

DIVERSITY AND INCLUSION DATA ACCOUNTABILITY AND  
 TRANSPARENCY ACT OF 2021

JUNE 7, 2022.—Committed to the Committee of the Whole House on the State of  
 the Union and ordered to be printed

Ms. WATERS, from the Committee on Financial Services,  
 submitted the following

R E P O R T

[To accompany H.R. 2123]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 2123) to amend the Dodd-Frank Wall Street Reform and Consumer Protection Act to require regulated entities to provide information necessary for the Offices of Women and Minority Inclusion to carry out their duties, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Diversity and Inclusion Data Accountability and Transparency Act of 2021”.

**SEC. 2. DISCLOSURES BY REGULATED ENTITIES.**

Section 342(b) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5452(b)) is amended by adding at the end the following:

“(5) DISCLOSURES BY REGULATED ENTITIES.—The Director of each Office shall require entities with 100 employees or greater regulated by the applicable agency to provide such information as may be required to carry out the duties of the Director.”.

## PURPOSE AND SUMMARY

On March 23, 2021, Representative Beatty introduced H.R. 2123, the “Diversity and Inclusion Data Accountability and Transparency Act”, or “D&I DATA Act,” which would require the entities regulated by Treasury, Federal Depository Insurance Corporation, Federal Housing Finance Agency, Federal Reserve banks, Federal Reserve Board, National Credit Union Administration, Office of the Comptroller of the Currency, Securities and Exchange Commission, and Consumer Financial Protection Bureau to disclose diversity data, policies, and practices to their respective federal financial regulators and the Offices of Minority and Women Inclusion within those agencies.

## BACKGROUND AND NEED FOR LEGISLATION

Section 342 of Dodd-Frank established the Offices of Minority and Women Inclusion (OMWIs) at federal financial regulatory agencies. Pursuant to Section 342(b)(2)(C), in June 2015, six financial regulatory agencies published the Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies, which focus on a regulated entity’s D&I performance and data, including workforce and procurement spending, among other metrics. However, because of an amendment made before the passage of Dodd-Frank, financial regulators interpreted that the collection of diversity assessments from OMWI regulated entities, and any actions based off of those assessments, should be voluntary. As a result, regulated entities have generally declined to participate in the OMWIs’ annual diversity assessment requests. As of October 2020, two agencies were only starting to request assessments or had reduced the frequency of their assessments. This bill would provide explicit direction to regulators that diversity data disclosure by their regulated entities should be compulsory.

## SECTION-BY-SECTION ANALYSIS

*Section 1. Short title*

- This section provides a short title for this act, “Diversity and Inclusion Data Accountability and Transparency Act”.

*Section 2. Disclosures and regulated entities*

- This section amends section 342(b)(5) of the Dodd-Frank Wall Street Reform and Consumer Protection Act. This section also requires entities regulated by Treasury, Federal Depository Insurance Corporation, Federal Housing Finance Agency, Federal Reserve banks, Federal Reserve Board, National Credit Union Administration, Office of the Comptroller of the Cur-

rency, Securities and Exchange Commission, and Consumer Financial Protection Bureau with 100 employees or more to disclose information necessary for the Directors of the Offices of Women and Minority Inclusion to carry out their duties.

#### HEARINGS

For the purposes of section 3(c)(6) of House Rule XIII, the Committee on Financial Services' Subcommittee Diversity & Inclusion held hearings to consider H.R. 2123 entitled, "By the Numbers: How Diversity Data Can Measure Commitment to Diversity, Equity and Inclusion" on March 18, 2021, and "A Review of Diversity and Inclusion Performance at America's Large Investment Firm," on December 9, 2021. The Full Committee also considered the bill on April 27, 2022 in a hearing entitled "Consumers First: Semi-Annual Report of the Consumer Financial Protection Bureau."

#### COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on April 21, 2021 and ordered H.R. 2123 to be reported favorably to the House with an amendment in the nature of a substitute by a vote of 30 yeas and 23 nays, a quorum being present.

#### COMMITTEE VOTES AND ROLL CALL VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that the following roll call votes occurred during the Committee's consideration of H.R. 2123: Ordered reported to the House, as amended, with a favorable recommendation by a recorded vote of 30 yeas and 23 nays.

