

# Ohio Legislative Service Commission

Legislative Budget Office    Office of Research and Drafting

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## Comparison Document Base

House Bill 23—135th General Assembly

Transportation Budget—135th General Assembly  
(FY 2024-FY 2025)

As Introduced

February 15, 2023

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**Executive****DOTCD22 Rail Development Commission membership****R.C. 4981.02**

Requires that no later than October 21, 2025, the ODOT Director or the Director's designee, serve as chairperson of the Ohio Rail Development Commission, instead of a member appointed by the Governor. Accordingly, requires the Governor to appoint an additional member of the general public instead of a chairperson.

**Fiscal effect: None. The number of appointees to the ORDC remains 15. Members are unpaid but are reimbursed for actual expenses.**

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**DOTCD23 Expanding ODOT design-build authority****R.C. 5517.011**

Expands the type of ODOT projects that can be bid as a design-build contract to include projects pertaining to all transportation facilities, not just highways or bridges.

Authorizes the ODOT Director to accept another bid or to reject all bids and re-bid the contract if it is determined that a best-value bidder for a design-build contract is not in the best interests of the state.

**Fiscal effect: Increases the number of projects that ODOT will be able to bid using design-build. ODOT has 40 anticipated projects that will be bid as design-build contracts, of which 34 will be bid during the FY 2024-FY 2025 biennium.**

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**DOTCD1 Transportation Lease Rental Bond Payments****Section: 203.20**

Requires Fund 7002 ALI 770003, Transportation Facilities Lease Rental Bond Payments, to be used to meet all payments under leases and agreements for facilities during the FY 2024-FY 2025 biennium.

Authorizes an amount equal to the balance of the appropriation remaining after the debt service has been paid in either fiscal year to be transferred to Fund 7002 ALIs 772421, 773431, or 779491 upon written request of the ODOT Director and approval of the OBM Director. Requires the transferred appropriations to be reported to the Controlling Board.

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**Executive****DOTCD2 Public access roads for DNR, parks, Exposition Commission and Ohio History Connection****Section: 203.30**

Requires the ODOT Director to determine portions of funding in each fiscal year from Fund 7002 ALI 772421, Highway Construction - State, to be used to construct, reconstruct, or maintain public access roads and support features to and within facilities owned or operated by ODNR and earmarks the following:

- (1) \$2,562,000 in each fiscal year to construct, reconstruct, or maintain drives or roads within the boundaries of metropolitan parks;
- (2) \$500,000 in each fiscal year for drives and roads within state parks and wildlife areas greater than 10,000 contiguous acres that were purchased in a single, or series of transactions; and
- (3) \$500,000 in each fiscal year for roads leading to such state parks and wildlife areas.

Allows ALI 772421 to be used for road work at the state fair grounds on behalf of the Ohio Expositions Commission and at the Ohio History Connection at the request of each entity and approval by the ODOT Director.

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**DOTCD3 Transportation Improvement Districts****Section: 203.40**

Earmarks \$4,500,000 in each fiscal year from Fund 7002 ALI 772421 for certain transportation improvement districts (TIDs).

Requires a TID to submit requests for project funding to ODOT within a timeline determined by the ODOT Director. Requires ODOT to notify the TID of its decision on the request within 90 days.

Prohibits any ODOT funding provided to a TID from being used for administrative costs or staffing and requires the funding to be used for specific projects within the TID. Prohibits the total amount of a project's cost from being fully funded by the amount provided by ODOT funds. Limits the total amount provided by ODOT for each project to \$500,000 per fiscal year. Allows TIDs co-sponsoring a specific project to apply individually for up to \$500,000 for that project per fiscal year.

Requires that TIDs be registered with ODOT in order to receive funding and authorizes ODOT to register a TID only if the TID has a specific eligible project.

Prohibits ODOT from registering a TID and authorizes ODOT to cancel the registration of a currently registered TID, unless the TID has either: (1) designated a project or program of projects and facilitated funding of at least \$15,000,000 from the commencement date of the project or program; or (2) designated that a program or project has costs in excess of \$10,000,000 as attested to in a sworn affidavit by the County Engineer in the county in which the TID is located.

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**DOTCD4 Highway Construction - Federal****Section: 203.43**

Earmarks \$33,000,000 in each fiscal year from Fund 7002 ALI 772422, Highway Construction - Federal, to support public transportation statewide through the Federal Highway Administration (FHWA) flexible funding program.

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**Executive****DOTCD5 Regional Transportation Planning Organizations****Section: 203.45**

Earmarks \$2,600,000 in each fiscal year from Fund 7002 ALI 772422, Highway Construction - Federal, to be used by the six Regional Transportation Planning Organizations (RTPOs) in the state to oversee rural transportation planning grant programs.

