UNEMPLOYMENT COMPENSATION REFORM JOINT COMMITTEE
SENATOR BOB PETERSON AND REPRESENTATIVE KIRK SCHURING,
CO-CHAIRMEN

TESTIMONY
OF

LARRY HOLMES
VICE PRESIDENT, FINANCE
FORT RECOVERY INDUSTRIES
OMA CHAIRMAN, SAFETY AND WORKERS' COMPENSATION COMMITTEE
AND
ROB BRUNDRETT
DIRECTOR, PUBLIC POLICY SERVICES
THE OHIO MANUFACTURERS' ASSOCIATION

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Chairman Peterson, Chairman Schuring and members of the Committee, my name is Larry Holmes. I'm Vice President of Finance at Fort Recovery Industries. Fort Recovery Industries, headquartered in Fort Recovery, Ohio, manufactures superior die cast hardware and components for market-leading manufacturers worldwide. I also serve as the Chairman of The Ohio Manufacturers' Association's (OMA) Safety and Workers' Compensation Committee. I'm testifying today to give a manufacturer's perspective regarding the current lack of solvency in Ohio's unemployment compensation system.

Ohio's unemployment insurance trust fund, which is funded by employers and pays benefits to qualifying jobless workers, is insolvent. The benefits the system pays out are substantially out of balance with the tax receipts it takes in to fund it. Prior to the passage of House Bill 390 this past summer which allowed the state to use unclaimed funds to eliminate Ohio's unemployment compensation debt obligations to the federal government, Ohio was one of only three states that still owed money to the federal government due to Title XII loan borrowing. I personally thank each of the elected officials on this committee, along with Senate President Keith Faber, Ft. Recovery Industries' state senator, and Speaker Cliff Rosenberger for passing the legislation that enabled the debt to be retired prior to November of this year.

The Great Recession of 2008 was the nation's longest and deepest since the Great Depression of the 1930s. A majority of states including Ohio did not have sufficient balances in their state unemployment trust funds to pay benefits without requesting advances from the federal government to assure that unemployment compensation benefits were paid. Ohio was among the states hardest hit by the recession.

Because of the borrowing, Ohio employers regardless of their experience rate, began repaying the more than $3 billion back to the federal government. The failure to have sufficient funds in the trust fund cost employers dearly over the past years. Because Ohio was unable to pay off the full loan amount by November 10 of the second year following borrowing, the 5.4% FUTA tax *credit* employers in Ohio received was reduced annually as a penalty mechanism to incent federal debt repayment. At Ft. Recovery

industries our per person federal FUTA tax liabilities went from $42 per person to $147 per person this past year. The increases alone cost us $165,000 over the years since the penalty took effect.

As this committee continues its important work to find a balanced approach to achieve sustained system solvency; I would like to urge members to pass legislation in the near future. House Bill 390 contained a penalty provision that states that if Ohio borrows funds from the federal government to cover future unemployment compensation liabilities, all employers are subject to an immediate contribution rate increase as determined by the Director of the Ohio Department of Jobs and Family Services, in an amount up to ½ of 1%, for the purpose of eliminating the principal on any outstanding loan balance. This provision will be removed upon passage of new fund-solvency legislation.

Finally, the best solvency plan is one that includes a focus on job creation because increased employment not only increases contributions but also reduces benefit payout. For that reason we need to be sure that Ohio's rates are in line with surrounding states and states with which Ohio competes to attract and retain new businesses. I see this firsthand being a manufacturer who operates on the Ohio-Indiana border and with operations in both states.

Again thank you for the opportunity to share these thoughts and I will be happy to try to answer any questions you have following Rob's testimony.

Chairman Schuring, Chairman Peterson and members of the Committee. Thank you for the opportunity to testify today regarding Ohio's unemployment compensation insurance system. My name is Rob Brundrett, and I am Director, Public Policy Services for The Ohio Manufacturers' Association (OMA). The OMA was created in 1910 to advocate for Ohio's manufacturers; today, it has more than 1,400 members. Its mission is to protect and grow Ohio manufacturing.

Ohio's unemployment trust fund is among the least solvent in the country. If it were not for the recent payment made by the state of Ohio enabled by House Bill 390, I would be standing before you today discussing a potential $168 per employee penalty staring employers in the face.

The unemployment insurance (UI) burden in Ohio generally increased as a result of the Great Recession, as claims experience increased, the payroll against which experience was determined was reduced, and Ohio became subject to the FUTA offset credit reductions under federal law. As the economy slowly recovered with increased payrolls and reduced claims experience, experience rates improved and the average state UI premium was reduced. However the FUTA tax continued to increase as Ohio's Title XII loan was not repaid.

Experience rate reductions were restrained due to tax increases automatically triggered by the state's failure to meet Ohio's Minimum Safe Level (MSL) standard for UI trust fund solvency. This solvency provision results in the maximum contribution rate for Ohio employers being increased to 8.6%, although the maximum rate on the base rate schedule is just 6.7%. Therefore, businesses experienced triple the pain: 1) an increase in base rates, 2) Minimum Safe Level tax triggers, and 3) FUTA penalties.

