

111TH CONGRESS  
1ST SESSION

# H. R. 238

To amend title II of the Social Security Act to provide for an improved benefit computation formula for workers affected by the changes in benefit computation rules enacted in the Social Security Amendments of 1977 who attain age 65 during the 10-year period after 1981 and before 1992 (and related beneficiaries) and to provide prospectively for increases in their benefits accordingly.

---

## IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 2009

Mrs. EMERSON introduced the following bill; which was referred to the  
Committee on Ways and Means

---

## A BILL

To amend title II of the Social Security Act to provide for an improved benefit computation formula for workers affected by the changes in benefit computation rules enacted in the Social Security Amendments of 1977 who attain age 65 during the 10-year period after 1981 and before 1992 (and related beneficiaries) and to provide prospectively for increases in their benefits accordingly.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Notch Baby Act of  
3 2009”.

4 **SEC. 2. NEW GUARANTEED MINIMUM PRIMARY INSURANCE**  
5 **AMOUNT WHERE ELIGIBILITY ARISES DUR-**  
6 **ING TRANSITIONAL PERIOD.**

7       Section 215(a) of the Social Security Act is amend-  
8 ed—

9           (1) in paragraph (4)(B), by inserting “(with or  
10 without the application of paragraph (8))” after  
11 “would be made”; and

12           (2) by adding at the end the following:

13       “(8)(A) In the case of an individual described in  
14 paragraph (4)(B) (subject to subparagraph (F) of this  
15 paragraph) who becomes eligible for old-age insurance  
16 benefits after 1978 and before 1989, the amount of the  
17 individual’s primary insurance amount as computed or re-  
18 computed under paragraph (1) shall be deemed equal to  
19 the sum of—

20           “(i) such amount, and

21           “(ii) the applicable transitional increase amount  
22 (if any).

23       “(B) For purposes of subparagraph (A)(ii), the term  
24 ‘applicable transitional increase amount’ means, in the  
25 case of any individual, the product derived by multi-  
26 plying—

1 “(i) the excess under former law, by  
 2 “(ii) the applicable percentage in relation to the  
 3 year in which the individual becomes eligible for old-  
 4 age insurance benefits, as determined by the fol-  
 5 lowing table:

<b>“If the individual becomes eligible for such benefits in:</b>	<b>The applicable percentage is:</b>
1979 or 1980 .....	60 percent
1981 or 1982 .....	35 percent
1983 or 1984 .....	30 percent
1985 or 1986 .....	25 percent
1987 or 1988 .....	10 percent.

6 “(C) For purposes of subparagraph (B), the term ‘ex-  
 7 cess under former law’ means, in the case of any indi-  
 8 vidual, the excess of—

9 “(i) the applicable former law primary insur-  
 10 ance amount, over

11 “(ii) the amount which would be such individ-  
 12 ual’s primary insurance amount if computed or re-  
 13 computed under this section without regard to this  
 14 paragraph and paragraphs (4), (5), and (6).

15 “(D) For purposes of subparagraph (C)(i), the term  
 16 ‘applicable former law primary insurance amount’ means,  
 17 in the case of any individual, the amount which would be  
 18 such individual’s primary insurance amount if it were—

19 “(i) computed or recomputed (pursuant to  
 20 paragraph (4)(B)(i)) under section 215(a) as in ef-  
 21 fect in December 1978, or

1           “(ii) computed or recomputed (pursuant to  
2       paragraph (4)(B)(ii)) as provided by subsection (d),  
3 (as applicable) and modified as provided by subparagraph  
4 (E).

5       “(E) In determining the amount which would be an  
6 individual’s primary insurance amount as provided in sub-  
7 paragraph (D)—

8           “(i) subsection (b)(4) shall not apply;

9           “(ii) section 215(b) as in effect in December  
10       1978 shall apply, except that section 215(b)(2)(C)  
11       (as then in effect) shall be deemed to provide that  
12       an individual’s ‘computation base years’ may include  
13       only calendar years in the period after 1950 (or  
14       1936 if applicable) and ending with the calendar  
15       year in which such individual attains age 61, plus  
16       the 3 calendar years after such period for which the  
17       total of such individual’s wages and self-employment  
18       income is the largest; and

19           “(iii) subdivision (I) in the last sentence of  
20       paragraph (4) shall be applied as though the words  
21       ‘without regard to any increases in that table’ in  
22       such subdivision read ‘including any increases in  
23       that table’.

24       “(F) This paragraph shall apply in the case of any  
25 individual only if such application results in a primary in-

1 surance amount for such individual that is greater than  
 2 it would be if computed or recomputed under paragraph  
 3 (4)(B) without regard to this paragraph.”.

4 **SEC. 3. EFFECTIVE DATE AND RELATED RULES.**

5 (a) APPLICABILITY OF AMENDMENTS.—

6 (1) IN GENERAL.—Except as provided in para-  
 7 graph (2), the amendments made by this Act shall  
 8 be effective as though they had been included or re-  
 9 flected in section 201 of the Social Security Amend-  
 10 ments of 1977.

11 (2) PROSPECTIVE APPLICABILITY.—No monthly  
 12 benefit or primary insurance amount under title II  
 13 of the Social Security Act shall be increased by rea-  
 14 son of such amendments for any month before Janu-  
 15 ary 2009.

16 (b) RECOMPUTATION TO REFLECT BENEFIT IN-  
 17 CREASES.—In any case in which an individual is entitled  
 18 to monthly insurance benefits under title II of the Social  
 19 Security Act for December 2008, if such benefits are  
 20 based on a primary insurance amount computed—

21 (1) under section 215 of such Act as in effect  
 22 (by reason of the Social Security Amendments of  
 23 1977) after December 1978, or

24 (2) under section 215 of such Act as in effect  
 25 prior to January 1979 by reason of subsection

1       (a)(4)(B) of such section (as amended by the Social  
2       Security Amendments of 1977),  
3       the Commissioner of Social Security (notwithstanding sec-  
4       tion 215(f)(1) of the Social Security Act) shall recompute  
5       such primary insurance amount so as to take into account  
6       the amendments made by this Act.

○