

# WHAT'S THE MATTER, 'CAT' GOT YOUR FUNDS?

## THE OHIO CONSTITUTION

(with amendments to 2006)

**W**hile many states are trying to find extra, available funding for their transportation systems – especially in the aftermath of the Minneapolis bridge catastrophe – Ohio seemingly is doing the opposite.

**Instead of moving money into the transportation fund – money that was approved by citizens through passage of the gas tax in 2003, and is protected by the Ohio State Constitution – the state's government leaders are directing potential funding from the road fund to the tune of \$100 million a year.**

Sorry voting Ohioans, and those who believe in the state constitution, it's just business.

Prior to 2005, Ohio's tax structure was considered the legacy of an outdated mentality; it penalized manufacturers and businesses having stocked warehouses by requiring them to pay taxes on surplus, whether goods were sold or not. This was perceived as a significant impediment to attracting new business to the state. In an effort to address this issue, a major overhaul of the Ohio tax code was spearheaded by the former Taft Administration in 2005.

What is now known as the "Commercial Activities Tax," or CAT, was the centerpiece of Gov. Robert Taft's plans, which also included

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## POLITICAL BACKBONE REQUESTED AFTER INFRASTRUCTURE TRAGEDY

**O**fficials at all levels of government are being called on the carpet in an August *Engineering News-Record* (ENR) cover story following the Minneapolis bridge collapse. The watch is on to see if infrastructure problems will be addressed, or swept under the rug.

In the Aug. 13, 2007, ENR article "America Needs Some Political Backbone," the national publication wrote how the failure of the Interstate 35W bridge in Minneapolis should have been another wake-up call. **"It is the latest in a string of explosions, power outages, water shortages and rail and aviation misadventure that show that almost all infrastructure programs are out of step with the nation's needs.**

"Success takes money, organization and planning; and government officials are in charge because this is how they serve the public."

The article, which was published less than two weeks after the August 1 bridge collapse that killed 13 and injured nearly 100 people, looked at five sectors of the nation's infrastructure:



**Aviation** – The plight of the nation's air travelers in 2007 has been one of many delayed flights, flights on stand-by and

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a reduction in the personal income tax rate and the elimination of numerous other business taxes such as the tangible personal property tax. As part of the biennial state operating budget, the CAT was signed into existence on June 30, 2005.

In order to be revenue neutral, the CAT was designed as a “gross receipts tax” that applies a low rate of taxation to virtually every entity doing business within the state, regardless of what it is or how it derives its revenue. The CAT rate is levied at 2.6 mills (.0026) of all receipts totaling more than \$1 million. So, if a company had \$2.5 million in gross receipts within Ohio, its CAT liability would be \$6,500. There is a \$100 minimum to be paid by all businesses operating within the state whose receipts are under \$1 million but above \$150,000. Any business with receipts under \$150,000 is not subject to the CAT.

**While the CAT was supported by many in the business community as a way to broaden the base of what was to be taxed while lowering the actual rate, it was also opposed by some groups. In particular, opposition came from low-profit margin retailers.** This is because the “gross receipts” subject to the CAT are expansively defined to include virtually all receipts – including those from the sale of property or those obtained through the performance of a service, though there are specific exemptions cited in statute. Additionally, since the CAT is not a transaction tax like the sales or use tax, it cannot be billed separately to customers.