Present	Representatives	Ayes	Nays
	Ms. Waters, <i>Chairwoman</i>	/	
	Mrs. Maloney	/	
	Ms. Velázquez	/	
	Mr. Sherman	/	
	Mr. Meeks	/	
	Mr. Scott	/	
	Mr. Green	/	
	Mr. Cleaver	/	
	Mr. Perlmutter	/	
	Mr. Himes	/	
	Mr. Foster	/	
	Mrs. Beatty	/	
	Mr. Vargas	/	
	Mr. Gottheimer	/	
	Mr. Gonzalez (TX)	/	
	Mr. Lawson	/	
	Mr. San Nicolas	/	
	Ms. Axne	/	
	Mr. Casten	/	
	Ms. Pressley	/	
	Mr. Torres	/	
	Mr. Lynch	/	
	Ms. Adams	/	
	Ms. Tlaib	/	
	Ms. Dean	/	
	Ms. Ocasio-Cortez	/	
	Mr. Garcia (IL)	/	
	Ms. Garcia (TX)	/	
	Ms. Williams (GA)	/	
	Mr. Auchincloss	/	
30			
	Mr. McHenry, <i>Ranking Member</i>	/	
	Mrs. Wagner	/	
	Mr. Lucas	/	
	Mr. Posey	/	
	Mr. Luetkemeyer	/	
	Mr. Huelskamp	/	
	Mr. Stivers	/	
	Mr. Barr	/	
	Mr. Williams (TX)	/	
	Mr. Hill	/	
	Mr. Emmer	/	
	Mr. Zeldin	/	
	Mr. Loudermilk	/	
	Mr. Mooney	/	
	Mr. Davidson	/	
	Mr. Budd	/	
	Mr. Kustoff	/	
	Mr. Hollingsworth	/	
	Mr. Gonzalez (OH)	/	
	Mr. Rose	/	
	Mr. Steil	/	
	Mr. Gooden	/	
	Mr. Timmons	/	
	Mr. Taylor	/	
24			
54			

**Committee on Financial Services**  
Full Committee  
117th Congress (1st Session)

Date: 4/20/21

Measure: H.R. 2123

Amendment No. Final Passage

Offered by: Beatty

30

Agreed To	Yes	No	Prnt	Wdm
Voice Vote	Ayes		Nays	
	30		23	

Record Vote	FC
/	

23

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF  
THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause (3)(c) of rule XIII of the Rules of the House of Representatives, the goals of H.R. 2123 are to require regulated entities to disclose diversity data, policies and practices to their respective federal financial regulators.

NEW BUDGET AUTHORITY AND CBO COST ESTIMATE

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the *Congressional Budget Act of 1974*, and pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the *Congressional Budget Act of 1974*, the Committee has received the following estimate for H.R. 2123 from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, July 8, 2021.*

Hon. MAXINE WATERS,  
*Chairwoman, Committee on Financial Services,  
House of Representatives, Washington, DC.*

DEAR MADAM CHAIRWOMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2123, the Diversity and Inclusion Data Accountability and Transparency Act of 2021.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is David Hughes.

Sincerely,

PHILLIP L. SWAGEL,  
*Director.*

Enclosure.

At a Glance			
H.R. 2123, Diversity and Inclusion Data Accountability and Transparency Act of 2021			
As ordered reported by the House Committee on Financial Services on April 21, 2021			
By Fiscal Year, Millions of Dollars	2021	2021-2026	2021-2031
Direct Spending (Outlays)	0	6	13
Revenues	0	-3	-6
Increase or Decrease (-) in the Deficit	0	9	19
Spending Subject to Appropriation (Outlays)	0	*	not estimated
Statutory pay-as-you-go procedures apply?	Yes	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2032?	< \$5 billion	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	Yes, Under Threshold
* = between zero and \$500,000.			

The bill would

- Require banking and financial entities to disclose data on diversity in management, employment, and business activities to their federal financial regulators
- Impose a private-sector mandate by requiring companies to report additional information to federal regulators and increase the cost of an existing mandate on companies if regulators raise fees to pay for implementation of the bill

Estimated budgetary effects would mainly stem from

- Additional responsibilities for certain federal financial regulators

Bill summary: H.R. 2123 would require banking and financial entities to disclose data on diversity in management, employment, and business activities to their regulator's Office of Minority and Women Inclusion. The financial regulators that would receive the new diversity information include the Consumer Financial Protection Bureau (CFPB), Federal Deposit Insurance Corporation (FDIC), National Credit Union Administration (NCUA), Office of the Comptroller of the Currency (OCC), Federal Reserve, and Securities and Exchange Commission (SEC).