**DOTCD6 Strategic Transportation and Development Analysis****Section: 203.47**

Requires Fund 7002 ALI 776672, Strategic Transportation and Development Analysis, to be used for a statewide study of the Ohio transportation system in collaboration with the Department of Development and the Governor's Office of Workforce Transformation. Allows ODOT to contract with third parties as needed to do the study.

Requires the study to (1) analyze statewide and regional demographics, (2) investigate economic development growth opportunities, (3) examine current transportation systems and capacities, (4) forecast passenger and freight travel needs over a 10, 20, and 30 year time frame, (5) identify current and future transportation links, (6) evaluate and rank current and potential risks of future system congestion, and (7) make actionable recommendations for transportation system projects to support statewide economic growth, including improving links between Columbus and Toledo. Specifies that individual hotspot locations may receive advanced analysis of conceptual remedies with planning-level costs.

**DOTCD7 Brent Spence Bridge Corridor Project****Section: 203.47**

Requires that all spending related to the Brent Spence Bridge Corridor Project be documented in the state's accounting system (OAKS) and made visible in the Ohio State and Local Government Expenditure Database (the Ohio Checkbook website).

**DOTCD8 Bond issuance authority for state highway bonds****Section: 203.50**

Authorizes the issuance of an additional \$251,000,000 in bonds for highway purposes to be credited to the Highway Capital Improvement Fund (Fund 7042).

Specifies that not more than \$220,000,000 in principal obligations may be used in any fiscal year, and not more than \$1,200,000,000 may be outstanding at any one time.

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Executive

**DOTCD9 Transfers of appropriation within the Highway Operating Fund**

**Section: 203.60**

Allows the ODOT Director to request Controlling Board authorization to transfer Fund 7002 appropriations for highway planning and research, highway construction, debt service, highway maintenance, federal public transit programs, rail grade crossings, aviation, and administration. Allows the ODOT Director to request appropriation transfers out of debt service appropriation items, but only when it is determined that the appropriated amounts exceed actual and projected debt service requirements.

Specifies that this transfer authority is intended to provide for three scenarios that may arise during the FY 2024-FY2025 biennium: (1) responding to emergency situations; (2) purchasing goods and services related to inclement weather; and (3) adjusting to circumstances affecting the obligation and expenditure of federal funds.

**DOTCD11 Transfers of federal and local funded appropriations - federal highway, planning, transit, rail, and aviation**

**Section: 203.60**

Allows the ODOT Director to request Controlling Board authorization for the transfer of appropriations between ALIs 772422, 771412, 775452, 775454, 776475, 776462, 777472 and appropriates amounts authorized by the Controlling Board.

**DOTCD10 Transfers of appropriations and cash - State Infrastructure Bank**

**Section: 203.60**

Allows the ODOT Director to request Controlling Board authorization for the transfer of appropriations and cash of the State Infrastructure Bank (SIB) funds, including transfers between FY 2024 and FY 2025.

Allows the ODOT Director to request Controlling Board authorization for the transfer of appropriations and cash from Fund 7002 to SIB funds and limits transfers from SIB funds to Fund 7002 to the amounts originally transferred to the SIB funds. Prohibits transfers between transportation modes and different funding sources.

**DOTCD12 Transfers of appropriations and cash - tolling funds**

**Section: 203.60**

Allows the ODOT Director to request Controlling Board authorization for the transfer of appropriations and cash of the Ohio Toll Fund and any subaccounts, including transfers between FY 2024 and FY 2025.

**DOTCD13 Increasing appropriations - State funds**

**Section: 203.60**

Allows the ODOT Director, if receipts exceed estimated appropriations to Fund 7002, to request Controlling Board to authorize expenditures in excess of appropriations. Appropriates these funds as authorized by the Controlling Board.

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**Executive**

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**DOTCD26 Increasing appropriations - Federal and local funds****Section: 203.60**

Allows the ODOT Director to seek Controlling Board authorization to increase spending of federal or local moneys credited to Fund 7002 if receipts or unexpected balances credited to Fund 7002 exceed estimates. Appropriates the additional amounts authorized by Controlling Board.

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**DOTCD14 Transfers between the Highway Operating Fund and Highway Capital Improvement Fund****Section: 203.60**

Allows the OBM Director, upon request of the ODOT Director, to transfer cash from Fund 7002 to Fund 7042, and permits the OBM Director to transfer this cash from Fund 7042 back to Fund 7002.

