An hourglass-shaped graphic with a globe inside. The top bulb is dark blue, and the bottom bulb is light blue. The globe is centered in the top bulb. The hourglass is filled with a light blue liquid that is dripping down into the bottom bulb. The text is centered within the hourglass.

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February 2, 2009

Congressional Research Service

Report RS22678

Social Security: The Notch Issue

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Updated June 13, 2007

Abstract. A number of legislative attempts have been made over the years to give notch babies additional benefits, but none have been successful. A congressionally mandated commission studied the issue and concluded in its 1994 report that "benefits paid to those in the Notch' years are equitable, and no remedial legislation is in order."

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CRS Report for Congress

Social Security: The Notch Issue

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Summary

Some Social Security beneficiaries who were born from 1917 to 1921 — the so-called *notch babies* — believe they are not receiving fair Social Security benefits.¹ The notch issue resulted from legislative changes to Social Security during the 1970s. The 1972 Amendments to the Social Security Act first established cost-of-living adjustments (COLAs) for Social Security benefits. This change was intended to adjust benefits for inflation automatically, but an error in the formula caused benefits to rise substantially faster than inflation. Congress corrected the error in the 1977 Amendments. However, benefits for beneficiaries born from 1910 to 1916 were calculated using the flawed formula, giving them unintended windfall benefits. The notch babies, born from 1917 to 1921, became eligible for benefits during the period in which the corrected formula was phased in. Some feel it is unfair that their benefits are lower than those who received the windfall benefits. The term “notch” comes from graphs of benefit levels over time; there is a v-shaped dip for those born from 1917 to 1921, during the transition to the corrected formula.

A number of legislative attempts have been made over the years to give notch babies additional benefits, but none have been successful. A congressionally mandated commission studied the issue and concluded in its 1994 report that “benefits paid to those in the ‘Notch’ years are equitable, and no remedial legislation is in order.” This CRS report will be updated as events warrant.

Origins of the Notch

The 1972 Amendments. Congress approved legislation in 1972 to adjust Social Security benefits for inflation automatically (P.L. 92-336). However, the formula for calculating the new cost-of-living adjustment (COLA) was flawed. Although intended to provide inflation adjustments only to people already receiving benefits, each increase for current beneficiaries also raised the initial benefits of future beneficiaries. The

¹ The Social Security Administration (SSA) and a 1994 commission on the notch issue define the notch period as 1917 to 1921, though some advocates define the period as 1917 to 1926.

formula assumed that wages would continue to rise faster than prices, as they had in the past. However, the high inflation and unemployment in the 1970s resulted in higher-than-intended increases for beneficiaries affected by the new formula, and lower-than-expected revenues for Social Security.² If the erroneous formula had not been changed, future beneficiaries could have received initial benefits that exceeded their pre-retirement earnings — higher than Congress intended and higher than payroll taxes could finance.³

The 1977 Amendments. As part of the 1977 Amendments (P.L. 95-216), Congress corrected the error in the COLA formula in the 1972 Amendments by creating a new formula in which initial benefit levels are indexed to wages, then increased by inflation after the initial year. Without the 1977 Amendments, the system would have become insolvent within five years.⁴ The correction to the COLA formula resulted in different treatment for all Social Security beneficiaries depending on year of birth, as described in the following section.⁵

Benefit Levels Before, During, and After the Notch

Beneficiaries Born from 1910 to 1916. The erroneous COLA formula created by the 1972 Amendments affected people who turned 62 in 1972 or later — that is, individuals born in 1910 and later. This is because the formula used to calculate Social Security retirement benefits is based on the year an individual reaches the earliest age of eligibility, which is age 62. When the error in the benefit formula was corrected in the 1977 Amendments, benefits for people who were already eligible for retirement benefits were left unchanged. As a result, beneficiaries born between 1910 and 1916 — the seven years prior to the notch — were allowed to receive unintentional windfall benefits for the rest of their lives.

Beneficiaries Born from 1917 to 1921. The 1977 Amendments corrected the error in the Social Security benefit formula, starting with individuals born in 1917. As a result, the benefits of people who were born during the notch years are lower than those of the beneficiaries who came just before them. To ease the transition to the new, corrected formula, Congress phased in the change for people born from 1917 through 1921 — the notch babies.⁶ **Figure 1** shows inflation-adjusted initial monthly benefit amounts for individuals born from 1900 to 1965. The notch babies' birth years are shown

² For example, annual inflation averaged over 7% during the 1972-1977 period, compared to less than 3% from 2002-2007. (U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index-All Urban Consumers (CPI-U) 1913 to present, at [ftp://ftp.bls.gov/pub/special.requests/cpi/cpiat.txt].)