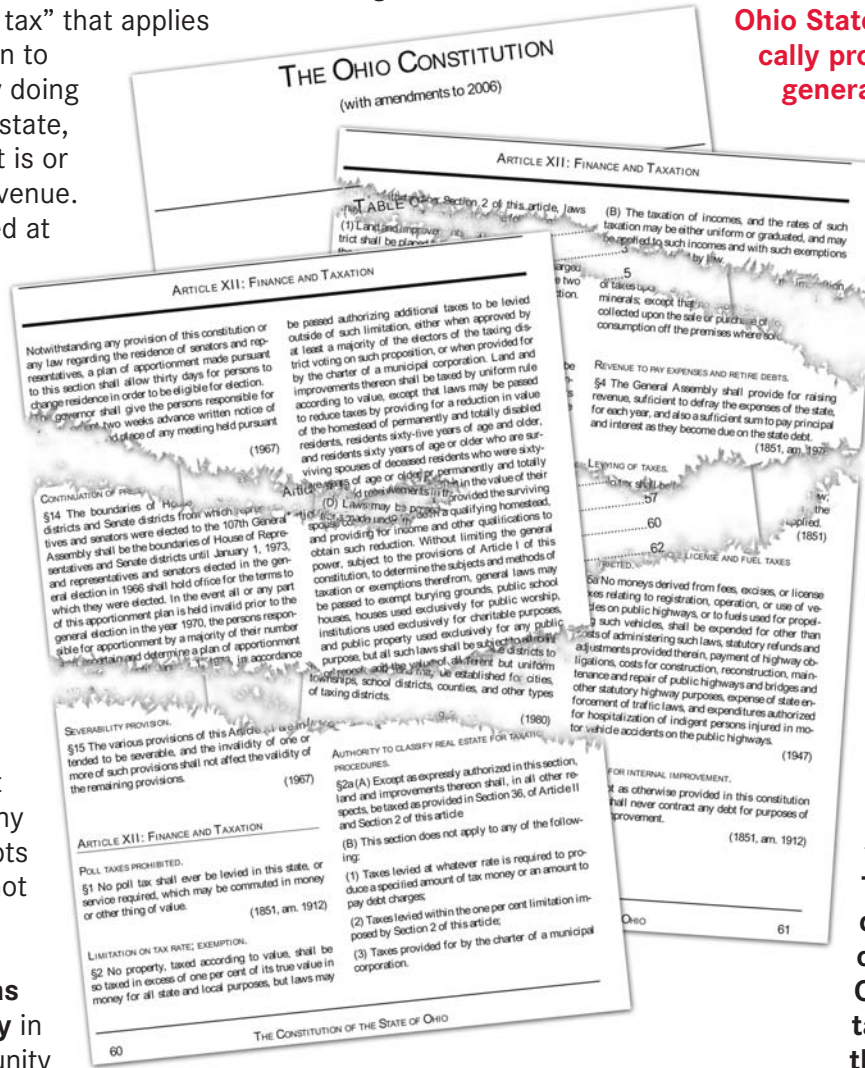
**Consequently, any business that has a large volume of sales, but a small profit per transaction, is still paying the same rate per transaction as those with significant margins.**

**For the first two years, CAT was not levied on motor fuel. This was because the Ohio State Constitution specifically prohibits “excise” taxes generated from the sale of motor fuel from being**

**used for any purpose other than public roads and bridges.** This two-year period was established to further study and discuss this potential prohibition established in the Constitution. However, no results were achieved during the waiting period. In an apparent violation of the Ohio Constitution, that’s changed in the current ODOT budget bill (HB 67 of the 127th General Assembly), as the CAT was placed on the sale of motor fuel.

**The argument boiled down to the state’s contention that the CAT was not an “excise” tax as referred to in the Constitution, but a “business privilege” tax.**

Under the current CAT scheme, **the transportation system is losing close to \$100 million a year that would otherwise go to roads and bridges.** This not only has a negative impact on the amount of maintenance and improvement projects on Ohio’s roads and bridges, it also sets **a precedent for violating the Ohio Constitution by diverting funds away from Ohio’s transportation infrastructure.**



*Previously, The Ohio Constitution prohibited excise taxes generated from the sale of motor fuel from being used for any purpose other than public roads and bridges. However, the CAT now has nearly \$100 million a year being diverted from Ohio’s transportation funding.*

flights being cancelled altogether. The forecast for friendlier skies doesn't seem to be much better.

According to ENR, a May 2007 report by the Federal Aviation Administration showed how 14 of the nation's larger airports will need additional capacity by 2025, even after planned improvements are completed.

The U.S. House of Representatives is looking to generate funding by increasing passenger facility charges (PFC) from \$4.50 to \$6 to help finance airport projects. Air officials are hoping they have a say in how funds will be used. "We need flexibility in the PFCs so that airports can direct funds as needed to security and capacity," said William Fife, aviation vice president with DMJM Harris/AECOM in New York City.

