

# CRS Report for Congress

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## Social Security Notch Issue: A Summary

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### Summary

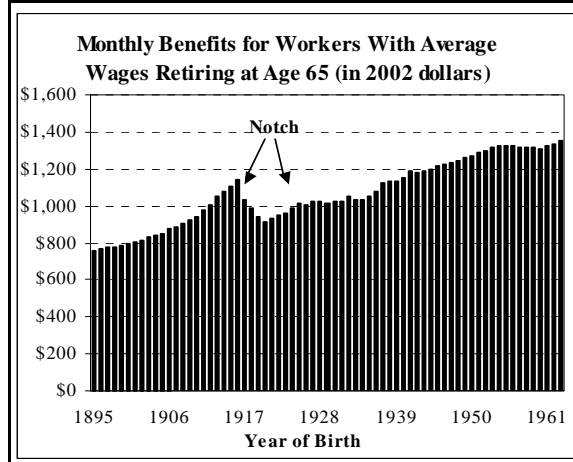
The Social Security Amendments of 1977 (P.L. 95-216) substantially altered the way Social Security benefits are computed. The changes were effective beginning with people who became eligible in 1979. For retirees, this meant people born after 1916. Many of those born in the 5- to 15-year period after 1916 – so-called “notch babies” – have complained that the changes in the rules caused their benefits to be lower than those of retirees who were born before and after them. A number of legislative attempts have been made over the years to modify the rules, but none have been successful. A congressionally mandated commission recently studied the issue and concluded in its report, released December 29, 1994, that “benefits paid to those in the ‘Notch’ years are equitable, and no remedial legislation is in order.” This report will be updated periodically.

### Background

The benefit-computation changes enacted in 1977 were designed to shore up the Social Security system’s financial condition. Without them, the system would have become insolvent within 3 or 4 years. Legislation enacted in the 1972-1973 period, automatically tying Social Security benefits to inflation, was the cause. Although intended to provide regular inflation adjustments to people already receiving benefits, each automatic increase to current recipients also raised the eventual benefits of future retirees. These future retirees, however, would have earned higher benefits in any event because their wage histories would have been higher (since Social Security benefits are based on a person’s wages). Under the assumptions made in the early 1970s with regard to future wage growth and inflation, this dual indexing would not have caused problems, but those assumptions proved wrong, and without the changes enacted in 1977, many future retirees would have come into the system with benefits that exceeded the earnings they had in their last year of work. The 1977 changes that Congress enacted were designed to keep this from happening and improve the system’s financial condition. These changes, however, caused immediate notable benefit disparities between the people first affected by them — those born after 1916 — and the last few groups of retirees grandfathered under the old rules.

## Arguments for Notch Legislation

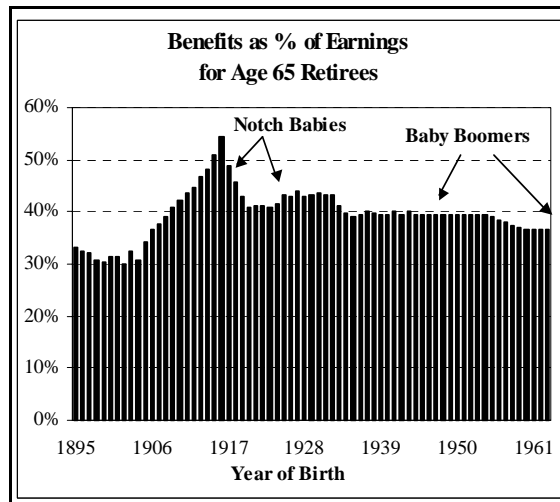
Proponents of legislation to eliminate the benefit disparities argue that the 1977 rules changes were harmful to millions of people born after 1916 because their benefits are lower than those of retirees who came before and after them (see chart to the right). They contend that the differences in benefits between the notch babies and those who were born before them are often very large, in some instances exceeding \$200 a month. They argue that the disparities were not intended when the rules were changed in 1977, and that the “transition



rules” intended to smooth the shift to the new method of computing benefits were faulty. They maintain that these significant benefit disparities among such a large group of people raise doubts about the fairness of the Social Security system and Congress’ ability to oversee it. They argue that the proposed notch remedies would result in a smoother shift to the new rules and that the Social Security system has a large enough trust fund to remedy the problem. They believe that the legislation merits a straight up or down floor vote.