³ *1977 Annual Report of the Board of Trustees of the Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds*, May 10, 1977. (1977 Trustees Report.)

⁴ *1977 Trustees Report*.

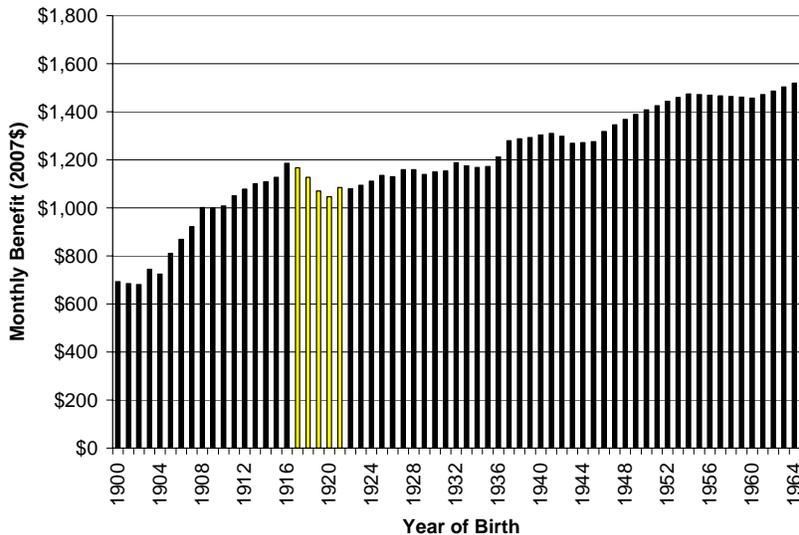
⁵ See also Social Security Administration, *The "Notch" Provision*, SSA Publication No. 05-10042, January 2004, at [http://www.ssa.gov/pubs/10042.pdf].

⁶ As of December 2005, about 2.6 million — less than 9% — of Social Security retired worker beneficiaries were born between 1917 and 1921, and thus are considered notch babies. (SSA, *Annual Statistical Supplement 2006*, Table 5A, May 2007, at [http://www.ssa.gov/policy/docs/statcomps/supplement/2006/5a.pdf].)

in yellow. The term “notch” originated from graphs such as this one, where the lines representing the benefit levels of notch babies dip below the lines representing the benefit levels of individuals born immediately before and soon after.

Many notch babies actually receive higher real benefits than people who were born after they were, all else equal. For example, people born in 1917 receive significantly higher average monthly benefits than people born in 1922 (the first year the correct formula was fully phased in). As shown in **Figure 1**, an average wage earner born in 1917 would receive a monthly benefit of \$1,166 (in 2007 dollars), while an average wage earner born in 1922 would receive a monthly benefit of \$1,080.

Figure 1. Initial Benefit Amounts for Average Wage Earners Retiring at Age 65 in 2007 Dollars



Source: 2007 Social Security *Trustees Report*, Table VI.F10.

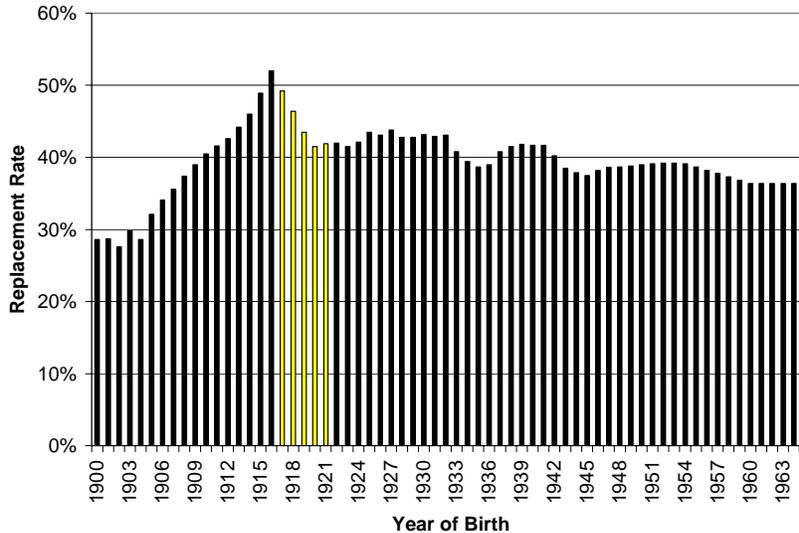
Note: The lines representing the notch period (1917-1921) are yellow. Average wage earners are assumed to have earnings equal to SSA’s Average Wage Index (AWI) each year (about \$40,000 in 2007).