Basis of estimate: The costs of the legislation fall within budget function 370 (commerce and housing credit). Based on information from the affected agencies, CBO estimates that each agency would need two additional employees to write regulations and process the new diversity data each year. Each agency also would incur costs to initially upgrade and annually update its information technology systems. The estimated costs do not include agency efforts beyond collecting and processing the new data. Costs would be higher if agencies used the data more broadly in their regulatory and supervisory activities.

Assuming enactment late in fiscal year 2021, CBO estimates that H.R. 2123 would increase net direct spending by \$13 million, decrease revenues by \$6 million, and thus increase the federal deficit by \$19 million over the 2021–2031 period (see Table 1). In addition,

there would be an insignificant effect on spending subject to appropriation.

**Direct spending:** The operating costs for the CFPB, FDIC, NCUA, and OCC are classified in the federal budget as direct spending. Using information from those agencies, CBO estimates that implementing the bill would increase gross direct spending by \$25 million over the 2021–2031 period. However, the NCUA and OCC collect fees from financial institutions to offset their operating costs; those fees are treated as reductions in direct spending. On net, CBO estimates that direct spending would increase by \$13 million over the 2021–2031 period.

**Revenues:** Costs incurred by the Federal Reserve reduce remittances to the Treasury, which are recorded in the budget as revenues. CBO estimates that enacting H.R. 2123 would decrease revenues by \$6 million over the 2021–2031 period.

**Spending subject to appropriation:** Using information from the SEC, CBO estimates that it would cost the agency \$4 million over the 2021–2026 period to implement the bill’s requirements. However, because the SEC is authorized to collect fees each year to offset its annual appropriation, CBO expects that the net effect over the 2021–2026 period would be negligible, assuming appropriation actions consistent with that authority.

**Pay-As-You-Go considerations:** The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays and revenues that are subject to those pay-as-you-go procedures are shown in Table 1.

TABLE 1.—CBO’S ESTIMATE OF THE STATUTORY PAY-AS-YOU-GO EFFECTS OF H.R. 2123, THE DIVERSITY AND INCLUSION DATA ACCOUNTABILITY AND TRANSPARENCY ACT OF 2021, AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON FINANCIAL SERVICES ON APRIL 21, 2021

	By fiscal year, millions of dollars—												
	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2021–2026	2021–2031
	Net Increase in the Deficit												
Pay-As-You-Go Effect .....	0	2	2	2	2	2	2	2	2	2	2	9	19
Memorandum:													
Increases in Outlays .....	0	1	1	1	1	1	1	1	1	1	1	6	13
Decreases in Revenues .....	0	0	–1	–1	–1	–1	–1	–1	–1	–1	–1	–3	–6

**Increase in long-term deficits:** CBO estimates that enacting H.R. 2123 would not significantly increase on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2032.

**Mandates:** By requiring certain private-sector companies to report additional information to federal financial regulators, H.R. 2123 would impose a private-sector mandate as defined in the Unfunded Mandates Reform Act (UMRA). The cost of the mandate would equal the expenses incurred by those companies to comply with the new disclosure requirements. Because the mandated entities already collect and report similar information to federal regulators, CBO estimates those costs would not exceed the private-sector threshold established in UMRA (\$170 million 2021, adjusted annually for inflation).

If federal regulators increase annual fee collections to offset the costs associated with implementing the bill, H.R. 2123 would increase the cost of an existing private-sector mandate on commercial entities required to pay those fees. CBO estimates that the incremental cost of the mandate would be small and would fall well below the threshold established in UMRA for private-sector mandates.

H.R. 2123 contains no intergovernmental mandates as defined in UMRA.

Estimate prepared by: Federal Costs: David Hughes (CFPB, SEC), Stephen Rabent (FDIC, NCUA, OCC), Nathaniel Frenz (Federal Reserve); Mandates: Fiona Forrester.

Estimate reviewed by: Susan Willie, Chief, Natural and Physical Resources Cost Estimates Unit; Josh Shakin, Chief, Revenue Estimating Unit; Kathleen FitzGerald, Chief, Public and Private Mandates Unit; H. Samuel Papenfuss, Deputy Director of Budget Analysis; Theresa Gullo, Director of Budget Analysis.