## Arguments Against Notch Legislation

Critics of the legislation argue that there is no injustice — that the “notch babies” are comparing themselves to people born before them in the 1911 to 1916 period who got more than intended. They contend that when the notch babies’ benefits are measured against their earnings before retirement, they are getting what Congress intended and a higher percentage than future generations will get (see chart to the right). They argue that the notch babies on average will get back considerably more than they paid into Social Security, and a much better “deal” than the baby boomers will get. They point



out that the current surplus in the trust funds is already spoken for, as the Social Security system is facing a large deficit in the next century, and that the notch proposals would make this worse, as well as adding to the federal debt being passed on to future generations (the Social Security actuaries have estimated that proposed remedies would cumulatively cost up to \$300 billion by 2020). They contend that though many Members cosponsored notch bills in past Congresses, far fewer were willing to sign petitions to force a House vote on the issue. Some Members have complained that the National Committee to Preserve Social Security and Medicare — the lead proponent of the

legislation among the interest groups — has misled many seniors about the issue in mailings that solicit money.

## Legislative Action

Many notch bills have been introduced in Congress since 1981, but there has been little legislative action on them. Support from outside interest groups has been limited. The National Committee to Preserve Social Security and Medicare took up the issue in 1986 and has periodically sent out mass mailings seeking support from seniors born in the 12-year period after 1916. A few veterans' groups and grass roots notch groups also have supported notch legislation. Most other organizations representing the elderly, led by the American Association of Retired Persons, have opposed such legislation. The AFL-CIO, National Association of Manufacturers, and National Taxpayers Union also have come out in opposition, as did the Carter, Reagan, and Bush Administrations. The Clinton Administration took, and the George W. Bush Administration has taken, no position.

Various attempts were made in past Congresses to gain support for discharge petitions to force the House Ways and Means Committee to report out a bill, but the sponsors were unable to get enough signatures. However, notch measures did reach the Senate floor a number of times. The most recent was on September 10, 1992, when former Senator Terry Sanford sought to attach his notch bill (S. 567) to an appropriations bill. It would have liberalized benefits for some people born in 1917 through 1926. The attempt failed when the Senate, on a 49 to 49 vote, refused to set aside an objection raised by Senator Bentsen that the bill violated the Social Security "firewall" rules — by proposing to increase Social Security spending without offsetting reductions or tax increases. Later in the debate, the Senate adopted and the House agreed to a measure establishing a 12-member commission to study the issue.

The Commission on the Social Security "Notch" Issue released its report on December 29, 1994. Its principal conclusion was that the "benefits paid to those in the 'Notch' years are equitable, and no remedial legislation is in order." Its report states that "the uneven treatment between those in the 'Notch' years and those just before them was magnified by the decision of Congress to fully grandfather" people born before 1917 under the old law. It further states that "in retrospect" Congress "probably should have" limited the benefits of those who were grandfathered, but that it is too late now to do so given their advanced age (i.e., those grandfathered under the old law were a minimum of 78 years old in 1994).

**Bills Introduced in 107th Congress.** Six bills were introduced in the 107th Congress that would have provided additional cash benefits to workers (and thus to their dependents and survivors) born in the notch years. H.R. 80, introduced by Representative Emerson, would have provided additional benefits prospectively to many retired workers born in the years 1917 through 1926. H.R. 870, by Representative Clement, would have provided additional benefits prospectively to many retired workers born in the years 1917 through 1921. In these bills, the method of determining whether additional benefits are payable were the same, although somewhat complex. The basic idea is to smooth out benefits over the transition period by creating a new way of computing benefits for affected recipients that in many instances would lead to higher benefits than those they currently receive (a more technical description is available in the appendix). The bills differed, however, in the amounts they would add to current benefits for affected

recipients. Also, H.R. 80 would have been effective only for benefits payable after 1999, H.R. 870 would have been effective only for benefits payable after enactment.

