

110TH CONGRESS  
2D SESSION

# S. 17

To amend title II of the Social Security Act to allow workers who attain age 65 after 1981 and before 1992 to choose either lump sum payments over four years totalling \$5,000 or an improved benefit computation formula under a new 10-year rule governing the transition to the changes in benefit computation rules enacted in the Social Security Amendments of 1977, and for other purposes.

---

IN THE SENATE OF THE UNITED STATES

NOVEMBER 20, 2008

Mr. VITTER introduced the following bill; which was read twice and referred to the Committee on Finance

---

## A BILL

To amend title II of the Social Security Act to allow workers who attain age 65 after 1981 and before 1992 to choose either lump sum payments over four years totalling \$5,000 or an improved benefit computation formula under a new 10-year rule governing the transition to the changes in benefit computation rules enacted in the Social Security Amendments of 1977, and for other purposes.

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 Fairness Act  
3 of 2008”.

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

7 (a) IN GENERAL.—Section 215(a) of the Social Secu-  
8 rity Act is amended—

9 (1) in paragraph (4)(B), by inserting “(with or  
10 without the application of paragraph (8))” after  
11 “would be made”, and by striking “1984” in clause  
12 (i) and inserting “1989”; and

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

14 “(8)(A) In the case of an individual described in  
15 paragraph (4)(B) (subject to subparagraphs (F) and (G)  
16 of this paragraph), the amount of the individual’s primary  
17 insurance amount as computed or recomputed under para-  
18 graph (1) shall be deemed equal to the sum of—

19 “(i) such amount, and

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

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

26 “(i) the excess under former law, by

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

| <b>“If the individual becomes<br/>eligible for such benefits in:</b> | <b>The applicable<br/>percentage is:</b> |
|--|--|
| 1979 .....   | 55                                       |
| 1980 .....   | 45                                       |
| 1981 .....   | 35                                       |
| 1982 .....   | 32                                       |
| 1983 .....   | 25                                       |
| 1984 .....   | 20                                       |
| 1985 .....   | 16                                       |
| 1986 .....   | 10                                       |
| 1987 .....   | 3  |
| 1988 .....   | 5.                                       |

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

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

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

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

18           “(i) computed or recomputed (pursuant to  
 19           paragraph (4)(B)(i)) under section 215(a) as in ef-  
 20           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 “(G)(i) This paragraph shall apply in the case of any  
5 individual subject to any timely election to receive lump  
6 sum payments under this subparagraph.

7 “(ii) A written election to receive lump sum payments  
8 under this subparagraph, in lieu of the application of this  
9 paragraph to the computation of the primary insurance  
10 amount of an individual described in paragraph (4)(B),  
11 may be filed with the Commissioner of Social Security in  
12 such form and manner as shall be prescribed in regula-  
13 tions of the Commissioner. Any such election may be filed  
14 by such individual or, in the event of such individual’s  
15 death before any such election is filed by such individual,  
16 by any other beneficiary entitled to benefits under section  
17 202 on the basis of such individual’s wages and self-em-  
18 ployment income. Any such election filed after December  
19 31, 2007, shall be null and void and of no effect.

20 “(iii) Upon receipt by the Commissioner of a timely  
21 election filed by the individual described in paragraph  
22 (4)(B) in accordance with clause (ii)—

23 “(I) the Commissioner shall certify receipt of  
24 such election to the Secretary of the Treasury, and  
25 the Secretary of the Treasury, after receipt of such

1 certification, shall pay such individual, from  
2 amounts in the Federal Old-Age and Survivors In-  
3 surance Trust Fund, a total amount equal to  
4 \$5,000, in 4 annual lump sum installments of  
5 \$1,250, the first of which shall be made during fis-  
6 cal year 2008 not later than July 1, 2008, and

7 “(II) subparagraph (A) shall not apply in deter-  
8 mining such individual’s primary insurance amount.

9 “(iv) Upon receipt by the Commissioner as of Decem-  
10 ber 31, 2007, of a timely election filed in accordance with  
11 clause (ii) by at least one beneficiary entitled to benefits  
12 on the basis of the wages and self-employment income of  
13 a deceased individual described in paragraph (4)(B), if  
14 such deceased individual has filed no timely election in ac-  
15 cordance with clause (ii)—

16 “(I) the Commissioner shall certify receipt of all  
17 such elections received as of such date to the Sec-  
18 retary of the Treasury, and the Secretary of the  
19 Treasury, after receipt of such certification, shall  
20 pay each beneficiary filing such a timely election,  
21 from amounts in the Federal Old-Age and Survivors  
22 Insurance Trust Fund, a total amount equal to  
23 \$5,000 (or, in the case of two or more such bene-  
24 ficiaries, such amount distributed evenly among such  
25 beneficiaries), in four equal annual lump sum install-

1       ments, the first of which shall be made during fiscal  
2       year 2008 not later than July 1, 2008, and

3           “(II) solely for purposes of determining the  
4       amount of such beneficiary’s benefits, subparagraph  
5       (A) shall be deemed not to apply in determining the  
6       deceased individual’s primary insurance amount.”.

7       (b) EFFECTIVE DATE AND RELATED RULES.—

8           (1) APPLICABILITY OF AMENDMENTS.—

9           (A) IN GENERAL.—Except as provided in  
10       paragraph (2), the amendments made by this  
11       Act shall be effective as though they had been  
12       included or reflected in section 201 of the So-  
13       cial Security Amendments of 1977.

14          (B) APPLICABILITY.—No monthly benefit  
15       or primary insurance amount under title II of  
16       the Social Security Act shall be increased by  
17       reason of such amendments for any month be-  
18       fore July 2008.

19          (2) RECOMPUTATION TO REFLECT BENEFIT IN-  
20       CREASES.—In any case in which an individual is en-  
21       titled to monthly insurance benefits under title II of  
22       the Social Security Act for June 2008, if such bene-  
23       fits are based on a primary insurance amount com-  
24       puted—

1 (A) under section 215 of such Act as in ef-  
2 fect (by reason of the Social Security Amend-  
3 ments of 1977) after December 1978, or

4 (B) under section 215 of such Act as in ef-  
5 fect prior to January 1979 by reason of sub-  
6 section (a)(4)(B) of such section (as amended  
7 by the Social Security Amendments of 1977),  
8 the Commissioner of Social Security (notwith-  
9 standing section 215(f)(1) of the Social Security  
10 Act) shall recompute such primary insurance  
11 amount so as to take into account the amendments  
12 made by this Act.

○