#### COMMITTEE COST ESTIMATE

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison of the costs that would be incurred in carrying out H.R. 2123. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the *Congressional Budget Act*.

#### UNFUNDED MANDATE STATEMENT

Pursuant to Section 423 of the *Congressional Budget and Impoundment Control Act* (as amended by Section 101(a)(2) of the *Unfunded Mandates Reform Act*, Pub. L. 104-4), the Committee adopts as its own the estimate of federal mandates regarding H.R. 2123, as amended, prepared by the Director of the Congressional Budget Office.

#### ADVISORY COMMITTEE

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

#### APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Pursuant to section 102(b)(3) of the *Congressional Accountability Act*, Pub. L. No. 104-1, H.R. 2123, as amended, does not apply to terms and conditions of employment or to access to public services or accommodations within the legislative branch.

#### EARMARK STATEMENT

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 2123 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as described in clauses 9(e), 9(f), and 9(g) of rule XXI.

## DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of H.R. 2123 establishes or reauthorizes a program of the Federal Government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

## CHANGES TO EXISTING LAW

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, H.R. 2123, as reported, are shown as follows:

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics and existing law in which no change is proposed is shown in roman):

**DODD-FRANK WALL STREET REFORM AND CONSUMER  
PROTECTION ACT**

\* \* \* \* \*

**TITLE III—TRANSFER OF POWERS TO  
THE COMPTROLLER OF THE CUR-  
RENCY, THE CORPORATION, AND THE  
BOARD OF GOVERNORS**

\* \* \* \* \*

**Subtitle D—Other Matters**

\* \* \* \* \*

**SEC. 342. OFFICE OF MINORITY AND WOMEN INCLUSION.**

(a) OFFICE OF MINORITY AND WOMEN INCLUSION.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), not later than 6 months after the date of enactment of this Act, each agency shall establish an Office of Minority and Women Inclusion that shall be responsible for all matters of the agency relating to diversity in management, employment, and business activities.

(B) BUREAU.—The Bureau shall establish an Office of Minority and Women Inclusion not later than 6 months after the designated transfer date established under section 1062.

(2) TRANSFER OF RESPONSIBILITIES.—Each agency that, on the day before the date of enactment of this Act, assigned the responsibilities described in paragraph (1) (or comparable responsibilities) to another office of the agency shall ensure that such responsibilities are transferred to the Office.

(3) DUTIES WITH RESPECT TO CIVIL RIGHTS LAWS.—The responsibilities described in paragraph (1) do not include enforcement of statutes, regulations, or executive orders pertaining to civil rights, except each Director shall coordinate with the agency administrator, or the designee of the agency administrator, regarding the design and implementation of any remedies resulting from violations of such statutes, regulations, or executive orders.

(b) DIRECTOR.—

(1) IN GENERAL.—The Director of each Office shall be appointed by, and shall report to, the agency administrator. The position of Director shall be a career reserved position in the Senior Executive Service, as that position is defined in section 3132 of title 5, United States Code, or an equivalent designation.

(2) DUTIES.—Each Director shall develop standards for—

(A) equal employment opportunity and the racial, ethnic, and gender diversity of the workforce and senior management of the agency;

(B) increased participation of minority-owned and women-owned businesses in the programs and contracts of the agency, including standards for coordinating technical assistance to such businesses; and

(C) assessing the diversity policies and practices of entities regulated by the agency.

(3) OTHER DUTIES.—Each Director shall advise the agency administrator on the impact of the policies and regulations of the agency on minority-owned and women-owned businesses.

(4) RULE OF CONSTRUCTION.—Nothing in paragraph (2)(C) may be construed to mandate any requirement on or otherwise affect the lending policies and practices of any regulated entity, or to require any specific action based on the findings of the assessment.

(5) DISCLOSURES BY REGULATED ENTITIES.—*The Director of each Office shall require entities with 100 employees or greater regulated by the applicable agency to provide such information as may be required to carry out the duties of the Director.*

(c) INCLUSION IN ALL LEVELS OF BUSINESS ACTIVITIES.—

(1) IN GENERAL.—The Director of each Office shall develop and implement standards and procedures to ensure, to the maximum extent possible, the fair inclusion and utilization of minorities, women, and minority-owned and women-owned businesses in all business and activities of the agency at all levels, including in procurement, insurance, and all types of contracts.