The Retired Enlistees Association (TREA) has proposed that every worker born between 1916 and 1927 be paid a lump-sum of \$5,000, and every surviving spouse of such a worker be paid \$4,000. The proposal does not differentiate between those who actually were adversely affected by the 1977 change and those who were not (many individuals born in the above-referenced years were not adversely affected — in fact a significant but undetermined number of them received a higher benefit than they would have under the old rules).

A combination of the approaches of TREA and H.R. 80/H.R. 870 was incorporated in H.R. 97, introduced by Representative Hall, H.R. 853, introduced by Representative Wexler, and S. 825, by Senator Reid. They would have allowed workers born between 1916 and 1927 to choose either a lump-sum of \$5,000 spread over 4 years or a higher monthly payment recomputed under rules similar to those in H.R. 80.

An additional bill, H.R. 82, also introduced by representative Emerson, would not have provided additional cash benefits to workers born in 1917 — 1926, but would have given them or their surviving spouses an income tax credit equal to their Medicare Part B premium.

**Bills Introduced in the 108<sup>th</sup> Congress.** Three bills have been introduced so far in the 108<sup>th</sup> Congress. H.R. 63, introduced by Representative Emerson, is the same as her bill, H.R. 80, in the 107<sup>th</sup> Congress. H.R. 97, introduced by Representative Hall, is the same as his bill, also H.R. 97, in the 107<sup>th</sup> Congress. S. 1418, introduced by Senator Reid, is the same as his bill, S 825, in the 107<sup>th</sup> Congress.

Estimates of the costs of these bills currently are not available. The costs of H.R. 63 would be ongoing, and would end when the last of the affected Social Security recipients leaves the rolls. The cost of the TREA proposal would be concentrated; all of it could fall within one fiscal year. The exact cost is unknown, but it is likely to be high. According to data from the Social Security Administration, as of December 2001, there were 9,223,690 recipients born between 1916 and 1927 who were receiving Social Security retirement benefits. If all these recipients received a lump-sum of \$5,000, the cost would be about \$46 billion, not including the additional cost of providing lump-sums to survivors of workers born in those years.

## APPENDIX

Under H.R. 80, H.R. 97, H.R. 853, H.R. 870, and S. 825 in the 107<sup>th</sup> Congress, and H.R. 63, H.R. 97, and S. 1418 in the 108<sup>th</sup> Congress, the method of determining whether additional monthly benefits are payable is the following multi-step process:

- (1) The benefit would be computed as under new law (i.e., the wage-indexed benefit enacted by the 1977 Amendments that applies to all workers who become eligible for benefits after 1983).
- (2) The benefit would be computed as under old (pre-1977) law (but with a limit of 3 years of earnings counted after age 61).
- (3) If the modified old-law benefit exceeds the new law wage-indexed benefit, a percentage, the amount of which depends on the worker's year of birth, of the difference would be added to the benefit computed under step (1).
- (4) The resulting benefit total computed under step (3) would be paid to the affected recipients if it exceeds the benefit they currently receive.

The bills differ, however, in the age cohorts affected and in the percentages of the difference between the new and modified old law benefit that they would provide. The percentages that would apply to the designated years of birth under each bill are reflected in **Table 1**. Note that the percentages in the table do not reflect the amount by which the individual's benefit would be increased; rather, they refer only to the proportion of the *difference* between the modified old benefit and the new law wage-indexed benefit that may be added to the wage-indexed benefit to determine if additional benefits are payable.

**Table 1. Percent of Difference Between New and Modified Old Law That Could be Added to Benefits**

| <b>Birth year</b> | <b>H.R. 63,<br/>H.R. 80</b> | <b>H.R. 97,<br/>H.R. 853,<br/>S. 825 &amp;<br/>S.1418</b> | <b>H.R. 870</b> |
|-------------------|-----------------------------|---|-----------------|
| 1917              | 60%                         | 55%   | 70%             |
| 1918              | 60%                         | 45%   | 50%             |
| 1919              | 35%                         | 35%   | 40%             |
| 1920              | 35%                         | 32%   | 35%             |
| 1921              | 30%                         | 25%   | 35%             |
| 1922              | 30%                         | 20%   | –               |
| 1923              | 25%                         | 16%   | –               |
| 1924              | 25%                         | 10%   | –               |
| 1925              | 10%                         | 3%  | –               |
| 1926              | 10%                         | 5%  | –               |