The OMA encourages this committee to review all the information that has been offered before this committee and during the House Bill 394 process as it works to craft legislation that responsibly addresses the solvency issue.

Ohio has already taken some action to help both employers and employees. Several years ago under the leadership of Senator Peterson and Representative Scherer, Ohio enacted House Bill 37. That bill created Ohio's Shared Work program. Under the program an employer can reduce the number of hours worked by employees in lieu of layoffs, and those employees can qualify for unemployment compensation benefits from the state to offset their reduced hours. This has been a proven and successful program to help alleviate the burdens caused by mass layoffs.

One issue that has not been addressed through testimony at this committee – to our knowledge - is the option to bond any future UI debt. Bonding is not the preferred solution advocated by the OMA; however, it would be irresponsible to not acknowledge the option that other states have successfully used to address solvency issues.

While Ohio was one of many states that borrowed money from the federal government, due to Ohio's constitution, the state was unable to entertain the option of issuing bonds to pay off the debt in order for employers to avoid the burdensome increase in FUTA penalties.

Ohio tried this before. Amended Substitute House Bill 171 effective July 1, 1987 directed the Ohio Treasurer to issue bonds to repay outstanding advances made by the federal government to the Ohio unemployment compensation program, to pay interest on advances and to reimburse the general revenue fund for interest paid.

However the Ohio Supreme Court denied a mandamus action. The Court in a 4-3 decision held that the law allowing for the issuance of bonds was unconstitutional under Sections 1,2, and 3 of Article VIII of the Ohio Constitution and further that the "special fund" exception created by the Supreme Court in a prior decision also did not allow for the type of bonding directed in the bill.

During the past recession eight states (Arizona, Colorado, Idaho, Illinois, Michigan, Nevada, Pennsylvania, and Texas) turned to bonding in order to avoid onerous federal penalties. By bonding the debt, the states were able to take advantage of lower interest rates saving the states and employers money.

For example the Texas statute allows for the preemptive issuance of bonds if the state is in the position that borrowing from the federal government is likely. The statute allows the state to make the decision whether to issue bonds or borrow money from the federal government depending on various factors, most importantly the prevailing interest rates. In some instances this option also allows states time to review their solvency provisions so neither drastic cuts nor huge tax increases are rushed through in a moment of panic.

We acknowledge that passing bonding language with any solvency package would require a change in Ohio's Constitution; a ballot initiative moved by the General Assembly would have the best chance of passing in a referendum.

A second issue that has not been addressed or offered to the OMA's knowledge during the discussions on UI is exempting unemployment compensation from the state income tax, thus keeping more benefits in the pockets of qualified recipients. State taxation of unemployment benefits varies. Of the 41 states that tax wage income, six states completely exempt unemployment benefits from tax (California, New Jersey, Oregon, Montana, Pennsylvania, and Virginia). Two states (Indiana and Wisconsin) partially exempt a fixed dollar amount of benefits from state income tax but tax the rest. The remaining states fully tax unemployment benefits.

Finally the OMA would like to comment on the definition of solvency standard. A lot has been said regarding 1.0 of the Average High Cost Multiple (ACHM). This is the solvency standard used in House Bill 394 and in the model advocated by Policy Matters Ohio. The primary U.S. Department of Labor (DOL) solvency guideline recommends states maintain a trust fund balance equal to or exceeding one and one-half times the High Cost Multiple determined by taking the historically highest claims activity in the state for a year and multiplying by 1.5. However even DOL determined this standard is unrealistically high.

Instead it often refers to the aforementioned 1.0 AHCM. This is determined by reviewing claims over the most recent 20 years, or last three recessionary periods, and sets the solvency goal at the average of the three highest years of claims.

Meanwhile, Ohio has traditionally used Ohio's Minimum Safe Level (MSL) as its standard for solvency. This standard was birthed out of the recession in the early 1980s. The MSL sets the minimal solvency at an amount to cover a reasonably foreseeable recession without building up a trust fund balance that would only be needed for the historically deepest recession. There is no universally agreed upon calculation for what the optimum solvency target should be. The OMA believes the truest solvency number falls somewhere short of 1.0 AHCM.

In conclusion, unemployment insurance policy reform priorities should focus on eliminating the state's current unemployment trust fund debt, aligning benefit payout with contribution revenue, and building a balance in the unemployment trust fund sufficient to avoid triggering automatic FUTA tax increases that have significantly increased unemployment taxes for Ohio employers since the Great Recession of 2008. The first step was to pay off the remaining Title XII loan balance, which the General Assembly achieved this summer. The OMA and its members thank and appreciate the leadership of the General Assembly in accomplishing that pay off. Now it is imperative to pass a solvency bill in order to protect Ohio's employers and employees from being subjected to onerous federal penalties during any future economic recession.

Thank you and Mr. Holmes and I would be happy to answer any questions you might have.