

111TH CONGRESS  
1ST SESSION

# S. 2759

To amend titles II and XVI of the Social Security Act to provide for treatment of disability rated and certified as total by the Secretary of Veterans Affairs as disability for purposes of such titles.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 10, 2009

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

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## A BILL

To amend titles II and XVI of the Social Security Act to provide for treatment of disability rated and certified as total by the Secretary of Veterans Affairs as disability for purposes of such titles.

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

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Benefit Rating Accel-  
5       eration for Veteran Entitlements Act of 2009”.

1 **SEC. 2. TREATMENT OF SERVICE-CONNECTED DISABILITY**  
2 **RATED AND CERTIFIED AS TOTAL BY THE**  
3 **SECRETARY OF VETERANS AFFAIRS AS DIS-**  
4 **ABILITY FOR PURPOSES OF TITLE II OF THE**  
5 **SOCIAL SECURITY ACT.**

6 (a) DISABILITY FOR PURPOSES OF ENTITLEMENT TO  
7 DISABILITY INSURANCE BENEFITS AND OTHER BENE-  
8 FITS BASED ON DISABILITY.—

9 (1) IN GENERAL.—Section 223(d) of the Social  
10 Security Act (42 U.S.C. 423(d)) is amended by add-  
11 ing at the end the following new paragraph:

12 “(7)(A) Notwithstanding the preceding provisions of  
13 this subsection, any individual who has a service-connected  
14 disability rated by the Secretary of Veterans Affairs as  
15 total for purposes of benefits under chapter 11 of title 38,  
16 United States Code, and presents written certification of  
17 such rating determination to the Commissioner of Social  
18 Security shall be deemed to be under a disability (within  
19 the meaning of the preceding paragraphs of this sub-  
20 section) for each month—

21 “(i) beginning with the month during which  
22 such certification is presented to the Commissioner;  
23 and

24 “(ii) ending with the earlier of—

25 “(I) any month during which certification  
26 is made to the Commissioner pursuant to sub-

1 paragraph (B) that such service-connected dis-  
2 ability has ceased; or

3 “(II) any month during which the Commis-  
4 sioner determines, subject to subparagraph (C),  
5 that such individual is able to engage in sub-  
6 stantial gainful activity.

7 “(B) In any case in which the Secretary of Veterans  
8 Affairs determines that an individual who has been deter-  
9 mined by such Secretary to be totally disabled for pur-  
10 poses of benefits under chapter 11 of title 38, United  
11 States Code, and with respect to whom a certification has  
12 been made to the Commissioner pursuant to subparagraph  
13 (A) that such individual has ceased to be so disabled, such  
14 Secretary shall promptly certify to the Commissioner such  
15 Secretary’s determination that such individual has ceased  
16 to be so disabled.

17 “(C) Any determination by the Commissioner under  
18 subparagraph (A)(ii)(II) shall be made on the basis of evi-  
19 dence of earnings, without consideration of any evidence  
20 of medical recovery.

21 “(D) Nothing in this paragraph shall be construed  
22 to preclude a determination under this title that an indi-  
23 vidual who is not deemed to be under a disability under  
24 subparagraph (A) is under a disability (within the mean-  
25 ing of the preceding paragraphs of this subsection).

1       “(E) The Commissioner of Social Security and the  
 2 Secretary of Veterans Affairs shall enter into such ar-  
 3 rangements as are necessary and appropriate for purposes  
 4 of carrying out the provisions of this paragraph.”.

5           (2) OTHER BENEFITS BASED ON DISABILITY.—

6           (A) CHILD’S INSURANCE BENEFITS.—Sec-  
 7 tion 202(d)(1) of such Act (42 U.S.C.  
 8 402(d)(1)) is amended by adding at the end the  
 9 following new sentence: “Under regulations of  
 10 the Commissioner of Social Security, the provi-  
 11 sions of section 223(d)(7) shall apply with re-  
 12 spect to benefits under this section (and deter-  
 13 minations of disability made for purposes of de-  
 14 terminations of entitlement to such benefits) in  
 15 the same manner and to the same extent as  
 16 such provisions apply with respect to benefits  
 17 under section 223 (and determinations of dis-  
 18 ability made for purposes of determinations of  
 19 entitlement to benefits under section 223).”.

