

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 6124
OFFERED BY MR. BRADY OF TEXAS**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Tribal Social Security
3 Fairness Act of 2018”.

**4 SEC. 2. VOLUNTARY AGREEMENTS FOR COVERAGE OF
5 SERVICES BY AMERICAN INDIAN TRIBAL
6 COUNCIL MEMBERS.**

7 (a) IN GENERAL.—Title II of the Social Security Act
8 (42 U.S.C. 401 et seq.) is amended by inserting after sec-
9 tion 218 the following new section:

10 “VOLUNTARY AGREEMENTS FOR COVERAGE OF INDIAN
11 TRIBAL COUNCIL MEMBERS

12 “Purpose of Agreement

13 “SEC. 218A. (a)(1) The Commissioner of Social Se-
14 curity shall, at the request of any Indian tribe, enter into
15 an agreement with such Indian tribe for the purpose of
16 extending the insurance system established by this title to
17 services performed by individuals as members of such In-
18 dian tribe’s tribal council. Any agreement with an Indian

1 tribe under this section applies to all members of the tribal
2 council, and shall include all services performed by individ-
3 uals in their capacity as council members.

4 “(2) Notwithstanding section 210(a), for the pur-
5 poses of this title, the term ‘employment’ includes any
6 service included under an agreement entered into under
7 this section.

8 “Definitions

9 “(b) For the purposes of this section:

10 “(1) The term ‘member’ means, with respect to
11 a tribal council, an individual appointed or elected to
12 serve as a member or the head of the tribal council.

13 “(2) The term ‘tribal council’ means the ap-
14 pointed or elected governing body of a federally rec-
15 ognized Indian tribe.

16 “Effective Date of Agreement

17 “(c)(1) Any agreement under this section shall be ef-
18 fective with respect to services performed after an effective
19 date specified in such agreement, provided that such date
20 may not be earlier than the first day of the next calendar
21 month after the month in which the agreement is executed
22 by both parties.

23 “(2) At the request of the Indian tribe at the time
24 of the agreement, such agreement may apply with respect
25 to services performed before such effective date for which

1 there were timely paid in good faith (and not subsequently
2 refunded) to the Secretary of the Treasury amounts equiv-
3 alent to the sum of the taxes which would have been im-
4 posed by sections 3101 and 3111 of the Internal Revenue
5 Code of 1986 had such services constituted employment
6 for purposes of chapter 21 of such Code. No agreement
7 under this section may require payment to be made after
8 the effective date specified in such agreement of any taxes
9 with respect to services performed before such effective
10 date.

11 “Duration of Agreement

12 “(d) No agreement under this section may be termi-
13 nated on or after the effective date of the agreement.”.

14 (b) CONFORMING AMENDMENTS.—

15 (1) SOCIAL SECURITY ACT.—Section 210(a) of
16 the Social Security Act (42 U.S.C. 410(a)) is
17 amended—

18 (A) in paragraph (20), by striking “or” at
19 the end;

20 (B) in paragraph (21), by striking the pe-
21 riod at the end and inserting “; or”; and

22 (C) by adding at the end the following new
23 paragraph:

24 “(22) Service performed by members of Indian
25 tribal councils as tribal council members in the em-

1 ploy of an Indian tribal government, except that this
2 paragraph shall not apply in the case of service in-
3 cluded under an agreement under section 218A.”.

4 (2) INTERNAL REVENUE CODE OF 1986.—The
5 Internal Revenue Code of 1986 is amended—

6 (A) in section 3121(b)—

7 (i) in paragraph (20), by striking “or”
8 at the end;

9 (ii) in paragraph (21), by striking the
10 period at the end and inserting “; or”; and

11 (iii) by adding at the end the fol-
12 lowing new paragraph:

13 “(22) service performed by members of Indian
14 tribal councils as tribal council members in the em-
15 ploy of an Indian tribal government, except that this
16 paragraph shall not apply in the case of service in-
17 cluded under an agreement under section 218A of
18 the Social Security Act.”; and

19 (B) in section 3121(d)(4), by inserting “or
20 218A” after “section 218”.

21 (c) RULE OF CONSTRUCTION.—Nothing in this Act
22 or the amendments made by this Act shall be construed
23 to affect application of any Federal income tax with-

1 holding requirements under the Internal Revenue Code of
2 1986.

