STATE OF WISCONSIN

May 16, 2002

The Honorable Chuck Chvala
Senate Majority Leader
211 South, State Capitol
Madison, WI 53702

The Honorable Scott Jensen
Assembly Speaker
211 West, State Capitol
Madison, WI 53702

Dear Senator Chvala and Representative Jensen:

The Department of Employee Trust Funds and the Department of Revenue are writing to share with you our concerns regarding the delay in amending Wisconsin's income tax law to adopt the provisions of the federal Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA).

At present only six states, including Wisconsin, have not yet amended their income tax laws to recognize the provisions of EGTRRA. Although an amendment is included in the budget reform bill to adopt most of the EGTRRA provisions for Wisconsin income tax purposes, we are concerned that the delay in enacting this provision is negatively affecting Wisconsin citizens.

In particular, participants of Internal Revenue Code Section 457 deferred compensation plans who have retired may be irreparably harmed. These individuals have been anxiously awaiting the EGTRRA change that will allow them to alter the date and method of distributions from their 457 accounts. Because they have been locked into irrevocable elections, these retirees have not been able to adjust their distributions to keep up with increases to their cost of living, particularly health care costs. Even if the provisions of EGTRRA are adopted for Wisconsin purposes retroactively to January 1, 2002, these citizens will only be able to benefit from the EGTRRA flexibility on a prospective basis, for their future income needs.

To illustrate how many citizens may be affected by the above situation, Section 457 plans are available to employees of over 2,000 Wisconsin public employers, whose current, inactive and retired employee population totals more than 500,000 (based on Wisconsin Retirement System data). The Wisconsin Deferred Compensation Program (WDC), which is only one of the many 457 plans available in Wisconsin, has a total of 37,800 participants and approximately 6,000 have made irrevocable distribution elections.

EGTRRA also enhanced the portability of retirement assets. Under federal laws, dollars can now roll between many different types of employer sponsored retirement plans (both private and public) and individual retirement accounts (IRA). The fact that Wisconsin income tax laws are not yet amended places participants at risk for state income tax liabilities for dollars that have rolled to plans ineligible under pre-EGTRRA laws. For example, in the WDC there has been more than $860,000 that has rolled from 55 participant accounts into IRAs during the first four months of the year. These participants will be subject to state income tax, and potential penalties, should Wisconsin laws not be amended to adopt the EGTRRA provisions.

Further delay to EGTRRA conformance may also negatively affect Wisconsin citizens' ability to increase their retirement savings in 2002. Although the contribution limits are based on a calendar year, we understand that many plans that allow deferrals from earnings are limiting the amount that an individual can contribute to pre-EGTRRA maximums. This may mean that payroll deferrals for those who have increased contributions to reach the 2002 federal limit by the end of the year may be halted as early as July.

The provisions of EGTRRA will help and encourage individuals to save for financial security during retirement. The longer the amendment in state income tax laws is delayed, the more harm that is caused to Wisconsin citizens.

Sincerely,

Eric O. Stanchfield
Secretary
Department of Employee Trust Funds

Richard G. Chandler
Secretary
Department of Revenue

cc: Governor Scott McCallum
Members, Budget Conference Committee