In addition, most notch babies have significantly higher replacement rates than people born after they were, all else equal. A *replacement rate* is one way of measuring the adequacy of a person’s post-retirement income; it is a comparison between a person’s income before and after retirement. This report calculates replacement rates in the same way as the Social Security Administration (SSA) actuaries, which is to show the proportion of beneficiaries’ average indexed earnings replaced by their initial Social Security benefits. In 2007, the estimated replacement rate for an average wage earner retiring at age 65 is 40%.

In drafting the 1972 Amendments, Congress intended to maintain replacement rates at roughly 40%, but the double-indexing error caused replacement rates to rise above 50% before the error was fixed, as shown in **Figure 2** below. The notch babies’ replacement rates are higher than most beneficiaries born after they were — particularly in comparison to current and future beneficiaries, whose replacement rates are declining as the full retirement age increases.

Beneficiaries Born after 1921. Benefits for people born in 1922 and later are calculated using the new, corrected formula established by the 1977 Amendments. This formula is currently being used to calculate the annual COLA.

Figure 2. Replacement Rates for Average Wage Earners Retiring at Age 65



Source: 2007 Social Security *Trustees Report*, Table VI.F10.

Note: The lines representing the notch period (1917-1921) are yellow. Average wage earners are assumed to have earnings equal to SSA's Average Wage Index (AWI) each year (about \$40,000 in 2007).

Commission on the Social Security Notch Issue

In 1992, Congress voted to establish a 12-member commission to study the notch issue. The Commission on the Social Security "Notch" Issue released its report on December 29, 1994.⁷ 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 whose benefits were calculated using the erroneous formula in the 1972 Amendments, but that it was too late to do so given their advanced age.

Advocacy Group Activity

Among advocacy groups, support for legislation to increase benefits for notch babies has been limited. The lead proponent of such legislation is the TREA Senior Citizens League (TSCL). TSCL argues that the transitional benefit formula affecting notch babies was flawed. Some Members have complained that TSCL has misled seniors about the

⁷ The Commission on the Social Security "Notch" Issue, *Final Report on the Social Security "Notch" Issue*, December 31, 1994, at [<http://www.ssa.gov/history/notchbase.html>].

issue in mailings that solicit money.⁸ A few veterans' groups and grassroots notch groups also have supported notch legislation.

Most other organizations representing older Americans, led by AARP, have opposed notch legislation. The AFL-CIO, the National Association of Manufacturers, and the National Taxpayers Union also have come out in opposition, as did the Carter, Reagan, and George H. W. Bush Administrations. The Clinton Administration took no position, and the George W. Bush Administration has also taken no position.

Legislative Activity

Many bills to increase benefits for notch babies have been introduced in Congress, but there has been little legislative action on them. 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 legislation did reach the Senate floor a number of times.

Bills Introduced in 110th Congress. Three bills have been introduced in the 110th Congress that would affect notch babies. No official cost estimates for these bills are available.

- **H.R. 368**, introduced by Representative Ralph M. Hall, would provide additional benefit increases to retired workers born from 1917 to 1926, which would also increase benefits for their dependents and survivors. The amount of the increase would range from 5% to 55%, depending on birth year. Eligible beneficiaries could also elect to receive lump sum payments totaling \$5,000.
- **H.R. 288**, introduced by Representative Jo Ann Emerson, would provide additional benefit increases to retired workers born from 1917 to 1926, which would also increase benefits for their dependents and survivors. The increase would range from 10% to 60%, depending on birth year.
- **H.R. 287**, also introduced by Representative Emerson, would allow an income tax credit equal to Medicare Part B premiums paid by retired workers born from 1917 to 1926 (or their surviving spouses).

⁸ See transcript of hearing, "Misleading Mailings Targeted to Seniors" before the Subcommittee on Social Security of the Committee on Ways and Means, Serial 107-44, July 26, 2001, at [<http://waysandmeans.house.gov/legacy/socsec/107cong/7-26-01/107-44final.htm>].