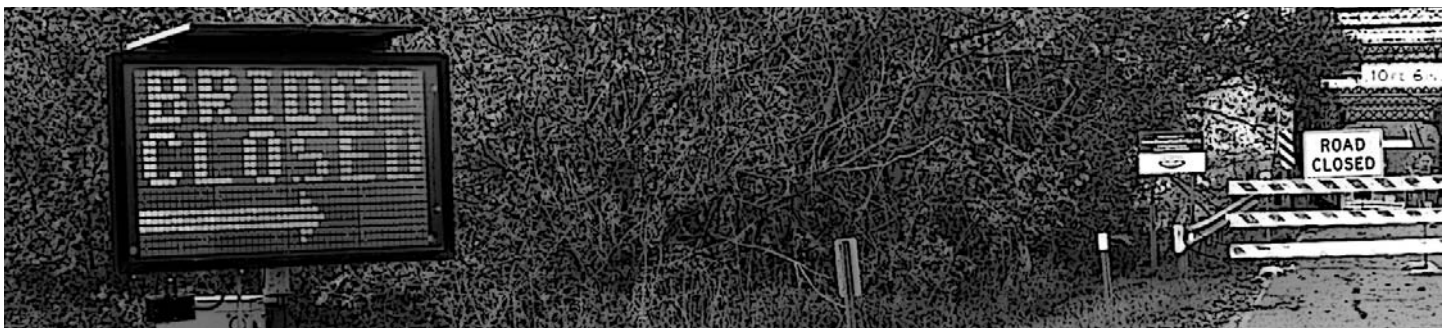
**Ohio's status** – While still considered safe for takeoff, landing and taxiing, **44 percent of the state's runway lane miles at Ohio's 104 publicly owned airports have deficient pavement conditions.** (Ohio Department of Transportation)



**Bridges & Highways** – Following the collapse of the less than 40-year-old I-35 West bridge in Minneapolis, people were questioning the nation's "aging infrastructure," even though it's going on **15 years since the last federal motor fuel tax** – used to fund road and bridge improvements – **last increased.**

"To cut into the backlog of deficient bridges and critical highway reconstruction, it is time for another hike," stated ENR. **It's estimated that every penny of the 18.4 cents-per-gallon federal motor fuel tax generates \$1.74 billion a year.**

The U.S. Department of Transportation reports that an additional \$8.5 billion a year is needed to maintain the condition of the nation's current inventory of highways and bridges. It places an annual price tag of \$61.4 billion for all needed road and bridge improvement projects.



**Ohio's status** – **One of every four Ohio bridges (6,933) are deemed structurally deficient or functionally obsolete** (2006 Road Bridge Conditions from U.S. DOT, FHWA); **25 percent of the state's major roads are in poor or mediocre condition** (American Society of Civil Engineers (ASCE) 2005 Report Card); **36 percent of the state's major roads are congested** (ASCE 2005 Report Card).



**Flood Control** – It is two years this fall, but the pictures of Hurricane Katrina's devastation in New Orleans are still etched in the minds of Americans. The current, and future, question is: Did we learn anything?

It's an expensive lesson that the nation needs to learn about flood control, as repair costs of Hurricane Katrina were estimated by MSNBC to be \$300 billion.

"Lessons that should apply now include the need for engineers and planners to become better attuned to evolving flood hazards, and the havoc they can wreak on populations and infrastructure, thanks to influences of changing land use patterns, subsidence, rising sea levels and increasingly erratic patterns and severe weather," reports ENR.

**Ohio's status** – The state has an inventory of more than **5,700 dams**, but **less than 1,700 (30 percent) are regulated** (ASCE 2005 Report Card).



**Power** – Because of increased demand, "brownouts," "rolling blackouts" and "power grids" are a part of Americans' lexicon. ENR reports that the nation's annual investment in the electric grid runs about \$18 billion. Officials, however, say it's not enough.

**"We need to increase that up to \$27 billion and continue at that pace for 20 years to bring the infrastructure into line with where I think it should be,"** said Clark Gellings, vice president of innovation at the

Electric Power Research Institute in Palo Alto, Calif. While **\$9 billion** a year seems astronomical, Gellings said it **amounts to the cost of one pizza dinner per customer per year.**

According to ENR, a “smart grid” needs to be developed, that would consist of fiber optic cables that would control both supply and demand of electricity.

**Ohio’s status** – The Buckeye State is one of the nation’s most energy-dependent states, importing 89 percent of its natural gas, 61 percent of its coal and 97 percent of its oil and petroleum. In 2001, of the \$29 billion Ohio spent on energy, \$16 billion was exported to other states and nations (Environment Ohio).



**Water Supply** – While a drip of water may not seem like a lot, wait until you get your water bill. **The U.S. water supply is not in crisis mode yet,**

**however, Americans are warned not to become complacent.**

The U.S. Environmental Protection Agency’s Needs Survey and Assessment estimates that the nation’s public water system **should invest \$276.8 billion over the next 20 years to ensure drinking water remains safe.**

To prepare for a constant flow of funding for clean drinking water, the Water Infrastructure Network is calling for the establishment of a dedicated trust fund similar to the National Highway Trust Fund.