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**DOTCD15 Deputy Inspector General for ODOT funding****Section: 203.60**

Requires the OBM Director to make semiannual cash transfers of \$200,000 each fiscal year from Fund 7002 to the Deputy Inspector General for ODOT Fund (Fund 5FA0).

Permits the Inspector General, with the consent of the OBM Director, to seek Controlling Board authorization for additional transfers of cash and for expenditures in excess of appropriations in Fund 5FA0 ALI 965603, Deputy Inspector for ODOT, if additional amounts are needed. Appropriates the amounts approved by the Controlling Board.

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**DOTCD16 Liquidation of unforeseen liabilities****Section: 203.60**

Allows for any appropriation made from Fund 7002 not otherwise restricted by law to be used to liquidate unforeseen liabilities arising from contractual agreements of prior years when the prior year encumbrance is insufficient.

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**DOTCD17 Reappropriations****Section: 203.65**

Allows the OBM Director to request Controlling Board approval to transfer any remaining unencumbered appropriations in Funds 5XI0, 7002 and 7042, and the State Infrastructure Bank funds for the same purpose in the following fiscal year. Reappropriates the amounts authorized by the Controlling Board.

Requires the ODOT Director to develop and submit a reappropriation request plan to the OBM Director detailing the amounts to be reappropriated by fund and appropriation item. Allows the OBM Director to ask the ODOT Director for more information if needed to evaluate the plan. Specifies that any approved reappropriations are subject to the availability of revenue in funds 7002, 7042, and the SIB funds.

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**Executive****DOTCD18 Maintenance of interstate highways****Section: 203.70**

Authorizes ODOT to enter into agreements with political subdivisions for them to provide services such as snow and ice removal, maintenance, repair, or lighting, on interstate highways located within their boundaries, as long as the services provided meet federal requirements. Authorizes ODOT to reimburse political subdivisions for all or any part of the costs they incur for these services.

**DOTCD19 Public transportation highway purpose grants****Section: 203.80**

Allows the ODOT Director to use state motor fuel tax revenue to match approved federal grants awarded to ODOT, regional transit authorities, or eligible public transportation systems, for public transportation highway purposes, or to support local or state-funded projects for public transportation highway purposes.

Specifies that public transportation projects highway purposes include: (1) construction or repair of high-occupancy vehicle traffic lanes; (2) acquisition or construction of park and ride facilities; (3) acquisition or construction of public transportation vehicle loops; (4) construction or repair of bridges used by public transportation vehicles or that are the responsibility of a regional transit authority or other public transit system; and (5) other similar construction that is designated as an eligible public transportation highway purpose. Prohibits motor fuel tax revenue from being used for operational expenses, or for buying vehicles, equipment, or maintenance facilities.

**DOTCD20 Agreements with federal agencies for environmental review****Section: 203.90**

Authorizes the ODOT Director to enter into agreements with certain federal agencies to review federal environmental permit documents. Requires the agreements to be solely for the purpose of dedicating staff to review materials submitted by ODOT that are needed to obtain federal environmental permits. Allows for the agreements to provide for ODOT to make advance payments for staff and all other identifiable costs federal agencies incur for providing these services to ODOT.

Requires the ODOT Director to submit a request to the Controlling Board relating to its agreement with any federal agency providing staff working to approve federal permits required for ODOT projects.

**Fiscal effect: Typically, 80% of administrative costs incurred up front are reimbursed to ODOT by federal agencies under these agreements.**

**DOTCD21 Indefinite Delivery Indefinite Quantity (IDIQ) contracts****Section: 203.100**

Requires the ODOT Director to seek bids for and award no more than two IDIQ contracts per fiscal year.

Defines IDIQ contracts as contracts for an indefinite quantity, within stated limits, of supplies or services that will be delivered by the awarded bidder over a defined contract period.

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**Executive**

Requires the ODOT Director to prepare bidding documents, establish contract forms, determine contract terms and conditions, develop and implement a work order process, and take any other action necessary to fulfill ODOT's duties and obligations related to IDIQ contracts. Requires the contracts to specify: (1) the maximum overall contract value, which may include an allowable increase of \$100,000 or 5% of the advertised contract value, whichever is less; (2) the contract duration, including a time extension of up to one year; and (3) the defined geographical area to which the contract applies, but no larger than one ODOT district.