20           (B) WIDOW’S INSURANCE BENEFITS.—

21 Section 202(e)(1) of such Act (42 U.S.C.  
 22 402(e)(1)) is amended by adding at the end the  
 23 following new sentence: “Under regulations of  
 24 the Commissioner of Social Security, the provi-  
 25 sions of section 223(d)(7) shall apply with re-

1 spect to benefits under this section (and deter-  
 2 minations of disability made for purposes of de-  
 3 terminations of entitlement to such benefits) in  
 4 the same manner and to the same extent as  
 5 such provisions apply with respect to benefits  
 6 under section 223 (and determinations of dis-  
 7 ability made for purposes of determinations of  
 8 entitlement to benefits under section 223).”.

9 (C) WIDOWER’S INSURANCE BENEFITS.—

10 Section 202(f)(1) of such Act (42 U.S.C.  
 11 402(f)(1)) is amended by adding at the end the  
 12 following new sentence: “Under regulations of  
 13 the Commissioner of Social Security, the provi-  
 14 sions of section 223(d)(7) shall apply with re-  
 15 spect to benefits under this section (and deter-  
 16 minations of disability made for purposes of de-  
 17 terminations of entitlement to such benefits) in  
 18 the same manner and to the same extent as  
 19 such provisions apply with respect to benefits  
 20 under section 223 (and determinations of dis-  
 21 ability made for purposes of determinations of  
 22 entitlement to benefits under section 223).”.

23 (b) DETERMINATIONS OF PERIODS OF DIS-

24 ABILITY.—Section 216(i) of such Act (42 U.S.C. 416(i))

1 is amended by adding at the end the following new para-  
2 graph:

3       “(4)(A) Notwithstanding paragraphs (1) and (2), any  
4 individual who has a service-connected disability rated by  
5 the Secretary of Veterans Affairs as total for purposes of  
6 benefits under chapter 11 of title 38, United States Code,  
7 and presents written certification of such rating deter-  
8 mination to the Commissioner of Social Security shall be  
9 deemed to be under a disability (within the meaning of  
10 paragraph (1)) for each month—

11           “(i) beginning with the month during which  
12 such certification is presented to the Commissioner;  
13 and

14           “(ii) ending with the earlier of—

15           “(I) any month during which certification  
16 is made to the Commissioner pursuant to sub-  
17 paragraph (B) that such service-connected dis-  
18 ability has ceased; or

19           “(II) any month during which the Commis-  
20 sioner determines, subject to subparagraph (C),  
21 that such individual is able to engage in sub-  
22 stantial gainful activity.

23       “(B) In any case in which the Secretary of Veterans  
24 Affairs determines that an individual who has been deter-  
25 mined by such Secretary to be totally disabled for pur-

1 poses of benefits under chapter 11 of title 38, United  
2 States Code, and with respect to whom a certification has  
3 been made to the Commissioner pursuant to subparagraph  
4 (A) that such individual has ceased to be so disabled, such  
5 Secretary shall promptly certify to the Commissioner such  
6 Secretary's determination that such individual has ceased  
7 to be so disabled.

8       “(C) Any determination by the Commissioner under  
9 subparagraph (A)(ii)(II) shall be made on the basis of evi-  
10 dence of earnings, without consideration of any evidence  
11 of medical recovery.

12       “(D) Nothing in this paragraph shall be construed  
13 to preclude a determination under this title that an indi-  
14 vidual who is not deemed to be under a disability under  
15 subparagraph (A) is under a disability (within the mean-  
16 ing of paragraph (1)).

17       “(E) The Commissioner of Social Security and the  
18 Secretary of Veterans Affairs shall enter into such ar-  
19 rangements as are necessary and appropriate for purposes  
20 of carrying out the provisions of this paragraph.”.

1 **SEC. 3. TREATMENT OF DISABILITY RATED AND CERTIFIED**  
2 **AS TOTAL BY THE SECRETARY OF VETERANS**  
3 **AFFAIRS AS DISABILITY FOR PURPOSES OF**  
4 **TITLE XVI OF THE SOCIAL SECURITY ACT.**

5 Section 1614(a)(3) of the Social Security Act (42  
6 U.S.C. 1382c(a)(3)) is amended by adding at the end the  
7 following:

8 “(K) In making determinations with respect to dis-  
9 ability under this title, the provisions of section 223(d)(7)  
10 shall apply in the same manner as they apply to deter-  
11 minations of disability under title II.”.

12 **SEC. 4. EFFECTIVE DATE.**

13 The amendments made by this Act shall apply with  
14 respect to determinations of disability in connection with  
15 applications for benefits or periods of disability filed or  
16 pending on or after the date of the enactment of this Act.

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