(2) CONTRACTS.—The procedures established by each agency for review and evaluation of contract proposals and for hiring service providers shall include, to the extent consistent with applicable law, a component that gives consideration to the diversity of the applicant. Such procedure shall include a written

statement, in a form and with such content as the Director shall prescribe, that a contractor shall ensure, to the maximum extent possible, the fair inclusion of women and minorities in the workforce of the contractor and, as applicable, subcontractors.

(3) TERMINATION.—

(A) DETERMINATION.—The standards and procedures developed and implemented under this subsection shall include a procedure for the Director to make a determination whether an agency contractor, and, as applicable, a subcontractor has failed to make a good faith effort to include minorities and women in their workforce.

(B) EFFECT OF DETERMINATION.—

(i) RECOMMENDATION TO AGENCY ADMINISTRATOR.—

Upon a determination described in subparagraph (A), the Director shall make a recommendation to the agency administrator that the contract be terminated.

(ii) ACTION BY AGENCY ADMINISTRATOR.—Upon receipt of a recommendation under clause (i), the agency administrator may—

(I) terminate the contract;

(II) make a referral to the Office of Federal Contract Compliance Programs of the Department of Labor; or

(III) take other appropriate action.

(d) APPLICABILITY.—This section shall apply to all contracts of an agency for services of any kind, including the services of financial institutions, investment banking firms, mortgage banking firms, asset management firms, brokers, dealers, financial services entities, underwriters, accountants, investment consultants, and providers of legal services. The contracts referred to in this subsection include all contracts for all business and activities of an agency, at all levels, including contracts for the issuance or guarantee of any debt, equity, or security, the sale of assets, the management of the assets of the agency, the making of equity investments by the agency, and the implementation by the agency of programs to address economic recovery.

(e) REPORTS.—Each Office shall submit to Congress an annual report regarding the actions taken by the agency and the Office pursuant to this section, which shall include—

(1) a statement of the total amounts paid by the agency to contractors since the previous report;

(2) the percentage of the amounts described in paragraph (1) that were paid to contractors described in subsection (c)(1);

(3) the successes achieved and challenges faced by the agency in operating minority and women outreach programs;

(4) the challenges the agency may face in hiring qualified minority and women employees and contracting with qualified minority-owned and women-owned businesses; and

(5) any other information, findings, conclusions, and recommendations for legislative or agency action, as the Director determines appropriate.

(f) DIVERSITY IN AGENCY WORKFORCE.—Each agency shall take affirmative steps to seek diversity in the workforce of the agency

at all levels of the agency in a manner consistent with applicable law. Such steps shall include—

- (1) recruiting at historically black colleges and universities, Hispanic-serving institutions, women’s colleges, and colleges that typically serve majority minority populations;
- (2) sponsoring and recruiting at job fairs in urban communities;
- (3) placing employment advertisements in newspapers and magazines oriented toward minorities and women;
- (4) partnering with organizations that are focused on developing opportunities for minorities and women to place talented young minorities and women in industry internships, summer employment, and full-time positions;
- (5) where feasible, partnering with inner-city high schools, girls’ high schools, and high schools with majority minority populations to establish or enhance financial literacy programs and provide mentoring; and
- (6) any other mass media communications that the Office determines necessary.

(g) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

- (1) AGENCY.—The term “agency” means—
  - (A) the Departmental Offices of the Department of the Treasury;
  - (B) the Corporation;
  - (C) the Federal Housing Finance Agency;
  - (D) each of the Federal reserve banks;
  - (E) the Board;
  - (F) the National Credit Union Administration;
  - (G) the Office of the Comptroller of the Currency;
  - (H) the Commission; and
  - (I) the Bureau.

(2) AGENCY ADMINISTRATOR.—The term “agency administrator” means the head of an agency.

(3) MINORITY.—The term “minority” has the same meaning as in section 1204(c) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1811 note).

(4) MINORITY-OWNED BUSINESS.—The term “minority-owned business” has the same meaning as in section 21A(r)(4)(A) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(r)(4)(A)), as in effect on the day before the transfer date.

(5) OFFICE.—The term “Office” means the Office of Minority and Women Inclusion established by an agency under subsection (a).

(6) WOMEN-OWNED BUSINESS.—The term “women-owned business” has the meaning given the term “women’s business” in section 21A(r)(4)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(r)(4)(B)), as in effect on the day before the transfer date.

\* \* \* \* \*