**Fiscal effect: Under this authority in the FY 2022-FY 2023 biennium, four IDIQ contracts have been awarded for a total cost of \$2.4 million.**

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## Executive

**DASCD1 Exempt employee pay schedule changes affecting State Highway Patrol**

**R.C. 124.152, 5503.031; Section 812.15**

- (1) Eliminates a requirement enacted in H.B. 462 of the 134th G.A. that DAS adopt rules to (A) create pay range 19 in exempt employee pay Schedule E-1, and (B) establish step value 7 in existing pay range 17 of exempt employee pay schedule E-1 (pay range 19 and pay range 17, step 7, take effect FY 2024).
- (2) Requires that, beginning in FY 2024, State Highway Patrol lieutenant colonels be paid according to pay range 45 from schedule E-2 of the exempt employee pay schedule in continuing law instead of pay range 19 of Schedule E-1.

**Fiscal effect: None from (1) since DAS has not made those changes. The change in (2) affects pay for DPS lieutenant colonels. The annual salary for E-2 pay range 45 is from \$49,941 to \$156,790. The timing of the salary change for certain lieutenant colonels (currently two) will depend on when they are scheduled to advance through the pay classifications. The net change in the upper limit of the pay range is approximately \$25,000.**

Executive

**DEVCD1 Roadwork Development**

**Section: 207.20**

Requires Fund 4W00 ALI 195629, Roadwork Development, to be used for road improvements associated with economic development opportunities.

Defines "road improvements" as improvements to public roadway facilities connected to a project site, including construction, reconstruction, maintenance or repair of public roads connected to a public airport.

Permits the ALI to be used in conjunction with any other state funds appropriated for infrastructure improvements.

Requires the OBM Director, to transfer cash from the Highway Operating Fund (Fund 7002) to Fund 4W00 according to a schedule set by OBM with input from the DEV Director.

Requires that cash in Fund 4W00 be used in accordance with the guidelines and requirements of other DEV programs, including Controlling Board review and approval, as well as constitutional requirements for the use of motor fuel tax revenues. Permits DEV to require ODOT to assist with project completion and to enter into contracts on behalf of DEV.

## Executive

**LOCCD5 Sale of a municipal railroad - Cincinnati Southern Railway****R.C. 746.01, 746.02-746.07; Section 3**

Permits a railway board of trustees created under the Ferguson Act of 1869 to sell a railway or portion of a railway if approved by a majority of residents of the city that established the railway at an election. Requires that minimum payments to the city resulting from the terms of the sale also be approved by the electorate.

Requires the board to establish a trust fund to contain the proceeds from the sale, and allows the board to invest the proceeds. Requires the board to retain at least one independent financial advisor to help with investments and requires the board to invest using the prudent investor standard of care. Allows the board to hire managers, administrative staff, and other personnel that may be necessary to oversee the assets of the trust fund. Requires the board to pay for the cost of these services and other reasonable expenses from the investment earnings.

Requires the board to adopt management and investment policies with objectives and criteria that ensure the trust fund is self-sustaining and run efficiently, and that the policies yield income sufficient to make payments to a city as provided for in the sale of the railway.

Requires the management and investment policies of the board to be public and prohibits members of the board from having any direct or indirect interest in investments of the trust fund, as well as prohibits railway trustees or persons connected with them from borrowing or using the money in the trust fund other than to make payments as authorized by the board.

Requires the railroad board of trustees to report the financial results of the trust fund every calendar year through audited financial statements, including transactions, the value of accumulated cash and investments, and a balance sheet, to the fiscal officer of the city.

Requires the board, no later than September 30 each year, to certify the cash amounts to be disbursed from the trust funds investment earnings, after expenses, to the city during the next fiscal year according to a schedule agreed to by the board and the fiscal officer of the city. Requires these payments to be made from the trust fund principal if investment earnings in a year are not sufficient to do so.

Requires the city receiving payments under this provision to designate a fund to receive the payments from the railway trust fund. Specifies that the city may use the money it receives solely to rehabilitate, modernize, or replace existing infrastructure.

Clarifies that all net earnings and income under a lease of a municipally owned railway must be paid to the city treasury and credited to the sinking fund or bond retirement fund.

**Fiscal effect: The provision affects the City of Cincinnati and the Cincinnati Southern Railway. Cincinnati receives approximately \$25.0 million per year under the current lease between the Cincinnati Southern Railway and Norfolk Southern Corporation. There is a pending proposal to sell the railway to Norfolk Southern for \$1.62 billion.**

Executive

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LOCCD6 Regional Transit Authority audits

R.C. 5501.09, (Repealed)

Eliminates a requirement that the State Auditor annually conduct an audit of one large and two small regional transit authorities (RTA).

**Fiscal effect: None apparent from eliminating this requirement. The State Auditor is currently required to audit public offices at least once every two years.**

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**Executive**

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**OBMCD1 Limitations on use of capital appropriations****Section: 501.10**

Requires that the use of capital appropriations for buildings and structures in the bill be limited to: (1) real property; (2) buildings and structures; (3) certain architectural, engineering, and professional services; (4) machinery; (5) new computer systems; and (6) furniture, fixtures, or equipment.

