system. The mission of the Maryland Higher Education Commission is to ensure that Marylanders have access to a high quality, diverse, adequately funded, effectively managed, and capably led system of postsecondary education. Today, under the leadership of Dr. Calvin Burnett, MHEC accomplishes its mission through the provision of statewide planning, leadership, coordination, and advocacy for the State's postsecondary educational institutions and through the administration of State financial aid programs. As you know, the Governor appoints Maryland Higher Education Commissioners subject to the advice and consent of the Senate. Among other duties, Commissioners are charged to review academic programs at Maryland institutions of higher education based on recommendations of expert, nonpartisan MHEC staff. Annually, the Commission reviews and approves on average approximately 250 certificate and degree programs.

Senate Bill 998 would allow the judicial branch to substitute its judgment for that of the Commission and its staff, potentially delay implementation of important educational programs, and cost untold amounts in legal fees and court expenses for institutions of higher education. These funds are better spent on educating Maryland students.

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The enacted Fiscal Year 2007 budget contains language that withholds \$2 million of the \$6.9 million administrative budget of MHEC should Senate Bill 998 not become law. This financial coercion designed to gain my acquiescence of this proposal is unacceptable. The General Assembly's irresponsible requirement that the Commission lose \$2 million in operating funds should the Executive exercise his constitutional authority to veto this legislation could lead to the elimination of many dedicated and expert state employees within the agency. Accordingly, I have directed the Department of Budget and Management to provide a plan for interim resources to mitigate the financial damage the General Assembly has caused by Senate Bill 998.

For the above stated reasons, today I have vetoed Senate Bill 998.

Sincerely,

Robert L. Ehrlich, Jr.  
Governor