**Ohio’s status** – The **state’s drinking water infrastructure needs \$4.95 billion worth of improvements over the next 20 years.** (ASCE 2005 Report Card)

**ASCE estimates \$1.6 trillion is needed in federal, state and local funds for the nation’s infrastructure needs.** “But a lack of will is the real cause,” according to ENR. “Almost always, where there’s a will, there’s a way.”



# TAKE WITH A GRAIN OF SALT BEFORE READING

## Ohio Urban Travelers See Congestion Improvement; Still Waste 46.8-million Gallons of Fuel Sitting in Traffic

**G**ood news Ohio motorists! According to the Texas Transportation Institute’s 2007 Urban Mobility Study, Ohio automobile travelers spent *less* time sitting in traffic in 2005 compared to 2004.

The 2007 TTI report released in September is based on 2005 figures, the most recent year that complete data was available, and measures congestion nationwide. The report specifically studies 85 urban areas but includes statistics from all of the nation’s 437 urban areas.

**Because of mobility improvements, automobile travelers in Ohio’s six-largest urban areas featured in the study spent 66 minutes less time reading bumper stickers and deciphering vanity license plates in 2005** compared to 2004. In 2005, urban travelers in Akron, Cincinnati, Cleveland, Columbus, Dayton and Toledo spent an average of 19.2 hours in traffic, compared to 20.3 hours in 2004. *> continued on page 5*

### Express Lanes?

Mobility improvements in Ohio’s six-largest urban areas helped decrease the amount of time automobile travelers spent sitting in traffic in 2005 compared to 2004:

Urban Area	Annual Hrs. of Delay/Passenger	
	2005	2004
Akron	10	11
Cincinnati	27	27
Cleveland	13	14
Columbus	33	34
Dayton	17	19
Toledo	15	17
State Avg.	19.2	20.3
U.S. Avg.	38	37

The 83 urban areas featured in the study were classified by population size. Cincinnati, Cleveland and Columbus were among 25 urban areas listed in the Large Average category for regions having more than 1 million and less than 3 million residents; the average amount of annual hours of delay in 2005 for these urban areas was 37 hours. Akron, Dayton and Toledo were among 30 urban areas in the Medium Average category – for areas having more than 500,000 but less than 1 million residents; the average amount of annual hours of delay in 2005 for these regions was 28 hours.

**While the Ohio motorists saw a decrease in the amount of time spent in traffic in 2005, the nation's urban travelers spent one additional hour sitting in traffic compared to what they did in 2004.** And, travelers in the study's 437 urban areas spent nearly twice the amount of time – 38 hours – as Ohio's urban travelers did.

One reason for Ohio's motorists spending less time in traffic is because of mobility improvements. The report's 2005 Effect of Mobility Improvements chart shows how **the use of freeway incident management, freeway ramp metering, arterial street signal coordination, arterial street access management and high-occupancy vehicle lanes saved urban motorists time and fuel.** Automobile travelers in Akron, Dayton, Cincinnati, Cleveland, Columbus and Toledo benefited from \$48.7 million in mobility improvement programs, which saved a combined 2.6-million hours in 2005.

TTI Research Engineer Tim Lomax said a many-tools-in-the-toolbox approach is the correct one to take. "There is no 'magic' technology or solution on the horizon because there is no single cause of congestion. The good news is that there are multiple strategies involving traffic operations and public transit available right now that if applied together, can lessen this problem."

Despite time-saving measures, more drivers driving farther equates to more headaches for motorists. **Nationally, traffic congestion in 2005 cost a combined \$78 billion in wasted time and fuel, which cost the average commuter \$710 a year.** Ohio urban travelers fared better than the national average, as cost per peak traveler ranged from \$185 in Akron to \$620 in Columbus – if you can call Ohioans wasting more than 46.8-million gallons of fuel as faring better.

## Congestion + Cure

While Ohio's urban motorists benefited from several mobility improvement programs in 2005, which resulted in less time sitting in traffic, the 2007 Urban Mobility Study identifies other congestion-fighting solutions:

- Get as much **service** as possible from **existing infrastructure**
- **Add road** and transit **system capacity** in critical corridors
- **Relieve** chokepoints
- Change **usage patterns**
- Provide **choices**
- **Diversify** the development patterns
- Keep **expectations realistic**

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