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**OBMCD2 State Arbitrage Rebate Authorization****Section: 503.10**

Appropriates an amount necessary to make payments to the federal government of investment income rebates to maintain the federal income tax exemption of interest on bonds issued by the state, and requires OBM to approve and voucher payments for this purpose.

**Fiscal effect: Federal law prohibits tax-exempt bond issuers, such as the state of Ohio, from earning a higher rate of interest from investment of bond proceeds than the interest paid on bonds. Any payments that may be required under this section will be paid out of the bond fund in which excess earnings were realized.**

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**OBMCD3 Authorization for Treasurer of State and OBM to effectuate lease rental payments****Section: 509.10**

Requires OBM to make payments from lease rental payment appropriation items during the FY 2024-FY 2025 biennium to meet lease agreements for capital improvement bonds.

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**OBMCD4 Lease and debt service payments****Section: 509.20**

Provides for additional appropriations to cover debt service and bond financing costs if additional appropriations to cover those payments are necessary.

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**Executive**

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**PWCCD1 Reappropriations**

**Section: 209.20**

Reappropriates unencumbered capital appropriations from the Local Transportation Improvement Program Fund (Fund 7052) at the end of FY 2023 and FY 2024 for the same purposes in the following fiscal year.

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**PWCCD2 Temporary transfers**

**Section: 209.20**

Allows the OBM Director to transfer cash from the Local Transportation Improvement Fund (Fund 7052) to the State Capital Improvement Fund (Fund 7038) and the Clean Ohio Conservation Fund (Fund 7056). Permits OBM to approve temporary cash transfers if they are needed for capital outlays for which notes or bonds will be issued. Requires OBM to make cash transfers to repay Fund 7052 for the amounts originally transferred when cash balances are sufficient to do so. Requires all such cash transfers to be reported to the Controlling Board by June 30 of the fiscal year in which they occurred.

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## Executive

**TAXCD1 Motor fuel tax distributions to Highway Operating Fund****Section: 757.10**

Requires the Treasurer of State, on the last day of each month of the biennium, to deposit the first 2% of the amount of motor fuel tax (MFT) received for the preceding calendar month to the credit of the Highway Operating Fund (Fund 7002) after transfers to the Tax Refund Fund, but before other distributions required in continuing law.

**Fiscal effect: This provision would result in about \$24 million per fiscal year in net revenue gain to Fund 7002 and offsetting revenue loss, by the same amount, primarily to local governments but also to other state funds.**

**TAXCD2 Motor fuel evaporation tax credit****Section: 757.20**

Continues, for the FY 2024-FY 2025 biennium, a temporary reduction in MFT credits, in which a temporary motor fuel tax evaporation allowance is set for motor fuel distributors to 1% (less 0.5% of the gallonage sold to retailers), and at 0.5% for retail dealers.

**Fiscal effect: Increases the amount of MFT revenue that will be retained by the state and subsequently distributed to local governments and applicable state agencies, compared to codified law. Under codified law, the percentage of allowance for motor fuel dealers is 3% (less 1% of the gallonage sold to retailers), and for retail dealers the percentage of shrinkage refund is 1% of total MFT paid on fuel purchased during each of the semiannual filing periods. Under the same provision in the transportation budget of the 134th General Assembly, the net shrinkage deduction was about \$24 million in FY 2022. Based on FY 2022 experience this provision would decrease the shrinkage allowance by roughly \$48 million in each year of the biennium and increase funding available for the Highway Operating Fund, other state funds, municipalities, counties, and townships in total by about that amount.**

**TAXCD3 Monthly transfers to Gasoline Excise Tax Fund****Section: 757.30**

Requires the OBM Director to transfer cash, in equal monthly increments totaling \$166,055,868 in FY 2024 and \$168,885,288 in FY 2025, from the Highway Operating Fund (Fund 7002) to the Gasoline Excise Tax Fund (Fund 7060) and requires the transferred amounts be distributed to municipal corporations (42.86%), counties (37.14%), and townships (20.0%).

**Fiscal effect: Increases funding to municipalities statewide by \$71.2 million in FY 2024 and \$72.4 million in FY 2025; increases funding to counties by \$61.7 million in FY 2024 and \$62.7 million in FY 2025; increases funding to townships by \$33.2 million in FY 2024 and \$33.8 million in FY 2025. Decreases amounts available to Fund 7002 by the total transfer amounts.**